

Consultation on the Joint General Comment on the Human Rights of Children in the Context of International Migration, 4-5 May 2017 Madrid

The Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) and the Committee on the Rights of the Child (CRC) are in the process of drafting a Joint General Comment (JGC) on the Human Rights of Children in the Context of International Migration.

On 4-5 May 2017, the Spanish National Committee for UNICEF and the Spanish Ministry of Foreign Affairs hosted the second consultation on the Joint General Comment on the Human Rights of Children in the Context of International Migration for the Mediterranean region.

The objective of the consultation was to inform and elaborate the zero draft Joint General Comment on Children in the Context of International Migration, expected to be finalized by September 2017.

Mr. Pedro Antonio Villena Pérez, Director of Casa Árabe, Mr. Carmelo Angulo Barturen, Chair of the Spanish National Committee for UNICEF, and Mr. Francisco Javier Sanabria Valderrama, Director of the Human Rights Office, Ministry of Foreign Affairs and Cooperation opened the consultation, while emphasizing the importance and timeliness of the Consultation.

In a session open to the public, Mr. Pablo Ceriani, UN Committee on the Protection of the Rights of All Migrant Workers, and Mr. Hatem Kotrane, UN Committee on the Rights of the Child, provided an overview of the Joint General Comment and elaborated on the rights of migrant children under the Convention on the Rights of the Child. Ms. Lilana Keith, PICUM, conducted a presentation on the challenges faced by migrant children in Europe and Mr. Xavier Aragall, European Institute for the Mediterranean, spoke about the international migration in the Mediterranean Region. The presentations were followed by interventions from the participants and the opening session was moderated by Nicolás Castellano, Journalist from Cadena SER.

The open session was followed by a day and a half's closed discussions between over 40 migration experts from countries in the Mediterranean region, including governments, civil society organisations, regional institutions and the UN.

Feedback was very positive and participants stressed the importance of having a Joint General Comment on the rights of migrant children as a means to offer appropriate and authoritative guidance to States Parties on measures to be adopted to ensure full

compliance with their obligations to protect, respect and fulfil children's rights in the context of international migration and in line with both conventions.

More specifically, comments on the zero draft focused on further elaborating the text and strengthening the language. Participants recommended to elaborate language on procedural safeguards and the right to justice, including recruitment and training of professional staff working with migrant children, and to broaden the definition of family to include de-facto families and strengthening language on due family reunification procedures.

It was also suggested that separate paragraphs be added on "firewalls" (separation between immigration enforcement activities and public service provision), the right to information and to be heard, including guidance on complaint mechanisms, as well as on pre-conditions for return in safety and dignity and when found to be in the child's best interests.

Participants encouraged the two Committees to clarify language on discrimination and child participation and to ensure that the latter it is in line with other CRC comments on child participation and inclusion. It was also recommended that language on age assessment be strengthened and that it is emphasised that age assessment is a measure of last resort and that medical examinations should never be used.

It was, moreover, recommended to clarify that migration detention is a form of arbitrary detention and to stress that detention never can be presented as a measure of protection. With regard hereto, it was suggested to elaborate on the elements of alternatives to detention and to make reference to the NY Declaration (reflecting that the objective is to end with migration detention) and recent UNCHR statements.

Further, it was suggested to include stronger recommendations with regard to cross-border cooperation (family re-unification, case management, continuum of care and support) for children to move away from the sole focus on border control.

Participants also indicated that the document currently lacks connection between development and drivers of migration and noted that the draft could benefit from stronger linkages to the SDGs. In line herewith, it was noted that it is important to change the negative discourse around migration and refer to the positive impact of migration

Next steps

The Mediterranean Consultation is the second in a series of regional consultations. Subsequent consultations will take place in Bangkok, Berlin and Mexico City. Others are envisaged for the Middle East and North African, and sub-Saharan African regions.

A drafting working group, composed of members from both committees, will discuss the feedback received through the various consultations from civil society organisations,

regional institutions, UN agencies and other international institutions, and government representatives.

Written contributions

Submissions should be sent electronically in Word format (and preferably in tracked changes) to Alejandro Morlachetti (amorlachetti@gmail.com) with Bradford Smith (bsmith@ohchr.org) and Allegra Franchetti (afranchetti@ohchr.org) in copy. The subject line should indicate: Draft JGC on the human Rights of Children in the Context of International Migration.””

The deadline for other contributions from the subsequent consultations are due by Friday 30 May 2017.

Further information

For further information on the draft Joint General Comment, please contact the Secretariat of the Committees: Bradford Smith and Allegra Franchetti (afranchetti@ohchr.org)