

## European Network of Ombudspersons for Children (ENOC)

### ENOC Statement on the Right to Education of Children on the Move

Adopted at the 22nd ENOC General Assembly, 21<sup>st</sup> September 2018, Paris

*"Children on the move are children first and states have the obligation to fulfill their rights to education based on principles of social and educational inclusion"*

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ENOC adopts the following definition of children on the move:

*"Children on the move" covers all children who migrate from their country of origin to and within the territory of a European country in search of survival, security, improved standards of living, education, economic opportunities, protection from exploitation and abuse, family reunification, or a combination of these factors. They may travel with their family, or independently, or with non-family members. They may be seeking asylum, victims of trafficking, or undocumented migrants. The status of children on the move may differ at various stages of their journey and they may encounter many differing situations of vulnerability."*

**Having considered** the relevant binding and non-binding legal instruments and documents, in particular:

- The UN Convention on the Rights of the Child (1989.);
- The General Comments no 1, 6, 14, 20, 22 and 23 of the Committee on the Rights of the Child;
- The European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and its Protocols;
- UNESCO Convention against Discrimination in Education, 1960;
- The International Covenant on Economic, Social and Cultural Rights, 1966;
- ENOC Task Force for Children on the Move Report and Recommendations "Safety and Fundamental Rights at Stake for Children on the Move" (2016);
- ENOC Statement on State Obligations for the Treatment of Unaccompanied Children (2006);
- ENOC Statement on the EU „Return“ Directive (2008);
- ENOC Position statement on „Children on the Move“ (2013);
- ENOC Position statement on Equal Opportunities for All Children in Education (2016);
- ENOC Recommendations and Background Report "Safeguarding and Protecting the Rights of the Children on the Move: The Challenge of Social Inclusion" (Athens, 2017);
- Findings of the European Union Agency for Fundamental Rights (FRA) Report "Current Migration Situation in the EU: Education" (May 2017);
- Data provided by sixteen Ombudspersons for Children – ENOC members<sup>1</sup> through a questionnaire of the ENOC Working Group "Children on the Move";

**Recognising** that every child has the right to quality education which develops, to the fullest potential, the child's capacities and abilities and that it is the responsibility of States to ensure this right to every child on their respective territories;

<sup>1</sup> Basque Country (Spain), Belgium (Flemish), Belgium (French community), Catalonia (Spain), France, Finland, Greece, Italy, Latvia, Lithuania, Malta, Montenegro, The Netherlands, Poland, Republic of Srpska (Bosnia and Herzegovina), Serbia

**ENOC calls States, national, regional and international authorities, bodies, organizations, and decision-makers to make further efforts to establish full accessibility of education based on principles of social and educational inclusion, to every child on the move and on all levels of education within the national mainstream education system.**

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Over a million refugees and migrants entered the territory of Europe in 2015, the number increased by 500,000 in 2016 and 2017<sup>2</sup>. Of the total number of asylum seekers in Europe, 30% are children; of this number, over 40% are girls<sup>3</sup>. In 2017, asylum was granted to 191.117 children-asylum seekers, out of 303.360 (63%). The remaining requests (37%) were rejected. 52% of children were granted refugee status, 37% subsidiary protection, and 11% humanitarian status<sup>4</sup>. Although the number of entries to the territory of Europe is significantly lower than in previous years, in 2018 tens of thousands of entries have been recorded<sup>5</sup>, of which there are many children.

Out of 3.4 million Syrian refugees in Turkey, 33% are illiterate, and a further 13% are not going to school but learn to write and read on their own<sup>6</sup>. 37% of Syrian children are "out of the education system", while 63% are schooled either within Temporary Training centres (TTC), public schools or open schools<sup>7</sup>. This is an improvement when comparing to previous years<sup>8</sup>.

Comparing to the previous years, access of children on the move to education in Europe has improved in 2017, primarily in: shortening the waiting time for enrolment in the educational process, number of children enrolled in schools; and greater inclusion of children in education at the first reception stage<sup>9</sup>.

However, the inclusion of children on the move in education is still incomplete. In some parts of certain European countries, in 2016 and 2017, asylum seekers and refugees had no access to the formal education system<sup>10</sup>. Currently, early childhood education for children on the move is compulsory in a small number of countries (exception are preparatory classes)<sup>11</sup>. This form of education is not sufficiently available to children on the move<sup>12</sup>, even though early childhood

<sup>2</sup> <https://reliefweb.int/sites/reliefweb.int/files/resources/61936.pdf>, accessed 08.09.2018.

<sup>3</sup> <https://www.unicef.org/eca/what-we-do/emergencies/latest-statistics-and-graphics-refugee-and-migrant-children> , accessed 08.09.2018.

<sup>4</sup> <https://www.unicef.org/eca/what-we-do/emergencies/latest-statistics-and-graphics-refugee-and-migrant-children>, accessed 08.09.2018.

<sup>5</sup> 46,407 sea arrivals recorded up to July 5<sup>th</sup>. Source: UNHCR, [http://data2.unhcr.org/en/situations/mediterranean#\\_ga=2.104875905.322274210.1530786472-499977447.1509968703](http://data2.unhcr.org/en/situations/mediterranean#_ga=2.104875905.322274210.1530786472-499977447.1509968703) , accessed 08.09.2018.

<sup>6</sup> „Syrians in Turkey”, Special report, The ombudsman institution in Turkey, Ankara 2018, p. 70

<sup>7</sup> „Syrians in Turkey”, Special report, The ombudsman institution in Turkey, Ankara 2018, p. 74

<sup>8</sup> In 2014/2015 only 30% of children were enrolled in education; in 2015/2016 – 37%; in 2016/2017 – 56%. Source: „Syrians in Turkey”, Special report, The ombudsman institution in Turkey, Ankara 2018, p. 76

<sup>9</sup> Information provided by 16 ombudspersons – members of ENOC show improvement in children on the move education comparing to previous period (up to 2015) which is included in the ENOC Task Force for Children on the Move Report and Recommendations “Safety and Fundamental Rights at Stake for Children on the Move” (2016)

<sup>10</sup> Germany, Greece, Hungary. Source: „Current migration situation in the EU: Education”, European Union Agency for Fundamental Rights, May 2017, <http://fra.europa.eu/en/publication/2017/current-migration-situation-eu-education> accessed 08.09.2018.

<sup>11</sup> For example, children on the move are compulsory enrolled to early childhood education in France, Catalonia (Spain) and Greece. Source: Information provided by 16 ombudspersons – members of ENOC who responded to the WG Children on the Move questionnaire

<sup>12</sup> In some States, children have to wait for several months before enrolling in early childhood education. In other States, there is an insufficient number of facilities for this kind of education; while, some States (mostly transit) don't even have

education is one of the most effective measures to prevent early school leaving and creates great potential for later success in school. Elementary school children are more involved in the educational process, due to the obligatory character of elementary education, but the coverage is still not complete. This is particularly the case in transit countries<sup>13</sup> and in the case of children who are in immigration detention<sup>14</sup>. Although there are countries which compulsorily include children on the move in secondary education<sup>15</sup>, in most cases there is no obligation to enrol children on the move in secondary school, which is one of the factors that lead to a reduced number of children on the move covered by secondary education, especially vocational training<sup>16</sup>.

Although enrolment of children on the move in the educational system is faster than in the previous period<sup>17</sup>, the waiting time for enrolment has still not been shortened, on average it is between one to three months<sup>18</sup>. On the other hand, some countries<sup>19</sup> established models of enrolment of children on the move into education immediately upon arrival in the host country or in the short term. However, education is not provided in detention centres, which still exist in some countries.

Children on the move are enrolled in the regular education system mostly in the following ways: through regular groups and classes in mainstream education institutions with additional support for

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information that children on the move are or can be enrolled in the early childhood education. Source: „Current migration situation in the EU: Education”, European Union Agency for Fundamental Rights, May 2017, <http://fra.europa.eu/en/publication/2017/current-migration-situation-eu-education> (accessed 08.09.2018.); Information provided by 16 ombudspersons – members of ENOC who responded to the WG Children on the Move questionnaire

<sup>13</sup> For example, in Serbia in 2017/2018 school year 657 children on the move have been enrolled in schools (due to the fact that Serbia is transit country this number is not permanent), which is around 50% of total number of children on the move in Serbia (1444 in December 2017). Source: Information provided by 16 ombudspersons – members of ENOC who responded to the WG Children on the Move questionnaire; „Latest statistics and graphics on refugee and migrant children”, UNICEF, <https://www.unicef.org/eca/what-we-do/emergencies/latest-statistics-and-graphics-refugee-and-migrant-children> accessed 08.09.2018.

<sup>14</sup> On the other hand, in the Netherlands, Poland and Slovakia education is accessible to children on the move in immigration detention regardless of the length of children's stay. Source: „Current migration situation in the EU: Education”, European Union Agency for Fundamental Rights, May 2017, <http://fra.europa.eu/en/publication/2017/current-migration-situation-eu-education> (accessed 08.09.2018.); Information provided by 16 ombudspersons – members of ENOC who responded to the WG Children on the Move questionnaire

<sup>15</sup> Basque Country (Spain), Belgium, Catalonia (Spain), France, Greece, Italy, , Lithuania, the Netherlands, Poland. Source: Information provided by 16 ombudspersons – members of ENOC who responded to the WG Children on the Move questionnaire

<sup>16</sup> For example, in Poland children on the move consist 0,016% of total number of children enrolled in vocational training. Source: „Current migration situation in the EU: Education”, European Union Agency for Fundamental Rights, May 2017, <http://fra.europa.eu/en/publication/2017/current-migration-situation-eu-education> accessed 08.09.2018.

<sup>17</sup> Unlike in 2016, when in some countries enrolment of children on the move in education was delayed for several months, children on the move now get into elementary education within a period between one and three months, and the classes are organized in the first stage reception centres. (Source: „Monthly data collection on the current migration situation in the EU - July 2016 monthly report”, FRA, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-july-2016-monthly-migration-report-local-communities\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-july-2016-monthly-migration-report-local-communities_en.pdf) (accessed 08.09.2018.); Information provided by 16 ombudspersons – members of ENOC who responded to the WG Children on the Move questionnaire

<sup>18</sup> even nine months in Germany. Source: „Current migration situation in the EU: Education”, European Union Agency for Fundamental Rights, May 2017, <http://fra.europa.eu/en/publication/2017/current-migration-situation-eu-education> (accessed 08.09.2018); Information provided by 16 ombudspersons – members of ENOC who responded to the WG Children on the Move questionnaire

<sup>19</sup> Children on the move are enrolled in education immediately upon arrival in Italy, Malta and Spain and in two weeks time in Lithuania and partially in Austria (in Vienna). Source: „Current migration situation in the EU: Education”, European Union Agency for Fundamental Rights, May 2017, <http://fra.europa.eu/en/publication/2017/current-migration-situation-eu-education> (accessed 08.09.2018.); Information provided by 16 ombudspersons – members of ENOC who responded to the WG Children on the Move questionnaire

language learning<sup>20</sup>; through special classes and groups for a period of one, even two school years<sup>21</sup>; through the organization of education within reception and other centres where children on the move are placed<sup>22</sup>. The child's access to education should be based on thorough assessment of child's best interests, through enrolment in education as soon as possible, preferably in regular institutions and classes, with support services and an individual plan for education. Individual plans for education should ensure: overcoming stress, bridging the language barrier, preservation of national and cultural identity, engaging in a peer groups, achieving academic knowledge in accordance with the child's capacities and learning the skills needed to navigate in a sensitive situation which children on the move face.

Educational systems are predominantly oriented towards raising academic knowledge of children and often insufficiently flexible in selecting methods for achieving this goal<sup>23</sup>. This is one of the reasons why the language barrier, the level of academic knowledge of children on the move, the expectation of leaving the host country, placement of children in certain forms of reception and other centres, stress and trauma, are seen as obstacles to education. Education of children on the move that will not seek exclusively or predominantly academic progress, but the maximum individual progress of the particular child in all aspects, including socialization and integration of the child into peer groups, can ensure the involvement of every child on the move at **every** level of the educational process. School can be the environment where children on the move feel safe and secure, adjust to a regular life rhythm and can simultaneously enjoy learning and playing, according to their age needs. An individual education plan, based on a quality assessment of the child's strengths, potentials and specific educational and other needs, as well as quality and objective assessment of all obstacles, will enable every child on the move to acquire the level of academic education that is adapted to his/her capacities, while maximizing integration and socialization. Therefore, specialised learning materials, diversified teaching methods and specially trained teachers are needed.

Support services in the education of children on the move often depend on financial forms of assistance, host country language classes and certain activities aimed at preserving the cultural and national identity and overcoming stress/psychological support. Activities that contribute to the inclusion of children on the move in the community, in which they live, such as connecting with peers and peer groups, participation in sports, cultural, art and other activities which nurture, promote and learn positive values are mostly organized by civil society organizations and most often are of limited duration<sup>24</sup>.

As children's rights are interdependent, different elements of a child's life that are not directly related to the right to education may have a great impact on a child's effective enjoyment of the right to education. Changes of the legal status of children on the move and resettlements (including leaving the host country) may lead to a termination of child education and early dropout. Educational systems do not have information about the child's previous education and a system of

<sup>20</sup> Austria, Greece, Italy, Poland, Serbia, Spain, Sweden

<sup>21</sup> For example, Denmark, Finland, Greece, The Netherlands. Source: „Current migration situation in the EU: Education“, European Union Agency for Fundamental Rights, May 2017, <http://fra.europa.eu/en/publication/2017/current-migration-situation-eu-education> (accessed 08.09.2018)

<sup>22</sup> In some countries (like in Greece) this happens only for kindergartens / schools for the very young ages

<sup>23</sup> This approach is indicated by some challenges which are often pointed out, such as: difficulties in following the national teaching plan due to high turnover; language barriers; differences in education systems of the country of origin and country of destination or transit; demotivation of students; trauma; cultural barriers. Source: „Current migration situation in the EU: Education“, European Union Agency for Fundamental Rights, May 2017 <http://fra.europa.eu/en/publication/2017/current-migration-situation-eu-education>, accessed 08.09.2018.

<sup>24</sup> Non-governmental organizations organize some forms of informal or non-formal education, like art or other workshops, trainings etc. Source: Information provided by 16 ombudspersons – members of ENOC who responded to the WG Children on the Move questionnaire

monitoring and information exchange has not yet been established. Educational schemes that would allow for the continuation of the education, include measures against the termination of education based on or due to decisions regarding the legal status of the child in the host country, and foresee the development of a system of information sharing between the educational systems of the various countries through which children pass, would improve children's educational progress and reduce the number of dropouts. The system of sharing information would also contribute to the faster and more effective assessment of the child's situation and needs which would lead to more appropriate and more integrative educational plans.

Particular attention should be given to the enrolment of girls and children with disabilities in education. Those children are particularly at increased risk of additional multiple marginalisation. Currently, adequate support services for these children, aimed at inclusion in the educational process in a way that guarantees the full realization of their potential, are not fully developed<sup>25</sup>.

**ENOC recommends:**

- 1. Enrolment of children on the move in mainstream preschool, elementary and secondary education (including vocational training) within one month upon arrival in the host country;**
- 2. Enrolment of children on the move in early childhood education and enrolment of children on the move above compulsory school age in secondary education and vocational training as much as possible. Enrolment should be based on the comprehensive assessment of the individual child's situation, needs and best interests, and followed by individual education plan and available support services;**
- 3. Enrolment of children on the move in regular groups and classes in the mainstream preschool, elementary and secondary education as soon as possible. Education in separated classes and groups and within reception and other centres should be provided only as an exception, if in the children's best interest and should be provisional pending inclusion in regular groups or classes. Illiteracy or lack of expected knowledge should not in any way become an obstacle for enrolling children in mainstream schools and regular classes but rather a reason for tailoring specific support measures;**
- 4. Ending all forms of immigration detention of children on the move. At the same time, as long as immigration detention of children exists and children are placed in such centres, it is crucial to provide enrolment of children in mainstream education;**
- 5. Conducting a comprehensive assessment of the child's situation and needs, which will be the basis for an individual and child-adjusted education plan. Assessment should be carried out interdisciplinary and participatory, and special attention should be given to girls and children with disabilities who need additional specific forms of support;**
- 6. The education plan must be in accordance with the best interests of every particular child on the move and must ensure the child's inclusion in the community, integration into peer groups and the acquisition of the necessary knowledge and skills in accordance with the child's capacities. The education plan should also be in line with the specific needs of the child, which differ depending on whether the child is in the country of transit or destination, what the legal status of the child is (asylum seeker, family reunification , denied asylum, etc.), whether he/she is separated or unaccompanied, whether relocation is expected;**

<sup>25</sup> Source: „Current migration situation in the EU: Education“, European Union Agency for Fundamental Rights, May 2017, <http://fra.europa.eu/en/publication/2017/current-migration-situation-eu-education>, accessed 08.09.2018.

7. Offering educational certificates to all children on the move attending school, after assessing their progress and securing the continuation of their studies in case they are moved to another country;
8. Providing effective forms of support for children on the move, during education. This support should expand to services such as: services for inclusion of children in peer groups; services to reduce stress and overcome trauma; involvement in peer and community activities; learning life skills; inclusion in youth, sports, cultural and artistic activities, as well as the provision of financial and other benefits for inclusion of children in education;
9. Developing a system of information exchange between European countries on the education of children on the move, which would provide all the necessary information for child's assessment and education plan creation, so that when children move from one country to another the existing assessment will follow them. This information exchange mechanism must fully secure child's right to protection of his/her personal data and protect the child from unlawful or arbitrary interference with child's privacy, family, home and correspondence, in line with the provisions of Article 16 UNCRC;
10. Developing educational schemes that enable the continuation of education, regardless of decisions regarding the child's legal status, such as for example, enabling children and young people who turn 18 to finish the education programme that they are enrolled in, regardless of their legal status, distance/digital learning, the extension of residency in the host country to the end of schooling, etc;
11. Facilitating the formal acquisition of the child's home language / standard language of country of origin and learning about the culture of the country of origin, in order to promote both the development of the identity of children on the move (bi-cultural) as well as the possibility for children on the move to eventually continue their education in their country of origin, particularly in the case of children and families who are denied international protection in their actual host country and face return to the country of (their parents') origin;
12. Establishing and strengthening monitoring mechanisms of school attendance and dropout rates and tailoring specific measures to prevent absenteeism, as well as to reduce and address poor or irregular attendance.

ENOC stresses that mere enrolment of children into the mainstream education system should not, in any case whatsoever, provide an alibi for the state. Enrollment should always be accompanied with policies and measures that would promote and sustain academic success, inclusion and the cultural capital of each and every individual child. Policies that fail to meet these three conditions, both simultaneously and individually, are inadequate and therefore cannot be considered as suitable to secure children's rights.