



10th European Forum on the rights of the child

29-30 November 2016

The protection of children in migration

24 November 2016

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General background paper

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1. INTRODUCTION

Within the European Commission, Věra Jourová is the Commissioner in charge of the rights of the child. DG Justice and Consumers is the supporting Commission department on rights of the child. Margaret Tuite, the Commission Coordinator on the rights of the child, sits in the Fundamental Rights Policy unit team in DG Justice and fulfils a coordinating role among all departments and, among others, organises an annual European Forum on the rights of the child.¹

Reflecting the concerns related to the situation of children in migration, and given the reinforced internal coordination efforts by the Commission, the Commission decided that a Forum dedicated to the protection of children in migration provides a unique opportunity to bring together some 300 stakeholders from 30 countries, representing Member State authorities, international organisations, civil society, ombudspersons for children, practitioners, academics and EU institutions to address this as a matter of urgency. The 2016 Forum is organised by DG Justice in close cooperation with other Commission departments (in particular DG HOME, but also DG EAC and DG SANTE) and EU Agencies (EASO, FRA, FRONTEX). International organisations, civil society, Member State authorities and other EU institutions are also closely involved.

The Forum will be preceded by a **side meeting on guardianship for about 100 participants** on 28-29 November 2016, as the lack of effective guardianship has been a European-wide challenge and progress is urgently needed, ahead of the discussions on the Common European Asylum System (CEAS) reform provisions specifically covering guardianship issues in the asylum context. The conclusions from the side meeting will feed into the Forum. In 2014, the Commission and the EU Agency for Fundamental Rights published a [Handbook on guardianship deprived of parental care to reinforce guardianship systems to cater for the specific needs of child victims of trafficking](#). The Handbook aims to assist national authorities and other stakeholders across the EU to further develop existing guardianship systems and promotes a shared understanding of the main principles and features of a guardianship system, and thereby to improve conditions for children under guardianship and promote respect for their fundamental rights. The Handbook, and the [2015 mapping report on national systems](#), will inform discussions in the side event.

According to UNICEF, there are 50 million children in migration worldwide and one in every 200 children is a refugee. Half of the world's refugee population are children. In 2015 and 2016 roughly every one in four asylum applicants in the EU was a child. Ninety-six thousand unaccompanied children applied for asylum in the EU in 2015. In 2016 children comprised over 30% of all sea arrivals to mid-November.² Despite the reality that children comprise a significant proportion of refugees and migrants, the response is often fragmented and there is a pressing need to ensure concerted, collective efforts to join the dots and address the gaps, with a specific focus on sustainable system improvements.

In its Communication on the state of play of implementation of the priority actions under the European Agenda on Migration (10/2/2016), the Commission announced that work is underway to employ a comprehensive approach to the protection of children throughout the migration chain.³

¹ http://ec.europa.eu/justice/fundamental-rights/rights-child/european-forum/index_en.htm

² http://ec.europa.eu/justice/fundamental-rights/files/rights_child/data_children_in_migration.pdf

³ http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/managing_the_refugee_crisis_state_of_play_20160210_en.pdf and http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/managing_the_refugee_crisis_state_of_play_20160210_annex_06_en.pdf

The Forum is organised in this context as a milestone in the ongoing and continuous efforts that are needed to employ such a comprehensive approach.

1.1. Definitions and geographical scope

For the purposes of the Forum, the term '**children in migration**' covers all third country national children who migrate from their country of origin⁴ to and within the territory of the EU in search of survival, security, improved standards of living, education, economic opportunities, protection from exploitation and abuse, family reunification or a combination of these factors. They may travel with their family or independently (unaccompanied child) or with an extended family or a non-family member (separated child⁵). They may be seeking international protection, family members, dependents of labour migrants, victims of trafficking, and/or undocumented migrants. An integrated child protection system is best placed to respond to the needs of individual children, and to prevent children from falling through the cracks of parallel or sub-systems, especially in cases when their circumstances or status changes, in line with the [Ten principles for integrated child protection systems. The principles set out in a short and easily accessible manner the components of an integrated child protection system](#). All children in migration who arrive in the EU must be treated first and foremost as children. Therefore, their specific and individual needs as children must be addressed. They have the right to be protected and we have the duty to protect them, in line with relevant procedural safeguards of asylum and migration procedures where applicable, and, more generally, in line with European values, international law on the rights of the child and EU law.

A '**comprehensive approach**' needs to cover **all critical stages** of the journey (not only the asylum 'route') as the status of children may differ at various stages on their journey, including after arrival in the EU, and they may encounter many differing situations of vulnerability. This approach means looking at the situation of **all** children in migration. It means looking at how all duty-bearers⁶ and system components⁷ work together to protect the rights of all children at all stages of migration, including a specific focus on their protection from all forms of violence. This includes systematically addressing children's rights and needs in the development, planning (and resource allocation), implementation and evaluation of policies and procedures affecting them. It encompasses all the potential phases of a migrant child's journey or experiences within the EU, from crossing the borders into the EU, travelling between the Member States, reception conditions, residence, undergoing status determination procedures and pathways for their future lives in Europe or elsewhere, with a focus on durable solutions including for children who are undocumented or stateless.

While migration may not begin or end in the EU, and the broader geo-political context cannot be ignored, for the purposes of the Forum – which brings together EU Member States, Norway and Iceland – the Forum will focus on the **geographical scope of the EU territory**.

⁴ or, in the case of stateless children, their country of habitual residence

⁵ We use the definition of 'separated child' as set out in para 8 of General Comment No 6 of the UN Committee on the rights of the child: "8. **Separated children** are children, as defined in article 1 of the Convention, who have been separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members." <http://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>

⁶ **Duty-bearers:** namely the state authorities represented by border guards, law enforcement, judicial authorities, asylum and migration authorities, social services, child protection authorities, guardians, reception facility staff, healthcare authorities and providers, early childhood education and care and education authorities, etc.

⁷ **System components:** e.g. laws, policies, resources, procedures, processes, sub-systems.

1.2. Child rights approach

All participants are expected to embrace and respect a child rights approach.⁸ Speakers are expected to reflect what a child rights approach means applied to their remit, role and work.

[General Comment No 13 of the UN Committee on the rights of the child, para 59, definition of a child rights approach](#)

"...A child rights approach is one which furthers the realisation of the rights of all children as set out in the Convention by developing the capacity of duty bearers to meet their obligations to respect, protect and fulfil rights (art. 4) and the capacity of rights holders to claim their rights, guided at all times by the rights to non-discrimination (art. 2), consideration of the best interests of the child (art. 3, para. 1), life, survival and development (art. 6), and respect for the views of the child (art. 12). Children also have the right to be directed and guided in the exercise of their rights by caregivers, parents and community members, in line with children's evolving capacities (art. 5). This child rights approach is holistic and places emphasis on supporting the strengths and resources of the child him/herself and all social systems of which the child is a part: family, school, community, institutions, religious and cultural systems."

2. FORUM OBJECTIVES

The overall objective of the Forum is to foster and ensure respect of the rights of the child in migration, by

- further developing a shared understanding of the EU and international legal frameworks, standards and policies in place, and looking ahead to proposed legislative changes and their implementation
- contributing to identifying key challenges and gaps in law, policy and practice
- exchanging expertise among stakeholders, and listening carefully to those working in the field, such as civil society actors, national, regional and local authorities, international organisations, EU agencies
- identifying, gathering and disseminating good and promising practice and building on them to address current and future challenges
- promoting and supporting Member State commitment to the implementation of fair and effective procedures and processes, in respect of the urgency principle for all proceedings involving children
- fostering the development of informal networks among stakeholders around key themes identifying areas where it is appropriate and feasible for the EU to support Member States
- mobilising actors and galvanising coherent responses

One of the underlying objectives is to forge stronger connections between the two often very separate worlds of child protection and asylum and migration. Their links need to be stronger to ensure that the rights of children in migration are respected. Red threads throughout all discussions should be the [Ten principles for integrated child protection systems](#), and application of the best interests of the child and the child's right to be heard, as part of a child rights approach.

⁸ <http://www.refworld.org/docid/4e6da4922.html>

3. KEY CONSIDERATIONS FOR THE FORUM

3.1. EU legislative framework

A substantial body of provisions on children in **EU asylum and migration law** already exists. EU law recognises children as applicants for international protection in their own right and sets some procedural safeguards and protection measures. The most recent proposals from 2016 seek to address the gaps identified in current legislation (e.g. upgrading of the principle of the best interests of the child to apply to the full law rather than only to a child-specific article, provisions on more effective guardianship and care, child safeguarding in reception, training of staff working directly with children). The EU regular migration package includes specific legislation on family reunification and includes provisions on whether or not regular migrants covered by EU law must have a right to migrate with dependents or bring their families at a later date (e.g. researchers, seasonal workers, highly-qualified workers, long-term residents), as well as provisions related to access to social security.

In 2016, the Commission proposed a legislative package (Eurodac Regulation, Dublin Regulation, Reception Conditions Directive, Asylum Procedures Regulation and the Qualifications Regulation) aiming for a far-reaching reform of the Common European Asylum System (CEAS). For ease of reference, an [extract of the proposed CEAS child-specific provisions](#) is provided.⁹

As a specific topic, the Forum will also look at the administrative detention of children in migration and what can be done to take proactive measures to ensure a range of viable alternatives.

Both the Return Directive and the Reception Conditions Directive include rules on the possibility of detention. Detention can only be used when absolutely necessary and as a means of last resort. Several guarantees must be respected. **Article 17 of the Return Directive** (2008/115/EC) provides that detention measures of children within the return procedure should be a “measure of last resort and for the shortest appropriate period of time”. Given the **exceptionality** of detention measures, the provision sets several safeguards for children in detention with the aim of ensuring their best interests pending the removal procedure. These safeguards are:

- Access to leisure activities which are appropriate to the age of the minor
- Access to education, depending on the duration of stay before return
- In particular with regard to unaccompanied minors, Article 17 provides that they have to be, as far as possible, provided with accommodation in institutions with personnel and facilities which take into account the needs of persons of their age

Under **Article 11(3) of the recast Reception Conditions Directive (2013/33/EU)**, the detention of unaccompanied minors is only allowed in **exceptional circumstances**, and never in prison accommodation.

The Schengen Borders Code and the Schengen Handbook guide border guards on how to treat accompanied or unaccompanied minors when they are crossing an external border.¹⁰ The Frontex "Vega Handbook: Children at Airports"¹¹ aims at increasing border guards' awareness of children and situations of risk for children crossing the external air borders of the EU, unaccompanied or not. Frontex planned to extend its VEGA Handbook also to land and sea borders. The VEGA

⁹ http://ec.europa.eu/justice/fundamental-rights/files/rights_child/ceas_provision_on_children_table_updated.pdf

¹⁰ Annex VII point 6 of the Regulation (EU) 2016/399 of the European Parliament and of the Council of March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)

¹¹ Vega Handbook: Children at airports: http://frontex.europa.eu/assets/Publications/Training/VEGA_Children_Handbook.pdf

Handbook on land borders is almost finalised and will be available in 2017. The recently adopted Regulation (EU) 2016/1624 on the European Border and Coast Guard¹² has expanded the tasks of Frontex. The Regulation caters for a number of strengthened child protection aspects and provides that the European Border and Coast Guard shall in all its activities pay particular attention to children's rights and ensure that the best interests of the child are respected.

The body of EU asylum and migration law and policy needs to be considered as a whole, including regulations and agreements on regular migration, international protection, border control, irregular migration, cooperation with third countries, and the functioning of the relevant EU agencies, in view of their impact on children.

Equally, the interplay of EU and national law as regards migrant children needs to be taken into account. For example, both EU and national law are relevant as regards legal migration procedures for residence, family reunification, education and work. National law also sometimes establishes additional grounds (beyond the EU international protection rules) for humanitarian protection or discretionary leave. National law primarily addresses conditions for undocumented persons within the EU to access services such as education and healthcare, except when in detention or removal procedures (which are governed by the Return Directive).

Moreover, to protect children from all forms of violence, the primary responsibility lies with each Member State to establish a **comprehensive child protection system**, covering a wide range of interventions including prevention, identification, reporting, referral, investigation, treatment, monitoring and follow-up, traceability and statistics, judicial involvement and effective procedures, including access to an effective remedy, and durable solutions. There are areas of child protection where the EU has scope to act to reinforce protection, particularly in cross-border situations. Some EU legislative provisions provide a basis for or are otherwise of relevance (asylum and migration, child sexual abuse and exploitation, trafficking in human beings, victims' rights, children suspected or accused in criminal proceedings, Brussels IIa Regulation on parental responsibility, etc.). The Commission has carried out an extensive study on children's involvement in administrative, civil and criminal judicial proceedings in the EU and supported training and capacity-building on child-friendly justice.¹³ Some projects specifically concern children in migration.¹⁴ More generally, the EU aims to support Member States in ensuring respect for the rights of the child (funding, tools, guidance, fora for exchange of expertise, etc.).

EU instruments and tools across other policy areas of shared or supporting competence are also relevant to the rights of children in migration, including in the areas of health, education, social inclusion, humanitarian assistance, public finance, development and foreign policy.

The impacts of EU financial instruments and allocation of funds to children in migration should also be considered (e.g. Asylum Migration and Integration Fund (AMIF), European Social Fund, the European Neighbourhood and Partnership Instrument, the European Development Fund, the European Refugee Fund¹⁵ and Instrument for Pre-accession Assistance)¹⁶

NB: see also the section on international standards, including on administrative detention, annexed to this document

¹² OJ L 251, 16.9.2016, p. 1.

¹³ http://ec.europa.eu/justice/fundamental-rights/rights-child/friendly-justice/index_en.htm

¹⁴ [http://ec.europa.eu/justice/fundamental-](http://ec.europa.eu/justice/fundamental-rights/files/rights_child/compilation_previously_funded_projects_rights_of_the_child_and_violence_against_children.pdf)

[rights/files/rights_child/compilation_previously_funded_projects_rights_of_the_child_and_violence_against_children.pdf](http://ec.europa.eu/justice/fundamental-rights/files/rights_child/compilation_previously_funded_projects_rights_of_the_child_and_violence_against_children.pdf)

¹⁵ This Programme ceased existing in 2014 and was replaced by the AMIF; nevertheless it is of importance for pre-2014.

¹⁶ http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=34456

Background materials

A [compilation of EU acquis on the rights of the child lists and links all legislation and proposals is available on the DG Justice website](#). Section 16 (Justice, Freedom and Security) includes all asylum and migration law, as well as **other relevant legislation and policy documents** on child sexual abuse and exploitation, trafficking in human beings and victims' rights.¹⁷

See also the [FRA Handbook on European law relating to asylum, borders and immigration](#) which has a specific chapter (Chapter 9.1) on unaccompanied children.

The EU-funded [CONNECT project reference document](#) provides a very useful overview table (tables start at page 48) of most of the key asylum and migration laws, with different entry points, reflecting all legislation adopted up to 2014, with child-related provisions.¹⁸ While the analysis focuses on unaccompanied children, several provisions cited establish protections for all children. It also serves to highlight gaps, where provisions for children's rights have not been made. The tables will need to be updated when new laws (proposed in 2016) are adopted.

3.2. 10 principles for integrated child protection systems

Speakers and participants are kindly requested to reflect on and demonstrate how the [10 Principles for integrated child protection systems](#)¹⁹ can be better implemented and to identify good and promising practices in that regard. (See copy in Annex 3 of this document.)

3.3. Challenges faced by children in migration

Children are not a homogenous group and challenges may be more severe for some children than for others. Cultural, religious, linguistic, and ethnic background, as well as poverty, are factors affecting the severity of challenges faced. Furthermore, if a vulnerability test were to be carried out, for example, to assess how a traumatised child with disabilities would fare, many of the challenges below increase in scale and may become Sisyphean if the necessary supports and responses are not in place. Many of these challenges apply to all children in migration (including those who are travelling with their family), from the moment of arrival in the EU. Others may be specific to unaccompanied/separated children. For several of the challenges below, the phenomenon of children going missing must be taken into account. Often the challenges are drivers for children going missing. This list is not intended to be exhaustive.

- Lack of respect of the child's right to primary consideration of their best interests
- Dangers faced while irregularly crossing EU external borders, including transactional sex to finance the onward journey
- Children in families may face family separation during their journeys, at borders and in countries of arrival and residence, for example in the context of over-crowding/travelling in large groups of people, border closures, deliberate actions by smugglers, and apprehension or detention by state authorities of a parent

¹⁷ http://ec.europa.eu/justice/fundamental-rights/files/acquis_rights_of_child.pdf

¹⁸ http://www.connectproject.eu/PDF/CONNECT-EU_Reference.pdf

¹⁹ 9th European Forum on the rights of the child, Reflection Paper, pp. 10-11 at http://ec.europa.eu/justice/fundamental-rights/files/2015_forum_roc_background_en.pdf

- Lack of access to protection while following EU migration routes undetected
- Gaps in registration and identification of unaccompanied children, leading also to gaps in referral to appropriate protection services
- Reception: lack of safe reception/lack of age appropriate reception capacity/poor reception conditions/lack of focus on quality of care/lack of range of options including family-based care/lack of inspection and monitoring
- The tension between their country of destination, chosen because of family ties, and measures in place to prevent secondary movements
- Lack of procedures and mechanisms for identification of vulnerabilities in reception and detention centres
- Procedural and other obstacles to family reunion within the EU and family tracing challenges: under-developed (cross-border) mechanisms, lack of information, unavailability/unwillingness of family in EU to take care of the child, delays in initiating tracing and establishing and verifying family links
- The risk of administrative detention, including the risk of detention in inappropriate conditions (lack of separation from adults, etc.) or due to lack of space in open reception and lack of appropriate alternatives
- Lack of inspection and independent monitoring of reception and detention centres
- Risk of sexual violence, sexual exploitation and trafficking in reception and detention centres, as well as along the route
- Gaps in guardianship systems (e.g. lack of (trained) guardians, overstretched guardians; no immediate allocation of guardian)
- Lack of legal advice and/or representation
- Lack of reliable information and advice and lack of access to child-specific information and provision of information in a child-friendly manner
- Lack of delivery of a good counter-narrative to that of traffickers and/or smugglers
- Lack of, or limited, access to education and adequate healthcare, including psychosocial care
- Long delays or lack of access to family reunification and transfer procedures due to the lack of efficient transnational cooperation and coordination mechanisms
- Disputed ages have a negative impact on children - invasive age assessment methods with variable degrees of results and reliability may be used
- Age assessment procedure outcomes may be linked to the child's credibility in asylum procedures/accommodation in adult accommodation pending the outcome of age assessment procedures/lack of access to appeal procedures
- Unaccompanied children may have put their entire focus and energy on survival, the journey and arrival - when they do arrive they are depleted, but find they have to cope with a whole new set of challenges
- Many (unaccompanied) children are traumatised and need specialised care on arrival and have frequently not had access to (health)care during their journey
Lack of mechanisms to identify and implement a durable solution
- Return to the country of origin may not be based on a best interests determination
- Absence of child-focused country of origin information reports to inform best interest determinations

- Lack of regularisation pathways/granting short-term leads to uncertainty, insecurity and limits full realisation of all rights/risk of remaining in legal limbo for long periods
- Gaps caused by lack of coordination among various services and agencies involved in the treatment of children in migration

3.4. Data collection

Children, **whether unaccompanied/separated or travelling with their family**, comprise a significant proportion of children in migration (see annex) and data and statistics are needed to allow for assessment of their situation and to support their protection under EU and international law. Despite recent efforts, data on children in migration (whether unaccompanied or travelling with their families) is still very fragmented. Efforts are underway for 2017 to make data on children more visible and possibly to provide summary tables on children (both unaccompanied and with their families). At present, data on outcomes for unaccompanied children should also be made available (as well as for asylum applications), e.g. data on withdrawals of international protection claims, pending cases, decisions granting or withdrawing status and Dublin transfers.

Data is not yet disaggregated by age and sex for statistics on all children on the prevention of illegal entry and stay (Article 5 Statistics Regulation datasets (a) and (b) on the prevention of illegal entry and stay), statistics on residence permits and residence of third-country nationals (Article 6 Statistics Regulation datasets ((i), (ii), (iii) on residence permits and residence of third-country nationals), statistics on returns (Article 7 Statistics Regulation datasets (a) and (b) on returns). Nor is such data disaggregated for unaccompanied children.

Data on children who do not apply for asylum is even more fragmented, if it exists at all and data gaps that should be explored in the medium term include coverage of:

- children in administrative detention and on the availability of alternatives to detention
- children returned
- children transferred under the Dublin Regulation
- children subject to a family reunification decision
- (unaccompanied) children reported to be missing from reception centres/alternative care
- children who have passed through national referral mechanism (trafficking) procedures
- children who have made applications in relation to statelessness
- children estimated to be in an irregular situation disaggregated by gender/age.
- data to support implementation of Common European Asylum System proposals, such as in the area of guardianship, access to quality reception including foster care and access to services such as education and healthcare.

The **Action plan on unaccompanied minors (2010-2014)**²⁰ underlined that "*The situation [of unaccompanied minors] cannot be properly assessed, nor appropriate solutions found, without a clear evaluation based on comprehensive, reliable and comparable data.*" The Action plan noted shortcomings in harmonised and complete statistics on all unaccompanied children arriving on EU territory, and, among others, committed to actions to ensure that the Member States use the full potential of additional disaggregation of the Statistics Regulation²¹ to gather comprehensive data on

²⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Ajl0037> See Recital 16

²¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:199:0023:0029:EN:PDF>

unaccompanied minors or, if this does not reach its objectives, to collect the required information directly from the administrations in the Member States.

As well as reaffirming international commitments to protect children in migration, the [New York Declaration for Refugees and Migrants of 19 September 2016](#) made a commitment concerning data - see Section II Commitments that apply both to refugees and migrants, para 40:²²

40. We recognize the importance of improved data collection, particularly by national authorities, and will enhance international cooperation to this end, including through capacity-building, financial support and technical assistance. Such data should be disaggregated by sex and age and include information on regular and irregular flows, the economic impacts of migration and refugee movements, human trafficking, the needs of refugees, migrants and host communities and other issues. We will do so consistent with our national legislation on data protection, if applicable, and our international obligations related to privacy, as applicable.

While some actions have been initiated at European Commission level in 2016 (a first discussion was held with Member State authorities on data on children in migration on 19/10/2016), with a view to improving data, Forum participants are invited to keep data collection needs in mind during discussions.

4. STRUCTURE OF THE FORUM

The first day of the Forum (afternoon of 29 November) includes two high level plenary sessions: one on EU and international commitments on the protection of children in migration, and the second on challenges and opportunities for the protection of children in migration. A plenary session starts Day 2, with a testimonial from a former unaccompanied child, before we split up into four smaller groups.

Four parallel sessions will drill down and address four broad themes, taking stock of the considerations in this note and the 10 Principles for integrated child protection systems. Participants and panellists are encouraged to make connections and bridges between the topics of the different sessions, thus reflecting the importance of a comprehensive and integrated approach to the protection of children in migration.

SESSION I - Identification and protection

(e.g. identification of child and assessment of needs, registration, prevention of trafficking and of sexual and other forms of exploitation, abuse and violence, missing children, follow-up, traceability)

SESSION II – Reception

(e.g. reception conditions for children (unaccompanied or with families), quality of care, full access to education, right to adequate standard of living, healthcare including psychosocial support, prevention of deprivation of liberty and treatment in cases thereof)

SESSION III - Access to asylum procedures and procedural safeguards

(e.g. appointment of a guardian; respect for family unity, family reunion, respect for the urgency principle in all proceedings involving children, information to children, legal advice and

²² <https://refugeesmigrants.un.org/declaration>;

assistance, access to the asylum procedure, child-sensitive assessment of protection needs taking into account persecution of a child-specific nature, age assessments)

SESSION IV - Durable solutions including integration

(integration, return to country of origin)

5. EXPECTED OUTCOMES

5.1. Compilation of good and promising practices

One of the Forum deliverables will be a compilation of good and promising practices, covering all phases of migration discussed during the Forum. We are still assessing what would be the most appropriate tools to facilitate the collection process, but after the Forum all participants (and others) will be invited to contribute.

5.2. Networking

All Forum participants are invited to continue and extend formal and informal networks at national and crossborder level so as to continue these collective efforts. The creation of an EU network on guardianship is currently being explored.

5.3. Forum conclusions

Forum conclusions will be drawn up. They will inform future policy decisions and will be discussed in the inter-institutional context and feed into guidance on the protection of children in migration in the EU.

6. ANNEX 1: DATA ON CHILDREN IN MIGRATION

While data is fragmented, there are many useful sources of data and snapshots that are provided below.

6.1. Global situation of children in migration [Uprooted, September 2016, UNICEF](#)²³

- 50 million children in migration; 28 million of them fled violence and insecurity
- One in 200 children is a refugee
- One in three children living outside country of birth is a refugee
- **Half the refugee population = children**
- The "migrant" population is older: one in eight migrants is a child
- Turkey hosts the largest number of refugees worldwide
- 5.4 million child migrants in Europe = 7% of region's migrants

6.2. Evolution in the number of child asylum applicants in the EU 2010-2014-2015-2016-2017 (first time applicants). As of 05.02.2018

*Eurostat*²⁴: [migr_asyappctza] – the number of child asylum applicants (0-17), both unaccompanied and with their families

Year	No of child asylum applicants (with families and unaccompanied)
2010	61 005
2014	144 550
2015	368 010
2016	386 435
2017	188 930

6.3. Evolution in the number of child asylum applicants below the age of 14 in the EU 2010-2014-2015-2016-2017 (first time applicants). As of 05.02.2018

*Eurostat*²⁵: [migr_asyappctza] – the number of child asylum applicants (0-14), both unaccompanied and with their families

Year	No of child asylum applicants (with families and unaccompanied) below the age of 14
2010	45 345
2014	105 605
2015	243 240

²³ http://www.unicef.org/publications/files/Uprooted_growing_crisis_for_refugee_and_migrant_children.pdf

²⁴ <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

²⁵ <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

2016	282 545
2017	142 285

6.4. Evolution in the number of child asylum applicants aged 14-17 in the EU 2010-2014-2015-2016-2017 (first time applicants). As of 05.02.2018

*Eurostat*²⁶: [migr_asyappctza] – the number of child asylum applicants (14-17), both unaccompanied and with their families

Year	No of child asylum applicants (with families and unaccompanied) aged 14-17
2010	15 660
2014	38 945
2015	124 770
2016	103 890
2017	46 645

6.5. Evolution in the number of unaccompanied child asylum applications in the EU 2010-2014-2015-2016 (0-17). As of 05.02.2018

*Eurostat*²⁷: [migr_asyunaa] Unaccompanied child asylum applicants evolution 2010-2015

Year	No of unaccompanied child asylum applicants
2010	10 690
2014	23 150
2015	95 205
2016	63 245

6.6. Evolution in the number of unaccompanied child asylum applications in the EU 2010-2014-2015-2016, differentiated by age. As of 05.02.2018

Eurostat: [migr_asyunaa] Unaccompanied child asylum applicants evolution 2010-2015, differentiated by age:

Age	2010	2014	2015	2016
-14	1020	2235	11 625	6 265

²⁶ <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

²⁷ <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

14-15	2560	5735	27 450	13 495
16-17	6575	15 030	55 860	43 325
Age unknown	455	150	265	160

6.7. Snapshot of where unaccompanied child asylum applications were made in the EU, 2015

Eurostat: [migr_asyunaa] Unaccompanied child asylum applicants 2015

Country	No of unaccompanied child asylum applications, 2015
EU28	96 465
SE	35 250
DE	22 255
HU	8 805
AT	8 275
NO	5 050
IT	4 070
NL	3 855
UK	3 255
BE	2 850
FI	2 535
DK	2 125
BG	1 815
EL	420
FR	320
PL	150
CY, LU	105
RO	55
PT	50
SI	40
IE, MT	35
ES	25
CZ	15
LV	10
HR, LT, SK, IS	5
EE	0

6.8. Number of child sea arrivals to Greece, [UNHCR, 2016](#)²⁸

- **167.600** sea arrivals as at 6.10.2016, of whom **37%** are children
- **From top 10 refugee-producing countries, e.g.**
- Syria: 48%
- Afghanistan 25%
- Iraq 15%

²⁸ [Http://data.unhcr.org/mediterranean/country.php?id=83](http://data.unhcr.org/mediterranean/country.php?id=83)

6.9. Number of child sea arrivals to Italy, [UNHCR](#), 2016²⁹

- **142.468** people arrived by sea as at 6.10.2016, of whom 16% were children. However, **15% of all sea arrivals are unaccompanied children. Ninety-one per cent of child arrivals are unaccompanied.**
- **From top 10 refugee-producing countries, i.e.**
- Nigeria 18%
- Eritrea 13%
- Sudan, Gambia, Côte d'Ivoire 7% each

6.10. [Data compilation on children in migration](#)³⁰

We update this **compilation of data sources** regularly (links to statistics/portals, situation/country reports, media reports), last update 16.11.2016:

- See also: <http://www.unhcr.org/figures-at-a-glance.html>

6.11. Data on administrative detention of children

- See *The [Global Detention Project 2015](#)* – page 25³¹

See *European Migration Network report 2014 on [The use of detention and alternatives to detention in the context of immigration policies](#)*³²

See also page 26 on child detention in Europe: [Protecting undocumented children-Promising policies and practices from governments](#) (2015)³³

6.12. Greece, mapping of numbers of unaccompanied children (EKKA)

Greece, EKKA (Centre for Social Solidary, Ministry of Labour) [Dashboard, 17 November 2016](#)³⁴

As at 19 October, **1199 unaccompanied children were on a waiting list for a reception place, of whom:**

- 286 unaccompanied children were in closed reception facilities
- 2 unaccompanied children were in protective custody (police cells)

²⁹ <http://data.unhcr.org/mediterranean/country.php?id=105>

³⁰ http://ec.europa.eu/justice/fundamental-rights/files/rights_child/data_children_in_migration.pdf

³¹ <http://www.globaldetentionproject.org/publications/special-report/uncounted-detention-migrants-and-asylum-seekers-europe>

³² http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf

³³ [Protecting undocumented children-Promising policies and practices from governments](#)

³⁴ <http://reliefweb.int/sites/reliefweb.int/files/resources/EKKA%20dashboard%2017-11-2016.pdf>

6.13. Relocation of unaccompanied children from Greece and Italy

The relocation mechanism was conceived as an **emergency mechanism** to alleviate pressure on Greece and Italy. On the basis of Council Decisions [1523/2015](#) and [1601/2015](#), vulnerable applicants, including unaccompanied children, are to be prioritised.

As at 9 November 2016, 148 unaccompanied and separated children have been relocated from Greece to other Member States (about half of them to Finland, then Spain, Luxembourg, Belgium, Germany, Ireland, Netherlands and Portugal). The situation of unaccompanied children is discussed in detail in the November relocation report.³⁵

No unaccompanied children have yet been relocated from Italy under the scheme.

³⁵ http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20161109/seventh_report_on_relocation_and_resettlement_en.pdf

7. ANNEX 2: BACKGROUND READING ON THE PROTECTION OF CHILDREN IN MIGRATION

NOTE: (Reports/country reports/situation analyses already included in the [compilation of data](#) are not repeated here. After the Forum this list of background reading on children in migration will be published on our website. Participants are invited to propose additions or updates to EC-CHILD-RIGHTS@ec.europa.eu, always including relevant URLs.

EU LEGISLATION, POLICY DOCUMENTS AND REPORTS

Rights of the child

1. [Compilation of EU acquis on the rights of the child lists and links all legislation and proposals \(see Section 16 in particular\)](#)
2. [EU Agenda for the rights of the child \(2011\)](#)
3. [European Commission study on children's involvement in administrative judicial proceedings \(2015\) See the EU Summary for administrative judicial proceedings - Sections 5.3, 5.3.3 and 5.3.4 for summary tables on the prevalence of safeguards in the areas of asylum and migration and see **Policy brief** and **29 country reports**](#)

Asylum and migration

4. [Extract of new \(2016\) Common European Asylum System \(CEAS\) child-specific provisions](#)
5. [7 June 2016 Commission Communication on Action Plan on the integration of third country nationals](#)
6. [10 February 2016 Commission Communication on the state of play of implementation of the European Agenda on Migration](#)
7. [Annex 6 to the 10 February Communication – list of planned actions contributing to the protection of children in migration](#)
8. [EU action plan on unaccompanied minors mid-term report 28.09.2012](#)
9. [EU Action plan on unaccompanied minors mid-term report 28.09.2012 – staff working document](#)
10. [EU action plan on unaccompanied minors \(2010-2014\)](#)
11. [European Commission Return Handbook to be used by Member States' competent authorities when carrying out return related tasks \(2015\)](#)
12. [The European Migration Network \(EMN\) June 2015 – Study on policies, practices and data on unaccompanied children/minors in the EU Member States and Norway](#)
13. [EMN June 2015 study on unaccompanied children in the EU and Norway - annexes](#)
14. [European Migration Network, EU Synthesis report on the use of detention and alternatives to detention in the context of immigration policies \(2014\)](#)

15. [26 March 2012 Commission report of the EU expert group on unaccompanied minors in the migration process on the issue of family tracing](#)
16. [Handbook on European law relating to asylum, borders and immigration, FRA, 2014 – see Chapter 9.1 on unaccompanied children](#)
17. [21 June 2011 Commission report of the EU expert group on unaccompanied minors in the migration process on the subject of 'guardianship'](#)
18. [Comparative study on practices in the field of the return of minors \(report and checklist for MS\), ECRE and Save the Children on behalf of DG HOME, December 2011](#)
19. [European Migration Network \(EMN\) comparative study: policies on reception, return and integration arrangements for unaccompanied minors, May 2010](#)

Violence against children

20. [First report on progress made in combating trafficking in human beings \(European Commission, 2016\)](#)
21. [Study on high-risk groups for trafficking in human beings \(European Commission, 2015\)](#)
22. [EU Strategy towards the eradication of trafficking in human beings 2012-2016](#)
23. [Study to collect data on missing children in EU27 \(European Commission, 2013\)](#)
24. [Communication on the elimination of Female Genital Mutilation \(COM\(2013\)833 final\)](#)
25. [Guidance document related to the transposition and implementation of the Victims rights' Directive](#)

EU FUNDAMENTAL RIGHTS AGENCY

Guardianship

26. [Guardianship systems for children deprived of parental care - mapping \(FRA, October 2015\)](#)
27. [Guardianship for children deprived of parental care: a handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking \(European Commission and FRA, June 2014\)](#)

Migration thematic focus reports

28. [FRA – Regular overviews of migration-related fundamental rights concerns](#)
 - a. [FRA – Migration thematic focus report: Trafficking](#), May 2016
 - b. [FRA – Migration thematic focus report: children](#), February 2016
29. [FRA - Key migration issues: one year on from initial reporting](#). Key issues in need of priority action: Unaccompanied children; Safety and protection at reception facilities Impact on local communities, Violence and hate speech against migrants **October 2016**.

30. [Report on separated asylum-seeking children in EU Member States, 2011, EU Fundamental Rights Agency](#)
31. [Fundamental Rights of Migrants in an Irregular Situation in the European Union \(2011\)](#)
32. [Separated, Asylum Seeking Children in the European Union Member States \(2010\)](#)
33. [Detention of Third-Country Nationals in Return Procedures \(2010\)](#)

Child protection systems

34. [Mapping of national child protection systems in the EU \(FRA, 2015\)](#)

EUROPEAN ASYLUM SUPPORT OFFICE

35. [EASO Handbook on age assessment practice in Europe \(EASO, December 2013 – a revised version including guidance will be published in 2017\)](#)
36. [EASO Practical guide on family tracing, March 2016](#)
37. [EASO tool for identification of persons with special needs](#)

FRONTEX – EUROPEAN BORDER AND COAST GUARD AGENCY

38. [Frontex VEGA Handbook on identification of children at risk of trafficking at air borders](#)

COUNCIL OF EUROPE

39. 1950 [European Convention on Human Rights](#)
40. [1961 The European Social Charter](#)
41. [Council of Europe Guidelines on child-friendly justice](#)
42. 2005 [Council of Europe Convention on Action against Trafficking in Human Beings](#)
43. [2007 Council of Europe Convention Protection of Children against Sexual Exploitation and Sexual Abuse](#)
44. [Council of Europe Strategy for the Rights of the Child 2016–2021](#)
45. [Commissioner for Human Rights of the Council of Europe on Migration and Refugee Issues - Issue Papers, Country Work, Third party interventions and positions](#)
46. [Activities of the Special Representative on Migration and Refugees](#) Tomáš Boček

UNITED NATIONS COMMITTEE ON THE RIGHTS OF THE CHILD

47. [Report of the UN Committee on the rights of the child: 2012 General Day of Discussion on the rights of all children in the context of international migration](#)
48. [General Comment No 6 of the UN Committee on the rights of the child \(2005\) on the treatment of unaccompanied and separated children outside their country of origin](#)
49. [General Comment No 12 \(2009\) of the UN Committee on the rights of the child on the right of the child to be heard](#)
50. [General Comment No 13 \(2011\) of the UN Committee on the rights of the child on the right of the child to freedom from all forms of violence](#)
51. [General Comment No 14 \(2013\) of the UN Committee on the rights of the child on the right of the child to have his or her best interests taken as a primary consideration \(Article 3, para 1\)](#) - see **Section B Procedural safeguards to guarantee the child's best interests**
52. [General Comment No 19 \(2016\) of the UN Committee on the rights of the child on public budgeting for the realisation of children's rights \(Article 4\)](#)
53. [2 November 2016 Statement by the UN Committee on the rights of the child on the situation of children in Calais](#)

UNITED NATIONS AGENCIES

54. [UNHCR's position regarding the detention of refugee and migrant children in the migration context, January 2017](#)
55. [Safe and sound: what States can do to ensure respect for the best interests of unaccompanied and separated children \(2014, UNICEF and UNHCR\)](#)
56. [Why do children undertake the unaccompanied journey? \(2014, UNHCR\)](#)
57. [UNHCR, The heart of the matter, assessing credibility when children apply for asylum in the European Union \(2014\)](#)
58. [UN High Commissioner for Refugees \(UNHCR\), Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, 2012, available at: <http://www.refworld.org/docid/503489533b8.html>](#)
59. [UN High Commissioner for Refugees \(UNHCR\), Options Paper 1: Options for governments on care arrangements and alternatives to detention for children and families, 2015, available at: <http://www.refworld.org/docid/5523e8d94.html>](#)
60. [UN High Commissioner for Refugees \(UNHCR\), Beyond Detention: A Global Strategy to support governments to end the detention of asylum-seeker and refugees, 2014-2019, 2014, available at: <http://www.refworld.org/docid/536b564d4.html>](#)
61. [UN High Commissioner for Refugees \(UNHCR\) Beyond Detention – 18 August 2016 Baseline Report and Progress Report](#)

62. [UNICEF, Child Notices – country reports describing the situation of children in countries of origin of migrant children](#)
63. [UNICEF \(2015\) – Children's rights in return policy and practice in Europe, a discussion paper on the return of unaccompanied and separated children to institutional reception or family](#)
64. [UNICEF and OHCHR: Judicial implementation of Article 3 on the convention on the rights of the child in Europe – the case of migrant children including unaccompanied children, June 2012](#)
65. [UNICEF 2012 – Silent Harm – a report assessing the situation of repatriated children's psycho-social health \(UNICEF Kosovo\)](#)
66. [UNHCR, 26 June 2012, A framework for the protection of children](#)
67. [UNICEF Guidelines on Protection of the Rights of Child Victims of Trafficking](#)
68. [Child Trafficking in the Nordic Countries: rethinking strategies and national responses, UNICEF, 2012](#)
69. [OHCHR Recommended Principles and Guidelines on Human Rights at International Borders](#)
70. [OHCHR Study to the Human Rights Council on the situation of migrants in transit \(2016\)](#)
71. [OHCHR report to the Human Rights Council on the promotion and protection of the human rights of migrants in the context of large movements \(2016\)](#)
72. [IOM - Report on victims of trafficking in mixed migration flows arriving in Italy by sea, April 2014 - October 2015](#)
73. [IOM – Addressing the Needs of Unaccompanied Minors \(UAMs\) in Greece](#)

OTHER

Unaccompanied children

74. [UK House of Lords EU Home Affairs Sub-Committee Inquiry on unaccompanied children in the EU](#)
75. [UK House of Lords Report: Children in crisis: unaccompanied migrant children in the EU \(UK House of Lords, July 2016\)](#)
76. [The CONNECT Project: Identifying good practices in, and improving the connections between actors involved in reception, protection and integration of unaccompanied children in Europe, 2014](#)
77. [CONNECT project reference document \(tables start at page 48\) overview of current EU asylum and migration law relevant to children](#)
78. Inter-Agency, Inter-Agency Guiding Principles on Unaccompanied and Separated Children, January 2004, available at: <http://www.refworld.org/docid/4113abc14.html>
79. [Professor Ravi Kohli: Protecting asylum-seeking children on the move, 2014](#)
80. [ECRE: Quality legal assistance for unaccompanied children \(2014\)](#)

81. [Separated Children in Europe Programme, *SCEP Statement of Good Practice*, March 2010, Fourth edition, March 2010](#)
82. [Safeguarding unaccompanied migrant minors from going missing by identifying best practices and training actors on interagency cooperation \(SUMMIT Project\), Missing Children Europe, 2016](#)
83. [9th European Forum on the rights of the child report](#): see page 28 report of [presentation by Professor Ursula Kilkelly](#) on the State's duty with regard to child protection, as referenced in ECtHR case law

Alternatives to detention

84. [Brochure on ending child immigration detention, IAWG to end child immigration detention, August 2016](#)
85. [Summary of normative standards and recommendations on ending child immigration detention, IAWG to end child immigration detention, August 2016](#)
86. [Sampson, R., Chew, V., Mitchell, G., and Bowring, L. There Are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention \(Revised\), \(Melbourne: International Detention Coalition, 2015\)](#)
87. [See page 26 on child detention: Protecting undocumented children-Promising policies and practices from governments](#)
88. [Captured Childhood. Introducing a new model to ensure the rights and liberty of refugee, asylum seeker and irregular migrant children affected by immigration detention, International Detention Coalition, 2012](#)

Reception

89. [ENGI project: Reception and living in families for unaccompanied children](#)
90. [ENGI Reception and living in families for unaccompanied children – Final Report, February 2015](#)
91. [ENGI Alfaca 2015-2016, Training for child protection authorities working with foster families for unaccompanied children – training manual and e-learning tools available November 2016](#)
92. [A training manual for care professionals working with children in alternative care, SOS Children's Villages, 2016](#)

Undocumented and stateless children

93. [European Network on Statelessness, 'No Child Should be Stateless', September 2015](#)
94. [European Network on Statelessness, 'Ending Childhood Statelessness – A Comparative Study of Safeguards to Ensure the Right to a Nationality for Children Born in Europe', May 2016](#)
95. [Hear our voices: Undocumented children and young people share their stories, PICUM \(2016\)](#)

96. [Protecting undocumented children-Promising policies and practices from governments, PICUM, 2015](#)
97. [Undocumented children in Europe: invisible victims of immigration restrictions, Platform for International Cooperation on Undocumented Migrants \(PICUM\), 2009](#)

Guardianship

98. [Towards a European Network of Guardianship Institutions, ENGI Report, 2010 - see also \[www.epim.info\]\(http://www.epim.info\)](#)
99. [SAFEGUARD - Safer with a Guardian - Transnational report Europe - 2016](#)
100. [GATE - Guardians Against Trafficking and Exploitation - European report - 2013](#)
101. [CLOSING A PROTECTION GAP - Core standards for guardians of separated children - 2011](#)

Violence against children (missing children, trafficking, etc.)

102. portal on transnational child protection:
https://en.wikipedia.org/wiki/Portal:Transnational_child_protection and the [Guidelines on the Human Rights and the Best Interests of the Child in Transnational Child Protection Cases and a Practical Guide for Caseworkers and Case Officers](#). This material is available on the CBSS website: <http://www.childcentre.info/protect-children-on-the-move/> [EN](#), [LT](#), [LV](#), [RU](#), [EE](#), [FI](#).
103. [Best practices and key challenges on interagency cooperation to safeguard unaccompanied children from going missing, Missing Children Europe, 2016](#)
104. [Practical guidance on preventing and responding to unaccompanied children going missing - Handbook for professionals, Missing Children Europe, 2016](#)
105. [Safeguarding Unaccompanied Migrant Minors from going Missing by Identifying Best Practices and Training Actors on Interagency Cooperation \(SUMMIT Project\):](#)
106. [RESILAND - Participation, capacities and resilience of children on the move against trafficking and exploitation - Orientations for professionals and officials, 2015](#)

8. ANNEX 3: INTERNATIONAL STANDARDS

All Member States have ratified the UN Convention on the rights of the child (UNCRC) and the 1951 Convention Relating to the Status of Refugees (1951 Geneva Convention)³⁶. UNHCR Executive Committee of the High Commissioner's Programme conclusions³⁷ and Guidelines on international protection provide guidance for States on the interpretation of refugee law from a child rights angle.³⁸ The UN Committee on the rights of the child issues conclusions and recommendations to states parties on ensuring strengthened protection of the rights of children in migration. In addition, General Comments of the UN Committee on the rights of the child provide guidance to states parties in interpreting and implementing the UNCRC³⁹. Twelve Member States are also party to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

The provisions of other core international human rights treaties, including the ICCPR, ICESCR, CEDAW, CAT, CRPD, also provide protection, without discrimination, to children on the territory of states parties. These treaties have largely been ratified by Member States.

Furthermore, in 2012, the UN Committee on the rights of the child held a day of general discussion on the rights of all children in international migration and issued recommendations to states parties and others, relevant today and relevant to all Forum discussions.⁴⁰ Some of the most important recommendations are replicated below for ease of reference:

57. States should ensure that the rights enshrined in the Convention are guaranteed for all children under a State's jurisdiction, regardless of their own or their parents' migration status and address all violations of those rights. Child care and protection agencies/bodies rather than immigration agencies take primary responsibility for all children in situation of international migration.

58. States should adopt comprehensive human rights-based laws and policies to ensure that all children involved in or affected by international migration enjoy the full protection of the Convention in a timely manner, regardless of age, economic status, documentation status of themselves or their parents, in both voluntary and involuntary migration situations, whether accompanied or unaccompanied, or any other.

72. States should conduct individual assessments and evaluations of the best interests of the child at all stages of and decisions on any migration process affecting children, and with the involvement of child protection professionals, the judiciary as well as children themselves. In particular, primary consideration should be given to the best interests of the child in any proceeding resulting in the child's or their parents' detention, return or deportation.

³⁶ For more information on the contents of the 1951 Geneva Convention on Refugees, please see:

<http://www.unhcr.org/3b66c2aa10.html>

³⁷ UN High Commissioner for Refugees (UNHCR), *Conclusion on Children at Risk*, 5 October 2007, No. 107 (LVIII) - 2007, <http://www.refworld.org/docid/471897232.html>

³⁸ UN High Commissioner for Refugees (UNHCR), *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, available at: <http://www.refworld.org/docid/4b2f4f6d2.html>

³⁹ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

⁴⁰ <http://www2.ohchr.org/english/bodies/crc/docs/discussion2012/ReportDGDChildrenAndMigration2012.pdf> - recommendations start on page 15

74. *To the greatest extent possible, States should conduct continuous and individual best interests of the child assessments as well as formal determination procedures at all stages or decisions of any migration process affecting children, with the involvement of child protection professionals and the judiciary. This includes any proceeding resulting in the child or his/her parents' deportation. States should make clear in their legislation, policy, and practice that the principle of the best interests of the child takes priority over migration and other administrative considerations. In doing so, States parties should ensure the availability of information on migrating procedures, risks and rights, health and mental health support, legal representation and guardianship, interviews and other processes in a child-friendly and culturally sensitive manner.*

81. *In the light of concerns for the situation of child migrants going missing or unaccounted for from reception centres and/or other equivalent facilities, States should ensure concrete guidelines for reception centre procedures/facilities and conditions which are in full accordance with the Convention and the United Nations Guidelines for the Alternative Care of Children."*

Furthermore, the [New York Declaration for Refugees and Migrants of 19 September 2016 reaffirmed international commitments to protect children in migration, including:](#)

"32. We will protect the human rights and fundamental freedoms of all refugee and migrant children, regardless of their status, and giving primary consideration at all times to the best interests of the child. This will apply particularly to unaccompanied children and those separated from their families; we will refer their care to the relevant national child protection authorities and other relevant authorities. We will comply with our obligations under the Convention on the Rights of the Child. We will work to provide for basic health, education and psychosocial development and for the registration of all births on our territories. We are determined to ensure that all children are receiving education within a few months of arrival, and we will prioritize budgetary provision to facilitate this, including support for host countries as required. We will strive to provide refugee and migrant children with a nurturing environment for the full realization of their rights and capabilities.

52. We will consider developing non-binding guiding principles and voluntary guidelines, consistent with international law, on the treatment of migrants in vulnerable situations, especially unaccompanied and separated children who do not qualify for international protection as refugees and who may need assistance. The guiding principles and guidelines will be developed using a State-led process with the involvement of all relevant stakeholders and with input from the Special Representative of the Secretary-General on International Migration and Development, the International Organization for Migration, the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees and other relevant United Nations system entities. They would complement national efforts to protect and assist migrants.

56. We affirm that children should not be criminalized or subject to punitive measures because of their migration status or that of their parents.

59. We reaffirm our commitment to protect the human rights of migrant children, given their vulnerability, particularly unaccompanied migrant children, and to provide access to basic health, education and psychosocial services, ensuring that the best interests of the child is a primary consideration in all relevant policies.

70. We will ensure that refugee admission policies or arrangements are in line with our obligations under international law. We wish to see administrative barriers eased, with a view to accelerating refugee admission procedures to the extent possible. We will, where appropriate, assist States to conduct early and effective registration and documentation of refugees. We will also promote access for children to child-appropriate procedures. At the same time, we recognize that the ability of refugees to lodge asylum claims in the country of their choice may be regulated, subject to the safeguard that they will have access to, and enjoyment of, protection elsewhere.

81. We are determined to provide quality primary and secondary education in safe learning environments for all refugee children, and to do so within a few months of the initial displacement. We commit to providing host countries with support in this regard. Access to quality education, including for host communities, gives fundamental protection to children and youth in displacement contexts, particularly in situations of conflict and crisis.

82. We will support early childhood education for refugee children. We will also promote tertiary education, skills training and vocational education. In conflict and crisis situations, higher education serves as a powerful driver for change, shelters and protects a critical group of young men and women by maintaining their hopes for the future, fosters inclusion and non-discrimination and acts as a catalyst for the recovery and rebuilding of post-conflict countries."

The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) and the Committee on the Rights of the Child (CRC) have decided to develop a Joint General Comment (JGC) on the human rights of children in the context of international migration and this is now in process.

Right to liberty and alternatives to detention

UNHCR position regarding the detention of refugee and migrant children in the migration context, January 2017⁴¹

UNHCR's position is that children should not be detained for immigration related purposes, irrespective of their legal/migratory status or that of their parents, and detention is never in their best interests. Appropriate care arrangements and community-based programmes need to be in place to ensure adequate reception of children and their families.

As also explained in Footnote 11: References to the application of Art.37(b), "exceptional circumstances / measure of last resort", are not appropriate for cases of detention of any child for immigration-related purposes. It is understood from the commentaries of the CRC (see below), that while Art. 37 (b) may apply in other contexts (such as in cases of children in conflict with the law – see CRC/C/GC/10 from 2007), its application to detention in the immigration context would be in conflict with the principle of the best interests of the child.

The [New York Declaration](#) for Refugees and Migrants of 19 September 2016 included the following commitment on child immigration detention:

⁴¹ <http://www.refworld.org/docid/5885c2434.html>

"33....Furthermore, recognizing that detention for the purposes of determining migration status is seldom, if ever, in the best interest of the child, we will use it only as a measure of last resort, in the least restrictive setting, for the shortest possible period of time, under conditions that respect their human rights and in a manner that takes into account, as a primary consideration, the best interest of the child, and we will work towards the ending of this practice."

In 2015, the [report of the United Nations Special Rapporteur on torture and other cruel inhuman or degrading treatment](#) referred to administrative detention of children in migration:

"(...) It is now clear that the deprivation of liberty of children based on their or their parents' migration status is never in the best interests of the child, exceeds the requirement of necessity, becomes grossly disproportionate and may constitute cruel, inhuman or degrading treatment of migrant children. (...),The Special Rapporteur recalls the different procedural purposes between immigration and criminal proceedings, and that, in the words of the Court, "the offenses concerning the entry or stay in one country may not, under any circumstances, have the same or similar consequences to those derived from the commission of a crime." (...) The deprivation of liberty of children based exclusively on immigration-related reasons exceeds the requirement of necessity because the measure is not absolutely essential to ensure the appearance of children at immigration proceedings or to implement a deportation order. (...) Immigration detention practices across the globe, whether de jure or de facto, put children at risk of cruel, inhuman or degrading treatment or punishment. Furthermore, the detention of children who migrate to escape exploitation and abuse contravenes the duty of the State to promote the physical and psychological recovery of child victims in an appropriate environment.²⁴ Therefore, States should, expeditiously and completely, cease the detention of children, with or without their parents, on the basis of their immigration status. States should make clear in their legislation, policies and practices that the principle of the best interests of the child takes priority over migration policy and other administrative considerations." ⁴²

After the [2012 UNCRC Committee Day of General Discussion on the rights of all children in international migration](#), the Committee made the following recommendation to states parties:

"Children should not be criminalized or subject to punitive measures because of their or their parents' migration status. The detention of a child because of their or their parent's migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child. In this light, States should expeditiously and completely cease the detention of children on the basis of their immigration status."

Several other international bodies and courts have since made similar recommendations. See for more information (see links in background reading) a brochure and compilation of norms and standards to date from the Inter-Agency Working Group on Ending Immigration Detention of Children, as well as the European Migration Network (EMN) study on the use of detention and alternatives to detention in the context of immigration policies.

⁴² <http://www.refworld.org/docid/550824454.html>

9. ANNEX 4: TEN PRINCIPLES FOR INTEGRATED CHILD PROTECTION SYSTEMS

1. **Every child is recognised, respected and protected as a rights holder, with non-negotiable rights to protection.** Every child is treated with dignity and as a unique and valuable human being with an individual personality, distinct needs, interests and privacy, with due regard to the child's right to participation. There are measures to empower children to protect themselves and their peers and to claim their rights. Child-sensitive and accessible complaint and reporting mechanisms, including helplines and hotlines, are integrated in the system. Children are involved in decisions that concern them, including the development, monitoring and evaluation of child protection strategies, policies, programmes and services.
2. **No child is discriminated against.** *All* children have access to and benefit from national child protection systems on an equal basis.
3. **Child protection systems include prevention measures.** This may include the adoption of national legislation prohibiting all forms of violence against children in all settings, policy measures promoting child rights, awareness-raising and education for children, parents and society at large, proactive policy and outreach measures especially to discriminated against groups, parenting and family support, universal and targeted social services, integrated strategies to reduce child poverty, mechanisms for children to claim their rights, links with other policy areas, robust data collection.
4. **Families are supported in their role as primary caregiver.** The primary position of families in child caregiving and protection is recognised and supported through universal and targeted services, through every stage of intervention, particularly through prevention.
5. **Societies are aware and supportive of the child's right to freedom from all forms of violence.** There are concerted efforts to inform the public, including children, about children's rights and encouraging action to prevent violence against children, and to prevent the stigmatisation of child victims of violence.
6. **Child protection systems ensure adequate care**⁴³
 - **Professionals are committed and competent.** Professionals and practitioners working for and with children receive training and guidance on the rights of the child, on child protection law and procedures and more generally on child development. The necessary protocols and processes are in place to facilitate their role and responses to violence against children are inter- or multi-disciplinary.
 - Information is shared on **certification and training** to promote trust, including cross-border.

⁴³ In line with international standards including the [UN Guidelines for the alternative care of children](#).

- **Standards, indicators and tools and systems of monitoring and evaluation** are in place, under the auspices of a **national coordinating framework**. Systems are effectively regulated and independently monitored and accountable, ensuring accessible, quality, child-sensitive services and care for all children. The monitoring system guarantees unrestricted access to monitor the quality of services delivered, in particular for any form of institutional care.
- **Within organisations working directly for and with children, child protection policies and reporting mechanisms are in place.** All agencies and service providers, civil society organisations, private associations, commercial or non-profit organisations, working directly with children have robust child protection policies.⁴⁴

7. Child protection systems have transnational and cross-border mechanisms in place: In view of the increasing prevalence of children in cross-border situations in need of child protection measures, efforts are stepped up by: clarifying roles and responsibilities, keeping abreast of country of origin information, ensuring a national focal point for cross-border child protection matters, adopting procedures/guidance/protocols/processes, for example for the transfer of responsibility within the context of asylum procedures (Dublin Regulation), or when considering out of country care placements, or family tracing and protection in cases of child trafficking. However, for children seeking international protection or child victims of trafficking where contact could put the child and/or family at risk, caution should be exercised.

8. The child has support and protection: No child should be without the support and protection of a legal guardian or other recognised responsible adult or competent public body at any time. In view of the need for continuity of actions, the child protection system appoints a person of reference responsible for the child from reporting and referral through to follow-up and reintegration, to assure liaison among the different sectors and to guarantee a coherent and comprehensive response.

9. Training on identification of risks for children in potentially vulnerable situations is also delivered to teachers at all levels of the education system, social workers, medical doctors, nurses and other health professionals, psychologists, lawyers, judges, police, probation and prison officers, journalists, community workers, residential care givers, civil servants and public officials, asylum officers and traditional and religious leaders. Rules on reporting cases of violence against children are clearly defined and professionals who have reporting obligations are held accountable.

10. There are safe, well-publicised, confidential and accessible reporting mechanisms in place: Mechanisms are available for children, their representatives and others to report violence against children, including through the use of 24/7 helplines and hotlines.

⁴⁴ http://ec.europa.eu/justice/fundamental-rights/files/rights_child/standards_child_protection_kcsc_en.pdf