

Comparative Report Summary Paper

This document is a summary of the Comparative Report drafted within the framework of the CONRED I project, which was carried out in 2001.

Historical Evolution of the Migration Phenomenon

Between 1980 and 1990 an increase of a migratory phenomenon, which has not previously been perceived as a problem, was observed in Europe - the immigration of non-accompanied minors. Although migration of non-accompanied minors had taken place through European history, it is not until that moment that a protectionist approach is adopted. Mostly because of the Convention of the Rights of the Child (1989), minors are acknowledged protection and placed under the care of public administrations.

Looking backwards, we can observe the increase of the number of registered Non-Accompanied Minors (NAM) within all the member States of the Conred project. *Danish Red Cross and Danish Refugee Aid* observed this phenomenon for the first time in Denmark in 1986. But it was not until the nineties when a continuous increase was observed in most of the countries: the biggest increase took place between 1998 and 1999. Non-Accompanied Minors are around 1,000 and 2,000 in France, Switzerland, Spain and Belgium, whilst Denmark has no more than 250 per year.

Definition of Non-Accompanied Minor (NAM)

According to the definition of the United Nations High Commissioner for Refugees (UNHCR) in 1997, non-accompanied minors are:

Children and teenagers under 18 who are away from their home country and away from their parents or the person who should look after them by law or custom. Some of these minors are completely alone, whilst others are living with their relatives. Non-Accompanied Minors may have seek asylum because they are afraid of being harassed, of not having protection against human rights abuses, of armed conflicts and/or serious riots in their home countries. Some of them may have been the victims of human beings traffic or any other sort of exploitation or may have travelled to Europe fleeing extreme poverty. Most of these minors have undergone terrible experiences and have survived extremely tough circumstances.

Within the European context the most accepted name is *Non-Accompanied Minors*; however in 1999 the UNHCR and *Save the Children* introduced a new name - *Separated Children*. In addition, in some of the member States of the project there are other names which try to round off and flesh up the name NAM or which introduce new denominations. For example in Denmark *Non-Accompanied Minor Refugees*, in Belgium *Non-Accompanied Minor Migrants*, in Spain *Foreign Minors without Identifying Documents in a Helplessness Situation*, and in France *Detached Minors*.

Present Situation of the NAM Phenomena

Quite often, the origin of the minors is related to the proximity between the host country and their home country, to the relationship with the host country or to the fact that minors follow adult migratory paths. In France and in Spain minors do normally come from Algeria, Morocco, Romania and Sub-Saharan Africa (in this case as asylum seekers). On other hand, minors accessing Belgium, Switzerland and Denmark are basically asylum seekers, and they come from countries like the former Yugoslavia, the former Soviet Union, Iran, Iraq, Turkey, Romania, Afghanistan and Central and Sub-Saharan Africa; mainly countries where there is a conflict which is fuelled by an economical and social crisis.

Most of the NAM are males between 15 and 18 years old; however during the last years the percentage of girls is constantly increasing.

Minors migrate mainly because political and economical reasons. The main reason of NAM migrating to Spain and France is economical; although there are other reasons triggered by the political situation in their home countries. This is the case of Switzerland, Denmark and Belgium, where the main reason accepted by public authorities is the political one.

Usually, minors follow the paths used by adult migrants from their home country; and they use panoply of means of transport. Depending on the origin of the minor, the means of transport and the path followed will be different: airplane, ship, boat, train, lorry, coach, etc. Minors from Sub-Saharan

Africa and Latin America come by plane; those from Asia and Eastern Europe come by road travelling long distances from one country to another; and those from the Mahgreb come by sea or by road. It is difficult to get information about mafias because it is scarce and you cannot rely on it. And, although we know they exist, we do not know the mechanisms they use, the way they attract minors and the way they exploit them, etc. In Denmark, there are many cases of minors arriving accompanied by an adult, who belong to a mafia network paid by their parents; this adult disappears as soon as he/she leaves the minor in the country. In Belgium, mafias have adopted the system of leaving migrants close to borders, or abandoning them along the coastline, or along the routes where trucks go by. However, minor migrants from Mahgreb accessing Spain and France do not usually use mafia networks.

The minor's decision of migrating could be adopted individually, by the family or socially. The individual decision is due mainly because of socio-economical constraints. A family decision could be taken in order to protect the minor or in order to find a way out from the precarious situation they are undergoing. Therefore, once the minor migrates, he/she can be in touch with his / her family in different ways: from those who call home from the very first day, to those who do not keep any form of contact. Some minors use to send money to their families, which can be the result of their underground work, of stealing, or because of begging.

Legal Framework

International law about minors has remarkably changed since the First United Nations Geneva Declaration of the Rights of the Child in 1924, the [Declaration of the Rights of the Child in 1959](#) and the [Convention of the Rights of the Child \(CRC\)](#) from 1989, which has become the most endorsed human rights convention in history. However, there is a big difference between ratifying the Convention and applying its articles.

When we are talking about non-accompanied minor migrants, it is not clear enough that

international law about minors' protection is fully applied. And that is because in most of the countries where minors migrate to, migratory laws prevail over them. There are two kinds of countries in Europe according to their regulations about accessing their territory: within the first group (Denmark, Switzerland and Belgium) the only way of accessing the country is by means of an asylum demand, and in relation to the refugee status their laws are referred to the 1951 [Convention relating to the Status of Refugees](#). However, these countries should ensure the minors' protection as long as they are minors. Within the second group of countries (France and Spain), minors get into the country in an irregular way and without any legal documents. Once these minors are detected, they are placed under the custody of the appropriate public administration in charge of minors. A legal way of accessing the country should be by means of an asylum demand, but this rarely happens.

Social Perception on NAM

The social perception and debate around non-accompanied minors was nearly inexistent during the early stages of that phenomenon. The public opinion of countries receiving asylum seekers did not distinguish between adult and minor asylum seekers. But recently, a change in perceptions is taking place. However, the issue has had a more or less relevant presence in the media in those countries where non-accompanied minors have accessed the territory in an illegal way. In these cases, a specific social construction of that phenomenon has been developed.

In Denmark, with the exception of *Save the Children*, which has repetitively denounce the issues related to the attention and care of minors, institutions that do not provide direct care have not paid any attention to these children and young people. In Switzerland, during the last 10 years, some media and political parties have developed a hostile position against asylum seekers. Therefore, this hostility becomes an obstacle for the integration and social perception of non-accompanied minors. In Belgium, like in Switzerland, non-accompanied minors are seen through the glasses of the same prejudices and stereotypes developed against asylum seeker migrants. Finally, in Spain the way the media, supported by different public administrations, has treated the issue has triggered a certain social alarm.

In order to counterbalance the negative perception of the public opinion against non-accompanied minors in certain countries, it is important to highlight the creation of civil society platforms aiming to protect the rights of the minors in Belgium and Spain. In Spain, there are three platforms, one at a national level and two regional. These platforms have managed to have a say in the media and vis-à-vis the administration; and they have become the appropriate negotiators between the different departments of the administration and the civil society.

Existing Resources

The diversity of acceptance systems within Europe should be taken into account when talking about existing services and resources for NAM. This diversity is the consequence of the specific acceptance models when accessing each country (asylum or irregularity). We need to highlight a common pattern shared by all countries – processes for looking after NAM have been institutionalised. Although each country has its own laws related to the procedures and support provided to this group, all the countries follow common general stages: detection of minors; waiting whilst a temporary decision is taken about its permanence in the country; final decision; and eventually when becoming of age expulsion from the social care system and/or deportation from the country.

In the first group of countries where minors demand asylum, their detection usually takes place at the border, and therefore they have immediately the obligation to proceed with the asylum demand procedures if they want to remain in the country. During this stage of "pre-asylum" and waiting, the minor is sent to a centre, where he/she will stay until a resolution is adopted. If the decision is positive, the NAM will be sent to another place with the objective of providing him/her with education and a long-term integration. This place can be a sort of boarding centre, tutelary flat or a fostering family. If the asylum demand is not accepted the NAM is deported.

Within the second group, where minors access the country in an illegal way, the minor's protection and sending him/her to the administration dealing with these issues is mainly the rule. However, most of the resources are designed specifically for this group. Detecting minors is done by means of street work and the law and order forces. The judges for minors have the competency of pronouncing a protective measure and the subsequent internment of the minor in a centre. This internment, normally takes place in the so-called first acceptance centres (emergencies, refuges, etc...). It is a transitional decision, until a more appropriate resource is found. This resource should take into account the minor's psychosocial profile and the limitations of the public administration. These resources could be from boarding centres, tutelary flats, to flats for adults.

There is a third group of countries, where both acceptance models, asylum and protection, are combined. This is the case of France and Italy.