**OHCHR report to the Human Rights Council:**

**“The rights of the child and family reunification”**

[**Defence for Children International**](https://defenceforchildren.org/)(DCI) is an international grassroots non-governmental organisation that has been promoting and protecting children's rights since 1979, and was involved in the drafting of the United Nations Convention on the Rights of the Child (UNCRC), as well as other UN instruments and initiatives, for example in the field of justice for children. Since 2014, DCI is leading together with Human Rights Watch the NGO Panel for the [UN Global Study on Children Deprived of Liberty (GSCDL)](https://childrendeprivedofliberty.info/about/the-ngo-panel-for-the-global-study-on-children-deprived-of-liberty/), which was developed and successfully delivered to the General Assembly in October 2019.

Defence for Children International (DCI) highly appreciates the opportunity given to civil society organisations to contribute their first-hand knowledge and expertise from the ground. The following submission has been developed with the contributions of DCI-Greece. **Defence for Children International (DCI) – Greece** is a national section of the DCI movement and follows DCI’s mandate to promote and protect children’s rights in accordance with international standards. At the same time, DCI-Greece autonomously develops its own programmes in response to contextual needs of Greece.

The Children’s Rights Helpdesk of Defence for Children International (DCI) – Greece, has received more than 400 cases of refugee children deprived of their liberty in the last four years. Some of them remained detained for more than a year. DCI–Greece supported legally these children and released them from detention. Advocacy on this issue has led to the abolishment of the Protective Custody Regime in the country. However, DCI- Greece is still monitoring its implementation and operates as a watchdog of the rights of children on the move. This paper reflects the data and information gathered from the work with these children. Names have been changed for protection purposes.

Should any further information be required, please do not hesitate to contact Alex Kamarotos, Executive Director of Defence for Children International (International Secretariat, Geneva): alex.kamarotos@defenceforchildren.org.

**Question n°1 & 2**

What are the main human rights concerns affecting children separated from their families, and the priorities to strengthen global and national frameworks for the prevention of family separation? How can the right to family life be upheld for children in cross-border situations, particularly migrant children who are separated from their families (taking into account Article 10 of the CRC)? How can the best interests of the children separated from their families in cross-border situations, in particular migrant children, be more effectively upheld without discrimination?

In the context of migration, the best interest of the child is not always taken into consideration and children’s right to be heard is not always respected. Unaccompanied children lack the information about the procedures and deadlines to request family reunification. In cases of rejection due to doubts regarding the age of a child, the benefit of the doubt should be given to safeguard the best interest of the minor. Delays on the examination and reexamination process further negatively impact the psychological health and wellbeing of children who are already in vulnerable settings and may have already experienced trauma relating to their migratory status.

Indeed, in practice the process of family reunification of separated children on the move with their parents residing in another country has become very bureaucratic identified mainly by procedural elements. More precisely, separated children on the move have to undergo through a procedure that has very little to do with a substantive due assessment of their request for family reunification. On the contrary, they are asked to meet very strict deadlines, which in many instances children are not properly informed about, they have to collect and submit several official documents, involve and guide the family member they wish to reunite with in the process and be in a position without legal aid to fight against the possible rejections of their claim. The reasons of rejections may vary between ungrounded allegations of false documents, missing deadlines for requesting to be reunited with their family which in most of the cases starts from the moment of entrance to the host country or failing to submit the results of a DNA test, which in first place is impossible for them to undertake.

This procedural focus on the process of family reunification of children in the context of migration represents a form of absolute discrimination against those children. Furthermore, it does not take into consideration the needs of this particular child population. In order for the process to become fair and equal, it is necessary to acknowledge where these children come from and employ an approach which does not make it impossible for them to succeed with a family reunification request. For instance, asking a separated child on the move to initiate and cover the costs of a DNA test should be seen as a case of institutional violence against them.

In order for States to uphold the right of children in the context of migration to be reunited with their families, the principles of the best interests of the child should be placed at the heart of the procedure and lead the assessment. It is paramount that the principle of the best interests of the child to guide the process at a procedural and substantive level. It is suggested that the entire family reunification process should be reformed by States and rebuilt on the premises of a due best interests of the child assessment in first place where the views of the child will be heard. When a best interest assessment indicates that it is the best solution for the child to be reunited with their family then all procedural steps should be facilitated by the States and in no way the burden to be placed on the child’s side.

The approach to family reunification process needs to change. The impact on the life of the child and their current predicament should be the indicators and not the ones identified by deadlines and logistics. All actions required need to become child sensitive and friendly and effective. Allocation of budget for the creation of an interstate Mechanism for Family Reunification would be an important step taken towards the realisation of the rights of children on the move seeking family reunification as a form of protection.

At the same time Article 10 of the UNCRC that provides for the right to family unity needs to be understood into the broader context of the UNCRC. In no case should the right to family unity bring adverse consequences for any member of the family. Additionally, the language of the article needs to be viewed from States as a clear indication to do their best in order to ensure that a family reunification request succeed.

Very often due to the lengthy and bureaucratic procedures separated children on the move resort to smuggling or end up trafficked. The current system providing for family reunification exposes them to extreme violence, poor living conditions, lack of development, and serious mental health issues.

States are called to learn from the malpractices and come in agreement to redesign and cooperate towards the creation of a mechanism fair and able to accommodate the needs of the separated children on the move by making the process accessible, fast, effective and child rights centred.

Family reunification is also a key component to avoiding migration detention of unaccompanied children. States should adopt all necessary measures in order to eradicate any form of migration related detention of children whether alone or with their families as this is never in the best interest of the child and always contravenes with the UNCRC.