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NL AD-HOC QUERY ON SYRIAN CHILD BRIDES IN THE ASYLUM PROCEDURE

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Responses from Belgium, Croatia, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom plus Norway (21 in Total)

Disclaimer: The following summary has been based on the responses which were provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

1. Background Information

Since July 2014 the Netherlands sees itself confronted with a significant increase of Syrian child marriage cases: currently 55 cases (in July 2014 there were only 2 cases). These cases involve young girls -13 to 17 years old- who got married with parental consent. There is a significant age gap between spouses: the adult males are usually 10 to 20 years older than their underage wives. Most marriages took place outside Syria in refugee shelters in for instance Jordan, Lebanon or Turkey. The living conditions in these camps are tough and many fathers come to believe that their daughters will be better protected and provided for if they are married off. In two cases the Dutch authorities had to protect young brides due to blood feud threats. In the Netherlands these marriages can be in violation of Dutch legislation.

2. Questions asked in the AHQ

1. *Does your country receive asylum applications involving Syrian child brides (meaning a formal marriage or informal union entered into by a girl before reaching the age of 18)? If so, what are the numbers involved (2012-2014)?*
2. *How do you deal with child bride cases? Do you have special regulations and procedures regarding these cases?*
3. *How do you shelter this vulnerable group of children? In special facilities? Do you separate these girls from their spouses?*
4. *Are these couples in possession of marriage documents/certificates?*
5. *Have you identified unwanted side effects associated with child marriage, such as rape, domestic violence and blood feud?*
6. *If the girl is lawfully wed in her homeland can husbands of underage girls be prosecuted under your laws?*

3. Highlights / Norway's practice in relation to others

In addition to the approximate 55 cases NL reported of abuse of under-aged Syrian asylum seekers applying for asylum as child brides, only NO and SE report on any similar cases at all: exact numbers are not known, estimates vary from a few cases in Norway to an estimate of 5 - 10 cases in Sweden. The other respondents had no experience with this group at all, but there were a number of comments on how the MS handled the general situation of marriage with a minor; not least of all in asylum cases which makes this AHQ still interesting.

Most MS forbid marriage to children within their own boundaries; some stipulate 16 as a minimum age, others 18. However, most of the MS giving in-depth responses indicated that in general, marriages with a child bride (asylum seeker) who was under 16 at the time of the marriage, would be recognized only in exceptional cases and the best interest of the child would always be of utmost importance, except LU where such a marriage would be considered void in all circumstances. Some MS differentiate between whether the marriage was entered into in/outside the respective MS. If marriage to a child this young is recognized and legal in the country where it was performed, the UK will generally still recognize it given certain criteria. On the other hand, in such cases, SE recognizes the girl as an unaccompanied minor, the case is reported to the authorities, a guardian is assigned and the minor is placed in suitable housing. If the marriage is contrary to *ordre public*, then recognition of the marriage will be refused under Swedish law. Many reporting MS, in keeping with SE indicated that if anything leads the authorities to believe that the minor is mistreated in any way or is or has been the victim of a crime, the case officer will report this to the authorities where age will be determined, a guardian assigned and the case potentially will be taken to court. If there is reason to believe the case is a forced marriage and/or a result of trafficking, regulations related to trafficking will apply according to some of the reporting MS. DE has specially trained officers who handle such cases.

FI is developing guidelines aimed at protecting minors and will include a section on asylum seekers suspected of being under-aged, though claiming to be adults, especially in cases of marriage or pregnancy. SI and NO mentioned child brides in the context of laws that protect vulnerable groups. NO has regulations and procedures regarding vulnerable groups and is working on developing written guidelines in

regarding violence in close relationships. How to handle cases concerning child brides will be included in these guidelines under the heading of forced marriages. NL is considering whether marriage with a minor can be treated as a criminal offense under Dutch law.

A criminal offence? There can be a fine line between a forced marriage with a minor and one that is not considered forced. In addition to considering the discrepancy in age, most MS consider whether crimes of rape, sexual intercourse by abuse of position and sexual intercourse with a child are also involved in a case, or whether the minor can also be a victim of other crimes. Other issues are not as uniformly handled. Such as, did the marriage take place in or outside the country, with or without a resident of the country? There are also varying practices in terms of whether marriage with a minor is punishable by law. In SE and NO it can be, in FI it isn't, but sexual offences are punishable.

DE and NO stipulated that marriage/forced marriage between an under-aged minor (16) with a citizen or resident of one of their respective countries, would be treated differently (as a crime) than marriages entered into abroad between two foreigners with no connection to these respective countries. In NO if one or both of the parties had ties to NO when they entered into marriage, and one of the parties was under-aged (younger than 16) the situation would be reported to the police and the offender could be prosecuted. In NO the rules and regulations are complex and punishment would be based on an evaluation of the total situation, including whether rape and or violence were associated with the relationship of an under-aged child.

In terms of housing, in FI, vulnerable groups of children are accommodated depending on the specific characteristics of the case. In cases that do not require immediate action from child protection, the reception centre social worker makes a service plan in co-operation with the couple considering the opinion, best interest, needs, and rights of the child. If the child is close to 18 years old, and it is a question of a married couple, and concern does not rise, the couple can be accommodated together in a family room. If there is concern for the child, child protection is contacted and they will decide on protection measures under the Child Welfare Act and can arrange emergency placement. Other MS also expressed such considerations as well.

Otherwise, sometimes minors are sheltered together with their spouses whereas others are separated from them. The UK doesn't accommodate a "couple" when the bride is under age (16). DE indicated that in extreme exceptional cases, separate accommodation for the spouses may be considered, while LU stated that in principle, the minor girl will be separated from her spouse, because the marriage is considered void.