

**Children Right's behind Bars – Conferenza finale del progetto, Lunedì 15
Febbraio 2016,
Comitato economico e sociale europeo**

Intervento all'interno del Panel "Role and action of the European Parliament in
defence of children's rights" – 13.40 – 13.50

Good morning Ladies and Gentleman,

First of all let me thank Children's rights behind bars for organising such an
event: to increase respect for the human rights of children deprived of liberty is
a purpose of paramount significance.

I'm glad to be here today in quality of member of the European Parliament -
where I also co-chair the Intergroup on Children's rights - and as Rapporteur of
the *Directive of the European Parliament and of the Council on procedural
safeguards for children suspected or accused in criminal proceedings* that I'm
going to introduce to you at the end of my speech.

I would like to start explaining you the activities of the Intergroup on Children's
rights: our intergroup is an informal group of MEPs from different political
group, delegation and committees sharing a common concern to raise the status
of children's rights in parliamentary work.

The creation of this intergroup was the result of advocacy efforts of several major children's rights networks who called for the establishment of a permanent mechanism with explicit responsibility for protecting and promoting children's rights across all policy sectors in internal and external affairs.

The intergroup brings more visibility to children's rights and plays a key role in mainstreaming the rights of the child across the work of the Parliament.

The main objectives of the intergroup are to:

- Protect and promote children's rights across all policy sectors ;
- Ensure EU funds in the best interests of children;
- Raise awareness of children's rights and how EU policy, legislation and funds affect the lives of children in Europe and globally.

One of our last initiatives consists in promoting the written declaration « to save missing Children in Europe », in support of the Dutch Presidency Initiative on International Missing Children's Day, 25th of May ; with this written declaration we call once more for better cooperation to save endangered missing children in Europe.

This written declaration is also about one of the tragic, topical issues of these days : unaccompanied migrant minors.

The plight of unaccompanied minors refugees has emerged as one of the most pressing issues in the migrant crisis. As I have often said, unaccompanied minors are the drama in the drama.

This challenge is growing: a considerable number of third-country nationals or stateless persons below the age of 18 arrive on EU territory unaccompanied by a responsible adult, or are left unaccompanied after they have entered EU territory. Although some Member States experience this far more than others, all are affected. Bear in mind the 10.000 unaccompanied child refugees disappeared after arriving in Europe, according to Europol. 5.000 of them have disappeared only in Italy, my country.

Unaccompanied minors from regions of conflict are by far the most vulnerable population: those without parental care that have either been sent by their families to get into Europe first and then get the family over, or have fled with other family members.

The reasons behind the arrival of this particularly vulnerable category of children are manifold: to escape from wars and conflicts, poverty or natural catastrophes, discrimination or persecution; to be sent by their family in the

expectation of a better life or in order to access education and welfare, including medical attention; to join family members; as victims of trafficking destined for exploitation, and so on.

The EU legislative and financial instruments on asylum, immigration and trafficking in human beings already directly or indirectly address the specific situation of unaccompanied minors and provide for enforced protection of their rights. But there is a need for greater coherence and more cooperation within the EU and with countries of origin and transit, so that the EU and Member States provide concrete and effective responses. An EU common approach is therefore needed.

This common approach should be based on the respect for the rights of the child as set out in the EU Charter of Fundamental Rights and the United Nations Convention on the Rights of the Child, in particular the principle of ‘the best interests of the child’ which must be the primary consideration in all action related to children taken by public authorities.

It is fundamental to ensure that any child needing protection receives it and that, regardless of their immigration status, citizenship or background, all children are treated as children first and foremost.

It must also be based on solidarity and sharing of responsibilities between Member States and with the countries of origin and transit, as well as on enhanced cooperation with expert civil society organisations and international organisations.

Despite improvements in legislation and practice in some European countries, tens of thousands of migrant children still end up in detention every year. The practice is contrary to the best interests of the child and a clear and unequivocal child rights violation. Migrant children are frequently detained in member States simply because they do not have the right immigration documents. They have committed no crime.

Yet they may be subjected to criminal penalties, prison-like conditions, be separated from the support and protection of their families, and be denied a number of fundamental rights, such as access to health care, education and play.

The detention of children on the basis of their or their parents' immigration status is contrary to the best interests of the child and constitutes a child rights violation as defined in the United Nations Convention on the Rights of the Child.

In too many situations of immigration detention, States deprive children of their liberty as a routine response to illegal entry, rather than as a measure of last resort. Yet international law indicates that children should not be detained for reasons related to their migration status, and places strict limits on the exceptional use of detention : the Article 37 of the Convention on the Rights of the Child (CRC) states that detention of any type should only be used against children as “a measure of last resort and for the shortest appropriate period of time.”

Article 37 of the Convention on the Rights of the Child (CRC) mandates that all children deprived of their liberty (including children in immigration detention) have the right to “prompt access to legal and other appropriate assistance” and to challenge the legality of the deprivation of their liberty before a court.

UNHCR specifically argues that “children seeking asylum should not be kept in detention and that this is particularly important in the case of unaccompanied children.”. In the exceptional cases where asylum-seeking children are detained, UNHCR emphasises that this detention must conform to the parameters expressed in article 37 of the Convention on the Rights of the Child. States must also adhere to UN standards on conditions of confinement, including by segregating children from unrelated adults where it is in their best interest, and by always providing education.

Where children in families are subject to immigration detention, states should ensure that the child should not be separated from his or her parents against his or her will.

I want to repeat that once again: Children should not be detained under any circumstances.

When, unfortunately, they are in not yet in detention but still in criminal proceedings, it is our duty to assist them in best way we can: that is the idea I have been following during the writing of the *Directive on procedural safeguards for children suspected or accused in criminal proceedings*.

According to the Commission's estimates, more than 1 million children are involved in criminal proceedings in the EU each year (12% of the overall number). Furthermore, there are major disparities in the way in which children involved in criminal proceedings are treated in the various Member States.

Despite the large number of international legal instruments in this area, there is no definition of what constitutes a 'fair trial' for children, and courts are therefore obliged to hand down judgments on the basis of an incomplete and fragmentary body of law.

However, now the EU will soon have a "code" that sets common minimum procedural guarantees recognized to all children suspected or accused in criminal proceedings in its territory.

This is the directive which, ever since I started working on the dossier as rapporteur, I like to call "Directive on due process child": an innovative measure that will mark a turning point, creating the conditions to make in every part of the Union the right balance between the need to ascertain the crimes, with its responsibility, and taking in due account the vulnerability and the specific needs of minors.

The text of the directive - which is the first European binding document on this topic - embodied the principle that the best interests of the child should always be the focus of the juvenile justice system.

A key point is an obligation on Member States to ensure that the child involved in criminal proceeding should always have legal assistance, but many other are the guarantees introduced. I will start by mentioning the child's right to an individual assessment of her/his situation - which is very useful for the proceeding authority to figure out the degree of culpability, what are the prospects of re-education and what measures should be taken.

Other important principles have been introduced such as specialized training for judges, lawyers and other authorities in contact with children, the detention of children separately from adults, the child's right to participate actively in the process and to be accompanied by parents or another trusted adult, the obligation to ensure that children detainees have medical care and educational services, the protection of family relations, access to development programs, the full respect for freedom of religion and belief.

I am very proud of the result: with this directive, the EU will make a great step forward in the expansion of the area of freedom, security and justice, and will further strengthen its own values and principles.

The protection of the rights of the individual and in particular of children and youths involved in criminal proceedings is hence essential in order to maintain mutual trust between the Member States and public confidence in the European Union. Children and youths must not only have the right to a fair trial, but be confident of this when exercising their right.

Thanks for your attention, let me thank you warmly once again and wish you all the best for your work.