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**Anti-Discrimination Centre Memorial** works on protection of the rights of discriminated minorities, including children, especially those from vulnerable groups, in Eastern Europe and Central Asia, carrying out monitoring, reporting, advocacy on local and international level, opposing discrimination by litigation and human rights education.

### **Recommendations on Delivering for children: an EU strategy on the rights of the child** *Children rights in EU foreign policy*

ADC Memorial is a NGO, promoting non-discrimination and human rights in the region of Eastern Europe (non-EU states) and Central Asia, including the rights of children, especially those belonging to the vulnerable groups.

ADC Memorial welcomes the European Commission's commitment to enhance protection of children rights, and the goal to mainstream children's rights across all relevant EU areas of work, and throughout all six Commission political priorities.

The Article 3(3) and (5) of the Treaty on European Union establishes the objective for the EU to promote the protection of the rights of the child, both in internal and external policies. In the region of Eastern Europe and Central Asia, the EU is one of a few actors promoting human rights and non-discrimination, and often political and legal commitments between the countries in the region and the EU become a powerful instrument for improvement of human rights situation of vulnerable groups. In line with the provision of the Treaty on European Union as well as based on the needs to address children rights in the third countries, we call the European Commission to provide specific measures and priorities in its foreign policy on children rights.

### *Children-migrants*

While in the recent years the EU has strengthened and developed protection of children-migrants in its territory, outside the EU, including Neighbourhood countries, children-migrants continue to face serious violations of their fundamental rights.<sup>1</sup>

The countries of Eastern Europe and Central Asia are involved in intensive migration, both with the countries of the European Union and with the countries of the former USSR. Children migrants and children in transit are one of the most vulnerable groups that often face separation with parents, immigration detention and arbitrary deportations.

Convention on the Rights of the Child states that the arrest, detention or imprisonment of a child shall be used only as a measure of last resort.<sup>2</sup> The UN Committee on Migrant Workers and UN Committee on the Rights of the Child in the Joint General Comments No. 4 CMW/No. 23 CRC (2017) “On State Obligations Regarding the Human Rights of Children in the Context of International Migration in Countries of Origin, Transit, Destination and Return” state that the immigration detention of children is unacceptable —a situation where a child “is deprived of liberty because of their or their parents’ migration status, regardless of the name and reason given to the action of depriving a child of his or her liberty, or the name of the facility or location where the child is deprived of liberty.”<sup>3</sup> At the same time, in the region, the states’ migration policies often violate rights of the children.

For example, in the Republic of Moldova, in case of illegal stay or entry to the territory and when a person does not leave Moldova within the prescribed terms, he/she can be put into public custody for the period up to six month by the decision of the court. There is no provision for different treatment of migrant children in an irregular situation. Therefore, families with children or unaccompanied or separated migrant children are also placed in custody. There is only one migrant accommodation centre for the entire territory of the Republic of Moldova, created in 2004 with a capacity for 200 migrants.<sup>4</sup>

The main document that regulates the movement of children in the region is the outdated and heavy-handed Chisinau Agreement of Cooperation of States-Members of the Commonwealth of Independent States on the Return of Minors to their State of Residence (2002).

According to the Chisinau Agreement, children who have left their countries of permanent residence and are subject to return and transfer to their parents, legal guardians, or officials from special institutions in their country of permanent residence may be placed in the detention centers without a court decision for an indefinite period required for completing these actions. The centres are closed institutions, regardless of whether they are reception centers operated by the Ministry of

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<sup>1</sup> ADC Memorial, Migrant Children in CIS Countries: Lack of Adequate Legal Norms Regulating Cooperation Between the Countries Involved, 2018, <https://adcmemorial.org/en/publications/migrant-children-in-cis-countries-lack-of-adequate-legal-norms-regulating-cooperation-between-the-countries-involved/>

<sup>2</sup> Convention on the Rights of the Child, 1989, article 37

<sup>3</sup> Joint general comment no. 4 (2017) of the committee on the Protection of the rights of all Migrant workers and Members of their Families and no. 23 (2017) of the committee on the rights of the child on state obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, cMw/c/gc/4-crc/c/gc/23, paragraph 6

<sup>4</sup> Council of Europe, A Study of Immigration Detention Practices and the Use of Alternatives to Immigration Detention of Children, 2017, page 20 <http://website-pace.net/documents/19863/3390925/2017-ImmigrationDetentionPracticesStudy-EN.pdf>

Internal Affairs, transit shelters, or juvenile adaptation centers, which are classified as social or educational institutions. Placement children in these institutions amounts to deprivation of liberty based only on the migrant status and problems with documents. Such practice violates international human rights standards and is regarded as unacceptable by the UN and Council of Europe.

In Ukraine, the returned children, both foreign children awaiting transportation to the country of origin and Ukrainian children awaiting family reunification after arriving from other countries, are kept in closed institutions – transit juvenile reception centers in the National police system, only for migration reasons. Two of the juvenile reception centers — in Kyiv and Kharkiv — have transit functions. In the transit juvenile reception center of the National Police in Kyiv, returned foreign children stay for on average 60 days; in 2018, there were 3 such children – citizens of Moldova, Kazakhstan, Uzbekistan. In the juvenile reception center of the National police system in Kharkiv in 2018 there were 14 children returned to Ukraine from other countries and no foreign children; in 2019, there were 15 children – mainly returned from Russia to Ukraine or from Ukraine to Russia.

However, the children rights during return have been also violated by the EU member states implementing the Readmission Agreements with the non-EU member states. The majority of Readmission Agreements also cover families with children, and there are registered cases when children were separated from parents and returned separately, or when unaccompanied children migrants were returned within the general readmission procedures.

In 2010, Human Rights Watch has documented cases when unaccompanied children were sent back to Ukraine by Slovakia and Hungary within the bilateral readmission agreements and within the EU-Ukraine readmission agreements: «both Slovakia and Hungary have returned unaccompanied children under their readmission agreements. In practice, they were returned on the same basis as adults, without consideration of their vulnerability and lack of protection in Ukraine. Some returned children alleged ill-treatment, including torture and arbitrary detention by Ukrainian officials».<sup>5</sup>

In the media there have been also published some more recent testimonies of forced deportations of families with children from the EU or Schengen zone states.<sup>6</sup>

### ***Recommendation:***

ADC Memorial considers that the best way to protect rights of children in migration is to elaborate and conclude special treaties on the return of children-migrants. The EU should conclude such treaties together with Readmission Treaties to provide legal basis for return of children-migrants and to promote better practices with the Neighbourhood and other states. The EU should also call its partners to elaborate and conclude such treaties between themselves. The specific treaties on return of children should be based on ban on immigration-related detention of children, a ban on the separation of children from their parents solely due to the migration status of the children and/or their parents, and guarantee of the right to education of migrant children.

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<sup>5</sup> Human Rights Watch, *Buffeted in the Borderland: the Treatment of Migrants and Asylum Seekers in Ukraine* <https://www.hrw.org/sites/default/files/reports/ukraine1210WebVersion.pdf>

<sup>6</sup> Hetq, *The deportees from Europe to Armenia has tripled, 2019*, <https://hetq.am/ru/article/101052>, Kavkazkiy Uzel, *The Chechens deported to Russia are not allowed from the airport, 2016*, <https://www.kavkaz-uzel.eu/articles/278443/>

### ***Children belonging to other vulnerable groups***

In many countries of Eastern Europe and Central Asia children from vulnerable groups face multiply discrimination, based on their belonging to the vulnerable groups and due to being a child.

In a number of countries, including Armenia, Azerbaijan, and some Central Asian ones, girls are seen as having limits in their educational and professional development and being obliged to take care of home and family, are less desirable as children. Azerbaijan is one of top five countries where more boys are born than girls. According to the state statistics, 46.6 percent of births were girls in 2018, which is 0.2 percent less than in 2017. Alternative studies provide evidence of more frightening figures, noting that one-third fewer girls are born than boys in the rural areas. Another problem that young women face under gender stereotypes is early marriage, which is practiced across the region by some communities. Among other things, early marriages mean that young women stop their education before graduating from school. As some countries in the regions still have the jobs banned for women, girls do not have access to studies of banned qualifications and degrees.<sup>7</sup>

Across the region, many schools practice segregation of Roma children, when the latter are being kept in separate classes and even schools. Experts of ADC Memorial documented this practice in Russia, in some schools in Ukraine and Moldova, in Central Asia. As a result, most Roma children get only primary school education at best and cannot attend secondary and high school later, while universities also remain out of their reach.<sup>8</sup> Roma children often face statelessness. Having stateless parents, they often «inherit» this status. Children of some other ethnic minorities often do not have access to education at their mother tongue neither at the level of elementary schools, nor secondary.

LGBTI+ children and teenagers are stigmatised across the region. In Central Asia the families are generally not prepared to accept their orientation or identity. They try to “cure” their children who have “gone awry” or coerce them into changing their identity and even kick them out of the house. The threat of losing a home and material support is especially important for people who are dependent on and live with their parents. Many young members of the community are not able to work, pay for school, and provide for themselves, or they do not have the opportunity to live separately.<sup>9</sup>

### ***Recommendation:***

We call the EU in its foreign policy to prioritise the situation and the rights of children, belonging to the vulnerable groups. The EU should take measures to assist other states to counteract harmful practices and stereotypes, promote access to inclusive education for all, including in the languages of ethnic minorities and without segregation, and facilitate safety and free development for all children.

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<sup>7</sup> ADC Memorial, Campaign All Jobs for All Women, <https://adcmemorial.org/ru-all-jobs4all-women/>

<sup>8</sup> ADC Memorial, Structural discrimination against Roma in Eastern Europe and Central Asia, 2018, <https://adcmemorial.org/en/publications/structural-discrimination-against-roma-in-eastern-europe-and-central-asia/>

<sup>9</sup> ADC Memorial, LGBTI+ in the region of Central Asia: repressions, discrimination, exclusion, 2020, <https://adcmemorial.org/en/publications/lgbti-in-the-region-of-central-asia-repressions-discrimination-exclusion/>