Save the Children’s position on the Asylum and Migration Fund 2014-2020

Significant numbers of children from third countries move to Europe, travelling with their families or alone or separated from their family. Whether they are asylum seekers, trafficked children or come to Europe for other reasons, EU law, policy, funding and relations with third countries have very wide-ranging impacts on their lives. Save the Children works to ensure that children’s rights, in line with the UNCRC, are placed at the heart of all EU action affecting children in migration and that EU migration and crime control concerns do not outweigh respect for their right to protection. We call for a global approach across internal and external EU policies, that both fulfils the EU’s protection and assistance responsibilities to these children when they arrive in the EU and works with third countries to reduce the need for, and risks associated with, and respond to unsafe migration.

Save the Children believes that the Asylum and Migration Fund can play a crucial role in ensuring the protection of asylum-seeking and migrating children. The Stockholm Programme e.g. includes strong commitments on children’s rights to protection in the field of asylum and migration that need to be translated into concrete financial commitments. Therefore, we welcome the explicit references in the EC’s proposal to specific assistance to vulnerable persons including minors, unaccompanied minors, pregnant women, and single parents with minor children.

Save the Children was part of the Children’s Rights Action Group’s position paper “Budget 2014-2020: Making children visible”. This statement refers to that paper and develops further recommendations for the proposed regulation establishing the Asylum and Migration Fund. The particular points discussed in this statement are: flexibility; facilitating a cross cutting child protection approach; criteria for allocation of funds between Member States; the partnership principle; the external dimension, coherence and proportionality of funding for the external dimension; transparency, monitoring and accountability mechanisms and specific recommendations in relation to Annex II.

1. Flexibility
We recognise the importance the merging of the three funds will have in terms of providing greater operational flexibility and more efficient expenditure under the new Asylum and Migration Fund 2014-2020. However, flexibility should not affect agreed policy priorities/objectives and should only be acceptable at the operational level. Furthermore, flexibility must be underpinned by effective transparency, monitoring and accountability provisions. Achieving children’s rights and child protection is an incremental process that demands sustainable and long-term action.

2. Facilitating a Cross Cutting Child Protection Approach
We also believe this flexibility will allow a cross cutting approach where appropriate across policies. We believe it should specifically facilitate the creation of child protection safeguards horizontally across asylum, migration and trafficking policies and across the internal and external policy divide. Child protection is not an issue that can simply be “bolted on” to fragmented asylum and migration procedures. It should be considered throughout asylum and migration policies and must be at the heart of all actions concerning children, regardless of whether they are asylum seekers, trafficked children or children seeking family reunification or other opportunities. Necessary child protection safeguards should be available to all children in migration.

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Examples of funded horizontal actions could include:
Support for better guardianship for all unaccompanied and separated children; general training of social workers, interpreters, judges and other legal professionals in child-friendly procedures and assessments; capacity building to improve and harmonise the standards and reception conditions for all children outside their country of origin (including access to services regardless of their status), and support for bolstering child protection systems in third countries to reduce the needs and risks of unsafe migration.

Therefore, we strongly recommend that the Regulation set out a cross-cutting indicator for all objectives under Article 3 of the Asylum and Migration Fund relating to “the level of increased child protection safeguards, respect for family life, access to essential services for all children and special protection and assistance of unaccompanied children”. In this context, we would also like to stress the need for a specific provision making it explicitly clear that projects may be designed to fulfil several objectives and financed accordingly across objectives.

We therefore suggest adding the following wording to Article 3 of the Asylum and Migration Fund (COM(2011) 751):

“Cross cutting indicators to measure achievement of each of these objectives shall also include the level of increased child protection safeguards, promotion of respect for family life, access to essential services and special protection and assistance of unaccompanied children regardless of their specific status.

Moreover, projects may be designed to fulfil several objectives and financed across objectives.”

3. Criteria for allocation of funds between Member States
We urge the EU to establish a set of criteria, which serve as a transparent basis on which the annual work programmes, including funding allocations, are established. These criteria for allocation of funds between Member States shall be monitored and evaluated regularly. The different situations in Member States based on the latest available statistical data relating to the migration flow shall be taken into consideration when determining the criteria for allocation of funds between Member States. However we recommend that certain other factors may need to be taken into account, including for example under recital 26, the “presence of vulnerable persons and their special needs, such as unaccompanied minors, regardless of their specific status as asylum seekers or otherwise”.

We therefore suggest the following wording for recital 26 of the Asylum and Migration Fund (COM(2011) 751):

“(26) A large part of the available resources under the Fund should be allocated proportionally to the responsibility borne by each Member State through its efforts in managing migration flows on the basis of objective criteria. For that purpose, the latest available statistical data relating to the migration flows, such as the number of first asylum applications, the number of positive decisions granting refugee or subsidiary protection, the number of resettled refugees, the number of legally residing third-country nationals, the number of vulnerable persons and their special needs, such as unaccompanied minors, regardless of their specific status as asylum seekers or otherwise, the number of third-country nationals who have obtained an authorisation issued by a Member State to reside, the number of return decisions issued by the national authorities and the number of effected returns should be used.”
4. Partnership principle
Civil society, including Non-Governmental Organisations, play a significant role in safeguarding, promoting and implementing children’s rights as stipulated in the General Comment 5 of the Committee on the Rights of the Child. Child rights organisations and children’s networks play a significant role in safeguarding, promoting and implementing children’s rights. Hence, they should be supported in playing their role as watchdogs and promoters of fundamental rights as direct service providers and innovators in developing new tools and building capacities of various stakeholders. Therefore, we call for the establishment of effective partnership principles for CSOs, securing CSOs’ involvement in preparation, planning, monitoring, implementation and evaluation of funding at both national and EU levels. Such principles should be mandatory. We would recommend that the Commission would be asked by Parliament to provide guidance on the implementation of the partnership principle of to facilitate and exchange of good practices on the issue.

We therefore suggest the following wording for 1st paragraph of Article 12 of the general provisions on the Asylum and Migration Fund and the Internal Security Fund (COM(2011) 752):

“1. Each Member State shall organise, in accordance with its national rules and practices, a partnership with the authorities and bodies concerned to develop and implement national programmes.

Such authorities and bodies shall include the competent regional, local, urban and other public authorities, and, where appropriate, international organisations and bodies representing civil society, such as non-governmental organisations or social partners.”

5. External dimension
We recognise the need to address with, and in, third countries issues concerning third country nationals who may be in the EU or returning from the EU. In the area of child protection, key concerns include proper family tracing and assessment measures and projects, bolstering child protection support to third countries to ensure reintegration support and monitoring when return is in the best interests of the child, and development of appropriate procedures and support for the transfer between countries of care and custodial responsibilities.

However, we suggest that the actions in and related to third countries (external dimension) should be redefined to ensure that the pursuit of Union objectives (in particular migration control) is not the exclusive concern of EU actions with an external dimension. EU actions must also specifically aim to ensure respect for the rights of third country nationals.

We therefore suggest adding the following wording to recital 25 of the Asylum and Migration Fund (COM(2011) 751) and to recital 6 of the general provisions on the Asylum and Migration Fund and the Internal Security Fund (COM(2011) 752 (which are identical):

“Measures in and in relation to third countries supported through the Fund must specifically seek to ensure respect for the rights of third country nationals.”

Coherence
Furthermore, as is acknowledged, there must be coherence between actions with an external dimension in home affairs and actions under external policy fields (such as development cooperation). For example, reintegration measures and plans concerning returning children need to link to development and cooperation measures that sustain the creation of support and opportunities locally on a broader basis. The Regulation should already specify some mechanisms by
which coherence should be secured. We believe that the Regulation must anticipate that EU measures in both home and external policy fields rely on some common planning, assessment and monitoring tools.

We therefore suggest adding the following wording to recital 25 of the Asylum and Migration Fund (COM(2011) 751) and to recital 6 of the general provisions on the Asylum and Migration Fund and the Internal Security Fund (COM(2011) 752 (which are identical):

“Moreover, in order to ensure coherence between the different policy fields, common planning, assessment and monitoring tools shall be established.”

Moreover, we suggest adding the following wording to Article 14, paragraph 5 (f) of the general provisions on the Asylum and Migration Fund and the Internal Security Fund (COM(2011) 752:

“(f) Where applicable under a Specific Regulation, for objectives and examples of actions in or in relation to third countries, coherence with the principle and objectives of the Union external action and foreign policy related to the country or region concerned. In order to ensure coherence between the different policy fields, common planning, assessment and monitoring tools shall be established.”

Proportionality
More broadly we would also ask that the EU carefully determines the proportion of monies which should be set aside for actions to address the external dimension of EU asylum and migration policies and that set aside for general development cooperation measures. We would submit that the latter calls for greater resources.

6. Transparency, monitoring and accountability mechanisms
The success of the Fund will rely on processes at national and EU level to ensure transparency, effective monitoring and accountability. It is hence imperative to introduce monitoring and evaluation mechanisms which secure effective expenditure and assess whether the EU is attaining its objectives to fulfilling children’s rights and child protection. Funded activities and spending for children shall therefore be monitored through disaggregated data and furthermore, qualitative and quantitative indicators shall be established in order to measure the Fund’s impact and the achievement of its objectives. Reports and other documents e.g. submitted by a country should be publicly available.

We therefore suggest adding the following wording to Article 6 (a) of the Asylum and Migration Fund (COM(2011) 751):

“(a) actions enhancing the capacity of Member States to collect, analyse and disseminate 
\textit{disaggregated} data and statistics on asylum procedures, reception capacities, resettlement and relocation actions;”

Recommendation for Article 10 (b) of the Asylum and Migration Fund (COM(2011) 751):

“(b) reinforcing the capacity of Member States to develop, implement, monitor and evaluate their immigration strategies, policies and measures across the different levels and departments of administrations, in particular enhancement of their capacity to collect, analyse and disseminate 
\textit{disaggregated} data and statistics on migration procedures and flows, residence permits and development of monitoring tools, evaluation schemes, indicators and benchmarking for measuring achievements of these strategies;”
Specific recommendations in relation to Annex II:
The Stockholm Programme states that "Measures need to be identified to which the Union can contribute added value. Children in particularly vulnerable situations should receive special attention, notably in the context of immigration policy (unaccompanied minors, victims of trafficking, etc.) and sexual exploitation and abuse". The EU Action Plan on unaccompanied minors foresees that all children should be treated in accordance with the standards set in the UNCRC. Thereby, the EU should increase the protection of unaccompanied children entering the EU, set up a common and coordinated approach among Member States and harmonise standards of reception, protection and integration of unaccompanied minors. These commitments need to be renewed and secured, and reflected in the future programming.

As a consequence, joint initiatives funded through the Asylum and Migration Fund should aim at implementing new approaches concerning identification and the procedures at first encounter and standards of special protection and assistance for unaccompanied minors. Furthermore, durable solutions should be found for unaccompanied minors, including restoring family links and reintegration of unaccompanied minors in their countries of origin where this is in their best interests.

We therefore recommend adapting the wording for Annex II, paragraph 4 and 7 of the Asylum and Migration (COM(2011) 751) which should hence read:

“(4) Joint initiatives aimed at implementing new approaches concerning identification and the procedures at first encounter and standards of special protection and assistance for unaccompanied minors;”

“(7) Joint initiatives aimed at finding durable solutions for unaccompanied minors, including restoring family links and reintegration of unaccompanied minors in their countries of origin where this is in their best interests;”

If you have any further queries, please do not hesitate to contact us.

Rebecca O'Donnell (Senior Policy Adviser, Asylum, Migration & Trafficking):
rebecca.odonnell@savethechildren.be

Manuela Smolinski (Advocacy and Policy Assistant, MFF):
manuela.smolinski@savethechildren.be

Brussels, June 2012