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Written statement* submitted by the Associazione Comunita Papa Giovanni XXIII, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 August 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Unaccompanied migrant children and their human rights

Associazione Comunità Papa Giovanni XXIII (APG23) welcomes the report A/HRC/33/53 entitled “The global issue of unaccompanied migrant children and adolescents and human rights – Study of the Human Rights Council Advisory Committee” submitted to the 33rd regular session of the Human Rights Council.

The report is very timely and has the added value of documenting how the phenomenon of unaccompanied migrant children is global in proportion and complex.

We would like to contribute to the interactive dialogue with the Advisory committee through our experience with unaccompanied migrant children, that is limited to the Mediterranean region¹.

Through our immigration desk, we have been monitoring in the last decade the situation of unaccompanied migrant children arrived in Italy, especially those who have tried to reach Italian ports through Greece and from North Africa. Members of our Association visited both the ports in Greece and in Italy. Through repeated trips and prolonged stay in the city of Patras, we were able to meet and interview numerous unaccompanied migrant children and deepen the understanding of the migration phenomenon that involves such children by verifying the routes, the trips organization, the risks/difficulties that such journeys involve and the objectives/expectations of the children. The unaccompanied migrant children met by our Association come from Afghanistan, Bangladesh, Eritrea, Gambia, Ghana, Guinea, Ivory Coast, Mali, Nigeria, Pakistan and Senegal.

From our interviews of children and direct observation, we can affirm that:

- a) The majority of unaccompanied migrant children leave their country of origin and embark on long journeys when there is the perspective of being reunited to parents, relatives and/or friends that are already established in another country that has thus become the expected country of final destination;
- b) During the migration journey, unaccompanied children often do not declare their minor age to avoid being kept in the country of transit that they simply want to pass through;
- c) The migration of unaccompanied children to EU member states is constant and rising rapidly;
- d) The number of unaccompanied migrant children, sometimes blocked at EU borders, without the possibility of moving on to the countries of final destination is increasing and this exposes the children to situations of extreme vulnerability and to terrible risks as they often remain alone, far away from their family environment, without the support of their parents or relatives;
- e) A certain number of unaccompanied migrant children, once arrived in Italy, disappear. In fact, these children, being one of the most vulnerable populations among migrants, are often subjected to human trafficking and sexual exploitation, drug trafficking and forced labour. This happens before and after the trip on the boat;
- f) Restrictive immigration policies often prevail over child protection. Many children are still detained simply because they are not holders of proper immigration documents or because they belong to families of migrants in an irregular status. In some States, they are subjected to penal and administrative sanctions because of their irregular status, deprived of their family support and protection, and denied some fundamental rights, such as access to food, health, education, as well as the right to play. As emphatically stated by the UN Committee on the Rights of the Child and by the Special Rapporteurs, such detention is inconsistent with the best interest of the child and represents a clear violation of child's rights.

¹ In Italy, where APG23 has its headquarters, there have been a rising number of unaccompanied migrant children, the overwhelming majority of whom are boys aged 15 to 17 years. According to UN Refugee Agency figures, in 2015, some 12,000 unaccompanied minors entered Italy. So far this year, some 15,000 unaccompanied children have arrived, accounting for 15% of the total number of migrants reaching Italy's shores.

In July 2014, APG23 opened a family home in Athens, with the aim to welcome migrants and refugees and since August 2015 it runs a first aid home for migrant children in Reggio Calabria. APG23 works in the port of Reggio Calabria, where, within a diocesan coordination involving various NGOs, provides migrants and asylum seekers who managed to cross the Mediterranean with an initial assistance. Migrants are then hosted in the many APG23 structures and family homes, present in various regions of Italy.

APG23 considers a priority reducing the risks to which unaccompanied migrant children are exposed by safeguarding, first of all, their life, health and harmonious development in respect of the principle of the best interest of the child. It is also our priority to convey the message that migrant children are, first of all, children who are holders of specific rights and entitled to special protection regardless they qualify for international protection, migrate for economic reasons, and are accompanied, unaccompanied or irregular.

The study of the Advisory Committee enlists very clearly in chapter IV at paragraph 49, the violated rights of unaccompanied children such as non-discrimination, best interest of the child, right to development, right to have a name and nationality, right to family reunification, respect for the view of the child, right to health, right to education and the right to special protection measures.

We are particularly pleased that the Advisory Committee has included in the list the Right to Development. There is need to acknowledge, in fact, that unaccompanied migrant children as well as the asylum-seekers and the so called economic migrants, come from contexts affected by serious violations in the fundamental rights, critical democratic institutions and “governance” systems, poverty, inequality, malnutrition, epidemics, conflicts and widespread violence, corrupted environment, and high degrees of vulnerability to climate change. A great part of these plagues is the result of reiterated historical and economics mechanisms, mainly based on the research of profit, that provoked in numerous populations irreparable damages for their own social groups (by means of actions like slavery, genocides, ethnic conflicts), cultural heritage (discouragement or lack of education), and economic resources (depletion of natural resources). Notwithstanding the responsibilities of national Governments, many root causes that provoke the migration phenomenon lie on structural international obstacles to development. The right to development demands the creation of an enabling national and international environment addressing the root causes by which entire nations and people are deprived of their own resources and consequent development opportunities.

Furthermore, we are glad that the issue of unaccompanied migrant children has gained a significant attention in the agenda of the Human Rights Council and in the treaty bodies. A clear sign of this is the expected joint general comment by the CRC/CMW.

In order to rise even more attention on the issue of unaccompanied migrant children who are victims of trafficking, it can be useful to invite the Special Procedures to produce a joint report on unaccompanied migrant children and human trafficking. We suggest to involve those Special Rapporteurs who are more directly dealing with this issue, namely the SR on trafficking in persons, especially women and children, the SR on the human rights of migrants, the SR on sale of children, child prostitution and child pornography and SR on contemporary forms of slavery, including its causes and consequences,

In such a joint report, the Special Rapporteurs could summarise all the recommendations made in their previous reports on the issue of unaccompanied migrant children and further tackle the problem from different perspectives under the common framework of a victim-oriented, human rights-based approach. Indeed, the mandate holders could integrate one another with their specific competences, resulting in a more complete analysis of the severe and complex aspects of human trafficking that involves migrant children.

We think that Member States should take more carefully into account the recommendations made by the UN experts on migration matters. These recommendations may be crucially important for the High Level Summit on Refugees and Migrants that will be held in New York on September 19. The draft outcome document, unanimously adopted in preparation of the Summit, says in paragraph 2.12: “recognizing that detention for the purposes of determining migration status is seldom, if ever, in the best interest of the child, we will use it only as a measure of last resort, in the least restrictive setting, for the shortest possible period of time, under conditions that respect their human rights and in a manner that takes into account, as a primary consideration, the best interests of the child, and we will work towards the ending of this practice”. On the other hand, an overwhelming number of UN experts such as some Special Rapporteurs and the Committee on the Rights of the Child, have repeatedly affirmed that detention is never in the best interests of a child and even short periods of detention have been shown to have incredibly negative, harmful, and long-term impacts on child health and development.

The implementation of the 2030 Agenda for Sustainable Development, calls for leaders who are unafraid to live up to their human rights obligations – including a commitment to safeguard the best interests of children, regardless of the child’s migration status.

It is urgent and necessary to formulate child-sensitive migration-related legislation, policies and practices at national regional and international level by using children’s participation as a key strategy. Measures should be taken so that migrant children may be the protagonists of their own development, by recognizing their dignity and promoting in every way their participation in the adoption of strategies, implementation, evaluation and reporting of actions that concern them.

Finally, children should be listened to and taken seriously and involved in all matters, which affect them.
