



Legal-informational centre for NGOs – PIC
Legal centre for protection of human rights and environment



MONITORING MIGRANT, REFUGEE AND ASYLUM-SEEKING CHILDREN IN SLOVENIA

FINAL REPORT

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1. INTRODUCTION

From May until December 2016, PIC has implemented, in partnership with UNICEF, a project on monitoring rights of migrant, refugee and asylum-seeking children in Slovenia with special emphasis on unaccompanied and separated children (UASC). During the project:

- statistics on migrant, refugee and asylum-seeking children have been followed,
- monitoring visits in accommodation facilities where these groups are placed have been carried out,
- specific cases have been monitored,
- free legal counselling has been provided to UASC legal guardians and social workers working with migrant children,
- the legal framework has been analyzed with emphasis on rights of these groups of children,
- rights of these groups of children have been advocated in processes of designing national strategic documents, with the aim of including migrant children as horizontal topic in the new Programme for Children and Youth (10-years strategy on children, currently prepared by the Ministry of Labour, Family, Social Affairs and Equal Opportunities),
- advocacy activities for Slovenia to ratify the 3rd Optional Protocol to the Convention on the Rights of the Child have been carried out.

The project provided an overview of child rights protection in Slovenia for migrant, refugee and asylum-seeking children. The project aimed at strengthening national capacities for child rights monitoring, and developing child rights monitoring mechanism for these groups of children.

The final report firstly presents brief overview of the situation of migrant children in Slovenia with few selected issues on migrant children protection in Slovenia, followed by an overview of implemented activities within the project, and ends with final conclusions and recommendations.

2. MIGRANT CHILDREN IN SLOVENIA: BRIEF OVERVIEW

2.1. Legal and policy framework

Republic of Slovenia incorporated children's rights into its legal system at the highest level, in the Constitution of the Republic of Slovenia.¹ Article 56 of the Constitution is the most general in its nature, it emphasizes rights of the child in its widest context, while other Constitutional provisions define respective rights of the child.

The Constitution also provides that laws and other regulations must comply with generally accepted principles of international law and with international treaties, binding for Slovenia. Slovenia succeeded the status of a party to the Convention as one of the successors of the former Socialist Federal Republic of Yugoslavia; in Slovenia, the Convention entered into force on 25 June 1991. At the end of 90-ies of the previous century, additional protocols to the Convention on the Rights of the Child² were adopted, namely the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict³ and Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.⁴ Third Optional Protocol – Optional Protocol to the Convention on the Rights of the Child on a communications procedure⁵ – has been signed by Slovenia already in 2012 (Slovenia was also among the proponents of the new Optional Protocol and was active throughout the multilateral negotiations process), but not yet ratified.

Slovenia does not have a consolidated child law therefore child-related legislation is set out in various laws, especially through the prism of migrant, asylum-seeking and refugee children as a vulnerable category of children, with various line ministries responsible for their implementation. In its latest Concluding observations on the combined third and fourth periodic reports of Slovenia, adopted by the Committee on the Rights of the Child at its sixty-third session (27 May–14 June 2013),⁶ the Committee called for Slovenia to intensify its efforts to introduce a comprehensive child law in compliance with all provisions of the Convention on the Rights of the Child; and in the meantime, the State party should continue its endeavor to harmonize existing child-related legislation. Main legislation framework for migrant, asylum-seeking and refugee children represent Aliens

¹ Accessible at: <http://www.us-rs.si/media/ustava.republike.slovenije.pdf>.

² Accessible at: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

³ Accessible at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRC.aspx>.

⁴ Accessible at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>.

⁵ Accessible at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPICCRC.aspx>.

⁶ Accessible at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/SVN/CO/3-4&Lang=En.

Act⁷ and International Protection Act.⁸ Once a migrant child enters Slovenian territory, his rights and obligations are provided in the Aliens Act. If he or she applies for international protection, his rights and obligations are provided by the International Protection Act. Both Acts provide rights to social services (accommodation, health system, schooling, social benefits etc.) for minor migrants, asylum-seekers and refugee children, but the scope of rights depends on their legal status. There is broad reference to child's best interest as the guiding principle in both Acts. In case of a doubt about the age of a minor foreigner or asylum-seeker, both Acts foresee the possibility of age assessment test through medical examination to ascertain the person's age. Other rights are provided by field legislation and by-laws.

On policy level, the main national strategic document on children is the Programme for Children and Youth 2006–2016,⁹ adopted as the national document for implementation of the global plan for improvement of the situation of children "A World fit for Children", adopted at the UN General Assembly's Special Session on Children in May 2002. The current Programme recognizes only unaccompanied minors among vulnerable groups of children. Although the Programme has foreseen short-term action plans to be adopted, the last action plan was adopted for the period 2009–2010. In its latest Concluding observations on the combined third and fourth periodic reports of Slovenia, adopted by the Committee on the Rights of the Child at its sixty-third session (27 May–14 June 2013), the Committee expressed concern about the lack of an updated action plan to implement the Programme. The Committee called for Slovenia to ensure effective implementation of the Programme by adopting a binding action plan encompassing the necessary elements of the Programme for its application. It additionally stressed that the Programme and its action plan should be supported by sufficient human, technical and financial resources. The line Ministry, Ministry of Labour, Family, Social Affairs and Equal Opportunities is currently preparing new strategic document.

2.2. Statistical data on migrant children

Statistical data on migration is collected by the line Ministry, the Ministry of Interior. The Ministry publishes statistics on:¹⁰

- valid residence permits (disaggregated based on citizenship of the permit holder and type of residence permit – permanent vs. temporary),

⁷ Accessible at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5761>.

⁸ Accessible at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7103>.

⁹ Accessible at: http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti_pdf/pom2006_2016_splet_241006.pdf.

¹⁰ Statistics accessible at: http://www.mnz.gov.si/si/mnz_za_vas/tujci_v_sloveniji/statistika/.

- number of issued residence permits (disaggregated based on citizenship of the permit holder and type of residence permit – permanent vs. temporary, and statistics on number of issued residence permits per month),
- number of asylum applications (disaggregated based on nationality and gender, and statistics on number of asylum applications per month), and
- decision-making in the international protection procedure – yearly statistics (not disaggregated on any type of attribute on the profile of asylum-seekers).

The only attribute used in some statistics are gender and citizenship / country of origin. Slovenia does not publish statistics on asylum with disaggregated data on age or any other attribute or type of vulnerability.

The Ministry of Interior also publishes *Yearly report on migration, international protection and inclusion*.¹¹ In the section on international protection, the report provides yearly statistics on number of asylum seekers and number of granted asylums disaggregated based on country of origin, gender, and age groups (0–13 years, 14–17 years, 18–34 years, 35–64 years, 65 years or more). It also provides number of minor asylum seekers, disaggregated based on gender and age group (0–13 years, 14–15 years, 16–17 years). A special section is dedicated to UASC which provides number of UASC asylum seekers, their countries of origin, gender and age groups. The information on international protection beneficiaries provides statistics on type of status (refugee status / subsidiary protection), gender, countries of origin, and number of international protection beneficiaries granted international protection status as family members. The report also provides information on accommodation of international protection beneficiaries, their enrolment in education programmes, and entitlement to social benefits transfers.

Slovenian Police publishes monthly statistics on irregular migration flows in the territory of the Republic of Slovenia.¹² The statistics is disaggregated based on citizenship and border (with Austria, Italy, Hungary, or air borders) together with one-year trend analysis. In monthly statistics, they also publish number of entry bans at border crossings, number of considered cases of unauthorized residence, and number of return procedures (all disaggregated based on citizenship of the foreigner). These data is published also in the yearly report of the Police.¹³

The Police publishes also weekly data on number of migrants accommodated in Slovenia (in Asylum Home and its branches, outside Asylum Home, at private address, in Aliens

¹¹ Yearly report for 2015 accessible at: http://www.mnz.gov.si/fileadmin/mnz.gov.si/pageuploads/DUNZMN_2013/DUNZMN_2014/DUNZMN_2015/DUNZMN_2016/Statisticno_porocilo_-_SLO_2015_25052016.pdf.

¹² Statistics accessible at: <http://www.policija.si/index.php/en/statistika/mejna-problematika/622>.

¹³ Yearly report of the Police for 2015 accessible at: http://www.policija.si/images/stories/Statistika/LetnaPorocila/PDF/LetnoPorocilo2015_popravljeno.pdf.

Centre), but not disaggregated on any attribute of the migrants. There is a separate yearly statistics published for the Aliens Centre, providing information on gender and age (children and youth, adult men and women), basis for accommodation in the Aliens Centre, and country of origin.¹⁴

Republic of Slovenia as a European Union Member State provides statistical data to **Eurostat**,¹⁵ the statistical office of the European Union, providing the European Union with statistics at European level that enable comparisons between countries and regions. Eurostat collects statistical data on *asylum* with following variables: asylum applicants, persons being subject of pending asylum application, asylum applications withdrawn, first instance and final decisions on applications (grants of refugee status, subsidiary protection status and humanitarian status, rejections), resettlement. These data are broken down by citizenship, age groups and gender. Data on taking back or taking charge of asylum seekers (Dublin statistics) cover requests, acceptances and refusals of requests and persons transferred. Additionally, data are broken down by reasons for requests and decisions.

Eurostat also collects statistics in the *residence permit* domain with following variables: first permits granted to non-EU citizens by reasons, grants of change of immigration status or reason to stay permits, stock of all valid residence permits, and stock of long-term residents. These data are broken down by citizenship, reason for permit issuance and the length of permit validity. In addition data on grants of first residence permits, stock of permits and stock of long-term residents are broken down by sex and age groups. These data are provided by the Member States on a voluntary basis since 2010 reference year.

Based on the Blue Cards Directive Eurostat also collects data on grants, renewals and withdrawals of EU Blue Cards, including admitted family members. These data are broken down by citizenship and sector of economic activity (for grants of EU Blue Cards only).

Another set of statistical data in the field of asylum and managed migration, *enforcement of immigration legislation*, cover: non-EU citizens refused entry at the EU external borders, apprehension of persons found to be illegally present at the territory of the EU Member State, obligations to leave the territory of the Member State, and removals of non-EU citizens whose presence was unauthorised. These data are broken down by citizenship. In addition data on entry refusals is broken down by grounds for refusal and type of border; data on apprehensions are broken down by sex and age groups.

¹⁴ Statistics accessible at: <http://www.policija.si/index.php/en/delovna-podroja/mejne-zadeve-in-tujci/246>.

¹⁵ Eurostat data on asylum and managed migration accessible at: <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data>.

Statistical data for Eurostat in Slovenia collected by the line ministry, e.g. the Ministry of Interior. There is a plan to establish a working group for collecting and submitting requested information from Eurostat in foresight; role of the Statistical Office is foreseen to be in submitting (and not collecting) the data to Eurostat.

Statistics on migrant children is also collected by other international organizations and bodies, as analysed by the Global Migration Data Analysis Centre. **UNHCR** reports daily,¹⁶ with estimates of the stocks and flows of migrants arriving by sea in eight countries (Turkey, Greek Islands, Greece Mainland, the Former Yugoslav Republic of Macedonia, Serbia, Croatia, Hungary, Slovenia and Austria). **IOM**'s Migration Portal¹⁷ and Missing Migrants Project¹⁸ provide a compilation of data and information including a data briefing reviewing key trends in child migration to Europe. Biweekly reports publish data of arrivals by country of transit, providing information on nationalities, routes, as well as locations and numbers of stranded migrants by nationality, flows and stranded migrants. Cumulative data and biweekly overviews are available for Bulgaria, Croatia, Greece, Hungary, Italy, Serbia, Slovenia, Turkey and the Former Yugoslav Republic of Macedonia. However, only Italy and the Former Yugoslav Republic of Macedonia disaggregate between unaccompanied and accompanied children in their data. Cumulative data on arrivals and stranded migrants are published for Greece, Bulgaria, the Former Yugoslav Republic of Macedonia, Serbia, Croatia, Slovenia and Hungary. Detailed data including arrivals by land or sea are available for Bulgaria, Croatia, Greece, Hungary, Italy, the former Yugoslav Republic of Macedonia, Serbia and Slovenia. Only the Former Yugoslav Republic of Macedonia provides daily arrival data for male adults, female adults and un/accompanied children for operational purposes. The **Fundamental Rights Agency (FRA)** provides a monthly overview (weekly, until November 2015) of new arrivals and other notable legal, social and policy responses, including a specific focus on child protection concerns. Data collection includes a discursive review of the situation for new migrants in Austria, Bulgaria, Croatia, Germany, Greece, Hungary, Italy, Slovenia and Sweden. Although these country profiles provide significant information, statistics are not comprehensively or consistently provided across these countries.¹⁹

Regarding data collection, another national research institution shall be named among stakeholders. The **Social Protection Institute of the Republic of Slovenia**²⁰ is the national research institute following policies by the Ministry of Labour, Family, Social

¹⁶ UNHCR, Refugees/Migrants Emergency Response – Mediterranean Regional Data. Available from www.data.unhcr.org/mediterranean/regional.php.

¹⁷ Accessible at: migration.iom.int/europe/.

¹⁸ Accessible at: missingmigrants.iom.int.

¹⁹ Source: Children and unsafe migration in Europe: Data and policy, understanding the evidence base. Global Migration Data Analysis Centre: Data Briefing Series, September 2016. Accessible at: https://publications.iom.int/system/files/gmdac_data_briefing_series_issue5.pdf.

²⁰ More information on the institute available on their website: <http://www.irssv.si/>.

Affairs and Equal Opportunities. The Institute monitors the implementation of a number of Government programmes, including national strategy for children and youth. A separate research department on child rights, the **Child Observatory**²¹ was established in 2004. For the category of migrant, asylum-seeking and refugee children, as part of Child Observatory data basis they only monitor two indicators: number of unaccompanied minors with granted international protection status and number of children with granted international protection status together with their family members. Indicators are monitored on yearly basis, they obtain data by the line ministry (Ministry of Interior).

In its latest Concluding observations on the combined third and fourth periodic reports of Slovenia, adopted by the Committee on the Rights of the Child at its sixty-third session (27 May–14 June 2013), the Committee called for Slovenia to pursue its efforts to consolidate a comprehensive database on children and to introduce indicators on children's rights; the data should be disaggregated by age, sex, geographic location, ethnicity, migration status and socioeconomic background.

2.3. Migrant and refugee crisis in Europe – in Slovenia

Recent refugee and migrant crisis reached Slovenia in September 2015 when the first group of refugees and migrants arrived. An unprecedented influx of refugees and migrants hit Slovenia as a consequence of Hungary closing its border with Serbia and Croatia. From October 2015 to January 2016, 422.000 refugees and migrants crossed Slovenia, Slovenia was only a transition country on their way towards Western European countries. After initial attempts by Slovenian authorities to apply standard border control protocols, Slovenia set up a humanitarian 'corridor' (organized transport for the refugees and migrants from Slovenian-Croatian border to Slovenian border with Austria) to enable the migrants safe passage. Migrants and refugees have been registered and were provided with basic care. The government set up reception and accommodation camps in the border areas.

October 2015 was marked by crisis situation as the Government (and other stakeholders) were not prepared for managing unexpected numbers of refugees and migrants, with their number reaching its peak at the end of month with 25,000 refugees and migrants entering Slovenia in one weekend; and the Government had troubles with handling the crisis on the operational level. Bilateral tensions arose with Croatia due to lack of coordinated approach with Croatian government and police, which led to refugees being stranded in so called "no man's land" and / or their attempts to enter Slovenia via green border. In October, Slovenia (and Croatia) asked the EU for police to help regulate the flow coming from Croatia; it received assistance from 400 policemen from EU member states.

²¹ Accessible at: <http://www.irssv.si/baza-podatkov-o-otrocih>.

In November 2015, the Government decided to implement "temporary technical obstacles" (razor-wire fence) on the border with Croatia (although even in September, the Government was critical towards Hungary building the fence on its border). The measure was explained to be aimed at avoiding a "humanitarian disaster", although the number of refugees and migrants was falling after its peak in October, and Austria – the next country along on the migrant route – was planning to restrict the daily number of new arrivals which could create a backlog in Slovenia. Partly, the decision was a response to the external pressures (to prove EU that Slovenia can protect Schengen since Slovenian Government has been active in advocating Slovenia's position as the guardian of Schengen border). Local inhabitants were mostly opposing the fence, therefore the Government removed parts of it soon after its installation, and replacing it in some places with panel fence. In November, the Government also passed new amendments to the Defense Law, giving the military broad powers over the civilian population.

In March 2016, Slovenia (and neighbouring Croatia) announced it will refuse to allow the transit of most refugees through their territory (access only granted to foreigners meeting the requirements to enter the country, those wishing to apply for asylum, and refugees selected on a case by case basis on humanitarian grounds and in accordance with the rules of the Schengen zone) with the aim of shutting down the Balkan route, setting off a domino effect among Balkan states. The announcement followed Austria's decision in February to cap the number of refugees passing through its territory, and was announced the next day after signing the EU-Turkey deal. The decision of restricting entry to refugees and migrants in Austria, Slovenia, Croatia, Serbia and Macedonia caused a bottleneck of 36,000 refugees stuck at the Greek-Macedonian border, unable to continue their journey.

In its latest Concluding observations on the third periodic report of Slovenia, adopted by the Human Rights Committee at its 3246th and 3247th meetings (held on 15 and 16 March 2016), the Committee also addressed the migration flow through Slovenia. The Committee expressed concern at the lack of adequate protection provided to unaccompanied minors and victims of sexual and gender-based violence and / or trafficking. It also noted lack of psychosocial support provided to such individuals at the entry and exit points, as well as of formal mechanism to refer victims to assistance. The Committee called the State to establish a uniform and formal mechanism to identify vulnerable persons within the migration flow, including unaccompanied minors and victims of sexual and gender-based violence and / or trafficking, as well as a common referral mechanism to ensure their protection and rehabilitation.

Although the Balkan route is closed, unprecedented numbers of asylum-seekers and refugees represent a challenge for the Government. The crisis strengthened presence of international organizations in Slovenia. The Government is maintaining three reception/accommodation centres (Dobova, Šentilj, Lendava) on stand-by in case of repeating increased influx of refugees and migrants to Slovenia.

1.170 persons have applied for asylum in Slovenia in 2016, 148 have been granted international protection.²² Upon arrival to Slovenia, asylum-seekers are accommodated in Asylum Home. Language courses are provided already in asylum centers and after granted international protection status (as part of integration measures). In fall 2015, as apparent response to the mass transit of refugees, several amendments have been added to the International Protection Act (introduction of border procedures, shortening the deadline for the legal remedy in accelerated procedures from eight to three days, abolishment of one-off financial assistance for beneficiaries of international protection, and abolishment of financial compensation for accommodation in a private home for reunited family members of persons with subsidiary protection); amendments were adopted in 2016. In October 2016, the Ministry of Interior prepared new proposal of the Aliens Act, which would restrict and under certain conditions even suspend access to asylum, and therefore represent a breach the Constitution of the Republic of Slovenia, and Slovenia's obligations under European and international conventions, including the Convention on the Rights of the Child. Namely, the border Police would under changed circumstances due to intensified migration pressure (without specifying the merits), be authorized to arbitrarily assess the age of children at the border, and allow entering the State territory only to unaccompanied children looking younger than 14. The proposal has not yet been considered by the Government, it has not initiated the legislative procedure in the National Assembly.

Another feature worth mentioning is prevailing security-based Government discourse (refugees and migrants as a threat to national security), affecting public opinion and resulting in negative response (and protests against refugees / accommodation facilities for refugees) of local communities (e.g. in Maribor, second largest town in Slovenia, the city Council adopted a decision in October 2016 the Government shall not set up an Asylum Home branch in their city).²³

Slovenia is participating in the EU Relocation and Resettlement Scheme, with country quota of 567 relocated asylum seekers (from Italy or Greece) and 20 resettled refugees from third countries. On August, 10, the Government of Slovenia decided to resettle additional 40 Syrian citizens from Turkey, summing to 60 relocated refugees.²⁴ By 9 November, Slovenia has relocated 124 persons, 23 Eritrean citizens from Italy and 84 Syrian and 17 Iraqi citizens from Greece.²⁵ For coherent implementation of the EU Relocation and Resettlement Scheme, the Government established the Interministerial Working Group for Coordinated Implementation of the Refugee Relocation and Resettlement Plan with membership at the level of State Secretaries from Ministry of

²² Statistics available at: http://www.mnz.gov.si/si/mnz_za_vas/tujci_v_sloveniji/statistika/.

²³ Maribor City Council Conclusion available at: <http://www.maribor.si/dokument.aspx?id=29641>.

²⁴ More information available at: http://www.vlada.si/pomoc_beguncem/premestitve_in_preselitve/.

²⁵ More information available at: http://www.mnz.gov.si/si/novinarsko_sredisce/novica/article/12137/9913/.

Public Administration, Ministry for Labour, Family, Social Affairs and Equal Opportunities, Ministry of Education, Science and Sport, Ministry of Defence, and Ministry of the Environment and Spatial Planning, coordinated by Ministry of Interior State Secretary.

Another important development took place also as a result of increased influx of refugees. On July 28, 2016, the Government adopted a decision to accommodate unaccompanied minors in student dormitories in Postojna and Nova Gorica as a pilot project, implemented between August 7, 2016 and July 31, 2017.²⁶

2.4. Selected issues on migrant children protection in Slovenia

2.4.1. Detention of minor migrants

For an alien who illegally entered into Slovenia and is awaiting deportation pursuant to a bilateral agreement until transfer to foreign security authorities; or an alien failed to leave the country in the set deadline and cannot be removed immediately; or whose identity is not known; or an alien in the removal procedure, or an alien who failed to leave the country and re-applied for international protection, the Police can, until his or her removal from the country, order restriction of movement and accommodate him or her in the Aliens Centre or outside the Aliens Centre²⁷ for maximum of six months (administrative detention). In the Aliens Centre, women, families, children, unaccompanied minors, elderly people, severely ill and other vulnerable persons are accommodated separately to ensure them appropriate degree of privacy.²⁸ The Act provides accommodation in the Aliens Centre as the last resort²⁹ but it is regularly implemented, since there is no appropriate accommodation facility set up specifically for migrant minors.³⁰ The Aliens Centre is a Police detention facility for accommodation of aliens until removal from the country. Despite a separate section for vulnerable groups and minors, that kind of accommodation is inappropriate and inadmissible due to restriction of movement, absence of intensive holistic treatment and psychosocial programmes, such as assistance

²⁶ More information available at: http://www.mnz.gov.si/si/novinarsko_sredisce/novica/browse/11/article/12208/9828/.

²⁷ Aliens Act, Article 76: "An alien specified in the first paragraph of this Article whom it is not possible to accommodate at the Centre due to special reasons or needs may, in agreement with the social security office and with the costs borne by the Centre, be accommodated at a social security facility or provided with other appropriate institutional care."

²⁸ Aliens Act, Article 76.

²⁹ Aliens Act, Article 82: "An alien minor and a family with an alien minor shall be accommodated, upon agreement by the special case guardian, in adequate accommodation facilities for minors, where he will be guaranteed the rights referred to in the preceding paragraph. If this is not possible, an unaccompanied alien minor and a family with an alien minor shall be accommodated at the Centre."

³⁰ On July 28, 2016, the Government of the Republic of Slovenia adopted a decision to accommodate unaccompanied minors in student dormitories in Postojna and Nova Gorica as a pilot project, implemented between August 7, 2016 and July 31, 2017. More information available at: http://www.mnz.gov.si/si/novinarsko_sredisce/novica/browse/11/article/12208/9828/.

to traumatized children, preparations for repatriation, assistance with integration in the community of origin etc. Despite the legal provision, set in provisions of the Article 82 of the Aliens Act, accommodation of those children in Aliens Centre has been implemented systematically and it might last for several months, which represents a breach of the Article 37 of the Convention: *"No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time."* In relation to this problematic, this year's jurisprudence of the European Court of Human Rights is relevant, as the Court has noted that, although the material conditions in certain centres (in France) are appropriate, the conditions inherent in establishments of this type are a source of anxiety for young children. Only a short placement in an adapted administrative detention centre can be compliant with the European Convention of Human Rights. Equally, the Court emphasized that, where underage children are present, the domestic authorities must ensure that the placement in administrative detention is a measure of last resort for which no alternative measure is available. The problematic practice was also emphasized by the Ombudsperson in its yearly report for 2015.³¹

Although the Government decision on accommodating unaccompanied minors in dormitories foresees placement of all migrant unaccompanied children, minors who do not apply for asylum are still detained in the Aliens Centre, which is a clear violation of Aliens Act, the Government decision and international obligations, including the Convention on the Rights of the Child.

2.4.2. Accommodation of asylum-seeking and refugee children

Until September 2016, unaccompanied minors applying for international protection have been placed in a special section of the Asylum Home which is an open-type institution. Exceptionally, unaccompanied minor could be ensured suitable accommodation, care and treatment due to his or her medical or other needs in another relevant institution in Slovenia. The Social Work Centre with territorial jurisdiction decides upon suitability of such accommodation.³² Suitable accommodation and care for the unaccompanied minor has to be provided by the competent authority. It shall be noted that Asylum Home does not provide suitable environment for a longer stay and due to the lengthy legal procedures. Problematic is the lack of intensive holistic treatment, appropriate psychosocial and psychotherapeutic programmes and the fact that all asylum-seekers are accommodated in the Asylum Home and the unaccompanied minors, despite being placed in a separate, somewhat physically separated section, are exposed to potential threats,

³¹ Human Rights Ombudsman yearly report for 2015 accessible at: http://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/LP2015_VARUH.pdf.

³² International Protection Act, Article 16.

particularly trafficking. Minors under the age of 15 have been placed in Youth Crisis Centres throughout Slovenia. Youth Crisis Centres offer a slightly better care for children but their purpose is admission of children and adolescents aged between 6 and 18 in severe distress, due to which removal from the environment in which they live is urgent. The plight could be any distress in domestic environment which they cannot resolve: intolerable conditions at home (physical and psychological violence, sexual abuse, alcoholism of parents etc.), resisting parents for various reasons, refusal by parents, emotional disability, adolescent crisis, problems related to school etc. Youth Crisis Centres operate for 24 hours / day. Children and young people are usually accommodated in the Youth Crisis Centre up to three weeks, in exceptional cases, the accommodation period can be prolonged.³³ Therefore, for migrant, asylum-seeking and refugee children these facilities are suitable due to the nature and particularly of the premises, limited length of stay, although usually migrant children are allowed to stay there for a longer period of time.

International Protection Act provides for an unaccompanied minor with refugee status to be accommodated together with adult relatives, foster family or in special centres for accommodation, suitable for minors. In the past, most of these children were accommodated in the Integration House, where they were living alone, without presence of professional staff who would monitor them, guide them and provide them with the necessary psychosocial support. This proved to be very problematic (also in terms of safety). According to the experts, foster care would be a suitable accommodation arrangement. When placing a child in foster care, according to the Slovene legislation in this area, the rights and obligations of parents or guardian do not cease.³⁴ The purpose of foster care is to enable children healthy growth, education, harmonious personal development and preparation for an independent life and work.³⁵

On July 28, 2016, the Government adopted a decision to accommodate unaccompanied minors in student dormitories in Postojna and Nova Gorica as a pilot project, implemented between August 7, 2016 and July 31, 2017. The pilot project is implemented as a joint project of the Ministry of Interior, Ministry of Labour, Family, Social Affairs and Equal Opportunities, and Ministry of Education, Science and Sport. The pilot project on unaccompanied minors' accommodation was proposed by a group of Slovenian NGOs, including PIC.

Slovenia should provide suitable accommodation in accommodation facilities adapted to children's needs based on their age, maturity, gender and language, with suitable

³³ Ministry of Labour, Family, Social Affairs and Equal Opportunities website: http://www.mddsz.gov.si/si/delovna_podrocja/sociala/izvajalci/kcm/.

³⁴ Marriage and Family Relations Act, Article 156.

³⁵ Marriage and Family Relations Act, Article 154.

protection, professional treatment and psychosocial and psychotherapeutic programmes, adapted to their needs to integrally promote their development.

2.4.3. Guardianship system

After a migrant unaccompanied child is intercepted at the border, he or she is appointed a legal guardian by the territorially competent Social Work Centre. Usually, the child is accommodated in the Aliens Centre in Postojna and appointed new, his or her second legal guardian by the Postojna Social Work Centre. In the procedure of return or removal of an unaccompanied minor from Slovenia, the Aliens Act provides the assignment of guardian, while for legal representation in international protection procedure the International Protection Act applies. After obtaining international protection, a minor is assigned a special case guardian under the Marriage and Family Relations Act.

An additional feature regarding the Government pilot project of accommodating unaccompanied minors in dormitories, are somewhat unclear guidelines about mandate of the unaccompanied minors' legal guardians and the dormitories' social workers and especially potential overlapping of both competences.

It shall be added that the Government adopted a proposal of a new Family Act on its session on 14 December. The proposal foresees adoption of a separate law on guardianships.

2.4.4. Lengthy international protection procedures

In its latest Concluding observations on the combined third and fourth periodic reports of Slovenia, adopted by the Committee on the Rights of the Child at its sixty-third session (27 May–14 June 2013), the Committee expressed concern about the lengthy procedures to determine the minor's application for international protection, and called for the State to expedite the determination of the international protection application, in line with the International Protection Act.

Since around June 2016, due to a relative increase in the number of asylum applications in Slovenia and extremely slow decision-making procedures of the Ministry of Interior, the number of delayed asylum cases has been on the rise. In view of PIC the situation represents a violation of Article 47 of the International Protection Act and Article 31(1) of the Asylum Procedures Directive (2013/32/EU). From an individual's perspective, waiting for an asylum decision for months without a clear deadline in sight can be extremely psychologically taxing and can result in anxiety, depression and other medical issues.

The total number of person that have been affected by this systemic deficiency of the Slovenian asylum system in 2016 is difficult to calculate, however at the end of the year there are currently around 85 persons in asylum procedure that have been waiting for

over six months without an on-merit decision – around one quarter of all asylum applicants in Slovenia. This includes seven unaccompanied minors and six families with children. On top of that, several unaccompanied minors and families with children have absconded from Slovenia in 2016, losing hope in acquiring international protection in Slovenia after waiting for the decision for an unreasonable amount of time. The Ministry of Interior is clearly disregarding Article 48 of the International Protection Act, according to which cases of unaccompanied minors and other vulnerable persons must be carried out as priority cases.

PIC has been advocating with the Ministry for prevention of asylum delays since early 2016, when it became evident that they may occur due to an increase in the number of asylum application following the closure of the Balkan route.³⁶ Regardless, the Ministry of Interior did not take appropriate steps and, as feared, the decision making process has become unreasonably long. Since September 2016, PIC has been putting an increasing amount of focus on the analysis of asylum delays and advocated with the authorities for faster procedures. Pressure has also been put on the authorities through the Ombudsman's Office and the media. Several cases have been referred to the Ombudsman's office through the complaint mechanism under the Human Rights Ombudsman Act. Since the advocacy on this topic has started, the Ministry of Interior has, in view of PIC, not produced any justifiable reasons for the delays.

2.4.5. Enrolment in education programmes

In recent years, the Government has set some foundations for development of multicultural education, particularly from 2007 when the Strategy on inclusion of migrant children into Slovenian educational system was adopted. In 2009, the Guidelines on education of foreign children in kindergartens and schools were adopted, updated in 2012 as the Guidelines for integration of migrant children in preschool and schools, in 2010, the Code of intercultural dialogue for adult education was adopted.

The system of inclusion of migrant children in Slovenia is based on the aforementioned Guidelines for integration of migrant children in preschools and schools (from 2012), which binds also kindergartens to implement the principle of inclusive approach to realization of migrant children right to education, but additional support for teaching Slovene language is provided only for children enrolled in school (pre-school excluded).

The Ministry of Education provides schools which enroll migrant children, hours of additional professional assistance in teaching Slovene language, i.e. for the first and

³⁶ Please note that regardless of the relative increase in the number of asylum applications in Slovenia in 2016, the number per capita (585 applications per one million people) is still well below the EU average (1960 applications one million people). (Source: http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics)

second school year (after enrolling a migrant child to school). Assuring resources for teaching Slovene language aside, the Ministry enables and supports provision of classes of the migrant children mother tongues and cultures. From 2008, the Rules on assessment and grading knowledge, and advancement of children in primary school, include a provision on the possibility of adapting the grading for migrant children. Migrant children from country of origin where Slovene is not spoken as mother tongue, and who are enrolling for the first time in primary school in Slovenia in 6th or 9th grade, are entitled to participate in the national examination of knowledge only on voluntary basis in this school year.

The Rules on norms and standards for implementation of educational programmes in secondary education provide the obligation of organizing a Slovene language class for students who due to lack of knowledge of Slovene language need and want assistance. The school organizes the Slovene language class for the first two years of their education in Slovenia.

According to the Ministry of Education, including asylum applicants in Slovene education system represents a specific dimension due to their uncertain future in Slovenia. The integration period can be divided into two periods, into preparatory (*uvajalnica*) and follow-up phase (*nadaljevalnica*). Prior to inclusion into regular classes, a preparatory class is held in the duration 20 hours. After completing the preparatory class, children are included in regular classes, but they are entitled to additional professional assistance in learning Slovene (the follow-up phase). A migrant pupil is entitled to additional support for two years after enrolment to school. Additional support is provided by school and local environment (learning Slovene as second language, teaching assistance, individual programmes, adjustment of teaching methods and of grading through the school year, supporting the inclusion into extracurricular activities, organized by the school and local environment, various activities during school holidays, advance language courses, support for organizing additional classes of mother tongue and culture of migrant children). A special adjustment is possible in the grading system in the first two years after enrolment to school: the pupil can pass two grades without being graded (which represents an opportunity for the pupil firstly to strengthen his or her Slovene language skills and only at a later stage fully participating in knowledge assessment).

In the light of greater influx of particularly vulnerable groups last year, the Ministry prepared additional measures. It prepared recommendations for schools on inclusion of migrant children into educational system and set up a specialized website for school management, teachers, parents and interested public; it also published learning materials for learning and teaching Slovene as the second language. Educational programme Literacy in Slovene language for adult speakers of other languages (with an addition for minor asylum applicants, aged 15–18) has been adopted, which enables more adequate inclusion in the primary school education for adults. The Ministry representatives participate in the Interministerial Working Group for Coordinated Implementation of the

EU Relocation and Resettlement Scheme, coordinated by the Ministry of Interior, and the Advisory group on inclusion of migrant children into Slovene educational system is meeting regularly. The Ministry also actively cooperates in providing accommodation for unaccompanied minors with the Ministry of Interior and the Ministry of Labour, Family, Social Affairs and Equal Opportunities. Regarding accommodation of unaccompanied minors in dormitories in Nova Gorica and Postojna, two documents, "Forms and content of professional work with unaccompanied minors in dormitories; and Protocol and rules of procedure of accommodation of unaccompanied minors in student dorms have been adopted. The Ministry also prepared Protocol on assessment of education of minors without certificates on obtained degree as entry requirement for enrolment into secondary school.

In previous school year, 280 Slovenian schools requested for additional hours for teaching Slovene language, together 2330 primary school children and 1121 secondary school students benefitted from this measure. In last year, seven primary schools enrolled asylum applicants and persons with international protection. In October 2016, 34 asylum applicants and persons with international protection have been enrolled in primary school, and 41 (aged above 15) have been attending primary school for adults. In October 2016, four children – international protection beneficiaries have been enrolled in kindergarten, two in Ljubljana and two in Maribor. The Ministry is preparing a one-year project for teaching Slovene language young migrants who would want (and meet the requirements) to enrol in higher education programmes.

From the perspective of the Livada Primary School, a school with vast experience in enrolling asylum-seeking children accommodated in Asylum Home Vič, they perceive same challenge in enrolling migrant children, i.e. language barrier. Currently, out of round 300 pupils, only one half are Slovene citizens, but round 90% have migrant background. Out of 150 migrant children, currently 14 are asylum applicants; during last refugee and migrant crisis, they enrolled 28 asylum-seeking children (out of 43 school-aged asylum-seeking children in Slovenia). They implement two-level integration model which enables the pupils to attend regular classes and strengthen their Slovene language skills at the same time. Some volunteers speaking languages of asylum-seeking children's countries of origin assisted them in bridging the language barrier. As the teachers are not well skilled for working with migrant children, the school has to find a way of including these children into the school system and providing them adequate support. Although the system enables the migrant children to pass grades without being graded for two years after enrolling to school, they leave the decision to parents; namely, for older students, if they remain without grades, they do not obtain sufficient requirements (points) to enroll in secondary school. Sometimes they face the challenge of lack of motivation of children, especially due to their uncertain future in Slovenia. The principal especially pinpointed lengthy asylum procedures in Slovenia, which greatly (negatively) affect asylum-seeking children performance in school.

3. PROJECT IMPLEMENTATION

From May–December 2016, PIC has implemented, in partnership with UNICEF, a project on monitoring rights of migrant, refugee and asylum-seeking children in Slovenia with special emphasis on UASC. During the project, statistics on migrant, refugee and asylum-seeking children have been collected, monitoring visits in accommodation facilities where these groups are placed have been carried out, the legal framework has been analyzed with emphasis on rights of these groups of children and rights of these groups of children have been advocated in processes of designing national strategic documents. The project has provided an overview of child rights protection in Slovenia for migrant, refugee and asylum-seeking children. Aim of the project has also been to strengthen national capacities for child rights monitoring and to develop child rights monitoring mechanism for these groups of children.

3.1. Progress report by deliverables

Deliverable	Performance indicator – target	Performance indicator – project implementation
Data collection and (qualitative and quantitative information)	8 data tables	6 data tables 12 project meetings 5 meetings with NGOs 4 trainings / webinar participation
Monitoring visits	8 reports on monitoring visits	5 visits (+ reports) 11 monitoring / providing legal advice cases (+ reports) 1 training (+ report)
Facilitating dialogue with state authorities and key stakeholders	3 workshop summaries	3 workshops (+ reports / summaries) 1 high level discussion event (+ report / summary) 17 meetings (+ reports) 3 concept papers for discussion / workshops
Advocacy activities	Programme for Children and Youth document 5 meeting reports	7 meetings (+ reports) 1 report 1 position paper
Analytical legal review	Analytical review Final report	1 analytical review 1 final report

3.2. Data collection

In 2016, 1.170 people applied for asylum in Slovenia (962 males and 208 females); and 148 were granted international protection. Main countries of origin of asylum applicants are:

- Afghanistan (344 asylum applications),
- Syria (280 asylum applications),
- Iraq (115 asylum applications),
- Pakistan (83 asylum applications),
- Iran (76 asylum applications),
- Turkey (50 asylum applications – all since July),
- Algeria (40 asylum applications),
- Morocco (39 asylum applications),
- Eritrea (28 asylum applications).

Under the EU's emergency relocation and resettlement schemes with Slovenia's 'quota' of 587 persons, Slovenia relocated 124 persons in 2016.

PiC has been obtaining monthly statistics on migrant children flows in Slovenia based on Public Information Access Act from May 2016; below please find the statistical data collected by the State authorities.

Indicator/Month	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	TOTAL
Number of arrivals aged under 18 in the country	NA	6	10	7	11	16			50
Number of people under 18 years, applying for asylum	16	7	6	45	29	31			134
Number of people under 18 years granted asylum	2	13	2	3	18	8			46
Number of people under 18 years denied asylum	12	0	0	3	2	0			17
Total number of children placed in detention due to migration status	0	0	0	0	0	0			0

Number of persons with international protection under 18 years in Asylum Centre	68	81	71	76	68	71	435
Number of asylum applicants under 18 years placed in Asylum Centre	106	105	82	71	76	68	508
Number of new arrivals under 18 years in the Asylum Centre	16	7	6	45	29	31	134
Number of refugees and asylum applicants under 18 years departing from Asylum Centre	NA	11	14	30	32	25	113
Number of migrants under 18 years released from detention	NA	0	0	0	0	0	0
Total number of UASC applying for asylum	2 (male)	4 (male ; 3 from Syria)	6 (male ; 3 from Afghanistan)	25 (male ; 5 from Syria, 16 from Afghanistan; 1 from Iraq)	21 (male ; 9 from Afghanistan)	10 (male)	68
Total number of UASC granted asylum	2 (1 male, 1 female)	1 (male from Syria)	2 (male)	1 (male, from Afghanistan)	NA	4 (male)	10

Number of UASC denied asylum	0	0	0	0	NA	0	0
Number of UASC with assigned legal guardianship	2	NA	NA	NA	NA	NA	2
Number of UASC placed in foster care	0	0	0	0	0	0	0
Number of UASC placed in protected centers/closed facilities	0	0	0	0	0	0	0

Analyzing the trends, an increase in number of minor asylum applicants can be pointed out from May until October 2016. Among minor asylum applicants, almost 37% were granted asylum, and 12,7% (minors, not UASC) were denied asylum.³⁷ The average international protection recognition rate for unaccompanied minors is significantly lower compared to recognition rate for all minor asylum applicants: 14,7% of UASC applying for international protection were granted asylum; and no UASC has been denied asylum from May until October 2016.

The number of asylum applicants under 18, placed in the Asylum Centre, has decreased for 36% from May until October 2016, although the total number of new arrivals in the Asylum Centre is 19% higher than the total number of minor asylum applicants and minor international protection beneficiaries departing from Asylum Home.

A great shortcoming in accommodating migrant children / UASC is lack of Government practice to place them in foster care. The Government though organized one introductory seminar / training for potential foster parents for UASC.

For the purpose of data collection within the project, UNICEF prepared a data matrix with 30 indicators, broken down by age, gender and country of origin. The data table encompassed migrant flow in the country, number of international protection procedures and number of decisions, and access of migrant children to services. As said, PIC has been obtaining statistical data from the line ministry. The data collected by the Ministry represents 43% of the matrix indicators.

³⁷ International protection recognition rate for all asylum applicants in Slovenia averages to 12,6%; and 7,6% asylum seekers were denied asylum.

A huge gap has been identified as the line ministry (Ministry of Interior) does not collect information on access of migrant children to services (health services, formal and non-formal education programmes, counselling and psychosocial support, social benefits etc.). Another alarming gap is lack of statistical data on return procedures. Police records the number of returned persons (both under agreements and under Aliens Act) but the statistics is not aggregated by age, sex, nationality, special needs etc.

For *follow-up data collection activities*, PIC recommends UNICEF to include *additional indicators*:

- decisions in international protection procedures: number of minors granted refugee status and number of minors granted subsidiary protection (as subsidiary protection as a temporary status does not provide adequate basis for integration; and unaccompanied minors are often granted subsidiary protection until they reach the age of majority);
- number of absconding cases with minor asylum-seekers (accompanied or unaccompanied);
- number of minors in return procedures, broken down to return procedures under bilateral agreements and under Aliens Act;
- number of minor migrants and asylum-seekers underwent age assessment test;
- number of minor migrants accommodated in Aliens Centre (regardless of the basis for accommodation), broken down to unaccompanied and accompanied minors.³⁸

The greatest challenge in project implementation has been facilitating regular access to data and monitoring visits due to lack of legal basis. The Aliens Centre has made regular data collection subject to concluded Agreement with Ministry of Interior (unless not obtained under Public Information Access Act). PIC has been obtaining monthly statistics based on Public Information Access Act. In a follow-up response to the visit of the UNICEF Regional Director and Special Coordinator for Refugee and Migrant Response for Europe, Ms Marie-Pierre Poirier, to Slovenia in end of October, State Secretary Boštjan Šefic (Ministry of Interior) endorsed access to Asylum Home with the purpose of data collection, but not to the Aliens Centre which is under the remit of the Police.

As PIC has been obtaining statistical data for the previous month, PIC has requested data for December but will be submitting it after project conclusion, i.e. in January 2017, as agreed on the first project meeting (17 May).

³⁸ Although the matrix for data collection included indicator "Total number of children placed in detention due to migration status", the line Ministry / the Police did not report on any migrants accommodated in Aliens Centre on this basis (although minor migrants are regularly accommodated there). Therefore the indicator shall be broader to include all minor migrants accommodated in the detention facility.

3.3. Monitoring visits to government managed facilities where migrant, refugee and asylum-seeking children are placed

PIC carried out 5 monitoring visits to Aliens Centre Postojna (joint monitoring visit with UNICEF in June), Asylum Home Logatec (as part of the UNHCR's Working Group on Age, Gender and Diversity Mainstreaming (AGDM) Participatory Assessment in July), Integration House Maribor (as part of the UNHCR's AGDM Working Group Participatory Assessment in September), and Nova Gorica dormitory (in November and December). Additionally, PIC held a workshop on legal framework and referral mechanism with Nova Gorica Dormitory staff with the aim of strengthening their capacities.

Among main challenges identified during monitoring visits are language barrier and lack of intercultural competencies of the staff working with asylum-seekers and international protection beneficiaries, lack of experience in working with migrant children, backlogs in asylum procedures, diet not adjusted to their culture, coordination (and possible overlapping of competences) with UASC legal guardians, and administrative detention of minor migrants (in the Aliens Centre). No specific pressing issues have been mentioned regarding access of migrant children to health services or education.

PIC also monitored / provided legal advice in 10 cases, namely of a detained traumatized minor (EU citizen), a Sexual and Gender-based Violence case in a dormitory, detained minor in a return procedure, asylum delays, and consulted a social worker, a cultural mediator and legal guardians.

Regarding monitoring visits, PIC faced similar challenge as in data collection due to lack of legal basis for regular access. The Aliens Centre has made monitoring visits subject to concluded Agreement with Ministry of Interior. It has been agreed with UNICEF to carry out some monitoring visits as part of the UNHCR's AGDM Working Group Participatory Assessment. Additionally, a Note for the Record (September 2016) has been signed to add provision of free legal counselling to UASC legal guardians and social workers working with migrant children among specific activities to be completed to achieve the objectives. In a follow-up response to the visit of the UNICEF Regional Director and Special Coordinator for Refugee and Migrant Response for Europe, Ms Marie-Pierre Poirier, to Slovenia in end of October, State Secretary Boštjan Šefic (Ministry of Interior) endorsed access to Asylum Home with the purpose of monitoring visits, but not to the Aliens Centre which is under the remit of the Police.

Another protection mechanism shall be noted, namely the Ombudsperson's National Preventive Mechanism (NPM). Monitoring visits carried out through the NPM for the protection of persons deprived of their liberty in the Republic of Slovenia do not showcase all issues or challenges, in case of vulnerable populations, a challenge is also building trust. The NPM is an independent national body whose officers and members (including

PIC representatives) visit persons deprived of their liberty as well as those places where these persons are or could be detained. The NPM aims to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment.

3.4. Facilitating dialogue with state authorities and key stakeholders

During the project, dialogue with key state authorities has been established, and 17 meetings have been held with representatives of the Ministry of Interior, Human Rights Ombudsperson, Statistical Office, Ministry of Education, Science and Sport, Social Protection Institute, National Institute of Public Health, Ministry of Foreign Affairs, Primary School Livada, UNHCR Slovenia, IOM Slovenia, Border Police Division, and NGOs working with migrants. The stakeholders elaborated the UNICEF / PIC project as very beneficial, as there is a strong need of strengthening migrant children rights protection in Slovenia.

Two workshops have been organized with UASC legal guardians and social workers on working with migrant children and ensuring child's best interest, both with the aim of strengthening national capacities in working with migrant children.

Working meeting with UASC legal guardians titled "Ensuring Child's Best Interest: Working with Vulnerable Populations" has been organized on 6 October, and attended by 17 participants. The agenda covered legal framework of refugee, asylum-seeking and migrant children protection in Slovenia (PIC), assessing and ensuring child's best interest (UNICEF), submitting complaints to the Ombudsperson (Miha Horvat, Deputy-Ombudsman), preparing yearly reports on implementation of legal representation of unaccompanied minors (PIC), and discussion on current challenges of legal guardians in ensuring unaccompanied minors' rights implementation. Participants have been informed on the possibility of free legal counselling regarding all legal aspects of ensuring rights of unaccompanied minors, not only regarding international protection procedure, but also access to social and economic rights. Final conclusions and recommendations:

- The unaccompanied minors' legal guardians agreed more regular meetings are needed, to discuss pressing issues and challenges, and also with the aim of preparing joint appeals to the Ministry of Interior regarding pending issues.
- The unaccompanied minors' legal guardians shall have the possibility of talking with the unaccompanied minor prior to providing information session.
- Restoring Family Links procedures are lengthy, therefore they endanger implementing the principle of child's best interest.
- Supervision shall be provided for unaccompanied minors' legal guardians (although there has been the initiative in the past, but the response by the legal guardians was weak).
- Interpreters shall undergo a training on rules of procedures and data confidentiality. Interpretation shall be provided by official interpreters.

- All Ministry of Interior decision-makers shall undergo mandatory regular (yearly) trainings on working with minors, as a systemic and continuous approach on capacity building.

Workshop with social workers titled "Ensuring Child's Best Interest: Migrant, Asylum-Seeking and Refugee Children" has been organized on 20 October, and attended by 12 participants. The agenda covered legal framework of refugee, asylum-seeking and migrant children protection in Slovenia (PIC), working with vulnerable populations: migrant, asylum-seeking and refugee children (Slovene Philanthropy), assessing and ensuring child's best interest (Slovene Philanthropy), and discussion on current challenges of legal guardians in ensuring unaccompanied minors' rights implementation. Participants have been informed on the possibility of free legal counselling regarding all legal aspects of ensuring rights of unaccompanied minors. Final conclusions and recommendations:

- Prompt access to interpretation shall be assured to social workers.
- The guardianship system shall be adapted to assure as little distress for the child as possible.
- Social workers working with migrant children shall be adequately trained to ensure implementation of the best interest of the child in practice.

The project concluded with a joint UNICEF / PIC discussion "Child Protection System in Slovenia through the Prism of Migrant Children" on 15 December, and attended by 40 Government, public entities and NGO representatives. The event has provided a forum to discuss current situation in this field, challenges faced by all stakeholders in ensuring refugee, asylum-seeking and migrant children rights protection in Slovenia, and discussing future plans and identifying priorities in strengthening national child rights monitoring system. By introductory address, the discussion has been opened by President of the National Assembly of the Republic of Slovenia, Dr Milan Brglez. He emphasized a sustainable solution to the current refugee and migrant crisis shall inevitably be based on shared responsibility, political dialogue and an inclusive approach to all stakeholders. State Secretary Boštjan Šefic (Ministry of Interior) outlined migrant children protection in Slovenia and the Government pilot project of accommodating unaccompanied minors in dormitories. Pilar Gonzales Rams (UNICEF) presented results of the Child Protection Mapping in Slovenia. Dr Tamara Narat from Social Protection Institute of the Republic of Slovenia focused on importance of data collection for informed policy-making. And Adriana Aralica (PIC) presented results of the UNICEF / PIC project. A great part of the event was dedicated to challenges identified in working with migrant children in Slovenia, the debate was moderated by PIC directress Katarina Bervar Sternad. Discussion conclusions and recommendations:

- The Government decision on pilot project of accommodating unaccompanied minors in dormitories shall be implemented for all unaccompanied migrant children.
- The systemic solution on accommodation and care of migrant children shall be designed in an inclusive manner.

- The Ministry of Labour, Family, Social Affairs and Equal Opportunities shall pursue a clear and central role in ensuring children's rights of all children, including migrant children.
- The State shall mainstream migrant children rights in relevant policies and harmonize child-related legislation.
- In new strategic document on children's rights, the State shall include vulnerable groups of children, including migrant children, as a cross-cutting issue.
- In reorganizing the guardianship system, the State shall consider needs of migrant children.
- The State shall establish a comprehensive database on children's rights implementation, broken down to indicators which would enable monitoring of children's rights implementation for vulnerable groups of children.
- The State shall establish an independent advisory body to the Government which shall monitor all child-related policies, and not a general body for family affairs. The advisory body shall have a clear mandate and inclusive structure.
- All stakeholders shall enhance their efforts in awareness-raising of local population in refugee topics.

Results of the project have also been presented at the Interministerial Commission on Human Rights session with representatives of all line ministries and civil society, convened by the Ministry of Foreign Affairs on 6 December. PIC directress Katarina Bervar Sternad attended the session and present results and recommendation of the UNICEF / PIC project, as Slovenia is scheduled to be reporting to the Committee on the Rights of the Child in 2018. It has been agreed to schedule a specific session of the Commission solely on the topic of children's rights in 2017.

Another stakeholder addressed in the project have been teachers. Adriana Aralica participated in a forum for teachers titled "Stronger Together" on the topic of Sustainable Development Goals and Migration, organized on 20 December by the UN Association of Slovenia, Ministry of Foreign Affairs, Ministry of Education, Science and Sport, and Slovenian National Commission for UNESCO, and supported by the US Embassy in Ljubljana. In her presentation, Adriana outlined realization of migrant children rights in Slovenia, and results and key recommendations of the project. The teachers emphasized the language barrier and lack of motivation for education of migrant children as key challenges in enrolling migrant children in primary and secondary school.

Among other stakeholders contacted by PIC was also Ministry of Health representatives, but PIC has not been successful in scheduling a meeting due to their unresponsiveness, which might also imply the Ministry not seeing the topic of migrant children as of relevance for them. Nevertheless, PIC has met with the National Institute of Public Health which is implementing a project on access of migrants to health care. PIC also contacted the World Health Organization Office in Ljubljana, but due to changes in the position of the Head of the office it was not possible to schedule a meeting.

3.5. Advocacy activities

3.5.1. National strategic document on children and youth

Dialogue has been established with main stakeholders regarding preparations of the new Programme on Children and Youth. The Programme for Children and Youth 2006–2016 recognizes only unaccompanied minors among vulnerable groups of children. PIC has engaged in advocacy activities for including migrant, refugee and asylum-seeking children as cross-sectoral topic in new strategy and held 6 meetings, namely with the Social Protection Institute of the Republic of Slovenia, NGO hub ZIPOM (NGO hub for advocacy and information on the rights of children and adolescents which PIC is a member of), and Ministry of Labour, Family, Social Affairs and Equal Opportunities (line ministry for preparing the new programme on children and youth), UNICEF National Commission, and Council of Europe Children's Rights Division representative.

In July, the Convention on the Rights of the Child Intermediate Shadow Report for Slovenia³⁹ was prepared. PIC actively engaged in coordination about the report preparations with ZIPOM and prepared a chapter on migrant, asylum-seeking and refugee children, with a call to the State to include of all vulnerable groups of children as a horizontal / crosscutting issue and to recognize migrant, asylum-seeking and refugee children as vulnerable groups of children in new national strategic documents on children and youth, to strengthen data collection and monitoring system, and to ratify 3rd Optional Protocol to the Convention on the Rights of the Child. We also called for the State to strengthen enabling environment for NGOs to participate in national and multilateral processes of monitoring children's rights. Among other topics, we also covered alimony for children and health care of children with special needs.

PIC also prepared a joint NGO statement on inclusion of vulnerable groups of children (including migrant, asylum-seeking and refugee children) as a horizontal topic in the new Programme for Children and Youth, which has been submitted to the Ministry of Labour, Family, Social Affairs and Equal Opportunities in December. The NGO position is aligned with provisions of the Convention on the Rights of the Child, and the Council of Europe Strategy for the Rights of the Child (2016–2021)⁴⁰ as the key guiding documents. The joint NGO statement has been co-signed by 20 NGOs working with migrant children.

³⁹ More information accessible at: <http://pic.si/nevladne-organizacije-vlado-rs-pozivamo-h-krepitev-nacionalnih-mehanizmov-spremljanja-uresnicevanja-pravic-otrok/>.

⁴⁰ Accessible at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168066cff8>.

In October, PIC expressed interest in engaging in the working group for preparation of the new Programme for Children and Youth, but the Ministry of Labour, Family, Social Affairs and Equal Opportunities has not yet convened a meeting.

The new Programme has not been prepared by completion of the project therefore this deliverable has not been met due to objective reasons. However, the Ministry of Labour, Family, Social Affairs and Equal Opportunities representative agreed preparing a suitable basis for implementation of migrant, refugee and asylum-seeking children's rights is crucial due to new realities in Slovenia, and the new Programme shall adequately address needs of migrant, refugee and asylum-seeking children.

3.5.2. Ratification of 3rd Optional Protocol to the Convention on the Rights of the Child

While researching the topic of migrant children rights and implementation in Slovenia, PIC realized Slovenia was one of the proponents and signed the 3rd Optional Protocol to the Convention on the Rights of the Child already in 2012, but has not ratified it. UNICEF and PIC agreed for strengthening protection of migrant children in Slovenia, a complaint mechanism is crucial in the light of changing circumstances due to arrival of greater number of migrant, asylum-seeking and refugee children. A Note for the Record (September 2016) has been signed to include advocacy activities with relevant stakeholders for ratification of the 3rd Optional Protocol to the Convention on the Rights of the Child among specific activities to be completed to achieve the objectives.

In the Government decision (dated on 18 February 2015) on recommendations Slovenia received during the interactive dialogue within the framework of the Universal Periodic Review on Human Rights in Geneva on 11 April 2014, the Government accepts the recommendation to ratify the 3rd Optional Protocol to the Convention on the Rights of the Child.⁴¹ In its yearly report for 2015, the Human Rights Ombudsman pointed out that the 3rd Optional Protocol to the Convention on the Rights of the Child and the fact that Slovenia has not ratified it yet, shows its attitude towards its international obligations.

In August, PIC sent an appeal to Minister of Labour, Family, Social Affairs and Equal Opportunities Dr Anja Kopač Mrak, for ratification of the 3rd Optional Protocol to the Convention on the Rights of the Child. PIC received a response in September by Andrej del Fabro, MSc, Director-General for Family Affairs. It provides explanation that the ratification of Protocol is still being coordinated at the interministerial level. They are also

41 Document accessible at:
https://www.google.si/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUK Ewj2-rbC_ZbRAhVXdiAKHZ-jAEQQFggYMAA&url=http%3A%2F%2Fvrs-3.vlada.si%2FMANDAT14%2FVLADNAGRADIVA.NSF%2FIMiS%3FOpenAgent%26D18C390630467756C1257DEF0053B326%261&usq=AFQjCNHY3HLdhteF_70YYhj9aoHwUS6xvw&sig2=eyoLNutYtvXBUjNa_MPqbw&bvm=bv.142059868,d.ZWM.

obtaining information on implementation of the Protocol in other countries with comparable legal systems as Slovenia, as some provisions of the Protocol are considered as not completely clear from the standpoint of compliance with Slovenian legislation. They are also identifying the responsible Government body to follow the Committee on the Rights of the Child recommendations, and to cooperate with the Committee.

Due to lack of materials, PIC requested UNICEF for analysis or other materials on implementation of the complaint mechanism into national legislation in European countries, but they do not have any relevant materials. PIC also reached out to various international networks regarding materials on ratification, including Eurochild and Ratify OP3 CRC – International Coalition for the OPCRC on a Communications Procedure.

In October, PIC directress participated in the Interministerial Working Group on Human Rights session, where she inquired about the ratification of the 3rd Optional Protocol to the Convention on the Rights of the Child. The Working Group discussed bottlenecks in ratification process, since it is still not agreed upon at the interministerial level.

3.6. Analytical legal review

The analytical review – national framework on realization of children's rights from the Convention on the Rights of the Child in Slovenia has been submitted in July. It has been prepared based on the methodology of the Committee on the Rights of the Child and its Concluding observations (issue clusters). Main findings are presented under 2.1.

3.7. Project-related activities

3.7.1. Detention of minors

On 12 July, the European Court of Human Rights issued five judgements concerning detention of children in return/deportation procedures. PIC analyzed the decisions and possible applications for Slovenian system.

3.7.2. Advocacy activities regarding the new Family Act

In August, PIC directress participated in a round table organized by Zveza prijateljev mladine Slovenije / ZIPOM on the Family Act proposal. PIC directress presented PIC proposals for amendments of the Family Act, i.e. regarding guardianship system reorganization and minimum alimony (izhodiščna preživnina). Reorganizing guardianship system including introduction of specialized guardianships is of utmost importance

through the prism of assuring migrant children's rights protection and implementation of child's best interests as the guiding principle in practice.⁴²

In September, PIC directress attended a conference organized by the Ministry of Family, Labor, Social Affairs and Equal Opportunities related to the new Family Act as PIC is advocating for the new act in the area of guardianship for minors, specifically migrant and refugee unaccompanied minors.

In September, PIC directress participated in National Assembly's Commission for Petitions, Human Rights and Equal Opportunities session, presenting PIC proposal for amendments of the Family Act regarding minimum alimony.

3.7.3. Amendments to the Collective Complaints Act

In September, PIC submitted amendments to the Collective Complaints Act related to the area of discrimination; these legal remedy is important as a tool for litigation on behalf of vulnerable groups, such as migrant and refugee children when pursuing their rights.

3.7.4. Guardianship system

In October, PIC directress engaged in the working group for reorganization of the guardianship system (coordinated by Social Work Centres Association) and regarding the alimony system (coordinated by the Ministry of Labour, Family, Social Affairs and Equal Opportunities).

3.7.5. Advocacy activities regarding the Aliens Act proposal

In October, PIC has informally obtained the new Aliens Act proposal, prepared by the Ministry of Interior, which would restrict and under certain conditions even suspend access to asylum, and therefore represent a breach the Constitution of the Republic of Slovenia, and Slovenia's obligations under European and international conventions, including the Convention on the Rights of the Child. Namely, the border Police would under changed circumstances due to intensified migration pressure (without specifying the merits), be authorized to arbitrarily assess the age of children at the border, and allow entering the State territory only to unaccompanied children looking younger than 14. PIC engaged in advocacy activities in cooperation with other NGOs and international organizations, and has been successful – the proposal has been removed from the next Government session agenda.

⁴² Accessible at: <http://pic.si/nevladne-organizacije-pozivajo-k-prepovedi-telesnega-kaznovanja-otrok-tudi-v-druzinskem-zakoniku/>.

In October, the NGO coalition including PIC has sent a protest letter to the Minister of Interior as a reaction to the Aliens Act proposal. In November, the NGO coalition including PIC sent two letters to the Prime Minister regarding its position on the Aliens Act proposal and Slovenia's integration policy. As a response to the letters, a follow-up meeting has been convened by State Secretary Dr Andreja Črnak Meglič with NGOs on 3 December. The meeting has been attended by PIC directress Katarina Bervar Sternad. Among issues highlighted at the meeting were challenges in ensuring migrant children rights implementation.

3.7.6. Cooperation with Social Chamber

In November and December, PIC directress cooperated with Social Chamber in their project of developing of the professional State exam in the field of social protection.

3.7.7. Public Relations

Throughout the project, PIC greatly engaged in public relations activities relating issues of concern regarding migrant children.

In July, after the tragic death of a two-year old girl due to domestic violence, PIC published a press release emphasizing obligation of each individual to report violence against children according to the Family Violence Prevention Act.⁴³

In July, PIC Directress was invited to comment on the new Family Violence Prevention Act in the main informative broadcast on TV Kanal A. She was requested to comment on the provision on prohibition of corporal punishment of children.⁴⁴

In August, PIC issued a press release on the Convention on the Rights of the Child Intermediate Shadow Report for Slovenia, emphasizing the NGOs calling the Government to strengthen national mechanisms for children rights protection.⁴⁵

Another press release has been issued in August after adoption of the novel of Family Violence Prevention Act, linking implementation of Family Violence Prevention Act provisions on protection of children from violence to ratification of 3rd Optional Protocol to the Convention on the Rights of the Child, which would provide individual complaint

⁴³ Accessible at: <http://pic.si/sporocilo-za-javnost-zakon-o-preprecevanju-nasilja-v-druzini-doloca-da-je-za-prijavo-nasilja-nad-otroki-odgovoren-vsakdo/>.

⁴⁴ Accessible at: <http://www.24ur.com/novice/slovenija/vlada-potrdila-zakon-ki-izrecno-prepoveduje-telesno-kaznovanje-otrok.html>.

⁴⁵ Accessible at: <http://pic.si/nevladne-organizacije-vlado-rs-pozivamo-h-krepitvi-nacionalnih-mehanizmov-spremljanja-uresnicevanja-pravic-otrok/>.

mechanism, and called for the State to ratify the Protocol. The article was published by Slovene Press Agency (STA).⁴⁶

In August, PIC directress gave two statements for Radio Koper on the Convention on the Rights of the Child Intermediate Shadow Report for Slovenia (for programme in Italian language). She also gave an interview for Primorske novice and POP TV on child rights protection in Slovenia through the prism of migrant children, and called for ratification of the 3rd Optional Protocol to the Convention on the Rights of the Child.

Upon completion of the project, a joint UNICEF / PIC press release has been prepared.⁴⁷

PIC has also been regularly publishing posts on migrant children on its Facebook page,⁴⁸ with the aim of raising awareness on pressing issues and the need of systemic approach to rights of migrant children in Slovenia. Approximately 50 posts raised awareness on children's rights, migration and specific issues related to migrant children.

⁴⁶ Accessible at: <http://pic.si/za-varstvo-otrok-pred-nasiljem-kljucna-ratifikacija-tretjega-izbirnega-protokola-h-konvenciji-o-otrokovih-pravicah-2/>.

⁴⁷ Accessible at:

⁴⁸ Accessible at: <https://www.facebook.com/Pravno-informacijski-center-nevladnih-organizacij-PIC-705411846195424/>.

4. MAIN CONCLUSIONS AND RECOMMENDATIONS

Project implemented by PIC has focused on systemic issues, i.e. importance of quantitative and qualitative data collection on migrant children as a basis for adequate policies, importance of mainstreaming migrant children rights into national strategies (including into the new 10-year Programme on Children and Youth as a horizontal topic) and implementation documents, and the need for strengthening the migrant children rights protection and monitoring system in Slovenia. The project is extremely important from the standpoint of sustainability of results and national capacity building aspect.

Responsibility of Slovenia to ensure implementation of children's rights stems from binding international human rights protection mechanisms and national legal framework. Special protection and care for children is set out already in the Constitution. As provided in the legal analysis, Slovenia does not have a consolidated child law therefore child-related legislation is set out in various laws, especially through the prism of migrant, asylum-seeking and refugee children as a vulnerable category of children, with various line ministries responsible for their implementation. The field of child protection acknowledges the need for collaboration and cooperation among a wide range of actors at various levels in the child protection system.⁴⁹ Obviously, all programmes and structures within a government need to cooperate in order to provide the range of services required, and to protect the full range of rights identified in the Convention on the Rights of the Child. It is substantially more difficult to integrate and coordinate those services. Policy coordination is always difficult in the public sector, but it may be more difficult in this case simply given the range of services that apply to children. Further, some of those policies, e.g. services for women, may be at least in part competitive with the rights of children. As well as linking programmes that serve children horizontally across programmes such as education and family policy, there must also be a vertical link to other levels of government. Beside horizontal coordination within government and externally with other national governments, central government organizations will also have to communicate internally with other levels of government in order to be successful in implementing the Convention on the Rights of the Child.⁵⁰ Adopting a rights-based approach to social care is the best way of ensuring that the principles of equality and respect identified by asylum seekers and refugees are met. While such an approach recognises that asylum seekers and refugees with social care needs are vulnerable, it does so through the lens of human rights. Adopting a rights-based approach implies that statutory authorities have a responsibility and duty in relation to the social care needs of

⁴⁹ Wulczyn, Fred, Deborah Daro, John Fluke, Sara Feldman, Christin Glodek, and Kate Lifanda (2010): *Adapting a Systems Approach to Child Protection: Key Concepts and Considerations*. New York: UNICEF.

⁵⁰ Peters, B. Guy (2012), 'Governance and the Rights of Children: Policy, implementation and monitoring', Working Paper 2012-11, UNICEF Office of Research, Florence.

asylum seekers and refugees.⁵¹

As emphasized by UNICEF, migrating and displaced children are at risk of some of the worst forms of abuse and harm. Many are subjected to extreme forms of abuse and deprivation during their journeys. When, and if, these children reach destination countries, the threats they face do not disappear. Refugee and migrant children disproportionately face poverty and exclusion at a time when they are in desperate need of essential services and protection. Therefore, supporting displaced and migrant children at home and globally is a shared responsibility – shared because no one is untouched by the impacts of the multiple crises in the world.⁵²

Recommendations:

- *Slovenia shall mainstream migrant children rights into relevant national legislation and policies, and harmonize existing child-related legislation and policies.*
- *The Ministry of Labour, Family, Social Affairs and Equal Opportunities shall pursue a clear and central role in ensuring children's rights of all children, including migrant children. All line Ministries shall assume their role in ensuring migrant children rights implementation.*
- *Slovenia shall prepare a new strategic document solely for children's rights implementation (and not generally for family affairs), which shall be plausible, with concrete and measurable indicators to regularly evaluate its implementation, and accountability mechanism.*
- *In new strategic document on children's rights, the State shall include vulnerable groups of children, including migrant children (migrant, asylum-seeking and refugee children, accompanied and unaccompanied), as a cross-cutting issue.*

Besides the absence of a consolidated child law that would incorporate all provisions of the Convention, it is important to stress out shortcomings in data collection and monitoring. A great difficulty in implementing the Convention is that monitoring rights-based policies is perhaps more demanding than is monitoring more tangible services.⁵³ The only public research institute with the task to follow children's rights implementation in Slovenia is the Social Protection Institute of the Republic of Slovenia, with the Child Observatory as a separate research department on child rights. For the category of migrant, asylum-seeking and refugee children, as part of Child Observatory data basis they only monitor two indicators: number of unaccompanied minors which obtained

⁵¹ Social Care Institute for Excellence (2015): Good practice in social care for refugees and asylum seekers. Accessible at: <http://www.scie.org.uk/publications/guides/guide37-good-practice-in-social-care-with-refugees-and-asylum-seekers/>.

⁵² Garin, Emily (ed.) (2016): Uprooted – The Growing Crisis for Refugee and Migrant Children. New York: UNICEF.

⁵³ Peters, B. Guy (2012), 'Governance and the Rights of Children: Policy, implementation and monitoring', Working Paper 2012-11, UNICEF Office of Research, Florence.

international protection status and number of children who obtained international protection status together with their family members. Indicators are monitored on yearly basis, they obtain the data by the line ministry (Ministry of Interior).

In its Concluding observations on the combined third and fourth periodic reports of Slovenia, adopted by the Committee on the Rights of the Child at its sixty-third session (27 May–14 June 2013), the Committee welcomed the creation of a Child Observatory to monitor the situation of children in Slovenia and establishing a separate database for children; but the Committee expressed concern that the data are not sufficiently disaggregated for all areas covered by the Convention, particularly with regard to children belonging to minority groups, including Roma children, children with disabilities, migrant children, refugee and asylum-seeking children. The Committee encouraged Slovenia to pursue its efforts to consolidate a comprehensive database on children and to introduce indicators on children's rights by which progress in the realization of children's rights could be analysed and assessed. The only attribute used in some statistics of the Ministry of Interior are gender and citizenship / country of origin. Slovenia does not publish statistics on asylum with disaggregated data on age or any other attribute or type of vulnerability. Additionally, a huge gap represents lack of data on migrant children's access to services (health services, formal and non-formal education programmes, counselling and psychosocial support, social benefits etc.), as the line ministry (Ministry of Interior) monitors cases but does not aggregate the data. As trauma is a too common feature of migrant children, the line ministry shall collect statistics on vulnerable groups of migrant minors (victims of torture, victims of violence, victims of trafficking etc.) to ensure suitable services and support. Another alarming gap is lack of statistical data on return procedures. Police records the number of returned persons (both under agreements and under Aliens Act) but the statistics is not aggregated by age, sex, nationality, special needs etc. Another missing statistics in on the number of age assessment medical examinations. The Committee on the Rights of the Child expressed concern that age assessment tests, including those which may be harmful to the child, are conducted frequently, and called for Slovenia to refrain from a regular conduct of age assessment tests and to ensure that such procedures are taken only as a measure of last resort.

Lack of statistical data has also been pointed out by the Court of Audit report. On 5 December, the Court of Audit of the Republic of Slovenia issued a report⁵⁴ on audit of the Ministry of Interior operations. The report states that the Court was not able to assess the effect of integration projects on an international protection beneficiary. It estimates that measures regarding treatment of international protection beneficiaries could be more effective, if the Ministry would record and analyze all activities the international protection

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Accessible

at:

<http://www.rs-rs.si/rsrs/rsrs.nsf/I/KA17E398955721557C1257ED7003034A1?openDocument&appSource=FC914121789FBE94C12571550047D1A9>.

beneficiary attended, and based on analysis results adopt decisions on (dis)continuing certain activities.

It shall be noted that child migration encompasses many different categories including dependent (i.e. travelling with family members) and child migrants who arrive without parents or guardians, i.e. UASC. Unaccompanied children may also declare themselves as adults in order to continue their journeys. Child migration in Europe is diverse and often invisible in data and policy. No consistent data are available on the number of dependent children in asylum-seeking families. The Global Migration Data Analysis Centre emphasizes that age and gender should be disaggregated for children arriving at the EU's Southern borders, in all transit countries, and for all dependents in asylum claims. This would reveal the hitherto invisible children in Europe who are identified as "accompanied". This is crucial because the majority of migrant and refugee children who reached Europe by sea are accompanied.⁵⁵

Similarly, UNICEF emphasizes that data about children are crucial to decision-making but are incomplete. Children are too often relegated to the fringes of the world's debates about migration and displacement. One reason is the lack of hard numbers to support the case for children. Without reliable data, evidence-based debates and policymaking are hampered. Global estimates are incomplete and therefore do not tell us the whole story. There are even fewer comprehensive and comparable indications about how child migrants fare in their countries of origin, transit, and destination.⁵⁶

Around the world, nearly 50 million children have migrated across borders or been forcibly displaced – and this is a conservative estimate. More than half of these girls and boys fled violence and insecurity – 28 million in total. These children may be refugees, internally displaced or migrants, but first and foremost, they are children: no matter where they come from, whoever they are, and without exception.⁵⁷

The systemic collection and availability of statistics on age and gender may contribute to a better understanding of the needs and vulnerabilities of migrant and refugee children and inform more tailored and targeted policy responses that reflect more accurately the diverse, complex and rapidly changing nature of migrant flows. Furthermore, the Global Migration Data Analysis Centre also pinpoints absence of data on children with disabilities on the move and family reunification, as well as deficiencies in data on detention and

⁵⁵ Source: Children and unsafe migration in Europe: Data and policy, understanding the evidence base. Global Migration Data Analysis Centre: Data Briefing Series, September 2016. Accessible at: https://publications.iom.int/system/files/gmdac_data_briefing_series_issue5.pdf.

⁵⁶ Garin, Emily (ed.) (2016): *Uprooted – The Growing Crisis for Refugee and Migrant Children*. New York: UNICEF.

⁵⁷ Garin, Emily (ed.) (2016): *Uprooted – The Growing Crisis for Refugee and Migrant Children*. New York: UNICEF.

return (particularly on those who were unaccompanied minors but have reached 18 years of age). Moreover, not only are there gaps in data coverage but also children are “double-counted”. This occurs when disjointed recording mechanisms aggregate, rather than consolidate their data. Double counting is exacerbated when data are aggregated at local, national and European levels. Children can be counted in more than one jurisdiction and may be recorded as “missing” at various points throughout their journey. The double-counting of missing children is an important consideration when mapping child migration.⁵⁸

In its latest Concluding observations on the combined third and fourth periodic reports of Slovenia, adopted by the Committee on the Rights of the Child at its sixty-third session (27 May–14 June 2013), the Committee called for Slovenia to pursue its efforts to consolidate a comprehensive database on children and to introduce indicators on children’s rights; the data should be disaggregated by age, sex, geographic location, ethnicity, migration status and socioeconomic background. Strengthening national capacities in the field child rights monitoring of refugee, asylum-seeking and migrant children, and developing sustainable child rights monitoring mechanism remains a pressing challenge.

As an example of best practice, parallels can be found with data collection under the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). The Law on ratification of the Convention foresees data collection which is carried out by the Statistical Office. Eurostat is currently also initiating a project on data collection on domestic violence to obtain comparable data for the European Union. For a small population as Slovenia, it is understandable that data with low incidence cannot be publicly accessible due to the confidentiality principle (regarding domestic violence cases or data on migrant children). But that does not prevent the State to collect data as a basis for adopting adequate measures, which is especially important for vulnerable populations, including migrant children.

Recommendations:

- *Slovenia shall establish a comprehensive database on children’s rights implementation, broken down to indicators which would enable monitoring of children’s rights implementation for vulnerable groups of children.*
- *Slovenia shall strengthen the monitoring system for migrant children rights with the aim of providing adequate basis for policy formulation and ensure implementation of rights for these children.*

Monitoring activities pinpointed some other pending issues regarding implementation of

⁵⁸ Source: Children and unsafe migration in Europe: Data and policy, understanding the evidence base. Global Migration Data Analysis Centre: Data Briefing Series, September 2016. Accessible at: https://publications.iom.int/system/files/gmdac_data_briefing_series_issue5.pdf.

migrant children rights in Slovenia.

Administrative detention of minor migrants remains a pressing challenge. Slovenia is among 14 EU Member States that adopt detention measures for unaccompanied minors or for those whose age is disputed (Austria, Croatia, Czech Republic, Finland, Greece, Latvia, Luxembourg, Malta, Netherlands, Poland, Slovenia, Sweden, United Kingdom and Norway).⁵⁹ Albeit the Government decision, minors who do not apply for asylum are still detained in the Aliens Centre despite the option of alternative accommodation in Nova Gorica and Postojna dormitories in Nova Gorica, which violates among others the Convention on the Rights of the Child, Aliens Act, and the Government decision on alternative accommodation of UASC. Albeit we believe the Government decision is a step in the right direction, especially since accommodation with national peers represents an important asset from the integration standpoint, it shall be implemented for all migrant children; the need for systemic solution still remains; and the need for an accommodation facility solely for migrant children for whom dormitory is not a suitable accommodation facility still remains. Provision of adequate accommodation for migrant unaccompanied minors and families with children is addressed also in the Ombudsperson's Annual Report for 2015.⁶⁰ The Ombudsperson expressed concern about accommodating minor migrants in the Aliens Centre; in the report, she expressed support for the proposal of establishing an accommodation center for migrant minors, prepared by a NGO consortium including PIC.

Return procedures represent another point of concern from the standpoint of safeguarding migrant children rights. There is lack of data on voluntary and forced returns of unaccompanied minors, and no consistent data is collected regarding the outcomes of children who have been returned by European Member States.⁶¹ In such procedures, fundamental procedural guarantees are lower and their monitoring is different, both in terms of monitoring of statistics and monitoring of their implementation. Unaccompanied minors are not assigned a guardian in those procedures. Alarming is lack of statistics: the Police records the number of returned persons (both under agreements and under Aliens Act) but the statistics is not aggregated by age, sex, nationality, special needs etc.

Child protection relies on people and organizations properly equipped to carry out the work. "Capacity refers to the facilities, material resources, skilled personnel, and funding needed to operate the system. These capacities have to be allocated in relation to the purpose of the system. One important capacity is decision making. At an organizational

⁵⁹ Source: Children and unsafe migration in Europe: Data and policy, understanding the evidence base. Global Migration Data Analysis Centre: Data Briefing Series, September 2016. Accessible at: https://publications.iom.int/system/files/gmdac_data_briefing_series_issue5.pdf.

⁶⁰ Report accessible at: http://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/LP2015_VARUH.pdf.

⁶¹ Source: Children and unsafe migration in Europe: Data and policy, understanding the evidence base. Global Migration Data Analysis Centre: Data Briefing Series, September 2016. Accessible at: https://publications.iom.int/system/files/gmdac_data_briefing_series_issue5.pdf.

level, decision making is used to allocate capacity to meet the purpose of the system. Procurement of capacity is another important aspect of what an organization has to do.”⁶² An unaccompanied minor can switch to up to four legal guardians from the point of being intercepted by irregularly crossing the border, to the point of being granted international protection. Concerns about not properly implemented and functioning guardianship system are expressed also in the latest Concluding observations of the Committee on the Rights of the Child. Additional element regarding the Government pilot project of accommodating unaccompanied minors in dormitories, are somewhat unclear guidelines about mandate of the unaccompanied minors’ legal guardians and the dormitories’ social workers and especially potential overlapping of both competences. With the aim of holistic and comprehensive treatment of a minor, regardless whether accompanied or unaccompanied, the system of legal representation and guardianship needs be standardized / unified to ensure respect of the child’s best interest as the key guiding principle and considering his or her specific needs at the same time.⁶³

Recommendations:

- *The Government decision on pilot project of accommodating unaccompanied minors in dormitories shall be implemented for all unaccompanied migrant children.*
- *The Government shall refrain from accommodating minor migrants in detention centre.*
- *Slovenia shall provide adequate accommodation facilities for all migrant children, including provision of adequate protection and support, better fit to their needs, in accordance with Slovenia’s international obligations. The systemic solution on accommodation and care of all migrant children shall be designed in an inclusive manner.*
- *Slovenia shall harmonize the guardianship system with the aim of holistic treatment of an unaccompanied minor and ensuring realization of his or her best interest as the guiding principle.*
- *When in best interest of an unaccompanied minor, he or she shall be placed in a foster family.*
- *Slovenia shall ensure adequate and suitable human resources, trained for working with migrant and refugee children, in all facilities where migrant children are placed.*
- *For cases of large-scale migration flows, Slovenia shall strengthen mechanisms for identification and referral of vulnerable persons, including accompanied and unaccompanied minors.*

⁶² Wulczyn, Fred, Deborah Daro, John Fluke, Sara Feldman, Christin Glodek, and Kate Lifanda (2010): Adapting a Systems Approach to Child Protection: Key Concepts and Considerations. New York: UNICEF.

⁶³ Convention on the Rights of the Child Intermediate Shadow Report for Slovenia, ZIPOM, July 2016.

- *In case of increased influx of migrants and refugees or large-scale migration flows, therefore in emergency situations (provision of basic care at the border), Slovenia shall consider special needs of children in procedures and provision of care, and ensure appropriate care and protection.*
- *Slovenia shall collect data on number of minors in return procedures.*

The International Protection Act and the Aliens Act clearly state that in procedures with minors, the competent authority shall observe the principle of *the child's best interest* as the guiding principle. Although the International Protection procedure shall be carried out quickly in case of UASC, rising backlogs represent additional protection threat. In its latest Concluding observations on the combined third and fourth periodic reports of Slovenia, adopted by the Committee on the Rights of the Child at its sixty-third session (27 May–14 June 2013), the Committee expressed concern about information received on the inadequate application of the principle of the child's best interest in courts and Social Work Centres in cases involving children deprived of a family environment. The Committee expressed particular concern about the lack of understanding of the right of the child to have his or her best interests taken into account as a primary consideration in asylum-seeking, refugee or / and immigration detention situations. The Committee further expressed concern about the lack of procedures and criteria for the determination of the best interests of the child. The Committee on the Rights of the Child also expressed concern about lengthy procedures to determine the minor's application for international protection, and called the State to expedite the determination of the international protection application, in line with the International Protection Act.

Lengthy procedures might be among the reasons for high number of children disappearing from the Asylum Home, even more evident after last year's refugee and migrant crisis. The SUMMIT project⁶⁴ pinpointed Slovenia among European countries with highest number of disappearing migrant children, i.e. 80%.⁶⁵ In Slovenia, Centres for Social Work record numbers of incidences of children going missing from asylum homes, where these incidents are reported by individual centres.⁶⁶ Among key challenges identified by the SUMMIT project is the fact that their disappearances are often not reported. "In Slovenia the police will work with the asylum home to establish the

⁶⁴ The SUMMIT project was implemented by Missing Children Europe (BE) in cooperation with the University of Portsmouth (UK), NIDOS (NL), Defence for children-ECPAT (NL), TUSLA (IR), KMOP (EL) and Child Circle (BE). Associate Partners of SUMMIT are Telefono Azzurro (IT), Child Focus (BE), Missing People (UK), Consortium "Hope for Children" UNCRC Policy Centre (CY), Fundacion Anar (ES) and The Smile of the Child (EL). More information accessible at: <http://missingchildreurope.eu/SUMMIT>.

⁶⁵ Source: webinar "The SUMMIT Project Experience on Disappearances of Unaccompanied Children in Europe", organized by the Child Protection Hub for South East Europe on 13 October 2016.

⁶⁶ Source: Children and unsafe migration in Europe: Data and policy, understanding the evidence base. Global Migration Data Analysis Centre: Data Briefing Series, September 2016. Accessible at: https://publications.iom.int/system/files/gmdac_data_briefing_series_issue5.pdf.

circumstances of any unaccompanied migrant children who have disappeared. However, if the child has not returned in three days, their application for asylum is considered as 'withdrawn'. No further investigative action is taken in this situation."⁶⁷ Similarly, the Global Migration Data Analysis Centre elaborates that the result is a limited comparability between data sets due to operational and definitional differences that could be reflected in the figures.⁶⁸

Lack of reliable data remains a significant challenge. There is no centralized published statistics on the flow and stock of unaccompanied minors. Irregular border crossings may be attempted by the same person several times in different locations at the external border. Only half of the EU Member States hold statistics on unaccompanied minors who went missing or absconded; where statistics are available, these are often not comparable or not systematically collected. Data on unaccompanied minors are aggregated at the EU level from national statistics and lack overall coherence. This process inevitably produces double counting and "missing" children. Even less is known about unaccompanied minors as they have reached 18 years of age, at which point they become adults.⁶⁹

Recommendation:

- *Slovenia shall expedite international protection procedures with minor asylum-seekers.*

Social protection is today widely seen as an important component of poverty reduction strategies and efforts to reduce vulnerability to economic, social, natural and other shocks and stresses. The rights of children to social protection are clearly stated in the Convention on the Rights of the Child. From the point of view of social policy design, the Rights of the Child can be interpreted as the desire to avoid the pre-determination of life-outcomes for children by the social context in which they are born or grow up. Although this is a worthy aim in designing policies that will achieve multi-dimensional objectives, optimal combinations should be employed. But the Rights of the Child can also be interpreted in a narrower, more incremental way as regards policy design, by formulating policy interventions that improve the child's situation at certain points in

⁶⁷ SUMMIT Report: Best practices and key challenges on interagency cooperation to safeguard unaccompanied children from going missing. Accessible at: http://missingchildreneurope.eu/Portals/0/Docs/report_SUMMIT%20-%20Safeguarding%20Unaccompanied%20Migrant%20Minors_1mrt.pdf.

⁶⁸ Source: Children and unsafe migration in Europe: Data and policy, understanding the evidence base. Global Migration Data Analysis Centre: Data Briefing Series, September 2016. Accessible at: https://publications.iom.int/system/files/gmdac_data_briefing_series_issue5.pdf.

⁶⁹ Source: Children and unsafe migration in Europe: Data and policy, understanding the evidence base. Global Migration Data Analysis Centre: Data Briefing Series, September 2016. Accessible at: https://publications.iom.int/system/files/gmdac_data_briefing_series_issue5.pdf.

life.⁷⁰

Underage international protection applicants and unaccompanied minors are entitled to the same level of health care as children who have mandatory health insurance arranged as family members. A vulnerable person with special needs and exceptionally some other applicants have the right to additional medical services, including psychotherapeutic assistance, approved and defined by the Inter-ministerial Commission for ensuring the rights of applicants for international protection. In its latest Concluding observations on the combined third and fourth periodic reports of Slovenia, adopted by the Committee on the Rights of the Child at its sixty-third session (27 May–14 June 2013), the Committee expressed concern that unaccompanied minors and children with families who lack legal status have access only to emergency health care. More obstacles and fewer facilities to integrate newcomers into health system in Slovenia (and neighbouring Croatia) than elsewhere. According to Migrant Integration Policy Index for 2014, Slovenia does almost nothing to integrate and orient newcomer patients into the health system and to address any of their specific health needs. Its targeted health policies are the 2nd weakest of all 38 MIPEX countries, alongside only Croatia and Latvia and far below average even for Central Europe. Health services are only made accessible and responsive to newcomer patients by providing information on their legal entitlements and, if they're lucky, an interpreter. Even these rather favourable legal entitlements can be blocked in practice by providers making discretionary decisions and requests for documentation. Research on these issues for patients has not led to action by policymakers or providers. Among Policy Recommendations based on MIPEX is for Slovenia to guarantee universal healthcare for all migrants and Slovene citizens and increase support measures for migrant patients.⁷¹

An asylum-seeking child is not entitled to the right to social protection, but is entitled to additional health care, to the permission to stay in Slovenia, material supply in case of accommodation in Asylum Home or its branch, education, humanitarian aid and pocket money.⁷² A child with granted international protection status can acquire the right to social security.⁷³

International protection applicants and children under international protection have the right to education⁷⁴ – primary school education, vocational training, secondary schools, tertiary level of education and adult education under same conditions which apply for Slovene citizens. The right to primary school education and access to educational system should be ensured to international protection applicants within three months from filing

⁷⁰ Sanfilippo, M., C. de Neubourg and B. Martorano (2012), 'The Impact of Social Protection on Children: A review of the literature', Working Paper 2012-06, UNICEF Office of Research, Florence.

⁷¹ MIPEX results for Slovenia (2014) accessible at: <http://www.mipex.eu/slovenia>.

⁷² International Protection Act, Article 78.

⁷³ International Protection Act, Article 90.

⁷⁴ International Protection Act, Article 78.

the application.⁷⁵ Children under international protection are in exercising the extent of rights in the field of preschool, elementary, secondary, higher and adult education equal to Slovene citizens. They are entitled to government scholarships and accommodation in student dorms under the same conditions as the Slovene citizens. On a practical note, MIPEX concludes that immigrant pupils are an important minority in Slovene schools, which receive little support to address their specific skills and needs. The school system has been slow to respond to the specific needs and opportunities that all immigrant pupils bring to the classroom. Regarding education, the index pinpoints that compared to other countries, very few non-EU citizens in Slovenia have university degrees. Among Policy Recommendations based on MIPEX is for Slovenia to increase access and targeted support within the education system for all immigrant pupils, students and adults.⁷⁶

Regarding integration, the Aliens Act provides that within their operations, national and other authorities, organizations and associations have to ensure protection from any type of discrimination against aliens based on racial, religious, national, ethnic or other differences.⁷⁷ According to the Migrant Integration Policy Index for 2014, Slovenia ranks 27 out of 38 analysed countries, with Migrant integration index halfway favourable. Slovenia's integration policies still create slightly more obstacles than opportunities for immigrants to fully participate in society. Like other countries with rather new and small settled communities, Slovenia has made little effort to open up health services, schools, civic life or anti-discrimination support—four key missing areas in Slovenian integration policies.⁷⁸

Recommendation:

- *Slovenia shall strive towards enabling equal enjoyment of rights to all children regardless of their legal status or personal circumstances, as provided in the Convention on the Rights of the Child.*

Language barrier has been pinpointed by many stakeholder as an important challenge, hindering access to services to many migrants, including migrant children. As understandably Slovenia is a small country with difficulties in assuring adequate interpretation to all migrants, cross-border cooperation might be the solution with a translation support available by phone call.

A major problem for ensuring the rights of children is that this group is relatively powerless in the political process. Developing specialized institutions to deal with the rights of children is therefore all the more significant in protecting those rights.⁷⁹

⁷⁵ International Protection Act, Article 88.

⁷⁶ MIPEX results for Slovenia (2014) accessible at: <http://www.mipex.eu/slovenia>.

⁷⁷ Aliens Act, Article 105.

⁷⁸ MIPEX results for Slovenia (2014) accessible at: <http://www.mipex.eu/slovenia>.

⁷⁹ Peters, B. Guy (2012), 'Governance and the Rights of Children: Policy, implementation and

The Family Act proposal adopted by the Government in December foresees establishment of a Council for Children and Family.

From the standpoint of monitoring migrant children rights, the Ombudsperson's National Preventive Mechanism (NPM) represent an important protection mechanism. But the Ombudsperson's institute could also be strengthened in advocating migrant children rights. Ombudsperson's Office is carrying out advocacy pilot project "Advocate – Voice of the child" (Zagovornik – glas otroka)⁸⁰ which does not tackle migrant children, but it could broaden its scope. Another institute with more vocal role in advocating migrant children right could be the Advocate of the Principle of Equality which is currently under reorganization, and a new Advocate has been appointed in October.⁸¹

Recommendation:

- *The State shall establish an independent advisory body to the Government which shall monitor all child-related policies, and not a general body for family affairs. The advisory body shall have a clear mandate and inclusive structure.*

In a broader scope of children's rights, many new topics have emerged. PIC has been advocating for ratification of the 3rd Optional Protocol to the Convention on the Rights of the Child, since a complaint mechanism is crucial in the light of changing circumstances due to arrival of greater number of migrant, asylum-seeking and refugee children.

Recommendation:

- *Slovenia shall ratify the 3rd Optional Protocol to the Convention on the Rights of the Child.*

An important feature of the project is its innovation perspective, i.e. the partnership approach. The project is implemented in partnership of an international organization and a national NGO through facilitating dialogue with relevant stakeholders, with the aim of encouraging systemic change and strengthening national capacities. PIC is supporting practitioners in the field of migrant children protection (servicing organizations which are ensuring direct support to migrant children) with the aim of strengthening the system. Through the project, also the network of NGOs working in the field of children's rights is being strengthened, by building capacities of national NGOs.

Among pending issues are the need for further engagement regarding the Government pilot project of accommodating minor migrants in dormitories (evaluation of the pilot project and drafting a systemic solution), advocacy activities regarding gaps identified

monitoring', Working Paper 2012-11, UNICEF Office of Research, Florence.

⁸⁰ More information on the project available at: <http://www.pravice-otrok.si/index.php?id=70>.

⁸¹ More information on the institute available at: <http://www.zagovornik.gov.si/>.

through the Child Protection Mapping, and adequate integration policies for migrant children, following legislative changes tackling migrant children, strengthening the monitoring system for migrant children rights, capacity-building workshops with identified stakeholders, and establishment of Child Rights Council as a consultative body under the Government of Slovenia.

Strengthening national capacities in the field child rights monitoring of refugee, asylum-seeking and migrant children, and developing sustainable child rights monitoring mechanism is a pressing challenge. Child rights monitoring mechanism and a comprehensive database on children is a precondition for ensuring that a child's best interest as a primary consideration is the guiding principle of all child-related policies.

4.1. Follow-up activities proposal

Strengthening national capacities through advocacy activities for systemic solutions:

- new Programme for Children and Youth: participation in the Working Group preparing the new Programme (coordinated by the Ministry of Labour, Family, Social Affairs and Equal Opportunities), with the aim of including migrant children as a horizontal topic, and with the aim of designing a strategic body solely on children's rights (and not generally on family affairs, including children's rights)
- after the new Programme is adopted, advocacy activities for preparation of action plan and adequately addressing needs of migrant children
- proposal for (bi)annual evaluations of the Programme / action plan implementation
- mainstreaming migrant children rights into all relevant national policies
- systemic solution for accommodation facility for all migrant children
- reorganization of the guardianship system (participation in the Working Group coordinated by the Social Work Centres Association)
- advocacy activities regarding new Family Act proposal in legislative procedure (reorganization of guardianship system, Council on Children's Rights – and not a joint advisory body on family affairs), analysis of comparable advisory bodies in other countries as examples of best practices
- advocacy activities for systemic changes regarding identified gaps in the Child Protection Mapping
- advocacy activities for ratification of the 3rd Optional Protocol to the Convention on the Rights of the Child, and analysis of implementation of the complaint mechanism on national level in comparable signatories
- monitoring legislative changes relevant for migrant children (Aliens Act, International Protection Act, Rules on implementation of border procedures, Directive on integration etc.)
- integration policy better fit to needs of migrant children

- cooperation with the European Committee for Refugees and Exiles (ECRE) to specifically address minor asylum seekers in the AIDA project (it would represent the only opportunity to compare European legislation and situation)
- improving the response to children's needs through Standard Operating Procedures

Strengthening national capacities through direct cooperation with stakeholders:

- strengthened dialogue with the Ministry of Labour, Family, Social Affairs and Equal Opportunities with the aim of the Ministry to pursue a clear and central role in ensuring children's rights of all children, including migrant children
- provision of free legal counselling regarding all aspects of migrant children rights
- monitoring data and trends, identifying gaps and long-term data collection planning (based on trends, new measures are adopted; effects of the measures are again monitored through data collection)
- workshops with the aim of strengthening capacities of identified stakeholders (Social Work Centres, Police, schools staff, medical personnel, interpreters, etc.) + developing a practical guide on rights of migrant children in Slovenia
- participation in the Working Group for preparation of the professional State exam in the field of social protection
- evaluation of the Government pilot project and development of systemic solution
- preparation of the Shadow Report on implementation of the Convention on the Rights of the Child in Slovenia (Slovenia due to report in 2018) – national capacity building