



# General Assembly

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## Human Rights Council

Thirty-third session

Agenda item 3

### Resolution adopted by the Human Rights Council on 29 September 2016

#### **33/7. Unaccompanied migrant children and adolescents and human rights**

*The Human Rights Council,*

*Reaffirming* the Universal Declaration of Human Rights, which proclaims that all human beings are born free and equal in dignity and rights, and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

*Recalling* the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of Persons with Disabilities, the Vienna Convention on Consular Relations, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention against Discrimination in Education, the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto, and the Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization,

*Recalling also* all previous resolutions of the General Assembly on the protection of the human rights of migrants, in particular those relating to the situation of unaccompanied migrant children and adolescents, such as Assembly resolution 69/187 of 18 December 2014, Human Rights Council resolutions on the protection of the human rights of migrants, in particular resolution 29/12 of 1 July 2015, the work of various special mechanisms of the Council that have reported on the situation of human rights and fundamental freedoms of migrants, Commission on Population and Development resolution 2013/1 of 26 April 2013,

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entitled “New trends in migration: demographic aspects” and the Declaration of the High-level Dialogue on International Migration and Development, adopted on 3 October 2013,

*Taking note* of the progress report of the Human Rights Council Advisory Committee on the global issue of unaccompanied migrant children and adolescents and human rights, in which the Committee presented an analysis of the situation of children with high vulnerability,<sup>1</sup>

*Taking note also* of the work of the Special Rapporteur on the human rights of migrants, especially the reports in which the mandate holder addressed the human rights of migrant children and adolescents, and inviting States to give due consideration to the recommendations contained therein, and of the work of the Committee on the Rights of the Child with regard to the treatment of unaccompanied and separated children outside their country of origin, including in its general comment No 6 (2005) on the topic, and the general discussion held by the Committee in 2012 on the rights of all children in the context of international migration,

*Acknowledging* the contribution of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families to the international system for the protection of migrants,

*Welcoming* the convening of the high-level plenary meeting on addressing large movements of refugees and migrants, held in New York on 19 September 2016,

*Taking note* of the report of the Office of the United Nations High Commissioner for Human Rights on the situation of migrants in transit,<sup>2</sup> in which the Office analysed the human rights situation of migrants in transit, highlighted human rights concerns and made recommendations aimed at addressing critical protection gaps for migrants in transit, including unaccompanied children and adolescents, and women and girls,

*Expressing serious concern* about the situation of migrants, in particular children and adolescents, who are forced to flee or decide to leave their homelands owing to multiple causes and who are unaccompanied or separated from their families, and face a variety of risks on the migratory route, and calling upon States of origin, transit and destination to work together to find effective and sustainable solutions within a framework of solidarity and regional and international cooperation,

*Concerned* at the fact that the protection and assistance needs of many unaccompanied migrant children, often including their most basic needs, have not yet been met,

*Deeply concerned* at the fact that migrant children and adolescents who are in vulnerable situations when attempting to cross international borders without the required travel documents may be exposed to serious human rights violations and abuses that can threaten their physical, emotional and psychological health and well-being, and may also be exposed to crimes and human rights abuses, including theft, kidnapping, extortion, physical abuse, smuggling and trafficking in persons, including forced labour, and sexual exploitation and abuse, during their journeys,

*Welcoming* the adoption by the General Assembly of the 2030 Agenda for Sustainable Development,<sup>3</sup> in which migration is included for the first time in the global development framework, acknowledging that the implementation of the 2030 Agenda could have a positive impact in addressing some of the root causes of migration and hence reduce

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<sup>1</sup> A/HRC/33/53.

<sup>2</sup> A/HRC/31/35.

<sup>3</sup> General Assembly resolution 70/1.

forced migration and result in situations in which migration is a choice, and recognizing the importance of international cooperation in achieving these goals,

*Mindful* of the fact that, in the fulfilment of their obligations to promote, protect and respect the rights of migrants in accordance with international law, States of origin, transit and destination can benefit from greater international cooperation,

1. *Calls upon* countries of origin, transit and destination to facilitate family reunification, as appropriate, as an important objective that promotes the welfare and the best interests of unaccompanied migrant children and adolescents, as applicable under national law, due process and the relevant provisions of the Convention on the Rights of the Child and the Optional Protocols thereto, and to comply with the consular notification and access obligations set forth in the Vienna Convention on Consular Relations so that States may, as appropriate, provide child-friendly consular assistance, including legal assistance;

2. *Encourages* States to take into account the principle of the best interests of the child as a primary consideration and to promote, protect and respect the rights of children, bearing in mind in particular their needs at all times, including in the process of return to their countries of origin, and ensuring that, in any type of return, whether voluntary or otherwise, the principle of non-refoulement is respected in accordance with applicable international law;

3. *Reminds* States that migrant children should not be subject to arbitrary arrest or arbitrary detention, and encourages States to respect the human rights of each child and to take into account, as a primary consideration, the best interests of the child;

4. *Calls upon* all States to ensure that their immigration policies are consistent with their obligations under international law, and to promote and protect the human rights of all migrants without discrimination, including by taking steps to increase cooperation and coordination at all levels to address serious human rights violations and abuses, serious crimes, such as the smuggling and trafficking of unaccompanied migrant children, and other abuse and exploitation;

5. *Decides* to convene at its thirty-fifth session a panel discussion on the theme, “Unaccompanied migrant children and adolescents and human rights”, the objective of which will be to identify challenges and best practices by countries of origin, transit and destination and possible joint efforts at all levels to protect the human rights of unaccompanied migrant children and adolescents, and requests the United Nations High Commissioner for Human Rights to liaise with States and all stakeholders, including relevant United Nations bodies, agencies, funds and programmes, treaty bodies, special procedures of the Human Rights Council, national human rights institutions and civil society, with a view to facilitating their participation in the panel discussion;

6. *Requests* the High Commissioner to prepare a report on the panel discussion in the form of a summary, and to submit it to the Human Rights Council at its thirty-sixth session;

7. *Notes* the request made by the Advisory Committee at its sixteenth session to extend the time schedule envisaged to allow for better informed work by, inter alia, taking into account the work currently under way by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Committee on the Rights of the Child, which is scheduled to be finalized at the end of 2016, and requests the Advisory Committee to submit a final report on the global issue of unaccompanied migrant children and adolescents and human rights to the Human Rights Council at its thirty-sixth session;

8. *Invites* the special procedures of the Human Rights Council, within their mandates, to continue to give due consideration to the situation of unaccompanied migrant

children and adolescents and the impact of this issue on the full enjoyment of their human rights, and to continue to report thereon;

9. *Decides* to remain seized of the matter.

*38th meeting  
29 September 2016*

[Adopted without a vote.]

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