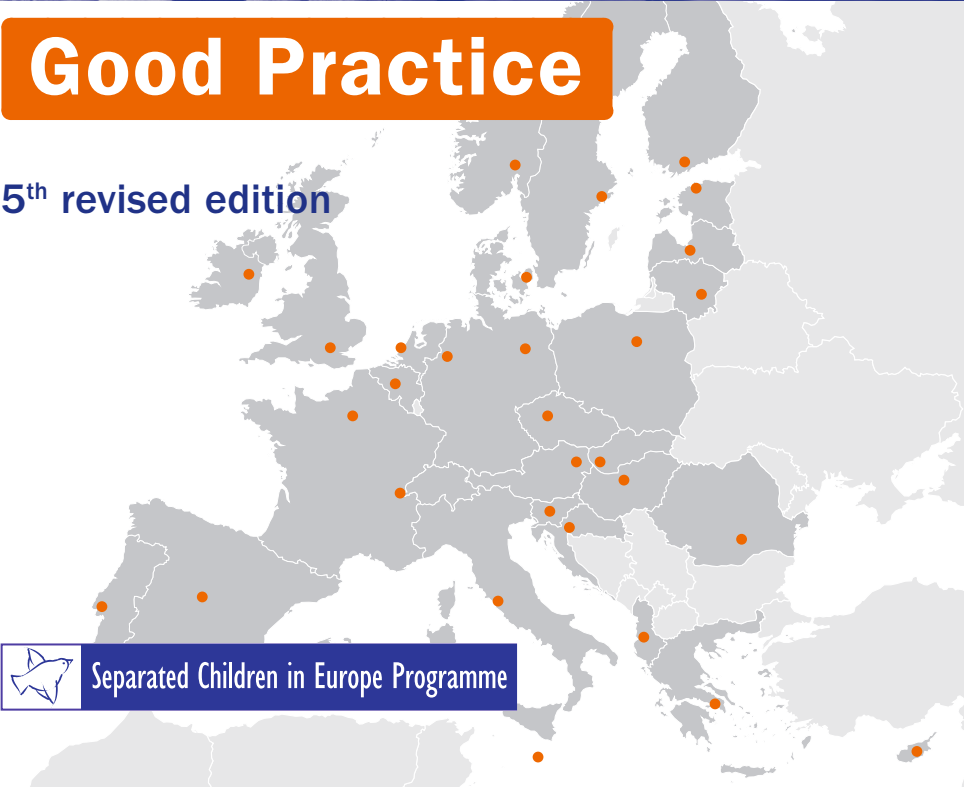




Statement of Good Practice

5th revised edition



Separated Children in Europe Programme

Statement of Good Practice

5th revised edition

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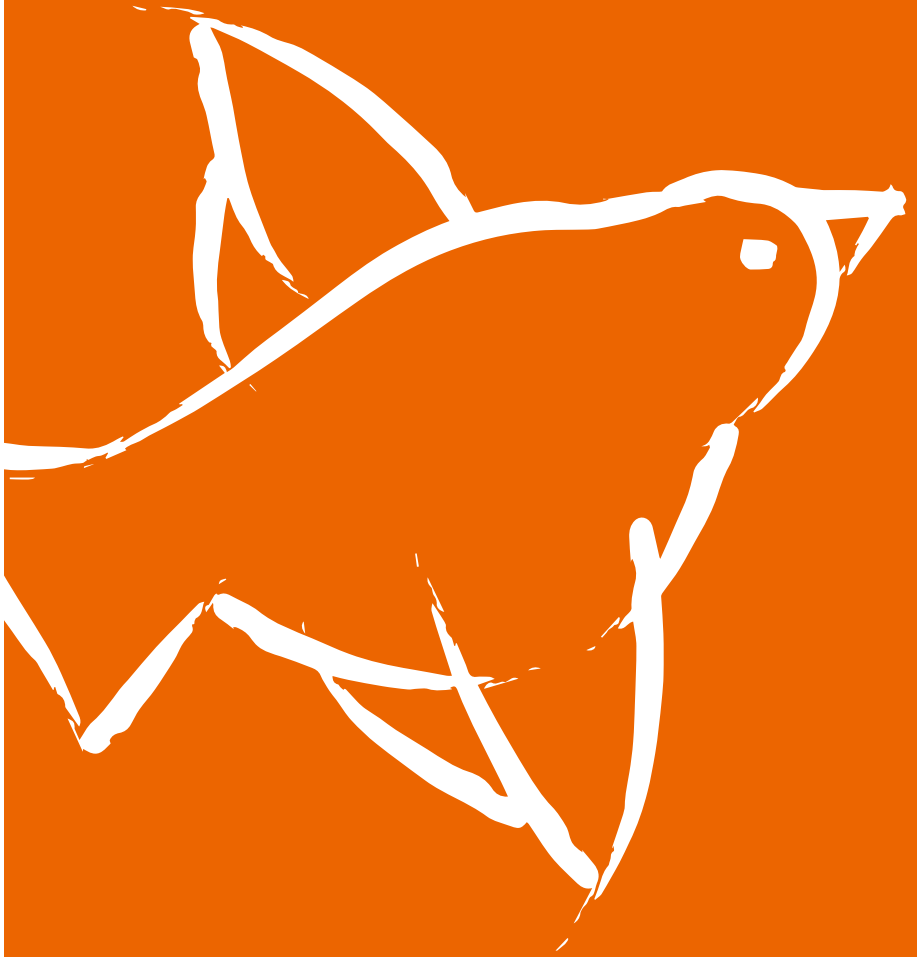
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Annex I - References (available as download at):

www.scepnetwork.org/p/1/69/statement-of-good-practice
and www.childrightshelpdesk.org



A. Introduction

A 1. The Separated Children in Europe Programme (SCEP)

The Separated Children in Europe Programme (SCEP) started in 1997 as a joint initiative of some members of the International Save the Children Alliance and the United Nations High Commissioner for Refugees (UNHCR). It has grown and evolved and is now comprised of many non-governmental partners throughout Europe¹ who continue to work closely with key actors in both the intergovernmental and non-governmental sectors. SCEP's starting point and source of inspiration is the UN Convention on the Rights of the Child. The programme aims to realise the rights and best interests of separated children who are travelling to, or have come to or through Europe, by establishing a shared policy and commitment to best practice at national and European levels. As part of this process, the programme has an ongoing commitment to developing partnerships with organisations working with separated children in European countries. The vision that drives the programme's work is that 'the rights of all separated children entering or travelling across Europe will be realised, in particular; they will be protected, their well-being and development will be promoted, they will have opportunities to develop their full potential and they will participate in a meaningful way in the development of policies and practices that have an impact upon their lives.'

Since 2013 SCEP has been co-ordinated by DEFENCE FOR CHILDREN INTERNATIONAL, THE NETHERLANDS (DCI). DCI ensures action is directed towards promoting and protecting the rights of the child in The Netherlands and elsewhere. The organisation fights against violation of children's rights by focusing its efforts on research, lobbying for children's rights, education and providing individual legal advice through the children's rights helpdesk. DCI has the ambition for every country in the world to have a CHILD RIGHTS HELPDESK. In 2018, a CHILD RIGHTS HELPDESK started in Greece with funding of the Dutch lottery (Nationale Postcode Loterij).

¹ For a current list of the Network of Non-Governmental Partners please go to www.scepnetwork.org

The following agencies endorsed the text of the Statement of Good Practice:

SAVE THE CHILDREN

Save the Children works for a world in which all children can have a healthy start in life, the opportunity to learn and protection from harm.

UNHCR

UNHCR's responsibility is to ensure the protection of refugees and those seeking asylum, including children.

UNICEF

UNICEF is mandated by the United Nations General Assembly to advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential.

ECPAT International

ECPAT is a network of local civil society organisations and coalitions with one common goal – to end the sexual exploitation of children around the world.

ECRE

ECRE is a European alliance of NGOs protecting and advancing the rights of refugees, asylum seekers and displaced persons. Their mission is to promote the establishment of fair and humane European asylum policies and practices in accordance with international human rights law.

A 2. Definition

Separated children are under 18 years of age, outside their country of origin and separated from both parents, or their previous legal or customary primary caregiver. Some children are totally alone while others, who are also the concern of the SCEP, may be living with extended family members who are not necessarily their customary or primary caregivers. All such children are separated children and entitled to special protection under a broad range of international and regional instruments. SCEP uses the word 'separated' rather than 'unaccompanied' because it more accurately defines the essential problem that such children face. Namely, that they lack

the care and protection of their parents or primary caregiver and, as a consequence, suffer socially, practically and psychologically from this separation.

While some separated children are ‘accompanied’ when they arrive in Europe, the accompanying adult(s) may not necessarily be able, or suitable, to assume responsibility for their care. Professionals working with this group of children should be aware that, even though the child may have an identified carer, they are effectively separated children and their needs might not be fully met.

Protection is necessary, because separated children are deprived of the care, support, guidance and protection of a parent or other primary caregiver and, as such, have additional vulnerabilities to those of children in general. A durable and secure solution² for them is required and assessment of the situation in their home country and current country of domicile. Protection measures, consistent with asylum and refugee determination legislation, international children’s and human rights standards, international law and national legislation are therefore essential.

A 3. Statement of Good Practice

The Statement of Good Practice aims to provide a clear overview of the principles, policies and practices required to implement measures that will ensure the promotion and protection of the rights of separated children in Europe. It reflects the experience and practice of SCEP’s specialist network of non-governmental partners. However, we believe that the good practice outlined within the statement is as applicable outside of Europe as within Europe. We encourage practitioners, wherever they are located, to apply the Statement of Good Practice to their work with separated children. The Statement of Good Practice is principally informed by the United Nations Convention on the Rights of the Child (CRC) and a number of other

² A durable solution in the context of the unaccompanied or separated child is a sustainable solution that ensures that the unaccompanied or separated child is able to develop into adulthood, in an environment which will meet his or her needs and fulfils his or her rights as defined by the CRC and will not put the child at risk of persecution or serious harm. Because the durable solution will have fundamental long-term consequences for the unaccompanied or separated child, it will be subject to Best Interest of the Child Determination (BID). A durable solution also ultimately allows the child to acquire, or to re-acquire, the full protection of a state.

documents: the United Nations Committee on the Rights of the Child's General Comment Number 6 on the Treatment of Unaccompanied and Separated Children Outside Their Country of Origin, 2005; UNHCR Guidelines on International Protection: 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, 2009; the United Nations Committee on the Rights of the Child's General Comment Number 14 on the right of the child to have his or her best interests taken as a primary consideration, 2013 and UNHCR's Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum, 1997.³ It is important to affirm that the Statement of Good Practice is relevant to all separated children and not just those who are seeking asylum (see Section C). Throughout the Statement of Good Practice, there are references to the key informing documents.

This is the fifth edition of the Statement of Good Practice. It reflects the current changes in policy and practice impacting upon this group of children and also takes account of the emerging issues affecting separated children. It should be stressed that this is a living document, which reflects the dynamic progression of human rights protection and issues particularly affecting separated children. The Statement of Good Practice is not merely an exhaustive listing of standards and good practice, but rather a framework for action and advocacy that we will continue to build upon in the future.

We encourage you to visit our website and our partners' websites for more materials relating to these themes and the protection of the rights of separated children. We also welcome your feedback and comments on the Statement of Good Practice in order to strengthen the document and to advance our joint efforts in this field.

³ The Statement of Good Practice is supported by an extensive list of relevant references. In the main text, we reference the three key documents noted above. For a more comprehensive set of references, reflecting a broad range of children's rights, which are particularly relevant for separated children, see Annex 1 of the Statement of Good Practice. The annex is only available online at: www.scepnetwork.org/p/1/69/statement-of-good-practice and www.childrightshelpdesk.org.

A 4. Abbreviations and Acronyms used for references

CRC

United Nations Convention on the Rights of the Child, 1989.

General Comment No 6

United Nations Committee on the Rights of the Child, General Comment No 6, on the Treatment of Unaccompanied and Separated Children Outside Their Country of Origin, 2005.

General Comment No 14

United Nations Committee on the Rights of the Child, General Comment No 14, on the right of the child to have his or her best interests taken as a primary consideration, 2013.

UNHCR Guidelines

UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum, 1997.

UNHCR Child Asylum Claims

UNHCR Guidelines on International Protection: 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, 2009.

B. First Principles

These are the principles that underpin the Statement of Good Practice and should be borne in mind at all stages of identification, care, decision-making and service provision for separated children.

Please note that most references, at their first appearance, are accompanied by a text, which is only an extract or summary of the relevant article or paragraph. Those who wish to use articles of law or policy to advocate for the rights of separated children should refer to the complete text of these instruments.

B 1. Best Interests

The best interests of the child⁴ must be a primary consideration in all actions concerning every separated child. Any determination⁵ or assessment⁶ of best interests must be based on the individual circumstances of each child and must consider the child's family situation, the situation in their country of origin, their particular vulnerabilities, their safety and the risks they are exposed to, their protection needs, their level of integration in the host country, their mental and physical health, their education and socio-economic conditions. These considerations must be set within the context of the child's gender and nationality, as well as their ethnic, cultural and linguistic background and any other individual characteristics of the child. The determination of a separated child's best interests must be a multi-disciplinary exercise, involving relevant actors, and undertaken by specialists and experts who work with children.

4 The Committee on the Rights of the Child underlines that the child's best interests is a threefold concept. Firstly, a substantive right: the right of the child to have his or her best interests assessed and taken as a primary consideration when different interests are being considered, in order to reach a decision on the issue at stake, and the guarantee that this right will be implemented whenever a decision is to be made concerning a child, a group of identified or unidentified children or children in general. Article 3, paragraph 1, creates an intrinsic obligation for States, is directly applicable (self-executing) and can be invoked before a court. Secondly, a fundamental, interpretative legal principle: if a legal provision is open to more than one interpretation, the interpretation which most effectively serves the child's best interests should be chosen. The rights enshrined in the Convention and its Optional Protocols provide the framework for interpretation. Thirdly, a rule of procedure: whenever a decision is to be made that will affect a specific child, an identified group of children or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned. Assessing and determining the best interests of the child require procedural guarantees. Furthermore, the justification of a decision must show that the right has been explicitly taken into account. In this regard, States Parties shall explain how the right has been respected in the decision, that is, what has been considered to be in the child's best interests; what criteria it is based on; and how the child's interests have been weighed against other considerations, be they broad issues of policy or individual cases, Committee on the Rights of the Child, General Comment No 14 on the right of the child to have his or her best interests taken as a primary consideration.

5 A Best Interests Determination describes the formal process designed to determine the child's best interests for particularly important decisions affecting the child. Such a process should ensure adequate child participation without discrimination. It should also allow the views of the child to be given due weight in accordance with age and maturity. It involves decision makers with relevant areas of expertise, and balances all relevant factors in order to assess the best option, UNHCR Guidelines on Determining the Best Interests of the Child, 2008.

6 A best interests' assessment should be conducted systematically in many circumstances that occur between the moment a child is identified as separated or otherwise at risk, until a durable solution is implemented. It should be carried out, for example, prior to initiating tracing or to providing temporary care. The assessment can be done either alone or in consultation with others. It does not require the strict procedural safeguards of a formal determination, but staff should have the requisite skills and knowledge, UNHCR Guidelines on Determining the Best Interests of the Child, 2008.

- * CRC, Art. 3(1): In all actions concerning children ... the best interests of children shall be a primary consideration.

- * CRC, Art. 20(1): A child temporarily or permanently deprived of his or her family environment, or who, in their best interests, cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

- * General Comment No 6, paragraphs 19 – 22: Best interests must be respected at all stages of the displacement cycle.

- * General Comment No 14, paragraph 6: The child's best interest is a threefold concept: a substantive right, a fundamental interpretive legal principle and a rule of procedure.

- * General Comment No 14, paragraph 13: Each State Party must respect and implement the right of the child to have his or her best interests assessed and taken as a primary consideration.

- * General Comment No 14, paragraph 14: States are obliged to ensure that the child's best interests are appropriately integrated and consistently applied in every action taken by a public institution; that States are also obliged to ensure that all judicial and administrative decisions, as well as policies and legislation, demonstrate that the child's best interests have been a primary consideration; and the obligation to ensure that the child's best interests have been assessed and taken as a primary consideration in decisions and actions taken by the private sector.

- * General Comment No 14, paragraph 32: The concept of the child's best interests is complex and its content must be determined on a case-by-case basis.

- * General Comment No 14, paragraph 54: The fact that the child is very young or in a vulnerable situation (e.g. has a disability, belongs to a minority group or is a migrant) does not deprive him or her of the right to express his or her views, nor reduces the weight given to the child's views in determining his or her best interests.

- * UNHCR Child Asylum Claims, paragraph 5: A child-sensitive application of the refugee definition would be consistent with the best interests of the child as a primary consideration in all actions concerning children.

- * UNHCR Guidelines, paragraph 1.5: Reaffirms CRC, Art. 3(1).

B 2. Survival and Development

All separated children have the right to life and the right to seek international protection. The denial of a child's rights and the abuse of a child are never acceptable. Separated children must be provided with protection and assistance during all the phases of their displacement to ensure that they are adequately nurtured, clothed, fed and accommodated and that their social, physical, mental, spiritual and emotional health needs are met. Separated children must be given opportunities to develop, learn and thrive and they must be supported and encouraged to achieve their full potential.

* CRC, Art. 6(1): States Parties recognize that every child has the inherent right to life.

* General Comment No 6, paragraphs 23 & 24: Separated children are vulnerable to various risks that affect their life, survival and development and measures must be taken to protect children from these risks.

* General Comment No 14, paragraph 42: States must create an environment that respects human dignity and ensures the holistic development of every child. In the assessment and determination of the child's best interests, the State must ensure full respect for his or her inherent right to life, survival and development.

* UNHCR Child Asylum Claims, paragraph 5: A child-sensitive application of the refugee definition would be consistent with the child's inherent right to life and States Parties' obligation to ensure to the maximum extent possible the survival and development of the child.

* UNHCR Guidelines, paragraph 7.1: Children seeking asylum, particularly if they are unaccompanied, are entitled to special care and protection.

B 3. Non-discrimination

All separated children are entitled to the same treatment and rights as national children. They must be treated as children first and foremost, regardless of their individual characteristics and situations, and whether or not they hold relevant travel, entry or residence documents, or whether they are perceived to be in transit. All considerations relating to their immigration status must be secondary and anchored in the principles of child welfare.

- * CRC, Art. 2: The rights of the CRC apply to all children without discrimination of any kind and irrespective of their parents' or their own race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
- * CRC, Art. 22(1): Separated refugee and asylum-seeking children are entitled to protection and assistance in order to enjoy the rights in the CRC and in other international human rights or humanitarian instruments to which the States are Parties.
- * CRC, Art. 22(2): Where a refugee child's parents or other family members cannot be found, the child shall be given the same protection as any other child permanently or temporarily deprived of his or her family environment.
- * General Comment No 6, paragraph 18: The principle of non-discrimination, in all its facets, applies in respect to all dealings with separated children. In particular, it prohibits any discrimination on the basis of the status of a child being unaccompanied or separated, or being a refugee, asylum-seeker or migrant.
- * General Comment No 14, paragraph 41: The right to non-discrimination is not a passive obligation, prohibiting all forms of discrimination in the enjoyment of rights under the Convention, but also requires appropriate proactive measures taken by the State to ensure effective equal opportunities for all children to enjoy the rights under the Convention.
- * General Comment No 14, paragraph 55: Children are not a homogeneous group and therefore diversity must be taken into account when assessing their best interests.
- * UNHCR Child Asylum Claims, paragraph 5: A child-sensitive application of the refugee definition would be consistent with the obligation of States to respect and ensure the rights set forth in the Convention on the Rights of the Child to each child within their jurisdiction without discrimination of any kind.

B 4. Participation

The views and wishes of separated children must be sought and taken into account whenever plans and decisions affecting them are being made. Measures must be put in place to facilitate their meaningful participation in line with their age and maturity. Appropriate safeguards must be put in place to ensure that consultations and interviews do not cause harm to the child. Cultural and linguistic factors, which may serve as a barrier to participation, must be addressed. Separated children are entitled to be heard directly. If the child prefers, they may also be heard via their legal representative or guardian, as appropriate in any procedure. Separated children should always be enabled and encouraged to voice their views, aspirations, concerns and complaints regarding their care and guardianship, education, health services, social services, legal representation and durable and secure solutions.

- * CRC, Art. 12: The views of children are to be given due weight in relation to their age and maturity and children shall have the opportunity to be heard in all proceedings affecting them.
- * CRC, Art. 25: Children who are placed in a care institution have the right to periodic reviews of their circumstances.
- * General Comment No 6, paragraph 25: With regard to separated children, the child's views and wishes should be taken into account.
- * General Comment No 14, paragraph 43: Assessment of a child's best interests must include respect for the child's right to express his or her views freely and due weight given to said views in all matters affecting the child.
- * UNHCR Child Asylum Claims, paragraph 5: A child-sensitive application of the refugee definition would be consistent with the child's right to express their views freely regarding all matters affecting the child and that those views be given due weight.
- * UNHCR Child Asylum Claims, paragraph 8: The right of children to express their views in all matters affecting them, including to be heard in all judicial and administrative proceedings, needs to be taken into account.
- * UNHCR Child Asylum Claims, paragraph 70: The right of children to express their views and to participate in a meaningful way is also important in the context of asylum procedures.
- * UNHCR Guidelines, paragraphs 5.14 & 5.15: Children should be kept informed in an age-appropriate manner about the procedures, what decisions have been made about them and the possible consequences of their refugee status. In all cases, the views and wishes of the child should be elicited and considered.

B 5. Information

Separated children must be provided with accessible information in a language that they fully understand on, for example, but not limited to, their rights and entitlements, support and services available to them, the asylum and other status determination processes, family tracing and the situation in their country of origin. They should also receive information about their responsibilities and the expectations of behaviour that are placed upon them. Information should be provided promptly, be regularly updated, and be presented in a child-appropriate way by knowledgeable and trained staff. Those working with separated children should seek verification that the child understands the information that has been presented to them and should present the information again if necessary.

- * CRC, Art. 13: Children have the right to freedom of expression and to seek, receive and impart information.

- * CRC, Art. 17: States shall ensure that children have access to information from a diversity of international and national sources.

- * General Comment No 6, paragraph 24, *op.cit.*

- * General Comment No 14, paragraph 15(g): States Parties must provide appropriate information to children in a language they can understand, and to their families and caregivers, so that they understand the scope of the right protected under Article 3, paragraph 1, as well as creating the necessary conditions for children to express their point of view and ensuring that their opinions are given due weight.

- * UNHCR Child Asylum Claims, paragraph 70: It is important that children are provided with all necessary information in a language and manner they understand.

- * UNHCR Child Asylum Claims, paragraph 77: Decisions need to be communicated to children in a language and in a manner they understand.

B 6. Interpretation

Whenever they are being consulted or interviewed, engaging with or requesting access to services or legal procedures, or involved in planning or review meetings, separated children must be provided with suitably trained interpreters who speak a language that they understand and who can deliver their service in a manner that is appropriate for children.

* CRC, Art. 12: The views of children are to be given due weight in relation to their age and maturity and children shall have the opportunity to be heard in all proceedings affecting them.

* CRC, Art. 13: Children have the right to freedom of expression and to seek, receive and impart information.

* General Comment No 6, paragraph 95: Particular attention should be paid to the training of officials working with separated and unaccompanied children and dealing with their cases. Specialized training is equally important for legal representatives, guardians, interpreters and others dealing with separated and unaccompanied children.

* UNHCR Child Asylum Claims, paragraph 70, *op.cit.*

* UNHCR Guidelines, paragraph 5.13: Insofar as possible, interpreters should be skilled and trained in refugee and children's issues.

B 7. Confidentiality

The separated child's right to privacy should be respected and upheld at all times. Care should be taken not to disclose any information about a separated child that could endanger the child or family members in either their home country or country of displacement, regardless of whether the child has given permission. The informed consent of a separated child must be sought in an age-appropriate manner before any personal data is disclosed to other organisations or individuals. Information must not be used for purposes other than for those for which it was given. Confidentiality should only be compromised, on a need to know basis, when it is necessary to protect the child or another person from serious harm.

- * CRC, Art. 16: Children have the right to protection from arbitrary or unlawful interference with their privacy, family, home and correspondence.
- * General Comment No 6, paragraph 29: States Parties must protect the confidentiality of information received in relation to an unaccompanied or refugee child.
- * General Comment No 6, paragraph 30: Particular care must be taken not to endanger the well-being of persons still within the child's country of origin.
- * UNHCR Child Asylum Claims, paragraph 70: It is important that children are provided with information about their right to confidentiality.
- * UNHCR Guidelines, paragraphs 5.16: In obtaining, sharing and preserving the information collected, particular care must be taken in order not to endanger the well-being of persons still within the child's country of origin, especially the child's family members. Care must be taken that information sought and shared for one purpose is not inappropriately used for another purpose.

B 8. Respect for Cultural Identity

Separated children must be supported in maintaining their mother tongue and links with their culture and religion. Provision of childcare, healthcare and education should reflect their cultural needs. Care should be taken not to perpetuate those aspects of cultural traditions that are harmful to and discriminate against children. Preservation of culture and language will be important should a child return to his or her home country.

- * CRC, Preamble: The importance of the traditional and cultural values of each people for the protection and harmonious development of the child must be taken into account.
- * CRC, Art. 8: Children have the right to preserve or re-establish key elements of their identity.
- * CRC, Art. 24: Children have the right to the highest attainable standard of health and to facilities for treatment and rehabilitation.
- * CRC, Art. 30: Children belonging to ethnic, religious or linguistic minorities have the right to enjoy their culture, practice their religion and use their language.
- * General Comment No 14, paragraph 56: Due consideration of the child's best interests implies that children have access to the culture (and language, if possible) of their country and family of origin.
- * General Comment No 14, *op.cit.*
- * UNHCR Child Asylum Claims, paragraph 12: Identity-based characteristics of the child may increase the risk of harm, influence the type of persecutory conduct inflicted on the child and exacerbate the effect of the harm on the child.

B 9. Inter-organisational cooperation

All organisations, government departments, national and local institutions and professionals involved in providing services to separated children have a duty to uphold the Convention on the Rights of the Child. They must co-operate at local, national and international level to ensure that the welfare and rights of separated children are enhanced and protected. A holistic approach should be adopted in trying to meet the interconnected needs of separated children. Co-operation is essential in case the separated child has suffered or is at risk of suffering harm, including harmful traditional practices.

* CRC, Art. 22(2): Where a separated child's parents or other family members cannot be found, the child shall be given the same protection as any other child permanently or temporarily deprived of his or her family environment. States shall co-operate, as they consider appropriate, with efforts by the UN or other IGOs or NGOs in family tracing measures.

* UNHCR Guidelines, paragraph 12: The close cooperation of a variety of government bodies, specialized agencies and individuals in delivering an effective continuum of care is crucial.

B 10. Staff Training

All those working with separated children must receive appropriate and on-going training and this should manifest itself in child-sensitive practice. Such training should focus specifically on the rights and needs of separated children, child development, the context within which separated children move, child-specific persecution and rights violations, cultural factors and the development of the appropriate skills for communicating with this group of children. Training should also be given to ensure that those working with separated children are culturally and gender-sensitive and understand intercultural communication. Immigration or border police staff and other relevant actors should receive training in conducting child-friendly interviews which are sensitive to the needs of separated children.

- * CRC, Art. 3(3): States shall ensure that institutions and services providing protection or care for children meet established standards, inter alia, in the suitability of their staff and competent supervision.
- * General Comment No 6, paragraph 95: Particular attention should be paid to the training of officials working with separated children and dealing with their cases. Specialised training is equally important for legal representatives, guardians, interpreters and others dealing with separated children.
- * General Comment No 6, paragraph 96: Outlines key elements of training.
- * General Comment No 6, paragraph 75: Staff involved in status determination procedures of children should receive training on international and national refugee law.
- * General Comment No 14, paragraph 15(f): States Parties must provide information and training on Article 3, paragraph 1 of the Convention on the Rights of the Child and its application in practice to all those making decisions that directly or indirectly impact on children, including professionals and other people working for and with children.
- * UNHCR Child Asylum Claims, paragraph 69: Independent guardians and legal representatives should be properly trained.
- * UNHCR Child Asylum Claims, paragraph 72: It is essential that examiners have the necessary training and skills to be able to evaluate accurately the reliability and significance of the child's account.
- * UNHCR Guidelines, paragraph 11: It is desirable that agencies dealing with unaccompanied children establish special recruitment practices and training schemes, so as to ensure that persons that will assume responsibilities for the care of the children understand their needs and possess the necessary skills to help them in the most effective way.

B 11. Durability

Decisions that are taken regarding separated children must take into account, to the greatest extent possible, the long-term best interests and welfare of the child. Solutions should be concrete, secure and sustainable.

- * CRC, Art. 3 (1): In all actions concerning children ... the best interests of children shall be a primary consideration.
- * General Comment No 6, paragraph 79: The ultimate aim in addressing the needs of separated children is to identify a durable solution that addresses all their protection needs.
- * UNHCR Guidelines, paragraph 9.1: If the child is granted asylum or permitted to stay on humanitarian grounds, possible durable solutions are either local integration or resettlement in a third country, normally on the grounds of family reunification.
- * UNHCR Guidelines, paragraph 9.2: If the child is found not to qualify for asylum, either as a refugee or on humanitarian grounds, an assessment of the solution that is in the best interests of the child should follow as soon as practicable after the negative result of their application is confirmed.

B 12. Timeliness

All decisions regarding separated children must be taken in a timely fashion, taking into account the child's perception of time. Applications for international protection from separated children should be prioritised. Whilst all decisions should be given thorough consideration, delay shall be presumed to be prejudicial to the child. Perceptions that a child is merely in transit should not affect the duty of officials to take appropriate steps to start any relevant procedures. Timely decisions are in the interests of all concerned parties.

* CRC, Art. 3(1): In all actions concerning children ... the best interests of children shall be a primary consideration.

* CRC, Art. 10 (1): Applications for family reunification shall be dealt with in a positive, humane and expeditious manner.

* General Comment No 14, paragraph 93: The passing of time is not perceived in the same way by children and adults. Delays in or prolonged decision-making have particularly adverse effects on children as they evolve. It is therefore advisable that procedures or processes regarding or impacting children be prioritized and completed in the shortest time possible.

* UNHCR Child Asylum Claims, paragraph 66: Claims made by child applicants, whether they are accompanied or not, should normally be processed on a priority basis, as they often will have special protection and assistance needs.

* UNHCR Guidelines, paragraph 8.1: Considering their vulnerability and special needs, it is essential that refugee status applications from children be given priority and that every effort be made to reach a decision promptly and fairly. All appeals should be processed fairly and as expeditiously as possible.

* UNHCR Guidelines, paragraph 8.5: Every effort should be made to reach a decision in an efficient manner in order not to keep children in limbo for a long period of time regarding their status and their future. All appeals should be processed fairly and as expeditiously as possible. This may require children's appeals to be prioritized over other outstanding appeals.

C. Separated Children in Europe

There are many reasons for the presence of separated children in Europe. Separated children may travel to, or within Europe, because they are seeking asylum owing to a fear of persecution or the lack of protection in their country of origin, due to human rights violations, armed conflict or disturbances. Separated children may be seeking other forms of protection, because they have been trafficked for sexual or other forms of exploitation, because they have travelled to or within Europe to escape conditions of serious deprivation, or to look for new opportunities and a better life. Some separated children may need to seek protection because they are fleeing from domestic violence and abuse within their family, escaping gender-based discrimination or abuses, or because they may have been involved in armed combat or served the military in other ways. These children should not be perceived or treated as criminals, rather they should be seen primarily as child victims of violence. Some separated children arrive because they are seeking reunification with family members already present in Europe, where either the lack of regularisation programmes or restrictive reunification procedures do not allow for legal reunification or reunification in a reasonable timescale. Some will not hold identity or residence documents and some may be in transit, passing through a country on route to a final destination. Some separated children will be stateless; others will be European Union nationals who have travelled within Europe; still others may have arrived in Europe as part of third country resettlement programmes and will thus hold residency documents upon arrival.

Some children may be stateless, which means they are not recognised as a national by any State under operation of its law. They may have been stateless in their country of origin and thus arrived stateless, they may have been born stateless in Europe due to gaps in nationality legislation (because their parents are stateless and they are thus unable to inherit nationality) or they may have been born in Europe but are at risk of statelessness due to a lack of birth registration. Statelessness is both a cause and a result of migration and displacement. Stateless children often face persecution and discrimination in their home community. Stateless children are very vulnerable to further child rights violations. Children may have difficulty providing proof of their nationality for a variety of reasons, including lack of birth registration. Children born on the move or outside

their parents' country of origin may also lack necessary documentation. Of course, not every child without documentation is stateless. Most children will automatically receive a nationality from their parent, but some children will be stateless because their parents are stateless or for other reasons, such as gender inequality in nationality laws that prevent women from passing their nationality on to their children.

All separated children should be entitled to make an asylum application or, including in the case of European Union nationals, to otherwise have their best interests determined. Furthermore, separated children should be provided with free legal aid, a guardian and assistance in supporting them with such procedures.⁷

Although there is a broad range of categories of separated children, most will fall under one of three main headings: those seeking protection (including asylum), those who have been trafficked and those who are migrants, including those seeking family reunification or economic or educational opportunities. It is important to recognise that these groups cannot be seen as mutually exclusive and that there can be, and is, considerable overlap and movement within these categories. Upon arrival, it may not be obvious which, if any, of these groups the separated child fits into and it is precisely because of this that welfare needs must be addressed before the child's migration status is determined, as the latter may take time to confirm.

All separated children should be perceived and treated as children first and foremost and their migration status must always be a secondary consideration. Migration and border control concerns cannot be the basis for refusing a separated child permission to enter or remain in a country. The principles of child protection and welfare should be the paramount considerations in the treatment of all separated children by immigration officers, police, social workers and other practitioners. All separated children have common and particular rights and needs in relation to their

⁷ CRC, Arts. 1 & 22; Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, 1996, Art.6; UNHCR Guidelines, paragraph 3.1; European Council on Refugees and Exiles Position on Refugee Children, November 1996 paragraphs 8 & 11; EU Resolution on Unaccompanied Minors, Art. 1(1); Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Arts. 2a & 3d; Protocol Against the Smuggling of Migrants by Land, Sea and Air, Arts. 14 & 19, Resolution of the Council of Europe, Core Standards for Guardians of Separated Children in Europe, The Fundamental Rights Agency Handbook on Guardianship for Separated Children.

reception and assistance. They should all have access to child welfare, protection, education and health services. The rehabilitation and recovery of separated children must be given due priority.

Moreover, processes must be in place to address the protection needs (including asylum) and a durable solution for each separated child, taking the best interests of the child as a primary consideration. The SCEP believes that it would be in the interests of all concerned parties to develop formal procedures, safeguards and agreed criteria with which to ensure that the best interests of all separated children are assessed, so that they are indeed a primary consideration in identifying the protection needs and a durable solution. Because of the diversity of each separated child's situation, Best Interests Determinations and assessments must always be based on the individual circumstances of each child.

Below, we note some of the specific features of separated asylum-seeking children, separated migrant children and separated trafficked children.

C 1. Separated Asylum Seeking Children

C 1.1 Some separated children travel to, or within Europe, because they are fleeing persecution, genocide, forced conscription or conflict and upheaval. Such children, regardless of their age, country of origin, method and route of travel or whether they entered or moved within Europe legally or illegally, must never be denied access to procedures which grant international protection, including, where relevant, consideration of whether or not their circumstances meet the criteria set out in the 1951 Refugee Convention.

C 1.2 Decision makers need to be aware that some forms of persecution are specific to children, others are severe violations of specific rights of the child and some human rights violations impact upon children more severely. Separated children must never be removed from the country without a thorough determination of their asylum application and their best interests, ensuring fundamental procedural safeguards and the identification of a durable solution.

C 1.3 Separated children must be exempt from accelerated asylum determination procedures based on assumptions about safe countries and cases that are manifestly unfounded. Decisions must be made on a case-by-case basis that fully considers the child's individual circumstances and takes account of child-specific country of origin information. Separated children must not be fitted into procedures designed for adults and decision-making bodies should design procedures that are appropriate to the situations and needs of children and their age and maturity.

* CRC, Art. 22 (1): Separated refugee and asylum-seeking children are entitled to protection and assistance in order to enjoy the rights in the CRC and in other international human rights or humanitarian instruments to which the States are Parties.

* General Comment No 6, paragraph 26: In affording proper treatment of separated children, States must fully respect non-refoulement obligations deriving from humanitarian and refugee law.

* General Comment No 6, paragraphs 27 & 28: States should not return children to situations where there is a real risk of underage recruitment.

* General Comment No 6, paragraphs 56 & 60: Child soldiers should be treated

as victims of conflict and should be supported in their reintegration into non-military life. They should not generally be detained, unless they pose a serious threat, and should not be returned if this would entail a risk of re-recruitment. Participation in hostilities may amount to persecution.

* General Comment No 6, paragraph 66: Separated children, irrespective of age, shall enjoy access to asylum procedures and other mechanisms for providing international protection.

* UNHCR Child Asylum Claims, paragraph 1: The definition of a refugee contained in Article 1(A)2 of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol applies to all individuals, regardless of their age.

* UNHCR Child Asylum Claims, paragraph 6: Each child has the right to make an independent refugee claim, regardless of whether they are accompanied or unaccompanied.

* UNHCR Child Asylum Claims, paragraph 10: Ill-treatment, which may not rise to the level of persecution in the case of an adult, may do so in the case of a child.

* UNHCR Child Asylum Claims, paragraph 11: An accurate assessment requires both an up-to-date analysis and knowledge of child-specific circumstances in the country of origin, including of existing child protection services.

* UNHCR Child Asylum Claims, paragraph 18: Children may also be subjected to specific forms of persecution that are influenced by their age, lack of maturity or vulnerability. The fact that the refugee claimant is a child may be a central factor in the harm inflicted or feared. This may be because the alleged persecution only applies to, or disproportionately affects, children or because specific child rights may be infringed. UNHCR's Executive Committee has recognized that child-specific forms of persecution may include underage recruitment, child trafficking and female genital mutilation. Other examples include, but are not limited to, family and domestic violence, forced or underage marriage, bonded or hazardous child labour, forced labour, forced prostitution and child pornography. Such forms of persecution also encompass violations of survival and development rights, as well as severe discrimination of children born outside strict family planning rules and of stateless children as a result of loss of nationality and attendant rights.

* UNHCR Child Asylum Claims, paragraph 66: Claims made by child applicants, whether they are accompanied or not, should normally be processed on a priority basis, as they often will have special protection and assistance needs. Priority processing means reduced waiting periods at each stage of the asylum procedure, including as regards the issuance of a decision on the claim.

* UNHCR Child Asylum Claims, paragraph 68: For unaccompanied and separated child applicants, efforts need to be made as soon as possible to initiate tracing and family reunification with parents or other family members.

* UNHCR Child Asylum Claims, paragraph 69: An independent, qualified guardian needs to be appointed immediately and free of charge in the case of unaccompanied or separated children. Children who are the principal applicants in an asylum procedure are also entitled to a legal representative.

* UNHCR Child Asylum Claims, paragraph 70: The right of children to express their

views and to participate in a meaningful way is also important in the context of asylum procedures. A child's own account of their experience is often essential for the identification of their individual protection requirements and, in many cases, the child will be the only source of this information. Ensuring that the child has the opportunity to express these views and needs requires the development and integration of safe and child-appropriate procedures and environments that generate trust at all stages of the asylum process.

* UNHCR Child Asylum Claims, paragraph 71: Appropriate communication methods need to be selected for the different stages of the procedure, including the asylum interview, and need to take into account the age, gender, cultural background and maturity of the child, as well as the circumstances of the flight and mode of arrival. Useful, non-verbal communication methods for children might include playing, drawing, writing, role-playing, story-telling and singing. Children with disabilities require "whatever mode of communication they need to facilitate expressing their views".

* UNHCR Child Asylum Claims, paragraph 72: Children cannot be expected to provide adult-like accounts of their experiences. They may have difficulty articulating their fear for a range of reasons, including trauma, parental instructions, lack of education, fear of State authorities or persons in positions of power, use of ready-made testimony by smugglers, or fear of reprisals. They may be too young or immature to be able to evaluate what information is important or to interpret what they have witnessed or experienced in a manner that is easily understandable to an adult.

* UNHCR Child Asylum Claims, paragraph 73: Although the burden of proof usually is shared between the examiner and the applicant in adult claims, it may be necessary for an examiner to assume a greater burden of proof in children's claims, especially if the child concerned is unaccompanied.

* UNHCR Child Asylum Claims, paragraph 74: Children may have only limited knowledge of conditions in the country of origin or may be unable to explain the reasons for their persecution. For these reasons, asylum authorities need to make special efforts to gather relevant country of origin information and other supporting evidence.

* UNHCR Child Asylum Claims, paragraph 77: Decisions need to be communicated to children in a language and in a manner they understand. Children need to be informed of the decision in person, in the presence of their guardian, legal representative, and/or other support person, in a supportive and non-threatening environment.

C 2. Separated Migrant Children

C 2.1 Some separated children travel on their own as migrants seeking relief from situations of severe and persistent poverty, deprivation and hardship, or to seek opportunities for a better and secure future. Many of these will be children without valid identity or residence documents. Separated child migrants must never be removed from the country without a thorough determination of their best interests, which must include due process safeguards and consideration of the situation in their country of origin and in particular the durability, type and quality of care available to them upon return. The determination of best interests and the assessment of the situation in the child's country of origin should be undertaken by an organisation well-versed in children's rights.

C 2.2 States should put in place safeguards to grant their nationality to children born on their territory who would otherwise be stateless. States should also take measures to ensure the identification and protection of stateless persons, by establishing formal statelessness determination procedures.

* CRC, Arts. 2 & 20, *op.cit.*

* CRC, Art. 7: Children have the right to acquire a nationality.

* UNHCR Child Asylum Claims, paragraph 52(i): Children living and/or working on the streets are among the most visible of all children, often identified by society as social outcasts. They share the common characteristics of their youth and having the street as their home and/or source of livelihood. Especially for children who have grown up in such situations, their way of life is fundamental to their identity and often difficult to change. Many of these children have embraced the term "street children", as it offers them a sense of identity and belonging, while they may live and/or work on the streets for a range of reasons. They also may share past experiences, such as domestic violence, sexual abuse, and exploitation or being orphaned or abandoned.

C 3. Separated Trafficked Children

C 3.1 Children are trafficked⁸ into and within Europe for a variety of exploitative purposes, including prostitution, the production of child pornography, begging, theft and petty crime, domestic servitude, and other forms of labour exploitation. Separated trafficked children may be in need of international protection on account of their trafficking experience. They may have a well-founded fear of persecution in their country of origin in the form of being re-trafficked for example, or due to the consequences of their severe family or community stigmatisation. For these reasons, all separated trafficked children should have access to meaningful international protection, including information on how to apply for protection in a language they understand. States should take measures to prevent and stop trafficking, by sharing information on trafficking with each other. States should also ensure that immigration officers and border police are alerted to this problem and that they are provided with training to help them identify children who may have been trafficked and to make appropriate referrals to child protection agencies.

C 3.2 Separated trafficked children must not be perceived or treated as criminals and their protection, assistance and redress must be given due priority. Temporary residence and humanitarian residence permits should not be made dependent on the child's willingness or ability to cooperate with authorities leading the investigation and prosecution, but rather should be granted when necessary in line with the best interests of the child. Decisions about temporary or long-term residency must be made in line with the best interests of the child and must not be dependent upon co-operation with the authorities. Children must be

⁸ Article 3, subparagraph (a) of the Palermo Protocol To Prevent, Suppress And Punish Trafficking In Persons, Especially Women And Children defines trafficking as: "Trafficking of persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat of or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. The Protocol goes on to state "The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in sub-paragraph (a) of this article. SCEP's Position Paper on Preventing and Responding to Trafficking of Children in Europe considers a trafficked child to be any person under eighteen who is recruited, transported, transferred, harboured or received for the purpose of exploitation, either within or outside a country, even if no element of coercion, deception, abuse of authority or any other form of abuse is used.

allowed sufficient time in which to reflect on their choices around testimony. They will need time to build trusting relationships with professional staff and to feel safe and secure. Interviews regarding their immigration status must not take place immediately upon arrival or immediately following identification as a victim of trafficking.

C 3.3 Separated trafficked children must not be seen merely as passive recipients of assistance, and their views and wishes must be sought and taken into account whenever decisions affecting them are being made, as this will also aid their recovery and empowerment. They must be provided with the details of any procedures and subsequent consequences, explained to them in a language that they understand.

C 3.4 Care planning must seek a durable solution and strive to prevent separated trafficked children from new and on-going exploitation and re-trafficking and, to this end, those working with these children must seek ways to prevent on-going contact between the child and their traffickers and, as far as possible, prevent the child from disappearing from the care system. All disappearances must be notified to the responsible authorities (see D 8.1.3). Plans to return a separated trafficked child to their country of origin or a safe third country must consider the risk to the child of re-trafficking and return should not take place without guarantees that they will not be re-trafficked. Following return, the situation of the child should be closely monitored by a specialist independent agency.

* CRC, Art. 34: States shall protect children from all forms of sexual exploitation and abuse.

* CRC, Art. 35: States shall take all appropriate measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

* CRC, Art. 36: States shall protect children from all other forms of exploitation prejudicial to their welfare.

* CRC, Art. 37: No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.

* General Comment No 6, paragraphs 23 & 24, *op.cit.*

* General Comment No 6, paragraphs 50 – 53: Separated children are vulnerable to trafficking and States should take measures to prevent both trafficking and re-trafficking. Trafficked children should not be criminalised and they should not be

returned to their country of origin unless this can be demonstrated to be in the child's best interests.

* General Comment No 6, paragraph 95, *op.cit.*

* UNHCR Child Asylum Claims, paragraph 24: As recognized by several jurisdictions, trafficked children or children who fear being trafficked may have valid claims to refugee status. The particular impact of a trafficking experience on a child and the violations of child-specific rights that may be entailed also need to be taken into account.

* UNHCR Child Asylum Claims, paragraph 25: The trafficking of children occurs for a variety of reasons but all with the same overarching aim to gain profit through the exploitation of human beings. In this context, it is important to bear in mind that any recruitment, transportation, transfer, harbouring or receipt of children for the purpose of exploitation is a form of trafficking, regardless of the means used. Whether the child consented to the act or not is, therefore, irrelevant.

* UNHCR Child Asylum Claims, paragraph 26: The trafficking of a child is a serious violation of a range of fundamental rights and, therefore, constitutes persecution.

* UNHCR Child Asylum Claims, paragraph 27: The impact of reprisals by members of the trafficking network, social exclusion, ostracism and/or discrimination against a child victim of trafficking who is returned to their home country needs to be assessed in a child-sensitive manner. Child victims of trafficking may have very limited possibilities of accessing and enjoying their human rights, including survival rights, if returned to their homes.

* UNHCR Child Asylum Claims, paragraph 28: In asylum cases involving child victims of trafficking, decision makers will need to pay particular attention to indications of possible complicity of the child's parents, other family members or caregivers in arranging the trafficking or consenting to it. In such cases, the State's ability and willingness to protect the child must be assessed carefully. Children at risk of being (re-)trafficked or of serious reprisals should be considered as having a well-founded fear of persecution within the meaning of the refugee definition.

D. Good Practice

Pre-arrival

For many separated children, the journey to Europe is often long, extremely dangerous and fraught with hardship. They risk exploitation, hunger and malnourishment, illness, injury, and death. The unsafe journeys of separated children should be avoided wherever possible. Government departments of European States should consider legal pathways to facilitate regular migration for separated children, where appropriate, and should consider the prompt issuing of family reunification and humanitarian visas, working in partnership with intergovernmental organisations, for example UNHCR, where necessary. All the rights that separated children hold remain in place, whatever their circumstances, including during their journeys. In particular, their rights to life, survival and development and to freedom from abuse and exploitation remain in force. Wherever separated children are at risk, for example undertaking dangerous sea crossings, relevant governmental and non-governmental agencies should be proactive in their attempts to ensure their safety.

D 1. Access to the Territory

D 1.1 Separated children must never be refused entry to a territory or returned at the point of entry. They must never be detained for reasons of immigration policy and practice. Neither should they be subjected to detailed interviews or age assessment procedures by immigration authorities at the point of entry, see section D5 (below). Separated children should remain at the point of entry for the shortest possible period of time. At the point of entry, it is only necessary to provisionally establish their identity and to allow appropriate referrals to be made for their immediate care. If further procedures are needed to establish the child's identity, the child must be allowed entry into the State whilst these are undertaken.

D 1.2 Separated children must never be the subject of a re-entry ban.

* CRC, Art. 6(1): Every child has the inherent right to life.

* CRC, Art. 37(b): Children shall not be deprived of their liberty arbitrarily or unlawfully; they shall be detained only as a measure of last resort and separately from adults.

* General Comment No 6, paragraph 20: Allowing the child access to the territory is a prerequisite to an initial assessment process.

* UNHCR Guidelines, paragraph 4.1: Because of their vulnerability, an unaccompanied child seeking asylum should not be refused access to the territory and their claim should always be considered under the normal refugee determination procedure.

D 2. Identification

D 2.1 At ports of entry and in-country immigration contact points, immigration authorities must put in place procedures to identify separated children and to refer such children to the appropriate child welfare authorities. Where an adult accompanies a child, it will be necessary to establish the nature of the relationship between the child and the adult in order to establish whether or not the adult is the child's primary caregiver. Since many separated children enter a country without being identified as separated at ports of entry, organisations and professionals must, as far as this is consistent with data protection legislation, share appropriate information in order to identify and recognise separated children and to ensure that they are given appropriate protection. Some children become separated after entry into a country, for example because of a breakdown of the family situation or departure of the caregiver. Children may give false information to different authorities due to misunderstandings, because they feel under duress or simply because they do not know the requested information. Should a child, for any reason, become separated after entry, immigration and refugee determination authorities must ensure that their procedures reflect this change of situation.

D 2.2 Biometric testing, including when used as part of an age assessment procedure, for example, fingerprinting, examination of DNA, iris scans or face recognition (digital photographs) should be applied with caution and only where it can clearly be demonstrated that the decision to do so is based solely on the best interests of the child. Such procedures may be traumatising for children and are often based on a limited perception of 'family', which fails to recognise that many separated children's principle carers are not their immediate family. Findings may undermine family unity in cases of infidelity or rape and biometric testing raises ethical issues around privacy and invasion of physical integrity and concerns around data protection. If a separated child is to be subjected to any type of biometric testing, the following procedure must be followed:

- The decision to pursue testing must be made in the best interests of the child

- The child must give their informed consent
- The purpose for undertaking the test must be clear, what information is being sought and why
- Confirmation must be gained that the particular type of biometric testing is the best option available to gather the information that is sought
- The procedures and possible outcomes must be explained clearly to the child
- The least invasive method of biometric testing should be used
- The test should be administered by trained staff, skilled in working with children

A guardian should accompany the child throughout the procedure. Counselling must be provided to the child to help them consider the impact of unforeseen revelations that may arise from the testing. There must be access to an independent appeals procedure and legal aid should be provided when necessary. All procedures should be open and transparent. There should be agreed standards of practice and practitioners need to be accountable for their practice. Those who administer testing should receive appropriate training, which will manifest itself in child-sensitive practice. Procedures should be taken in a timely fashion to minimise uncertainty and reach outcomes promptly.

All procedures should be open and transparent. There should be agreed standards of practice and practitioners need to be accountable for their practice. Those who administer testing should receive appropriate training which will manifest itself in child-sensitive practice. Procedures should be taken in a timely fashion to minimise uncertainty and reach outcomes promptly.

D 2.3 In situations where separated children are refused permission to remain or are not issued with residence permits, they must still retain or be issued with some form of identity document. The document should facilitate access to the protection, support and services that separated children remain entitled to, despite a refusal of permission to remain.

* CRC, Art. 8: Every child has the right to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

* General Comment No 6, paragraph 31(1): Prioritised identification of a separated child as soon as their presence becomes known to the authorities.

* UNHCR Child Asylum Claims, paragraph 76: In normal circumstances, DNA testing will only be done when authorized by law and with the consent of the individuals to be tested, and all individuals will be provided with a full explanation of the reasons for such testing. In some cases, however, children may not be able to consent due to their age, immaturity, inability to understand what this entails or for other reasons. DNA tests should be used only where other means for verification have proven insufficient.

* UNHCR Guidelines, paragraphs 5.1 – 5.3 & Annex II: Procedures need to be in place to establish whether a child is unaccompanied and whether they are seeking asylum. This applies to both children arriving at the border and children coming to the attention of the authorities after arrival.

D 3. Appointment of a Guardian

D 3.1 Immediately after a separated child is identified, or where an individual claims to be a separated child, regardless of whether further assessment of their age is required by the authorities, an independent guardian must be appointed to advise and protect them. The appointed guardian should be consulted and informed regarding all actions taken in relation to the child. Where the child, subject to age and maturity, gives consent, the guardian should have the authority to represent the child in all planning and decision-making processes. Their responsibilities should be to⁹:

- Ensure that all decisions have the child's best interests as a primary consideration
- Work with other relevant agencies to ensure the child is safe and protected and that they are able to develop and achieve their full potential
- Ensure the child's views and opinions are considered in all decisions that affect them
- Ensure that the child has suitable care, accommodation, education, language support and health care provision and that they are able to practice their religion
- Ensure the child has suitable and free legal representation to assist in procedures that will address protection claims and durable solutions
- Explore, together with the child, the possibility of family tracing and reunification

⁹ The Core Standards for Guardians of Separated Children in Europe (Defence for Children International – The Netherlands and others, 2011, endorsed by the SCEP Network), outlines 10 standards for guardians of separated children. The guardian:

- Advocates for all decisions to be taken in the best interests of the child, aimed at the protection and development of the child,
- Ensures the child's participation in every decision which affects the child,
- Protects the safety of the child,
- Acts as an advocate for the rights of the child,
- Is a bridge between and focal point for the child and other involved actors,
- Ensures the timely identification and implementation of a durable solution,
- Treats the child with dignity and respect,
- Forms a relationship with the child built on mutual trust, openness and confidentiality
- Is accessible,
- Is equipped with relevant professional knowledge and competences.

The Core Standards for Guardians of Separated Children in Europe are available at:
www.corestandardsforguardians.com

- Assist the child to keep in touch with his or her family where appropriate
- Contribute to the timely implementation of a durable solution in the child's best interests
- Provide a link and ensure transparency and cooperation between the child and the various organisations who may provide them with services
- Engage with the child's informal network of friends and peers
- Consult with and advise the child
- Advocate on the child's behalf and promote their rights
- Form a relationship based on trust and respect and treat the child with dignity at all times
- Ensure that they are accessible to the child and that the child knows how to contact them
- Take responsibility for their own development, thus ensuring they remain competent and skilled to function as effective guardians.

D 3.2 Guardians should be appointed until a durable solution has been identified and implemented. This may, if the child wishes, extend beyond the child's 18th birthday, though if they choose to make their own decisions, this should be respected by all parties. Where a durable solution is secured before the child turns 18 years old, consideration should be given to the continuation of the role up to the child's 18th birthday if this is appropriate.

D 3.3 Procedures for the appointment of a guardian must not be less favourable than the existing national administrative or judicial procedures used for appointing guardians for national children. The individuals carrying out these responsibilities may be drawn from a range of specialist backgrounds. However, in order to carry out their role effectively, guardians will require specialist skills in working with separated children and an understanding of the context of child migration. They must have relevant childcare expertise and an understanding of the special and cultural needs of separated children. Appointing authorities must ensure that guardians receive on-going training and professional support, and undergo police or other appropriate reference checks. Guardians must not hold positions which could lead to a potential conflict of interest with the best interests of the child.

- * CRC, Art. 12: The views of children are to be given due weight in relation to their age and maturity and children shall have the opportunity to be heard in all proceedings affecting them.

- * CRC, Art. 18(2): States shall assist legal guardians to carry out child-rearing responsibilities.

- * CRC, Art. 20(1): Children deprived of their families are entitled to special protection and assistance.

- * CRC, Art. 20(3): The care provided to children deprived of their families shall take account of their ethnic, religious, cultural and linguistic background.

- * General Comment No 6, paragraphs 21 & 24, *op.cit.*

- * General Comment No 6, paragraphs 33 – 38: States should appoint a guardian (or adviser) as soon as the separated child is identified.

- * General Comment No 6, paragraph 95, *op.cit.*

- * UNHCR Child Asylum Claims, paragraph 66: Child applicants will need time to build trusting relationships with their guardian and other professional staff and to feel safe and secure.

- * UNHCR Child Asylum Claims, paragraph 69, *op.cit.*

- * UNHCR Guidelines, paragraph 5.7: It is suggested that an independent and formally accredited organization be identified/established in each country, which will appoint a guardian or adviser as soon as the unaccompanied child is identified.

D 4. Registration and Documentation

D 4.1 Registration and documentation are essential to protect the long-term interests of separated children. This must be carried out by a child-sensitive interview procedure. Immigration and border police officers must limit their initial interview to gathering basic information about the child's identity. Substantive interviews with immigration authorities must always be carried out in the presence of legal counsel, a guardian and, where the child so desires, by other significant adults, for example, social workers or relatives.

D 4.2 From the moment of identification until the implementation of a durable solution, a separated child must be considered as residing legally in the host country.

D 4.3 A complete social history must be taken, drawing on all sources of information, by the competent child welfare authority or other designated organisation with care duties towards the child. This should cover:

- Family information (in the country of origin and elsewhere)
- Information on non-family members important to the child
- Circumstances when the child was found/identified
- Information concerning the child's separation from the family
- Information about the child's life before and since the separation
- The child's physical condition, health and past medical history
- Educational background (formal and informal)
- Religious, cultural and linguistic background
- Present care arrangements
- The child's wishes and plans for the future
- Preliminary assessment of the child's mental and emotional development and maturity

D 4.4 Separated children should only be subject to fingerprinting procedures where this is in their best interests as part of a plan to ensure their safety. Information must be collected and stored in a manner compatible with data protection legislation and guidance. As a minimum, a secure storage and retrieval system is a prerequisite.

Separated children should be told why their fingerprints are required and the procedure and practice for doing this must be explained to them in a non-threatening manner which they understand. In particular, separated children must be assured that the procedure is not linked to a criminal investigation and that they have not infringed the law.

D 4.5 Following identification and registration, separated children must be issued with a form of identity document. The document must be in a format that will facilitate access to the services and support to which separated children are entitled and that will minimise treatment that is in breach of their rights, for example, but not limited to, unnecessary detention and refusal of access to health care and education.

D 4.6 All those interviewing separated children should have appropriate training and expertise in undertaking these interviews.

* CRC, Art. 8: Every child has the right to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

* General Comment No 6, paragraph 31(ii): Prompt registration and initial interview to collect biodata and social history to enable identification of the child.

* General Comment No 6, paragraph 99: The development of an integrated system of data collection on separated children is a prerequisite for the development of effective policies.

* General Comment No 6, paragraph 100: Outlines the data that should be gathered regarding separated children.

* General Comment No 6, paragraph 95, *op.cit.*

* UNHCR Guidelines, paragraph 5.6: Unaccompanied children should be registered through interviews. In addition to the initial registration of basic biographical data, the dossier should include a social history of the child which should be compiled over time and must accompany the child whenever there is a transfer of their location or care arrangements.

* UNHCR Guidelines, paragraphs 5.8 & 5.9: Initial interviews of unaccompanied children to collect biodata and social history information should be done immediately after arrival and in an age-appropriate manner. The guidelines outline the information that should be gathered.

D 5. Age Assessment

D 5.1 Age assessment procedures should only be undertaken as a measure of last resort, not as standard or routine practice, where there are grounds for serious doubt and where other approaches, such as interviews and attempts to gather documentary evidence, have failed to establish the individual's age. If age assessment is thought to be necessary, informed consent must be gained and the procedure should be multi-disciplinary and undertaken by independent professionals with appropriate expertise and familiarity with the child's ethnic and cultural background. They must balance physical, developmental, psychological, environmental and cultural factors. It is important to note that age assessment is not an exact science and a considerable margin of uncertainty will always remain inherent in any procedure. When making an age assessment, the largest margin of error should be applied in favour of the individual whose age is being assessed and they should be given the benefit of the doubt. Examinations must never be forced or culturally inappropriate. The least invasive option must always be followed and the individual's dignity must be respected at all times. Particular care must be taken to ensure assessments are gender appropriate and that an independent guardian has oversight of the procedure and should be requested to attend by the individual concerned.

D 5.2 The procedure, outcome and consequences of the assessment must be explained to the individual in a language that they understand. The outcome must also be presented in writing. There should be a procedure to appeal against the decision and the necessary support, including legal aid, to do so should be provided. Appeals should be undertaken in a timely manner and have a suspensive effect on other decisions, for example 'Dublin' transfers.

D 5.3 In cases of doubt, the person claiming to be less than 18 years of age should provisionally be treated as such. Officials should also be vigilant to children stating that they are adults, perhaps because they wish to find employment or because they have been told to say they are older than they are by those who seek to exploit them. An individual should be allowed to refuse to undergo an assessment of age in any

event. Procedures must not be an affront to the individual's dignity and should not be harmful to their physical or mental health. A refusal to agree to the procedure must not prejudice the assessment of age or the outcome of the application for protection.

* General Comment No 6, paragraph 31(i): Age assessments should be safe, child- and gender-sensitive and the individual should be given the benefit of the doubt.

* General Comment No 6, paragraph 95, *op.cit.*

* UNHCR Child Asylum Claims, paragraph 75: Age assessments are conducted in cases when a child's age is in doubt and need to be part of a comprehensive assessment that takes into account both the physical appearance and the psychological maturity of the individual. It is important that such assessments are conducted in a safe and child- and gender-sensitive manner with due respect for human dignity. The margin of appreciation inherent to all age assessment methods needs to be applied in such a manner that, in case of uncertainty, the individual will be considered a child. As age is not calculated in the same way universally or given the same degree of importance, caution needs to be exercised in making adverse inferences of credibility where cultural or country standards appear to lower or raise a child's age. Children need to be given clear information about the purpose and process of the age assessment procedure in a language they understand. Before an age assessment procedure is carried out, it is important that a qualified independent guardian is appointed to advise the child.

* UNHCR Guidelines, paragraph 5.11: Outlines considerations where an age assessment is necessary.

D 6. Exemption from Detention

D 6.1 Separated children must never be detained for reasons related to their immigration status or irregular entry. This includes, whether temporary or otherwise, detention at the border or in international zones, in detention centres, in police cells, in prisons or in any other special detention centres for young people. Judicial oversight, consistent with child-friendly justice, must be exercised where it is deemed in a child's best interests to be placed in a closed centre.

D 6.2 Decisions to detain separated children or otherwise restrict their movement, for example in protected shelters, and processes to review or appeal decisions to detain in relation to non-immigration matters must follow the same judicial procedures, standards and safeguards that are followed and applied to national children. The decision whether or not to detain must be based on the specifics of the situation in relation to the child and not on their immigration status. For example, it should consider whether the child has committed a serious offence, or whether they have a mental health problem that needs to be treated in a secure setting. Detention must only be used as a measure of last resort and for the shortest appropriate period of time.

* CRC, Art. 37(a): Children shall not be subject to cruel, inhuman or degrading treatment.

* CRC, Art. 37(b): Children shall not be deprived of their liberty arbitrarily or unlawfully; they shall be detained only as a measure of last resort and separately from adults.

* CRC, Art. 22(2): Where a refugee child's parents or other family members cannot be found, the child shall be given the same protection as any other child permanently or temporarily deprived of his or her family environment.

* General Comment No 6, paragraphs 61 – 63: Separated children should not, as a general rule, be detained and illegal entry into a country may be justified according to general principles of law, where such entry is the only way of preventing a violation of a child's fundamental human rights. The best interests principle should govern the conditions of detention.

* UNHCR Guidelines, paragraph 7.6: Children seeking asylum should not be kept in detention. This is particularly important in the case of unaccompanied children.

* UNHCR Guidelines, paragraph 7.7: Reaffirms CRC, Art. 37.

D 7. Family Tracing and Contact

D 7.1 Tracing of a separated child's parents and family needs to be undertaken as soon as possible, but this must only be done when it will not endanger the child or members of the child's family. Tracing must only be undertaken on a confidential basis and with informed consent of the child or their guardian, when this is in the best interests of the child. States and organisations undertaking tracing may seek assistance from specialised UN agencies, the International Committee of the Red Cross (ICRC), International Social Services (ISS) and relevant child protection authorities. Separated children need to be properly informed and consulted about the family tracing process and, where initiated, its progress. Their views must be taken into account at all stages. They should have the choice to decide with whom they will share the outcome of the tracing and must not be coerced to disclose this information against their will. Where appropriate, those responsible for a child's welfare must facilitate regular communication between the child and her or his family.

D 7.2 Where a sought family member is traced, steps must be taken to satisfactorily establish their identity and relationship to the child. Where possible, this should be done by testimony or documentation, for example by checking specific events and incidents. Biometric testing should not be used routinely and should only be applied when other avenues to establish family connections have been exhausted (see D 2.2).

* CRC, Art. 9(3): Children who are separated from their parents have the right to maintain contact with their parents.

* CRC, Art. 10(1): Applications for family reunification shall be dealt with in a "positive, humane and expeditious manner".

* CRC, Art. 10(2): Children whose parents reside in different countries have the right to maintain regular relations with their parents.

* CRC, Art. 22(2): Where a refugee child's parents or other family members cannot be found, the child shall be given the same protection as any other child permanently or temporarily deprived of his or her family environment.

* General Comment No 6, paragraph 80: Tracing is an essential component in the search for a durable solution and should be prioritised unless this is not in the child's best interests or would endanger those being traced.

* General Comment No 14, paragraph 59: The term “family” must be interpreted in a broad sense to include biological, adoptive or foster parents or, where applicable, the members of the extended family or community as provided for by local custom.

* General Comment No 14, paragraph 66: When the child’s relations with his or her parents are interrupted by migration (of the parents without the child, or of the child without their parents), preservation of the family unit should be taken into account when assessing the best interests of the child in decisions on family reunification.

* UNHCR Child Asylum Claims, paragraph 68: For unaccompanied and separated child applicants, efforts need to be made as soon as possible to initiate tracing and family reunification with parents or other family members.

* UNHCR Guidelines, paragraph 5.17: Tracing for parents or families is essential and should begin as soon as possible.

D 8. Care Provision

D 8.1 Care Placements

D 8.1.1 Separated children must be found suitable and nurturing care placements as soon as possible after arrival or identification. Good standards of provision must be prepared and adhered to by service providers. Where it is unclear which agency or local administrative body is responsible for providing care, it is not acceptable for one party to refuse to take on the responsibility without securing the agreement of another appropriate party to provide care. Every separated child should have the opportunity to be placed within a family if it is in their best interests to do so. Care authorities must base placements on a careful assessment of their needs and changes in care arrangements should be kept to a minimum. Regular reviews of care arrangements must be carried out. Siblings should be kept together if it is in the best interests of the child. Where children live with or are placed with relatives, these relatives must be assessed for their ability to provide suitable care and undergo necessary recruitment checks. Separated children who, as adolescents, are not placed within families, should be found a placement in a small group home environment and must not be treated as ‘de facto’ adults and placed in an adult hostel or in reception centre settings.

D 8.1.2 Whether they are placed in foster care or in residential settings, separated children must be cared for by suitably trained professionals and foster carers who understand their cultural, linguistic and religious needs and who have an understanding of those issues that affect separated asylum-seeking, trafficked and migrant children. Unless it is not in the child's best interests, care workers should help a separated child to develop links with their ethnic community whenever possible. Those working with separated children must be aware that children are entitled to privacy and to maintain a confidential relationship with their guardian, legal representative and any other advocate.

D 8.1.3 All disappearances must be notified to the responsible authorities and recorded by them. Consistent with the principle of non-discrimination, procedures for responding to the disappearance of a separated child must be no less than those that would be followed where any child disappears from care. In instances where separated children return to care, they should be offered an independent interview with a trained professional. The main purpose of the interview should be to establish why the child disappeared and to identify any steps that can be taken to prevent further disappearances. Secondly, the interview should establish whether the child suffered harm, either physical or emotional, during the time they were missing and again identify necessary action to redress this.

D 8.1.4 Separated trafficked children must not be held in detention facilities in order to protect them from those who have trafficked them or who wish to exploit them. Alternative secure measures, such as safe houses, should be developed in conjunction with child welfare authorities. In order to establish safeguards, care workers in reception centres and residential homes need to be made aware of the problem of trafficking of children for the purposes of exploitation.

* CRC, Arts. 3(3) & 13, *op.cit.*

* CRC, Art. 14: Children have the right to freedom of thought, conscience and religion.

* CRC, Art. 15: Children have the right to freedom of association.

* CRC, Art. 16: Children have the right to protection from arbitrary or unlawful interference with their privacy, family, home and correspondence.

- * CRC, Art. 19: States shall take all appropriate measures to protect children from all forms of physical and mental violence, abuse, negligence, maltreatment or exploitation.
- * CRC, Arts. 20(1), 20(3), & 25, *op.cit.*
- * CRC, Art. 26: Children have the right to benefit from social security and social insurance.
- * CRC, Art. 27: Children have the right to a standard of living adequate for their physical, mental, spiritual, moral and social development.
- * CRC, Arts. 30, 34, 35 & 36, *op.cit.*
- * General Comment No 6, paragraph 40: Placements should offer continuity in a child's upbringing regarding their cultural and linguistic background. Changes of placements should be kept to a minimum and siblings should be placed together. Child-headed families should receive effective protection and children should be informed about the plans that are being made for them.
- * General Comment No 6, paragraph 90: Once it is determined that a separated child will remain in the community, an assessment should take place to determine appropriate long-term arrangements. Separated children should have the same access to service rights as national children.
- * General Comment No 14, paragraph 56: Regarding religious and cultural identity, for example, when considering a foster home or placement for a child, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.
- * General Comment No 14, paragraph 62: Where alternative care is provided, it must be delivered under appropriate conditions responding to the rights and best interests of the child.
- * UNHCR Guidelines, paragraph 7.1, *op.cit.*
- * UNHCR Guidelines, paragraph 7.5: Whether they are accommodated in foster homes or special reception centres, children seeking asylum should be under regular supervision and assessment by qualified persons, to ensure their physical and psychosocial well-being.

Separated children must have access to preventative, remedial and emergency health care provision on an equal basis with national children. Particular attention must be paid to their physical and mental health needs arising from previous physical deprivation and ill health, disabilities, and the psychological impact of violence, trauma and loss, as well as the effects of racism and xenophobia that may be experienced in the host or transit country. For some separated children, access to counselling or therapy is vital to assist their recovery.

- * CRC, Art. 23: Children with disabilities have the right to enjoy a full and decent life and have the right to special care.
 - * CRC, Art. 24: Children have the right to the highest attainable standard of health and to facilities for treatment and rehabilitation.
 - * CRC, Art. 39: States shall take measures to promote the physical and psychological recovery and social re-integration of child victims.
 - * General Comment No 6, paragraphs 46 – 49: Separated children should have the same access to health services as national children and States must address the particular vulnerabilities of separated children and the impact of these on a child's health. Rehabilitation should be provided.
 - * General Comment No 6, paragraph 90, *op.cit.*
 - * General Comment No 14, paragraph 77: The child's right to health and their health condition are central in assessing the child's best interest.
 - * UNHCR Guidelines, paragraphs 7.9 - 7.11: Reaffirms CRC, Art. 24 and notes the existence of trauma in many children.
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Separated children must have access to the same statutory education as national children. Schools need to take a flexible, welcoming approach with separated children and provide second language support. An individual education plan should be prepared for each separated child and efforts should be made to ensure regular school attendance. Education authorities must be vigilant concerning peer violence and bullying towards separated children and measures must be put in place to prevent its occurrence. In order to preserve their cultural identity, separated children should also have access to mother tongue teaching. Vocational and professional training should be available to older separated children, as it is likely to enhance their life chances.

- * CRC, Art. 28: Children have the right to free primary education. States shall encourage different forms of secondary education and make them available to all children. Educational and vocational guidance shall be available to all children.
- * CRC, Art. 29(1c): The aims of education should encourage respect of children's cultural identity, language and values.
- * CRC, Art. 30: Children belonging to ethnic, religious or linguistic minorities have the right to enjoy their culture, practice their religion and use their language.
- * CRC, Art. 32: Children should be protected from economic exploitation and hazardous work.
- * General Comment No 6, paragraph 41: States should ensure that access to education is maintained during all phases of the displacement cycle.
- * General Comment No 6, paragraph 42: The unaccompanied or separated child should be registered with appropriate school authorities as soon as possible and get assistance in maximizing learning opportunities. All unaccompanied and separated children have the right to maintain their cultural identity and values, including the maintenance and development of their native language. All adolescents should be allowed to enrol in vocational/professional training or education, and early learning programmes should be made available to young children. States should ensure that unaccompanied or separated children are provided with school certificates or other documentation indicating their level of education, in particular in preparation of relocation, resettlement or return.
- * General Comment No 6, paragraph 90, *op.cit.*
- * General Comment No 14, paragraph 79: It is in the best interests of the child to have access to quality education, including early childhood education, non-formal or informal education and related activities, free of charge. All decisions on measures and actions concerning a specific child or a group of children must respect the best

interests of the child or children, with regard to education.

* UNHCR Guidelines, paragraph 7.12: Every child, regardless of status, should have full access to education in the asylum country.

* UNHCR Guidelines, paragraph 7.14: All juveniles should be allowed to enrol in vocational/professional training or education which would improve their prospects, especially when returning to their country of origin.

D 8.4 Social Assistance

D 8.4.1 Some separated children may need social and financial assistance. For example, they may have received a residence permit, but are unable to find work, or would like to study, or are old enough and wish to live independently. It may be that they are cared for by the child welfare agencies, but because their age enables them to apply for financial State support, these agencies seek this route as a means to cover the costs of support.

D 8.4.2 Separated children must be entitled to access financial support and housing in the same way as national children. Access must be consistent with domestic age restrictions and all administrative procedures must be applied in the same manner as for national children. Financial assistance should be provided at the same rate as would apply to national children.

* CRC, Art. 26: Every child has the right to benefit from social security.

* CRC, Art. 27: Children should have a standard of living adequate for their physical, mental, spiritual, moral and social development.

* General Comment No 6, paragraph 44: Children should receive material support.

* UNHCR Guidelines, paragraph 10.9: Young adults who have left their “care” environment should be given access to “after care”. They should be assigned a contact person and should have access to information and advice on issues like welfare rights, housing and education. Such services should be available to the young adult as long as considered necessary.

D 8.5.1 Upon receiving a residence permit or other permission to remain in the host country, some older separated children may be allowed to work and some of these may wish to seek employment rather than continue with their education. Separated children seeking employment opportunities should receive careers guidance and support from their social worker/carer/guardian to help them consider their options and gain an understanding of the context of employment in the host country. It is desirable that, before finding employment, separated children should feel they have orientated themselves in their new situation. They should not enter the labour market immediately upon arrival. Care should be taken to ensure that there is no coercion or pressure being put on the young person to work and those working with separated children must ensure that the conditions of employment are reasonable and that working conditions are not exploitative.

D 8.5.2 Separated children must be allowed access to the labour market on the same terms as national children. Access must be consistent with domestic age restrictions, minimum levels of remuneration, health and safety regulations and any other relevant safeguards as outlined in States' domestic legislation. Separated children in employment must be registered with the relevant administrative department and all administrative procedures must be applied in the same manner as for national children.

* General Comment No 6, paragraph 90, *op.cit.*

Phase 2: Durable, Concrete and Secure Solutions - Determination of Best Interests

Processes must be in place to address the protection needs (including asylum) and a durable solution for each separated child, taking the best interests of the child as a primary consideration.

Consequently, for all separated children there must be a procedure to determine their best interests, which will in turn serve as a primary consideration in identifying the protection needs and a durable solution for each child. This determination will need to consider the child's need for protection and the impact of remaining in the host country or of being reunited with family or carers in either the country of origin or a third country (see D 15.). In cases where there has been an asylum determination procedure, the outcome of this procedure will inform the durable solution. The solution is unlikely to be durable if it is based on a decision to allow the child only to remain up to their 18th birthday (see D 14.7).

When looking at durable solutions¹⁰, a detailed process for determining best interests should be followed, which involves multiple agencies, as well as the child's independent guardian, and seeks to give due weight to the views of the child in line with their age and maturity.

¹⁰ A 'durable solution' is defined as: 'in the context of the unaccompanied or separated child, as a sustainable solution that ensures that the unaccompanied or separated child is able to develop into adulthood, in an environment which will meet his or her needs and fulfil his or her rights as defined by the CRC and will not put the child at risk of persecution or serious harm. Because the durable solution will have fundamental long-term consequences for the unaccompanied or separated child, it will be subject to a formal Best Interests Determination. A durable solution also ultimately allows the child to acquire, or to re-acquire, the full protection of a State.' - Safe and Sound: What States can do to ensure respect for the best interests of unaccompanied and separated children in Europe, UNICEF and UNHCR, 2014.

D 9. Access to the Best Interests Determination Process

D 9.1 Separated children, regardless of age, must never be denied prompt access to a process for determining their best interests. For separated children seeking asylum, the outcome of the asylum determination procedure will be a necessary part of a Best Interests Determination.

D 9.2 Separated children who become adults during the course of the determination process, sometimes referred to as ‘aged-out’, should continue to benefit from the same special determination procedures as those who are under 18 years of age. However, States should eliminate unnecessary delays that can result in a child reaching the age of majority during the process.

* CRC, Art. 22: Where a refugee child’s parents or other family members cannot be found, the child shall be given the same protection as any other child permanently or temporarily deprived of his or her family environment.

* General Comment No 14, paragraph 13: Each State Party must respect and implement the right of the child to have his or her best interests assessed and taken as a primary consideration, and is under the obligation to take all necessary, deliberate and concrete measures for the full implementation of this right.

* General Comment No 14, paragraph 14(a): States Parties are obliged to ensure that the child’s best interests are appropriately integrated and consistently applied in every action taken by a public institution, especially in all implementation measures and administrative and judicial proceedings which directly or indirectly impact on children.

* General Comment No 14, paragraph 14(b): States Parties are obliged to ensure that all judicial and administrative decisions, as well as policies and legislation concerning children, demonstrate that the child’s best interests have been a primary consideration. This includes describing how the best interests have been examined and assessed and what weight has been ascribed to them in the decision.

* General Comment No 14, paragraph 14(c): States Parties are obliged to ensure that the interests of the child have been assessed and taken as a primary consideration in decisions and actions taken by the private sector, including those providing services, or any other private entity or institution making decisions that concern or impact on a child.

* General Comment No 14, paragraph 25: The obligation of the States to duly consider the child’s best interests is a comprehensive obligation encompassing all public and private social welfare institutions, courts of law, administrative authorities

and legislative bodies involving or concerning children.

* General Comment No 14, paragraph 30: The Committee emphasizes that the scope of decisions made by administrative authorities at all levels is very broad, covering decisions concerning education, care, health, the environment, living conditions, protection, asylum, immigration and access to nationality, among others. Individual decisions taken by administrative authorities in these areas and all implementation measures must be assessed and guided by the best interests of the child.

* General Comment No 14, paragraph 32: The concept of the child's best interests is flexible and adaptable. It should be adjusted and defined on an individual basis, according to the specific situation of the child or children concerned, taking into consideration their personal context, situation and needs. For individual decisions, the child's best interests must be assessed and determined in light of the specific circumstances of the particular child.

* General Comment No 14, paragraph 37: Children have less possibilities than adults to make a strong case for their own interests and those involved in decisions affecting children must be explicitly aware of their interests.

* UNHCR Child Asylum Claims, paragraph 5, *op.cit.*

* UNHCR Child Asylum Claims, paragraph 10: The principle of the best interests of the child requires that the harm be assessed from the child's perspective.

* UNHCR Child Asylum Claims, paragraph 53: The child's best interests are relevant in all assessments regarding internal flight and displacement.

* UNHCR Child Asylum Claims, paragraph 54: The best interests of the child are among the factors to be considered in assessing the viability of a proposed place of internal relocation.

* UNHCR Guidelines, paragraph 4.1, *op.cit.*

* UNHCR Guidelines, paragraph, 5.4: If it is confirmed that the child is an asylum-seeker, every effort should be made to process the examination of their claim as expeditiously and as child-appropriate as possible.

* UNHCR Guidelines, paragraph, 10.1: In recognition of the particular vulnerability of unaccompanied children, every effort should be made to ensure that decisions relating to them are taken and implemented without any undue delays.

D 10. Legal Representation and Assistance

In all legal proceedings, including any appeals or reviews, separated children must have legal assistance and a legal adviser who will assist them to make their claim for protection and the implementation of any ensuing durable solution. Legal advisers must be available at no cost to the child and, in addition, possess expertise on migration law, the asylum process and instruments to protect victims of trafficking. They should be skilled in representing children, be gender-sensitive and be aware of child-specific forms of persecution and the exploitation of children in an international context.

- * CRC, Art. 12: The views of children are to be given due weight in relation to their age and maturity and children shall have the opportunity to be heard in all proceedings affecting them.
- * CRC, Art. 22: Where a refugee child's parents or other family members cannot be found, the child shall be given the same protection as any other child permanently or temporarily deprived of his or her family environment.
- * General Comment No 6, paragraph 69: Separated children should have free access to legal representation.
- * General Comment No 14, paragraph 96: The child will need appropriate legal representation when his or her best interests are to be formally assessed and determined by courts and equivalent bodies.
- * UNHCR Child Asylum Claims, paragraph 69: Children who are the principal applicants in an asylum procedure are also entitled to a legal representative. Such representatives should be properly trained and should support the child throughout the procedure.
- * UNHCR Guidelines, paragraph 4.2: Upon arrival, a child should be provided with a legal representative.
- * UNHCR Guidelines, paragraph 8.3: Not being legally independent, an asylum-seeking child should be represented by an adult who is familiar with the child's background and who would protect their interests. Access should also be given to a qualified legal representative. This principle should apply to all children, including those between sixteen and eighteen, even where application for refugee status is processed under the normal procedures for adults.

D 11. Minimum Procedural Guarantees

D 11.1 Decisions on a child's application for protection must be taken by a competent authority fully versed in asylum, refugee, trafficking, and other relevant protection matters and also in all legal instruments relating to children's rights. Procedures should uphold the principles of child-friendly justice and follow the same approach and techniques that are applied in other courts and settings dealing with child protection or juvenile justice. Children who receive a negative first decision must have a right of meaningful and substantive appeal to a judicial authority. The appeals procedure should be accessible for children and deadlines for appealing should be reasonable. Separated children's applications must be identified and prioritised to minimise delay and to ensure they are not kept waiting for long periods of time, though they should not be subject to accelerated protection procedures. The procedure must consider the best interests of the child within the context of their appeal against the refusal of protection.

D 11.2 Where interviews are required, they must be carried out in a child-friendly manner, with breaks, and in a non-threatening atmosphere, by officers trained in interviewing children. Children must be accompanied at each interview by their legal representative and where the child so desires, by other significant adults, for example, a social worker, relative or guardian. There must be a written record of the interview. Decisions made during and following the interview should be documented and provided to the child and their guardian. Separated children should be able to provide testimony through a number of different means, particularly if they have suffered trauma or if they possess limited levels of literacy. These means include oral testimony, drawings and writings, audio and video-recorded interviews with independent experts, and testimony via video-link.

D 11.3 It is desirable, particularly with younger children, children with a disability or those suffering from psychological trauma, that an independent expert carries out an assessment of the child's ability to articulate their need for protection or a well-founded fear of persecution and also to identify any difficulties a child may have in recounting painful incidents or disclosing sensitive information.

- * CRC, Art. 3.3: Institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety and health, in the number and suitability of their staff and competent supervision.

- * General Comment No 6, paragraph 71: Applications should be determined by competent authorities.

- * General Comment No 6, paragraph 95, *op.cit.*

- * General Comment No 14, paragraph 6(c): Assessing and determining the best interests of the child requires procedural guarantees.

- * General Comment No 14, paragraph 87: States must put in place formal processes, with strict procedural safeguards, designed to assess and determine the child's best interests for decisions affecting the child, including mechanisms for evaluating the results.

- * General Comment No 14, paragraph 94: Children are a diverse group, with each having his or her own characteristics and needs that can only be adequately assessed by professionals who have expertise in matters related to child and adolescent development. This is why the formal assessment process should be carried out in a friendly and safe atmosphere by professionals trained in, inter alia, child psychology, child development and other relevant human and social development fields, who have experience working with children and who will consider the information received in an objective manner. As far as possible, a multidisciplinary team of professionals should be involved in assessing the child's best interests.

- * General Comment No 14, paragraph 98: States should establish mechanisms within their legal systems to appeal or revise decisions concerning children when a decision seems not to be in accordance with the appropriate procedure of assessing and determining the child's or children's best interests.

- * UNHCR Child Asylum Claims, paragraph 2: Children's unique experiences of persecution, due to factors such as their age, their level of maturity and development and their dependency on adults must be taken into account. Children may not be able to articulate their claims to refugee status in the same way as adults and, therefore, may require special assistance to do so.

- * UNHCR Child Asylum Claims, paragraph 6: Each child has the right to make an independent refugee claim, regardless of whether they are accompanied or unaccompanied.

- * UNHCR Child Asylum Claims, paragraph 8: Even at a young age, a child may still be considered the principal asylum applicant. Where the child is the principal asylum-seeker, their age and, by implication, level of maturity, psychological development and ability to articulate certain views or opinions will be important factors in a decision maker's assessment.

- * UNHCR Child Asylum Claims, paragraph 65: Due to their young age, dependency and relative immaturity, children should enjoy specific procedural and evidentiary safeguards to ensure that fair refugee status determination decisions are reached with respect to their claims

* UNHCR Child Asylum Claims, paragraph 66: Claims made by child applicants, whether they are accompanied or not, should normally be processed on a priority basis, as these children will often have special protection and assistance needs. Priority processing means reduced waiting periods at each stage of the asylum procedure, including as regards the issuance of a decision on the claim. However, before the start of the procedure, children require sufficient time to prepare for and reflect on rendering the account of their experiences. They will need time to build trusting relationships with their guardian and other professional staff and to feel safe and secure.

* UNHCR Child Asylum Claims, paragraph 69, *op.cit.*

* UNHCR Child Asylum Claims, paragraph 70: The right of children to express their views and to participate in a meaningful way is also important in the context of asylum procedures. A child's own account of their experience is often essential for the identification of their individual protection requirements and, in many cases, the child will be the only source of this information. Ensuring that the child has the opportunity to express these views and needs requires the development and integration of safe and child-appropriate procedures and environments that generate trust at all stages of the asylum process. It is important that children be provided with all necessary information, in a language and manner they understand, about the possible existing options and the consequences arising from them.

* UNHCR Child Asylum Claims, paragraph 71: Appropriate communication methods need to be selected for the different stages of the procedure, including the asylum interview, and need to take into account the age, gender, cultural background and maturity of the child, as well as the circumstances of the flight and mode of arrival. Useful, non-verbal communication methods for children might include playing, drawing, writing, role-playing, story-telling and singing. Children with disabilities require "whatever mode of communication they need to facilitate expressing their views".

* UNHCR Child Asylum Claims, paragraph 72: It is essential that examiners have the necessary training and skills to be able to evaluate accurately the reliability and significance of the child's account. This may require involving experts in interviewing children outside a formal setting or observing children and communicating with them in an environment where they feel safe, for example in a reception centre.

* UNHCR Child Asylum Claims, paragraph 77: Decisions need to be communicated to children in a language and in a manner they understand. Children need to be informed of the decision in person, in the presence of their guardian, legal representative, and/or other support person, and in a supportive and non-threatening environment. If the decision is negative, particular care will need to be taken in delivering the message to the child and explaining what next steps may be taken in order to avoid or reduce psychological stress or harm.

* UNHCR Guidelines, paragraph 4.2, *op.cit.*

* UNHCR Guidelines, paragraph 8.1, *op.cit.*

* UNHCR Guidelines, paragraph 8.2: Minimum procedural guarantees should include determination by a competent authority, fully qualified in asylum and refugee

matters, where the age and maturity of the child permits, the opportunity for a personal interview with a qualified official before any final decision is made, and a possibility to appeal for a formal review of the decision.

* UNHCR Guidelines, paragraph 8.4: The interviews should be conducted by specially qualified and trained representatives of the refugee determination authority who will take into account the special situation of unaccompanied children in order to carry out the refugee status assessment.

* UNHCR Guidelines, paragraph 8.5, *op.cit.*

D 12. Criteria for Making a Decision on a Child's International Protection Needs and a Durable Solution

D 12.1 Separated children must never be refused or granted permission to remain within the host country solely on the basis of their age. In ensuring protection and seeking durable solutions, the best interests of the child must be a primary consideration. Careful attention must be paid to the child's right to family unity within the determination of their best interests. Authorities should specifically consider the:

- Views of the child
- Age and maturity of the child and their stage of development
- Possibility that the child may manifest their fears and experiences differently from adults
- Possibility that the child will have limited knowledge of conditions in their country of origin
- Existence of child-specific forms of persecution and human rights violations, such as, but not limited to, recruitment of children into armies, trafficking for sexual exploitation, female genital mutilation and other harmful traditional practices, such as early marriage and breast ironing, and forced labour
- Situation of the child's family in their country of origin and in the consideration of a durable solution the wishes of parents or primary caregivers who may have sent the child out of the country in order to protect them
- The lower threshold for determining whether harm rise to the level of persecution in cases involving children
- Length of time the child has spent in exile
- Relevant child-specific country of origin information

D 12.2 Therefore, in the examination of the protection needs of a separated child, it may be necessary to have greater regard to certain objective factors and to take those into account when making determinations about whether a child may be at risk of harm or is presumed to have a well-founded fear of persecution based upon these factors. Additionally, in cases concerning children, it may be for the

decision maker to use all the means at their disposal to produce the necessary evidence in support of the application. A liberal application of the benefit of the doubt should be applied when making determinations on the international protection needs of separated children.

* CRC, Arts. 3, 12, 22, 32, 34, 35, 36 & 37, *op.cit.*

* CRC, Art. 38: States shall ensure that persons under the age of 15 do not take a direct part in armed conflict.

* General Comment No 6, paragraph 72: Assessment should comprise a case-by-case examination of the unique combination of factors presented by each child.

* General Comment No 6, paragraph 74: When assessing refugee claims, States shall take into account the particular motives for, and manifestations of, persecution experienced by children.

* UNHCR Child Asylum Claims, paragraph 4: Alongside age, factors such as rights specific to children, a child's stage of development, knowledge and/or memory of conditions in the country of origin and vulnerability also need to be considered to ensure an appropriate application of the eligibility criteria for refugee status.

* UNHCR Child Asylum Claims, paragraph 10: Ill-treatment, which may not rise to the level of persecution in the case of an adult, may do so in the case of a child.

* UNHCR Child Asylum Claims, paragraph 11: Both objective and subjective factors are relevant to establish whether or not a child applicant has a well-founded fear of persecution. An accurate assessment requires both an up-to-date analysis and knowledge of child-specific circumstances in the country of origin, including of existing child protection services. Dismissing a child's claim based on the assumption that perpetrators would not take a child's views seriously or consider them a real threat could be erroneous. It may be the case that a child is unable to express fear when this would be expected or, conversely, exaggerates the fear. In such circumstances, decision makers must make an objective assessment of the risk that the child would face, regardless of that child's fear. This would require consideration of evidence from a wide array of sources, including child-specific country of origin information. When the parent or caregiver of a child has a well-founded fear of persecution for their child, it may be assumed that the child has such a fear, even if they do not express or feel that fear.

* UNHCR Child Asylum Claims, paragraph 12: Alongside age, other identity-based, economic and social characteristics of the child, such as family background, class, caste, health, education and income level may increase the risk of harm, influence the type of persecutory conduct inflicted on the child and exacerbate the effect of the harm on the child.

* UNHCR Child Asylum Claims, paragraph 14: Children's socio-economic needs are often more compelling than those of adults, particularly due to their dependency on adults and unique developmental needs. Deprivation of economic, social and cultural rights, thus, may be as relevant to the assessment of a child's claim as that of civil and political rights. It is important not to automatically attribute greater significance

to certain violations than to others, but to assess the overall impact of the harm on the individual child.

* UNHCR Child Asylum Claims, paragraph 15: While children may face similar or identical forms of harm as adults, they may experience them differently. Actions or threats that might not reach the threshold of persecution in the case of an adult, may amount to persecution in the case of a child, because of the mere fact that they are a child.

* UNHCR Child Asylum Claims, paragraph 16: In the case of a child applicant, psychological harm may be a particularly relevant factor to consider.

* UNHCR Child Asylum Claims, paragraph 17: Children are also more sensitive to acts that target close relatives. Harm inflicted against members of the child's family can support a well-founded fear in the child.

* UNHCR Child Asylum Claims, paragraphs 18 - 36: Children may also be subjected to specific forms of persecution that are influenced by their age, lack of maturity or vulnerability. The fact that the refugee claimant is a child may be a central factor in the harm inflicted or feared. This may be because the alleged persecution only applies to, or disproportionately affects, children or because specific child rights may be infringed. Child-specific forms of persecution may include underage recruitment, child trafficking and female genital mutilation. Other examples include, but are not limited to, family and domestic violence, forced or underage marriage, bonded or hazardous child labour, forced labour, forced prostitution and child pornography. Such forms of persecution also encompass violations of survival and development rights, as well as severe discrimination of children born outside strict family planning rules and of stateless children as a result of loss of nationality and attendant rights.

* UNHCR Child Asylum Claims, paragraph 37: In child asylum claims, the agent of persecution is frequently a non-State actor. These may include militarized groups, criminal gangs, parents and other caregivers or community and religious leaders. In such situations, the assessment of the well-founded fear of persecution has to include considerations as to whether or not the State is unable or unwilling to protect the victim.

* UNHCR Child Asylum Claims, paragraph 38: The assessment will depend not only on the existence of a legal system that criminalizes and provides sanctions for the persecutory conduct. It also depends on whether or not the authorities ensure that such incidents are effectively investigated and that those responsible are identified and appropriately punished.

* UNHCR Child Asylum Claims, paragraph 39: The child's access to State protection also depends on the ability and willingness of the child's parents, other primary caregiver or guardian to exercise rights and obtain protection on behalf of the child.

* UNHCR Child Asylum Claims, paragraphs 40 - 52: It is necessary to establish whether or not the child's well-founded fear of persecution is linked to one or more of the five grounds listed in the 1951 Refugee Convention.

* UNHCR Child Asylum Claims, paragraph 54: Internal relocation is only relevant where the applicant can access practically, safely and legally the place of relocation.

* UNHCR Child Asylum Claims, paragraph 59: In view of the particular circumstances and vulnerabilities of children, the application of the exclusion clauses (contained in Article 1F of the 1951 Convention) to children always needs to be exercised with great caution. In the case of young children, the exclusion clauses may not apply at all. Where children are alleged to have committed crimes while their own rights were being violated (for instance while being associated with armed forces or armed groups), it is important to bear in mind that they may be victims of offences against international law and not just perpetrators.

* UNHCR Child Asylum Claims, paragraph 73: Although the burden of proof usually is shared between the examiner and the applicant in adult claims, it may be necessary for an examiner to assume a greater burden of proof in children's claims, especially if the child concerned is unaccompanied.

* UNHCR Guidelines, paragraphs 8.6 - 8.10: Outlines procedural safeguards for children.

* UNHCR Guidelines, paragraph 9.7: Outlines the need for a multi-disciplinary approach to the identification of durable solutions.

* UNHCR Guidelines, paragraph 10.4: A careful individual assessment, taking into account such factors as the child's age, sex, emotional state, family background, continuity/discontinuity of care, possibilities of family reunion, reasons for flight and educational background should be carried out.

Following the determination of best interests and outcome of any application for international protection, the ensuing durable solution will likely take the form of either; reuniting the child with their family, either in the host country, country of origin or a third country; the child remaining in the host country without the care of family members; or, exceptionally, the child returning to their country of origin to be cared for by non-family members. (See D. 13 and D. 15 for the guarantees that need to be taken into account regarding return to the country of origin and family reunification).

D 13. Family Reunification

D 13.1 In any situation regarding a separated child, States must positively and proactively facilitate family reunion for the child in the State where the child's best interests will be met. An assessment of the child's family should take place before reunification can take place.

D 13.2 For the purpose of family reunification, a broad definition of family should be applied where it is in the child's best interests to do so. A family should include, though is not limited to, parents, grandparents, aunts and uncles, brothers and sisters, and others who have been the main carer for the child.

D 13.3 If it is determined to be in the best interests of the child that family reunification should take place in the host country, entry and residence authorization should be granted to the child's family members, including brothers and sisters. Such an application by a child or parent should be dealt with in a positive, humane and expeditious manner.

D 13.4 If family reunification should take place in the child's country of origin or in a third country, the reunification must be in accordance with the safeguards set out in section D15 (below). In such cases, the child welfare authority in the country where the family member is living (whether temporary or otherwise) must carry out a careful and thorough assessment of the suitability of the family member to provide care for the child.

* CRC, Art. 10(1): Applications for family reunification shall be dealt with in a "positive, humane and expeditious manner."

* General Comment No 6, paragraph 81: All efforts should be made to return a separated child to their parents, except where further separation is necessary in the best interests of the child.

* General Comment No 6, paragraph 82: Family reunification in the country of origin is not in the child's best interest when there is a reasonable risk that return would lead to a violation of the child's fundamental human rights.

* General Comment No 6, paragraph 83: Applications by a child to have his or her parents enter a State for the purpose of family reunification shall be dealt with humanely and quickly.

* UNHCR Child Asylum Claims, paragraph 68: For unaccompanied and separated

child applicants, efforts need to be made as soon as possible to initiate tracing and family reunification with parents or other family members. There will be exceptions, however, to these priorities, where information becomes available suggesting that tracing or reunification could put the parents or other family members in danger, that the child has been subjected to abuse or neglect, and/or where parents or family members may be implicated or have been involved in the child's persecution.

* UNHCR Guidelines, paragraph 5.5: There may be situations where families are split between countries. If one of the child's parents is in another asylum country, every effort should be made to reunite the child with that parent at an early stage, before status determination takes place.

* UNHCR Guidelines, paragraph 10.5: Family reunion is the first priority and it is essential that unaccompanied children are assisted in locating and communicating with their family members. Advice may be sought from the ICRC Central Tracing Agency or, if need be, from the tracing services of other international institutions.

* UNHCR Guidelines, paragraph 10.11: When it is considered that resettlement is in the best interest of the child, generally on the ground of family reunification, swift implementation is important.

D 14. Remaining and Integration in a Host Country

D 14.1 Separated children must be allowed to remain legally in a host country if it is determined to be in their best interests to do so. This is likely to be the case if one or more of the following conditions apply:

- They are a refugee or a person in need of international protection or asylum.
- There are humanitarian, medical or compassionate reasons why they should stay.
- They are trafficked children and it is not safe to return to their country of origin.
- It is not safe for the child to return to their country of origin, for example, due to armed conflict, upheaval or civil unrest.
- They are recognised as being stateless.
- The child's parents or carers are unwilling or unable to provide concrete and secure care arrangements, or they are not traceable and it is not possible to identify or locate another previous legal or customary primary carer in the country of origin.

D 14.2 When considering meaningful integration in the host country, welfare authorities must conduct a careful assessment of the child's situation, taking into account the views of the child, their age, gender, religion, culture and language, care history, mental and physical health, education and family situation in the country of origin. In consultation with the child, a long-term placement in the community should then be arranged. This may of course be a continuation of the interim care placement. Placements need to balance the views of the child with the need for cultural sensitivity and the need for effective integration. It is generally desirable that children under 16 years of age are cared for in a foster family, unless the child has sound reasons that demonstrate this is not in their best interests. Guidance, training and supervision must be provided to foster carers. Older children may prefer and benefit from placement in a small group home environment. These placements should be staffed by properly trained care workers who are aware of the separated child's cultural needs. The types of placements that are considered for separated children should not be informed by the child's immigration status.

D 14.3 As a matter of principle, siblings should be kept together in the same placement, unless they wish otherwise or it is not in their best interests. If a sibling group is living independently, with the oldest taking responsibility, they must be provided with appropriate support and advice.

D 14.4 Adoption is rarely a suitable option for a separated child. Before adoption can be considered viable or desirable, a rigorous assessment, conducted by an authorised and specialised organisation, of the child's family circumstances in the country of origin is essential. Clear procedures are outlined in the recommendation of The Hague Conference on Private International Law.

D 14.5 Separated children who are found to be stateless, should be assisted in acquiring nationality.

D 14.6 The rights of separated children to education and training, health care, language support, social assistance, leisure and employment, as outlined at section D8.4, should continue on the same basis as is available to national children and according to national laws.

D 14.7 Temporary residency is not a durable solution and must not be granted merely as an administrative response that will be ended abruptly upon the child turning 18. The process of finding a durable solution must be started immediately. Individuals who arrived as children and were allowed to remain for humanitarian or compassionate reasons, or who received any other kind of temporary status expiring at the age of 18, should be treated in a generous manner when they reach the age of majority and full regard should be given to their potential vulnerability. They should not receive lesser treatment than national children leaving care and should be offered support via an after-care programme, to assist them in their transition to living independently.

* CRC, Arts. 2, 3, 13, 14, 15, 16, 19, 20, 24 – 28, 29(1c), 30 & 39, *op.cit.*

* CRC, Art. 7(1): Children have the right to acquire a nationality.

* CRC, Art. 21: States obligations with regard to inter-country adoption.

* CRC, Art. 23: States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

- * CRC, Art. 31: States Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child, and to participate freely in cultural life and the arts; States Parties shall respect and promote these rights and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activities.

- * General Comment No 6, paragraph 77: Separated children shall benefit from available forms of complimentary protection.

- * General Comment No 6, paragraph 89: Integration is the primary option if return is not possible and should be based on a secure legal status.

- * General Comment No 6, paragraph 91: Adoption of a separated child should only be considered if it has been established that the child is in a position to be adopted; adoptions should not take place in haste; the adoption must be in the child's best interests and carried out under applicable law; the views of the child must be sought; and priority must be given to adoption by relatives in their country of residence. Adoption should not take place unless all feasible steps have been taken to trace the child's parents or other family members, it has been established that there is no reasonable hope of tracing the child's family and the child wants to be adopted. There can also be a possibility of voluntary repatriation under conditions of safety and dignity.

- * UNHCR Guidelines, paragraph 9.1, *op.cit.*

- * UNHCR Guidelines, paragraph 9.4: The best interests of an unaccompanied child require that the child not be returned unless, prior to the return, a suitable caregiver, such as a parent, other relative, other adult care-taker, a government agency or a childcare agency in the country of origin has agreed and is able to take responsibility for the child and provide them with appropriate protection and care.

- * UNHCR Guidelines, paragraph 10.3: To facilitate the integration of the child into the host country, a structured orientation programme, in which the child is given a thorough explanation of their legal status and a brief introduction to the host culture, should be provided. The information should be adapted to the age of the child.

- * UNHCR Guidelines, paragraph 10.4, *op.cit.*

- * UNHCR Guidelines, paragraphs 10.6 - 10.10: Outlines considerations regarding placements and integration.

D 15. Return and Reintegration to Country of Origin or Third Country Resettlement or Transfer

D 15.1 In case of a decision that a separated child is to be returned or resettled under the provision of any form of return, transfer (for example, the ‘Dublin Regulation’), re-entry or resettlement agreements or Directives, steps must be taken to establish that such a course of action is in the best interests of the child. A separated child must never be returned or resettled simply because they do not have a legal right to remain in the host country or because they fit into an administrative return, transfer, re-entry or resettlement procedure. In any event, a separated child should only return to their country of origin or be transferred to, or resettled in, a third country when that has been determined to be in their best interests.

D 15.2 The best way for returns, transfers and resettlement to be carried out is on a voluntary basis, if this is in the best interests of the child. Children must be fully informed and consulted and their views taken into account at all stages of the process. The length of time a child has been absent from their country of origin, their connection to the country where it is proposed to resettle or transfer them to and their age are important factors to consider in this process.

D 15.3 Before a separated child can return to their country of origin or be resettled in, or transferred to, a third country, a Best Interests Determination must be undertaken. This must be multi-disciplinary in nature, involving a range of relevant agencies. The outcome of this determination must, as a minimum, be informed by the following:

- A careful determination of whether it is safe to return the child to their home country or to the proposed transfer or resettlement country, taking into consideration risks of persecution, of being involved in armed conflicts, of violence and abuse, and of being exploited.
- The child’s carer or guardian in the host country agrees that return, transfer or resettlement is in the child’s best interests.

- A careful social assessment is made of the family situation in the home country or proposed country of resettlement or transfer. Parents or carers must prove their identity and it will be necessary to investigate the willingness and ability of the child's family (parents or other family members) or other carers to provide appropriate care.
- A careful assessment is undertaken concerning access to food, housing, health care, education, vocational training and employment opportunities in the country of origin or proposed country of resettlement or transfer.
- The child's parents, relatives or other adult carers agree to take over guardianship of the child and provide long-term care upon the child's arrival in the country of origin or country of resettlement or transfer.
- The family's views on the child's return, resettlement or transfer must be investigated and taken into consideration.
- The child is fully informed and consulted at all stages and is provided with appropriate counselling and support. The child's views on return, resettlement and transfer, and the pace and timing of this, must be taken into consideration, in accordance with their age and maturity.
- Prior to the return, resettlement or transfer, regular contact between the child and their family is facilitated.
- A reintegration plan, offering support to both the child and their family, is drawn up in collaboration with child welfare services in the country of origin, resettlement or transfer.

D 15.4 Separated trafficked children must never be returned to their country of origin, or resettled or transferred to a third country, without a thorough assessment of the family context and the potential risks of reprisal or re-trafficking, thus ensuring that the child is returning or moving to a safe environment. Further, particular attention must be paid to the risk of stigmatisation and social exclusion that trafficked children, especially those exploited in the sex industry, may experience upon return to their country of origin or in a third country.

D 15.5 Where a Best Interests Determination results in a decision to return, transfer or resettle a separated child, they must be properly accompanied during their journey, by a person with whom they have a trusting relationship, for example a guardian or social worker. Mechanisms must be established to effectively monitor the ongoing well-being of the child and the implementation of the reintegration plan.

D 15.6 Residential care is the least preferred form of substitute care for any separated child, because it fails to recreate the normal conditions in which children should ideally grow up and develop. Return to a child welfare institution in the country of origin or a third country must only take place if it is part of an agreed plan to reunite with family in a timely fashion, or if there are exceptional reasons why it is in an individual child's best interests. Parents or carers must prove their identity and guarantees must be secured that the child will be safe and protected.

D 15.7 Separated children who arrived as children, but who have reached the age of 18 and have not been allowed to remain in the receiving country, must be treated as vulnerable and consulted on the conditions required for a successful reintegration into their country of origin, resettlement or transfer.

D 15.8 Separated children must never be returned to 'transit' countries, unless a careful assessment (as outlined above) has been made on the impact of return upon the child and it is clear that return will be in the best interests of the child. In particular, there must be no risk of subsequent return to a place where the child may face persecution, harm or ill-treatment.

* CRC, Art. 3, *op.cit.*

* CRC, Art. 5: States shall respect the rights and duties of parents or the extended family to provide the child with appropriate direction and guidance.

* CRC, Arts. 6, 12, 19, 20, 24, 27, 28, 34, 35, 36, 37(a), 38 & 39, *op.cit.*

* General Comment No 6, paragraph 84: Return to the country of origin is not an option if there is a reasonable risk that return will result in a violation of the child's fundamental human rights. Return should only take place if it is in the best interests of the child.

* General Comment No 6, paragraph 85: Concrete care arrangements and custodial responsibilities must be in place prior to return.

* UNHCR Child Asylum Claims, paragraph 27: The impact of reprisals by members of the trafficking network, social exclusion, ostracism and/or discrimination against a child victim of trafficking who is returned to their home country needs to be assessed in a child-sensitive manner.

* UNHCR Child Asylum Claims, paragraph 55: In cases where an internal flight or relocation alternative is deemed relevant, a proposed site of internal relocation that may be reasonable in the case of an adult, may not be reasonable in the case of a

child. The reasonableness test is one that is applicant-specific and, thus, not related to a hypothetical reasonable person. Age and the best interests of the child are among the factors to be considered in assessing the viability of a proposed place of internal relocation

* UNHCR Child Asylum Claims, paragraph 56: Where children are unaccompanied and, therefore, not returning to the country of origin with family members or other adult support, special attention needs to be paid as to whether or not such relocation is reasonable.

* UNHCR Child Asylum Claims, paragraph 57: If the only available relocation option is to place the child in institutional care, a proper assessment needs to be conducted of the care, health and educational facilities that would be provided and with regard to the long-term life prospects of adults who were institutionalized as children.

* UNHCR Guidelines, paragraphs 9.4, 9.5, & 10 – 12, *op.cit.*

Colophon

Statement of Good Practice

5th revised edition

Separated Children in Europe Programme 2019

ISBN 978-90-74270-44-1

First edition: 250 copies

Printed by: Okay Color

Photography: Cover, 'Flüchtlinge' by Lydia Geissler (AdobeStock)

Design: Designink.nl, Den Haag

The Statement of Good Practice and the Annex (references) can also be found online at: www.scepnetwork.org and www.childrightshelpdesk.org

Published by

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Statement of Good Practice

5th revised edition

ANNEX I – References



Separated Children in Europe Programme

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Abbreviations and Acronyms used for References

1951 Refugee Convention

United Nations Convention Relating to the Status of Refugees, 1951

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ACE Toolkit

Alternative Care in Emergencies Toolkit, Save the Children, 2013 Toolkit

<http://www.savethechildren.org.uk/resources/online-library/alternative-care-emergencies-toolkit>

Cape Town Principles

Cape Town principles and best practice on the prevention of recruitment of children into the armed forces and demobilisation and social reintegration of child soldiers in Africa, UNICEF, 1997

[www.unicef.org/emerg/files/Cape_Town_Principles\(1\).pdf](http://www.unicef.org/emerg/files/Cape_Town_Principles(1).pdf)

CAT

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

CDE

Convention Against Discrimination in Education, 1960

<http://www.unesco.org/most/lnlaw3.htm>

CEDAW

Convention on the Elimination of All Forms of Discrimination Against Women, 1979

www.un.org/womenwatch/daw/cedaw/

CERD

International Convention on the Elimination of All Forms of Racial Discrimination, 1965

<http://www.refworld.org/docid/3ae6b3940.html>

CoE

Council of Europe

www.coe.int/

CoE Trafficking

Council of Europe Convention on Action Against Trafficking in Human Beings, 2005

<http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/197>

CoE Ministers 91

Committee of Ministers Recommendation No R (91) 11 Concerning Sexual Exploitation, Pornography and Prostitution of, and Trafficking in Children and Young Adults

www.coe.int/t/dghl/standardsetting/victims/recR_91_11e.pdf

CoE Ministers 2000

Committee of Ministers Recommendation No R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation

<https://rm.coe.int/16804fda79>

CoE Rec. Training of Officials

Council of Europe Parliamentary Assembly Recommendation No 1309 (1996) on the training of officials receiving asylum-seekers at border points

<http://www.refworld.org/docid/3ae6b37dc.html>

CoE Rec. Airports

Council of Europe Parliamentary Assembly Recommendation No 1475 (2000) on arrival of asylum-seekers at European airports

<https://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=8952&lang=en>

CoE Rec. On expulsion

Council of Europe Parliamentary Assembly Recommendation No 1547 (2002) on expulsion procedures in conformity with human rights and enforced with respect for safety and dignity

<http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16971>

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EU Dir. Returns

Council Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32008L0115>

EU Dir. Trafficking

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Council of the EU Resolution on minimum guarantees for asylum procedures, 1995

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UNHCR

United Nations High Commissioner for Refugees

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UNHCR Guidelines on International Protection: 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

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UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum, 1997

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UNHCR Statelessness

UNHCR Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1- 4 of the 1961 Convention on the Reduction of Statelessness.

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B. First Principles

B 1. Best Interests

- * CRC,
 - Art. 3(1): In all actions concerning children ... the best interests of children shall be a primary consideration.
 - Art. 20(1): A child temporarily or permanently deprived of his or her family environment, or who, in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
 - * General Comment No 6, paragraphs 19 – 22: Best interests must be respected at all stages of the displacement cycle.
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- * General Comment No 14,
 - Paragraph 6: The child's best interest is a threefold concept, a substantive right, a fundamental interpretive legal principle and a rule of procedure.
 - Paragraph 13: Each State Party must respect and implement the right of the child to have his or her best interests assessed and taken as a primary consideration.
 - Paragraph 14: States are obliged to ensure that the child's best interests are appropriately integrated and consistently applied in every action taken by a public institution; States are also obliged to ensure that all judicial and administrative decisions, as well as policies and legislation, demonstrate that the child's best interests have been a primary consideration; States also have the obligation to ensure that the child's best interests have been assessed and taken as a primary consideration in decisions and actions taken by the private sector.
 - Paragraph 32: The concept of the child's best interests is complex and its content must be determined on a case-by-case basis.
 - Paragraph 54: The fact that the child is very young or in a vulnerable situation (e.g. has a disability, belongs to a minority group or is a migrant) does not deprive him or her of the right to express his or her views, nor does it reduce the weight given to the child's views in determining his or her best interests.
 - * UNHCR Child Asylum Claims, paragraph 5: A child-sensitive application of the refugee definition would be consistent with the best interests of the child as a primary consideration in all actions concerning children.
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- * UNHCR Guidelines, paragraph 1.5: Reaffirms CRC, Art. 3(1).
 - * ACE Toolkit, page 21: Every child is unique. An assessment of the risks to the child and of their needs, wishes and capacities will determine what actions are in the child's best interests.
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- * CFREU, Art. 24(2): In all actions undertaken by public bodies and private institutions the child's best interests shall be a primary consideration.
 - * Dublin Recast, Preamble (13): The best interests of the child should be a primary

consideration of Member States when applying this Regulation.

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- * ECRE (Children), paragraph 4: The best interests of the child principle should inform the entire determination procedure.

 - * EU Dir. Family, Art. 5(5): When examining an application, the Member States shall have due regard to the best interests of children.

 - * EU Dir. Procedures Recast, Preamble (33): The best interests of the child should be a primary consideration for Member States.

 - * EU Dir. Qualifications Recast, Preamble (18): The best interests of the child should be a primary consideration of Member States when implementing this Directive.

 - * EU Dir. Qualifications Recast, Art. 20(5): The best interests of the child shall be a primary consideration for Member States when assessing the need for international protection.

 - * EU Dir. Reception Recast,
 - Preamble (9): In applying this Directive, Member States should seek to ensure full compliance with the principles of the best interests of the child and of family unity.
 - Art. 23(1): The best interests of the child shall be a primary consideration for Member States when implementing the provisions of this Directive that involve children.

 - * EU Dir. Residence Permits, Art. 10(a): Member States shall take due account of the best interests of the child when applying this Directive.

 - * EU Dir. Returns,
 - Preamble (22): In line with the 1989 United Nations Convention on the Rights of the Child, the best interests of the child should be a primary consideration of Member States when implementing this Directive.
 - Art. 5(a): When implementing this Directive, Member States shall take due account of the best interests of the child.

 - * EU Dir. Trafficking,
 - Preamble (8): In the application of this Directive, the child's best interests must be a primary consideration.
 - Art. 13(1): Child victims of trafficking in human beings shall be provided with assistance, support and protection. In the application of this Directive, the child's best interests shall be a primary consideration.

 - * EURODAC Recast, Preamble (35): The best interests of the child should be a primary consideration for Member States when applying this Regulation.

 - * General Comment No 31/18, paragraph 52: The best interests of the child and the protection of the rights of girls and women should always be taken into consideration.

 - * ICESCR, Art. 10(3): Special measures of protection are to be taken on behalf of children without discrimination.

 - * Joint General Comment No 3,
 - Paragraph 30: The best interests of the child should be ensured explicitly

through individual procedures as an integral part of any administrative or judicial decision concerning the entry, residence or return of a child, placement or care of a child, or the detention or expulsion of a parent associated with his or her own migration status.

- Paragraph 32(c): State Parties should ensure that all best-interests assessments and determinations developed and conducted give appropriate weight to fulfilling the rights of the child, in the short and long terms, in the decision-making processes affecting children; and ensure due process safeguards are established, including the right to free, qualified and independent legal representation. The best interests assessment should be carried out by actors independent of the migration authorities in a multidisciplinary way, including a meaningful participation of authorities responsible for child protection and welfare and other relevant actors, such as parents, guardians and legal representatives, as well as the child.

- * Quality4Children, Standard 3, page 14: The decision-making process involves two questions (one of which is) - Which solution meets the best interests of the child?

- * UN Commentary Trafficking, page 11: The treatment of children should follow a determination of their best interests.

- * UNHCR BID,
 - Introduction: National child protection systems usually include strict procedural safeguards to identify the best interests of the child before taking certain major decisions.
 - Annex 9: Factors that determine a child's 'best interests' checklist.

- * UNHCR Refugee Children,
 - Page 22: When a decision is being made about an individual child, the child's best interests must be, at a minimum, a primary consideration.
 - Page 129: The plan for a long-term solution must be based on the individual child's best interests.

B 2. Survival and Development

- * CRC, Art. 6(1): States Parties recognize that every child has the inherent right to life.

- * General Comment No 14, paragraph 42: States must create an environment that respects human dignity and ensures the holistic development of every child. In the assessment and determination of the child's best interests, the State must ensure full respect for his or her inherent right to life, survival and development.

- * UNHCR Child Asylum Claims, paragraph 5: A child-sensitive application of the refugee definition would be consistent with the child's inherent right to life and States Parties' obligation to ensure to the maximum extent possible the survival and development of the child.

- * UNHCR Guidelines, paragraph 7.1: Children seeking asylum, particularly if they

are unaccompanied, are entitled to special care and protection.

* General Comment No 6, paragraphs 23 – 24: Separated children are vulnerable to various risks that affect their life, survival and development and measures must be taken to protect children from these risks.

* CFREU, Art. 2(1): Everyone has the right to life.

* Dublin Recast, Preamble (13): In assessing the best interests of the child, Member States should, in particular, take due account of the child's well-being and social development, safety and security considerations.

* EU Dir. Procedures Recast, Preamble (33): In assessing the best interest of the child, Member States should in particular take due account of the child's well-being and social development, including his or her background.

* EU Dir. Qualifications Recast, Preamble (28): It is necessary, when assessing applications from children for international protection, that Member States should have regard to child-specific forms of persecution.

* EU Dir. Reception Recast, Art. 23(1): Member States shall ensure a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

* EU Dir. Trafficking,

- Art. 11(5): Assistance and support shall be provided on a consensual and informed basis and shall include at least standards of living capable of ensuring victims' subsistence through measures, such as the provision of appropriate and safe accommodation and material assistance, as well as necessary medical treatment, including psychological assistance.

- Art. 13(1): Child victims of trafficking in human beings shall be provided with assistance, support and protection.

* Joint General Comment No 3, paragraph 42: States parties must reduce to the maximum extent possible the migration-related risks faced by children, which may jeopardize a child's right to life, survival and development.

* UN Commentary Trafficking,

- Page 10: When transposing the Directive, Member States are encouraged to ensure that all actions in relation to children are guided by the principles of protection and respect for children's rights.

- Page 21: Under international human rights law, States have a legal responsibility to respect, protect and fulfil the rights of all persons within their territory.

- Page 39: The disappearance of asylum-seeking children from care centres is an increasingly worrying phenomenon, which requires better adjusted approaches to outreach services for these children, in particular those who are resisting self-identification as refugees and/or victims of trafficking, accompanied by strengthened child protection measures, such as guardianship and closer supervision, rather than using detention to try to prevent disappearance.

* UN Guidelines on Alternative Care, paragraph 141: Unaccompanied or separated children already abroad should, in principle, enjoy the same level of protection and care as national children in the country concerned.

* UNICEF Child Trafficking, page 12: Child victims are entitled to special protection measures, both as victims and as children, in accordance with their specific rights and needs. The State shall protect and assist child victims and to ensure their safety.

B 3. Non-discrimination

- * CRC,
 - Art. 2: The rights of the CRC apply to all children without discrimination of any kind and irrespective of their parents' or their own race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
 - Art. 22(1): Separated refugee and asylum-seeking children are entitled to protection and assistance in order to enjoy the rights in the CRC and in other international human rights or humanitarian instruments to which the States are Parties.
 - Art. 22(2): Where a refugee child's parents or other family members cannot be found, the child shall be given the same protection as any other child permanently or temporarily deprived of his or her family environment.

- * General Comment No 6, paragraph 18: The principle of non-discrimination, in all its facets, applies in respect to all dealings with separated children. In particular, it prohibits any discrimination on the basis of the status of a child being unaccompanied or separated, or as being a refugee, asylum-seeker or migrant.

- * General Comment No 14,
 - Paragraph 41: The right to non-discrimination is not a passive obligation, prohibiting all forms of discrimination in the enjoyment of rights under the Convention, but also requires appropriate proactive measures taken by the State to ensure effective equal opportunities for all children to enjoy the rights under the Convention.
 - Paragraph 55: Children are not a homogeneous group and therefore diversity must be taken into account when assessing their best interests.

- * UNHCR Child Asylum Claims, paragraph 5: A child-sensitive application of the refugee definition would be consistent with the obligation of States to respect and ensure the rights set forth in the Convention on the Rights of the Child to each child within their jurisdiction without discrimination of any kind.

- * ACE Toolkit, page 23: All children, regardless of their nationality, ethnicity, gender, age, ability or status, must be protected and provided with the basic services required for their survival and development.

- * CEDAW: This Convention sets out measures to eliminate all forms of discrimination against women and girls.

- * CERD

- * CoE Trafficking,

- Preamble: All actions against trafficking in human beings must be non-discriminatory, take gender equality into account and take a child rights approach.
- Art.3: The Convention will be implemented without discrimination

- * CFREU, Art. 21(1): Any discrimination shall be prohibited.

- * ECHR, Art.14: The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

- * ECRE (Children), paragraphs 5 – 7: Children should be afforded all the rights in the CRC and the rights as set forth in other human rights instruments.

- * EU Dir. Family, Preamble (5): Member States should give effect to the provisions of this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic characteristics, language, religion or beliefs, political or other opinions, membership of a national minority, fortune, birth, disabilities, age or sexual orientation.

- * EU Dir. Reception Recast, Preamble (8): In order to ensure equal treatment of applicants throughout the Union, this Directive should apply during all stages and types of procedures concerning applications for international protection.

- * EU Dir. Residence Permits, Preamble (7): Member States should give effect to the provision of this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic characteristics, language, religion or belief, political or other opinions, membership of a national minority, fortune, birth, disabilities, age or sexual orientation.

- * EU Dir. Returns, Preamble (21): Member States should implement this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinions, membership of a national minority, property, birth, disability, age or sexual orientation.

- * EU Strategy, paragraph III.I (7): The European Union will continue to pay particular attention to the rights of girls and children belonging to minorities.

- * FRA Guardianship, pages 26-27: All children deprived of their family environment and parental care are entitled to the same level of protection irrespective of their age, immigration status (i.e. EU national, legal resident, asylum-seeker or migrant in an irregular situation), nationality, gender, ethnic background or any other non-discrimination ground. Particular attention should be given to the gender dimensions of violence against children.

- * ICCPR, Art. 24(1): Every child, without any discrimination, is entitled to measures of protection as are required by his or her status as a child, on the part of his or her family, society and the State.

- * ICESCR, Art. 10(3): Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be

protected from economic and social exploitation. Their employment in work harmful to their morals or health, dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

* ICRMW, Art. 18(1): Migrant workers and members of their families shall have the right to equality with nationals of a State before the courts and tribunals.

* Joint General Comment No 3,

- Paragraph 11: States should ensure that children in the context of international migration are treated first and foremost as children. States parties to the Conventions have a duty to comply with their obligations set out therein to respect, protect and fulfil the rights of children in the context of international migration, regardless of their or their parents' or legal guardians' migration status.
- Paragraphs 21-22: All children involved in or affected by international migration are entitled to the enjoyment of their rights, regardless of the children's or their parents', legal guardians' or family members' age, gender, gender identity or sexual orientation, ethnic or national origin, disability, religion, economic status, migration/documentation status, statelessness, race, colour, marital or family status, health status or other social conditions, activities, expressed opinions, or beliefs. This principle is fully applicable to every child and his or her parents, regardless of the reason for moving, whether the child is accompanied or unaccompanied, on the move or otherwise settled, documented or undocumented or with any other status. The principle of non-discrimination shall be at the centre of all migration policies and procedures, including border control measures, and regardless of the migration status of children or their parents.

* Joint General Comment No 4, paragraph 3: The Committees are concerned that children between 15 and 18 years tend to be provided much lower levels of protection, and are sometimes considered as adults or left with an ambiguous migration status until they reach 18 years of age. States are urged to ensure that equal standards of protection are provided to every child, including those above the age of 15 years and regardless of their migration status.

* Protocol on Smuggling, Art. 19(2): Measures shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are the object of conduct set forth in Article 6 of this Protocol.

* Protocol on Trafficking, Art. 14(2): Measures shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons.

* Inter-agency Principles, page 18: The organizations concerned must ensure that their activities are carried out impartially (not on the basis of race, national or ethnic origin, religion, gender or other similar criteria).

* UN Commentary Trafficking, page 25: Protection for trafficked persons should be interpreted and applied without discrimination.

* UNHCR Refugee Children, page 23: Every child within a State's jurisdiction holds all CRC rights without regard to citizenship, immigration status or any other status.

Refugee children, asylum-seekers, and rejected asylum-seekers are entitled to all the rights of the CRC.

B 4. Participation

- * CRC,
 - Art. 12: The views of children are to be given due weight in relation to their age and maturity and children shall have the opportunity to be heard in all proceedings affecting them.
 - Art. 25: Children who are placed in a care institution have the right to periodic reviews of their circumstances.
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- * General Comment No 6, paragraph 25: With regard to separated children, the child's views and wishes should be taken into account.
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- * UNHCR Child Asylum Claims,
 - Paragraph 5: A child-sensitive application of the refugee definition would be consistent with the child's right to express their views freely regarding all matters affecting the child and that those views be given due weight.
 - Paragraph 8: The right of children to express their views in all matters affecting them, including to be heard in all judicial and administrative proceedings, also needs to be taken into account.
 - Paragraph 70: The right of children to express their views and to participate in a meaningful way is also important in the context of asylum procedures. A child's own account of their experience is often essential for the identification of their individual protection requirements and, in many cases, the child will be the only source of this information.
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- * General Comment No 14, paragraph 43: Assessment of a child's best interests must include respect for the child's right to express his or her views freely and due weight given to said views in all matters affecting the child.
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- * UNHCR Guidelines, paragraphs 5.14 & 5.15: Children should be kept informed in an age-appropriate manner, about the procedures, what decisions have been made about them, and the possible consequences of their refugee status. In all cases, the views and wishes of the child should be elicited and considered
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- * ACE Toolkit, page 22: Staff and caregivers should enable children of all ages, in keeping with their degree of mental and emotional maturity, to express their views and be actively involved in matters affecting them.
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- * CFREU, Art. 24(1): Children may express their views freely and these views should be taken into consideration in line with their age and maturity.
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- * ECRE (Children), paragraphs 25 & 26: Reaffirms Article 12 CRC.
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- * EU Dir. Reception Recast, Art. 23(d): In assessing the best interests of the child, Member States shall in particular take due account of the following factors ... the views of the child in accordance with his or her age and maturity.
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* EU Dir. Trafficking, Art. 14(1): Member States shall take the necessary measures to ensure that the specific actions to assist and support child victims of trafficking in human beings taking due account of the child's views, needs and concerns with a view to finding a durable solution for the child.

* General Comment No 12,

- Paragraph 12: The views expressed by children may add relevant perspectives and experience and should be considered in decision-making, policymaking and preparation of laws and/or measures, as well as their evaluation.
 - Paragraph 20: States Parties should presume that a child has the capacity to form her or his own views and recognize that she or he has the right to express them.
 - Paragraph 21: There is no age limit on the right of the child to express her or his views.
 - Paragraph 28: The views of the child have to be seriously considered when the child is capable of forming her or his own views.
 - Paragraph 123: Children who come to a country following their parents in search of work or as refugees are in a particularly vulnerable situation. For this reason, it is urgent to fully implement their right to express their views on all aspects of the immigration and asylum proceedings. In the case of migration, the child has to be heard on his or her educational expectations and health conditions in order to integrate him or her into school and health services. In the case of an asylum claim, the child must additionally have the opportunity to present her or his reasons leading to the asylum claim.
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* General Comment No 31/18, paragraph 52: The best interests of the child and the protection of the rights of girls and women should always be taken into consideration and the necessary conditions must be in place to enable them to express their point of view and ensure that their opinions are given due weight.

* Inter-Agency Principles, page 17: Programmes should actively engage children in the prevention of and responses to separation.

* Joint General Comment No 3,

- Paragraph 38: States parties should take all appropriate measures aimed at ensuring children's right to be heard in the immigration procedures concerning their parents, in particular where the decision could affect the children's rights, such as the right to not be separated from their parents, except when such separation is in their best interests.
 - Paragraph 39: States parties should adopt measures directed at facilitating the participation of all children in the context of international migration in the design, implementation, monitoring and evaluation of policies that could directly or indirectly affect them, as individuals or a group, including in the fields of social policies and social services.
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* Quality4Children,

- Standard 2, page 14: All parties involved listen to and respect the child. The child is adequately informed about their situation, encouraged to express their views and to participate in this process according to their level of understanding.
- Standard 11, page 16: The child is recognised as the expert of their own life.

The child is informed, listened to and taken seriously, and their resilience is recognised as a strong potential. The child is encouraged to express their feelings and experiences.

- Standard 15, page 17: The child is recognised as an expert regarding the quality of their care.
- Standard 17, page 17: The child is empowered to express opinions and preferences about their current situation and future life. Children participate in the planning and implementation of the leaving-care process.

* Safe and Sound, page 31: The child is the main source of information about their situation. The degree to which the child is heard and indeed listened to, will not only ensure a more well-rounded and sustainable decision with respect to the child, but will also potentially empower the child in taking ownership of their future development into adulthood.

* UN Commentary Trafficking, page 10: When transposing the Directive, Member States are encouraged to consider ways to include the views and experiences of victims of trafficking and other groups that are or may be affected by trafficking or anti-trafficking policies, in the development of legislative responses.

* UNHCR-AP, Part III, Goal 6(2): States, UNHCR and partners should set in place measures to ensure that refugee children participate equitably in decision-making in all areas of refugee life, as well as in the implementation of such decisions.

* UNHCR Child Asylum Claims,

- Paragraph 8: The right of children to express their views in all matters affecting them, including to be heard in all judicial and administrative proceedings, also needs to be taken into account.

* UNICEF Child Trafficking, page 10: A child victim who is capable of forming his or her views has the right to express those views freely in all matters affecting him or her.

B 5. Information

* CRC,

- Art. 13: Children have the right to freedom of expression and to seek, receive and impart information.
- Art. 17: States shall ensure that children have access to information from a diversity of international and national sources.

* General Comment No 6, paragraph 24, *op.cit.*

* General Comment No 14, paragraph 15(g): States Parties must provide appropriate information to children in a language they can understand, and to their families and caregivers, so that they understand the scope of the right protected under Article 3, paragraph 1, as well as creating the necessary conditions for children to express their point of view and ensuring that their opinions are given due weight.

- * UNHCR Child Asylum Claims,
 - Paragraph 70: It is important that children are provided with all necessary information in a language and manner they understand.
 - Paragraph 77: Decisions need to be communicated to children in a language and in a manner they understand.

- * ACE Toolkit, page 22: Staff should keep children regularly updated on plans relating to their care and protection, and those of their siblings.

- * ECRE (Children), paragraph 31: Refugee children require thorough explanation of asylum processes and preparation for possible outcomes, in an age-appropriate manner.

- * EU Dir. Reception Recast, Art. 24(3): In cases where there may be a threat to the life or integrity of the child or their close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis, so as to avoid jeopardising their safety.

- * EU Dir. Residence Permits, Art. 5: When the competent authorities of the Member States take the view that a third-country national may fall into the scope of this Directive, they shall inform the person concerned of the possibilities offered under this Directive.

- * EUODAC Recast, Art. 29(2): Member States shall provide the information in an age-appropriate manner.

- * General Comment No 12,
 - Paragraph 16: Children must receive all necessary information and advice in order to ensure that decisions can be made in their best interests.
 - Paragraph 124: Children in asylum or immigration proceedings have to be provided with all relevant information, in their own language, on their entitlements, the services available, including means of communication, and the immigration and asylum process, in order to make their voice heard and be given due weight in the proceedings.

- * General Comment No 15, paragraph 59: Children require information and education on all aspects of health to enable them to make informed choices in relation to their lifestyle and access to health services.

- * ICRMW, Art. 33(1) (b): Migrant workers and members of their families have the right to be informed of the conditions of their admission and their rights and obligations.

- * Joint General Comment No 4,
 - Paragraph 17(j): State Parties shall ensure that children are fully informed throughout the entire procedure, together with their guardian and legal adviser, including information on their rights and all relevant information that could affect them.
 - Paragraph 36: When a country of destination refuses family reunification to the child and/or to his/her family, it should provide detailed information to the child, in a child-friendly and age-appropriate manner, on the reasons for the refusal and on the child's right to appeal.

- * Quality4Children, Standard 16, page 17: All information is communicated in a way that is understandable to and appropriate for the child and their family of origin.
- * Safe and Sound, page 21: Children need to understand the implications of proceedings, different options available, and what their obligations are. They also need information that enables them to express their views, as well as know how their views are given weight. For such an understanding to emerge, available information must be imparted in such a manner and under such circumstances that the child is able to have full appreciation of the situation, in accordance with their age and maturity level.
- * UNHCR Refugee Children,
 - Page 102: Children old enough to understand what is meant by status determination should be informed about all aspects of the process
 - Page 130: Children must be kept informed at each step about plans being made for them.
- * UNICEF Child Trafficking, page 13: Child victims shall be provided with accessible information regarding their situation and their rights, including protection mechanisms, other available services, and the processes of family reunification and/or repatriation.

B 6. Interpretation

- * CRC,
 - Art.12, *op.cit.*
 - Art.13, *op.cit.*
- * General Comment No 6, paragraph 95: Particular attention should be paid to the training of officials working with separated and unaccompanied children and dealing with their cases. Specialized training is equally important for legal representatives, guardians, interpreters and others dealing with separated and unaccompanied children.
- * UNHCR Child Asylum Claims, paragraph 70, *op.cit.*
- * UNHCR Guidelines, paragraph 5.13: Insofar as possible, interpreters should be skilled and trained in refugee and children's issues.
- * ICCPR, Art. 19: Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression.
- * Joint General Comment No 4, paragraph 17(d): Children should be heard and take part in all stages of the proceedings and be assisted without charge by a translator and/or interpreter.
- * Safe and Sound, page 21: In order to fully understand and have the opportunity to cooperate, the child needs to have interpretation in their mother tongue or a language they understand.
- * UNHCR BID, chapter 3(1.6): Persons working as interpreters in the Best Interests

Determination process should have access to specific training. In addition to their language skills, interpreters should be aware of the impartiality of their role, respect confidentiality and show sensitivity to gender, age and cultural matters.

* UNICEF Child Trafficking, page 11: Information shall be provided in a language that the child victim is able to understand. Suitable interpreters shall be provided whenever a child victim is questioned or interviewed, or whenever she or he requests it.

B 7. Confidentiality

* CRC, Art. 16: Children have the right to protection from arbitrary or unlawful interference with their privacy, family, home and correspondence.

* General Comment No 6,

- Paragraph 29: States Parties must protect the confidentiality of information received in relation to an unaccompanied or refugee child.

- Paragraph 30: Particular care must be taken not to endanger the well-being of persons still within the child's country of origin.

* UNHCR Child Asylum Claims, paragraph 70: It is important that children are provided with information about their right to confidentiality.

* UNHCR Guidelines, paragraphs 5.16: In obtaining, sharing and preserving the information collected, particular care must be taken in order not to endanger the well-being of persons still within the child's country of origin, especially the child's family members. Care must be taken that information sought and shared for one purpose is not inappropriately used for another purpose.

* CFREU, Art. 8(1): Everyone has the right to protection of personal data concerning him or her.

* ECHR, Art. 8: Everyone has the right to respect for his private and family life, his home and his correspondence.

* EU Dir. Procedures Recast Art. 48: Member States shall ensure that authorities implementing this Directive are bound by the confidentiality principle as defined in national law, in relation to any information they obtain in the course of their work.

* EU Dir. Qualifications Recast, Art. 37: Member States shall ensure that authorities and other organisations implementing this Directive have received the necessary training and shall be bound by the confidentiality principle, as defined in the national law, in relation to any information they obtain in the course of their work.

* EU Dir. Reception Recast, Art. 18(7): Persons working in accommodation centres shall be adequately trained and shall be bound by the confidentiality rules provided for in national law in relation to any information they obtain in the course of their work.

* EU Res., Art. 3(1): Information on the child's identity and situation can be obtained by various means, in particular by means of an appropriate interview, to be conducted as soon as possible and in a manner in keeping with his age. In

requesting, receiving, forwarding and storing information obtained, particular care and confidentiality should be exercised in order to protect both the child and the members of his family.

* ICCPR, Art. 17: No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

* ICRMW, Art. 14: No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, correspondence or other communications.

* Joint General Comment No 3, paragraph 17: Children's personal data, in particular biometric data, should only be used for child protection purposes, with strict enforcement of appropriate rules on collection, use and retention of, and access to, data.

* UNICEF Child Trafficking, page 11: All necessary measures shall be taken to protect the privacy and identity of child victims to ensure the safety and security of the victim and their family. The name, address and all other information that could lead to the identification of the child victim or his or her family members shall not be revealed to the public or media.

B 8. Respect for Cultural Identity

- * CRC,
 - Preamble: The importance of the traditional and cultural values of each people for the protection and harmonious development of the child must be taken into account.
 - Art. 8: Children have the right to preserve or re-establish key elements of their identity.
 - Art. 24: Children have the right to the highest attainable standard of health and to facilities for treatment and rehabilitation.
 - Art. 30: Children belonging to ethnic, religious or linguistic minorities have the right to enjoy their culture, practice their religion and use their language.

* UNHCR Child Asylum Claims, paragraph 12: Identity-based characteristics of the child may increase the risk of harm, influence the type of persecutory conduct inflicted on the child and exacerbate the effect of the harm on the child.

* FRA Guardianship, page 35: Guardians should gain culturally sensitive competencies, attitudes and skills that enhance cross-cultural communication and interaction with children from different cultural backgrounds.

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- * General Comment No 14,
 - Paragraph 56: Due consideration of the child's best interests implies that children have access to the culture (and language, if possible) of their country and family of origin.
 - Paragraph 55: Children are not a homogeneous group and therefore diversity

must be taken into account when assessing their best interests. The identity of the child includes characteristics such as sex, sexual orientation, national origin, religion and beliefs, cultural identity and personality.

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- * ECRE (Children), paragraph 39: A child refugee should be able to benefit from additional education in their mother tongue in order to preserve cultural identity.
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- * General Comment No 17,
 - Paragraph 11: Involvement in a community's cultural life is an important element of children's sense of belonging.
 - Paragraph 23: Recognition must also be afforded to the right of refugee children to preserve and practice their own recreational, cultural and artistic traditions.
 - Paragraph 30: Children from ethnic, religious or linguistic minorities should be encouraged to enjoy and participate in their own cultures.
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- * ICCPR, Art. 27: In States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right to profess and practice their own religion, or to use their own language.
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- * ICRMW,
 - Art. 12(1): Migrant workers and members of their families shall have the right to freedom of thought, conscience and religion.
 - Art. 31: States shall ensure respect for the cultural identity of migrant workers and their families and shall not prevent them from maintaining their cultural links with their State of origin.
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- * UNHCR Refugee Children, page 44: Maintenance of the mother tongue is a critical factor in retaining identity. Refugee children should be encouraged to use and preserve their own language.
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B 9. Inter-organisational Co-operation

- * CRC, Art. 22(2): States shall co-operate, as they consider appropriate, with efforts by the UN or other IGOs or NGOs in family tracing measures.
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- * UNHCR Guidelines, paragraph 12: The close cooperation of a variety of government bodies, specialized agencies and individuals in delivering an effective continuum of care is crucial.
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- * ACE Toolkit, page 21: Policies and practices should be coordinated across government and non-governmental organisations, and between all departments responding to children and their families.
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- * Dublin Recast,
 - Preamble (34): The examination procedure uses a standard form for the exchange of relevant information on unaccompanied children
 - Art. 6(3): In assessing the best interests of the child, Member States shall closely cooperate with each other.
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- * EU Dir. Trafficking,

- Preamble (5): The law enforcement authorities should cooperate in order to strengthen the fight against trafficking in human beings. In this regard, close cross-border cooperation, including the sharing of information and the sharing of best practices, as well as a continued open dialogue, is essential.
 - Preamble(6): Member States should encourage and work closely with civil society organisations, including recognised and active non-governmental organisations in this field working with trafficked persons, in particular in policy-making initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of anti-trafficking measures.
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- * EU Res., Art. 5(3c&d): The authorities should, with a view to a child's return, co-operate with international organisations, such as UNHCR or UNICEF and, where appropriate, with non-governmental organisations, in order to ascertain the availability of reception and care facilities in the country to which the child will be returned.
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- * FRA Guardianship, page 21: With increased mobility within the EU and globally, a child may be of concern to more than one EU Member State. To protect a child effectively from exploitation, abuse, neglect and violence, it is essential to have cooperation and coordination mechanisms within the EU, as well as internationally.
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- * General Comment No 13, paragraph 76: Cooperation is needed to address child protection issues which cut across national borders.
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- * Joint General Comment No 3,
 - Paragraph 16: States parties should develop a systematic rights-based policy on the collection and public dissemination of qualitative and quantitative data on all children in the context of international migration in order to inform a comprehensive policy aimed at the protection of their rights. Such data should be disaggregated by nationality, migration status, gender, age, ethnicity, disability and all other relevant statuses to monitor intersectional discrimination. The Committees stress the importance of developing indicators to measure the implementation of the rights of all children in the context of international migration.
 - Paragraph 49: The Committees recognize the importance of coordinating efforts among countries of origin, transit, destination and return, and their roles and responsibilities in addressing the needs of children in the context of international migration and in safeguarding their rights, with the best interests of the child being a primary consideration.
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- * Joint General Comment No 4, paragraph 65: In order to ensure that this comprehensive and balanced approach is consistent with the best interests of children, child protection/welfare agencies should have a key role in the development of any international, regional or bilateral agreements that affect the rights and treatment of children in the context of international migration.
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- * Quality4Children, (Standard 3) page 14: All parties directly involved in the child's development cooperate using their respective expertise. They receive and share the relevant information about the decision-making process.
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- * Safe and Sound, page 37: When planning a child's future, officials and caregivers

should ensure that decisions are not taken in isolation from each other, but in coordination and with a joint vision for the child.

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- * UN Commentary Trafficking, page 25: Member States must ensure coordination amongst the various governmental agencies involved in anti-trafficking activities.
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- * UNICEF Child Trafficking,
 - Page 13: Complementarity and cooperation among all organizations and institutions concerned are critical for the care and protection of child victims.
 - Page 13: All relevant ministries and government bodies involved in the protection of child victims shall adopt policies and procedures which favour information-sharing and networking between agencies and individuals working with child victims.

B 10. Staff Training

- * CRC, Art. 3(3): States shall ensure that institutions and services providing protection or care for children meet established standards, inter alia, in the suitability of their staff and competent supervision.
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- * General Comment No 6,
 - Paragraph 95: Particular attention should be paid to the training of officials working with separated children and dealing with their cases. Specialised training is equally important for legal representatives, guardians, interpreters and others dealing with separated children.
 - Paragraph 96: Outlines key elements of training.
 - Paragraph 75: Staff involved in status determination procedures of children should receive training on international and national refugee law.
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- * UNHCR Child Asylum Claims,
 - Paragraph 69: Independent guardians and legal representatives should be properly trained.
 - Paragraph 72: It is essential that examiners have the necessary training and skills to be able to evaluate accurately the reliability and significance of the child's account.
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- * UNHCR Guidelines, paragraph 11: It is desirable that agencies dealing with unaccompanied children establish special recruitment practices and training schemes, so as to ensure that persons that will assume responsibilities for the care of the children understand their needs and possess the necessary skills to help them in the most effective way.
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- * CoE Rec. Training of Officials, paragraphs 3 & 4: It is essential that those officials who first come into contact with asylum-seekers are fully cognizant not only of international and domestic legal instruments and regulations governing the reception of asylum-seekers, but also acutely aware of their responsibility for treating asylum-seekers with humanity, sensitivity and discernment, not least at a time when the governments of Member States have taken steps to reduce the numbers of

asylum-seekers arriving on their territory. The Assembly considers it important that officials receiving asylum-seekers at border points are properly trained.

* Core Standards for Guardians, Standard 10: The guardian is equipped with relevant professional knowledge and competences.

* Dublin Recast, Art. 6(4): The staff of the competent authorities who deal with unaccompanied children receive appropriate training concerning the specific needs of children.

* EU Dir. Qualifications Recast,

- Art. 31(6): Those working with unaccompanied children shall have had or receive appropriate training concerning their needs.
 - Art. 37: Member States shall ensure that authorities and other organisations implementing this Directive have received the necessary training and shall be bound by the confidentiality principle, as defined in the national law, in relation to any information they obtain in the course of their work.
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* EU Dir. Reception Recast, Art. 24(4): Those working with unaccompanied children shall have had or receive appropriate training concerning their needs, and shall be bound by the confidentiality principle as defined in the national law, in relation to any information they obtain in the course of their work.

* EU Dir. Trafficking Preamble (25): Officials likely to come into contact with victims or potential victims of trafficking in human beings should be adequately trained to identify and deal with such victims.

* EU Res., Art. 4(5): The interview should be conducted by officers who have the necessary experience or training. The importance of appropriate training for officers interviewing unaccompanied child asylum-seekers should be duly recognised.

* FRA Guardianship,

- Page 27: Appointed guardians and legal representatives should have appropriate professional qualifications in the field of child welfare and/or child protection.
 - Page 32: Guardians must be qualified and equipped to deal with the wide variety of laws and procedures that regulate asylum, migration or other issues they may need to engage with.
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* General Comment No 14,

- Paragraph 15(f): State Parties must provide information and training on Article 3, paragraph 1 of the Convention on the Rights of the Child and its application in practice to all those making decisions that directly or indirectly impact on children, including professionals and other people working for and with children.
 - Paragraph 92: Facts and information relevant to a particular case must be obtained by well-trained professionals in order to draw up all the elements necessary for the best-interests assessment.
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* General Comment No 12, paragraph 49: States Parties should ... Provide training on Article 12 (CRC) and its application in practice, for all professionals working with, and for, children.

* General Comment No 31/18, paragraph 53: States Parties, and particularly immigration and asylum officials, should be aware that women and girls may be fleeing their country of origin to avoid undergoing a harmful practice. Those officials

should receive appropriate cultural, legal and gender-sensitive training on what steps need to be taken for their protection.

* Inter-Agency Principles, page 47: Staff should consist of individuals experienced in caring for children, trained in all relevant aspects, including documentation, communicating with children and caring for children with special needs. The staff should receive support when dealing with children who are distressed or who have been through particularly difficult experiences, for example child soldiers.

* Joint General Comment No 3, paragraph 18: The Committees are of the opinion that, in order to fulfil the rights of all children in the context of international migration, the following elements should be part of the policies and practices to be developed and implemented: (a) comprehensive, inter-institutional policies between child protection and welfare authorities and other key bodies, including on social protection, health, education, justice, migration and gender, and between regional, national and local governments; (b) adequate resources, including budgetary, aimed at ensuring effective implementation of policies and programmes; and (c) continuous and periodic training of child protection, migration and related officials on the rights of children, migrants and refugees and on statelessness, including intersectional discrimination.

* Joint General Comment No 4, paragraph 17(c): Immigration proceedings are to be conducted by a specialized official or judge, and any interviews carried out in person by professionals trained in communicating with children.

* Quality4Children,

- Standard 9, page 15: Caregivers are thoroughly assessed, selected and trained before taking on the responsibility of caring for a child. They receive continuous training and professional support to ensure the overall development of the child.
- Standard 13, page 16: Caregivers are continuously and specifically trained and supported to meet the special needs of the children in their care.

* Schengen,

- Art. 1(13): Member States shall ensure that the border guards are specialised and properly trained professionals. Training curricula shall include specialised training for detecting and dealing with situations involving vulnerable persons, such as unaccompanied children and victims of trafficking. Member States, with the support of the Agency, shall encourage border guards to learn the languages necessary for the carrying out of their tasks.
- Art. 16(4): Member States shall provide for training on the rules for border control and on fundamental rights. In that regard, account shall be taken of the common training standards as established and further developed by the Agency.

* UNHCR BID, chapter 3(1.6): Persons working as interpreters in the Best Interests Determination process should have access to specific training.

* UNHCR Refugee Children, page 82: States must arrange for the training of refugee leaders, other UN agency and NGO personnel, government officers and security personnel in matters relating to international protection where the safety of refugee children is at risk.

B 11. Durability

- * CRC, Art. 3(1), *op.cit.*
 - * General Comment No 6, paragraph 79: The ultimate aim in addressing the needs of separated children is to identify a durable solution that addresses all their protection needs.
 - * UNHCR Guidelines,
 - Paragraph 9.1: If the child is granted asylum or permitted to stay on humanitarian grounds, possible durable solutions are either local integration or resettlement in a third country, normally on the grounds of family reunification.
 - Paragraph 9.2: If the child is found not to qualify for asylum, either as a refugee or on humanitarian grounds, an assessment of the solution that is in the best interests of the child should follow as soon as practicable after the negative result of his or her application is confirmed.
 - * EU Res., Art. 5: Where a child is not allowed to prolong their stay, the Member State concerned may only return the child to his or her country of origin or a third country prepared to accept them, if on arrival therein adequate reception and care are available.
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B 12. Timeliness

- * CRC Art. 3(1): In all actions concerning children ... the best interests of children shall be a primary consideration.
 - * General Comment No 14, paragraph 93: The passing of time is not perceived in the same way by children and adults. Delays in, or prolonged decision-making have particularly adverse effects on children as they evolve. It is therefore advisable that procedures or processes regarding or impacting children be prioritized and completed in the shortest time possible.
 - * UNHCR Child Asylum Claims, paragraph 66: Claims made by child applicants, whether they are accompanied or not, should normally be processed on a priority basis, as they often will have special protection and assistance needs.
 - * UNHCR Guidelines,
 - Paragraphs 8.1: Considering their vulnerability and special needs, it is essential that children's refugee status applications be given priority and that every effort be made to reach a decision promptly and fairly. All appeals should be processed fairly and as expeditiously as possible.
 - Paragraph 8.5: Every effort should be made to reach a decision in an efficient manner in order not to keep children in limbo for a long period of time regarding their status and their future. All appeals should be processed fairly and as expeditiously as possible. This may require children's appeals to be prioritized over other outstanding appeals.
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* Joint General Comment No 4, paragraph 17(g): Any application and procedures involving children should be treated as a priority, while ensuring ample time to prepare for proceedings and that all due process guarantees are preserved.

* Safe and Sound,

- Page 21: The time factor is more pertinent for children in light of the relatively short trajectory of their development.
 - Page 41: Children who lodge an application for international protection should receive priority processing over adult cases, reflecting the importance of the time factor for children.
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* UNICEF Child Trafficking, page 12: All decisions regarding child victims shall be taken expeditiously.

C. Separated Children in Europe

C 1. Separated Asylum-seeking Children

- * CRC, Art. 22 (1), *op.cit.*
- * General Comment No 6,
 - Paragraph 26: In affording proper treatment of separated children, States must fully respect non-refoulement obligations deriving from humanitarian and refugee law.
 - Paragraphs 27 & 28: States should not return children to situations where there is a real risk of underage recruitment.
 - Paragraphs 56 – 60: Child soldiers should be treated as victims of conflict and should be supported in their reintegration into non-military life. They should not generally be detained unless they pose a serious threat and should not be returned if this would entail a risk of re-recruitment. Participation in hostilities amounts to persecution.
- * UNHCR Child Asylum Claims,
 - Paragraph 1: The definition of a refugee contained in Article 1(A)2 of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol applies to all individuals, regardless of their age.
 - Paragraph 6: Each child has the right to make an independent refugee claim, regardless of whether they are accompanied or unaccompanied.
 - Paragraph 10: Ill-treatment, which may not rise to the level of persecution in the case of an adult, may do so in the case of a child.
 - Paragraph 11: An accurate assessment requires both an up-to-date analysis and knowledge of child-specific circumstances in the country of origin, including of existing child protection services.
 - Paragraph 18: Children may also be subjected to specific forms of persecution that are influenced by their age, lack of maturity or vulnerability. The fact that the refugee claimant is a child may be a central factor in the harm inflicted or feared. This may be because the alleged persecution only applies to, or disproportionately affects, children or because specific child rights may be infringed. UNHCR's Executive Committee has recognized that child-specific forms of persecution may include underage recruitment, child trafficking and female genital mutilation. Other examples include, but are not limited to, family and domestic violence, forced or underage marriage, bonded or hazardous child labour, forced labour, forced prostitution and child pornography. Such forms of persecution also encompass violations of survival and development rights, as well as severe discrimination of children born outside strict family planning rules and of stateless children as a result of loss of nationality and attendant rights.
 - Paragraph 66: Claims made by child applicants, whether they are accompanied or not, should normally be processed on a priority basis, as they often will have special protection and assistance needs. Priority processing means reduced

waiting periods at each stage of the asylum procedure, including as regards the issuance of a decision on the claim.

- Paragraph 68: For unaccompanied and separated child applicants, efforts need to be made as soon as possible to initiate tracing and family reunification with parents or other family members.
- Paragraph 69: An independent, qualified guardian needs to be appointed immediately and free of charge in the case of unaccompanied or separated children. Children who are the principal applicants in an asylum procedure are also entitled to a legal representative.
- Paragraph 70: The right of children to express their views and to participate in a meaningful way is also important in the context of asylum procedures. A child's own account of their experience is often essential for the identification of their individual protection requirements and, in many cases, the child will be the only source of this information. Ensuring that the child has the opportunity to express these views and needs requires the development and integration of safe and child-appropriate procedures and environments that generate trust at all stages of the asylum process.
- Paragraph 71: Appropriate communication methods need to be selected for the different stages of the procedure, including the asylum interview, and need to take into account the age, gender, cultural background and maturity of the child, as well as the circumstances of the flight and mode of arrival. Useful, non-verbal communication methods for children might include playing, drawing, writing, role-playing, story-telling and singing. Children with disabilities require "whatever mode of communication they need to facilitate expressing their views"
- Paragraph 72: Children cannot be expected to provide adult-like accounts of their experiences. They may have difficulty articulating their fear for a range of reasons, including trauma, parental instructions, lack of education, fear of State authorities or persons in positions of power, use of ready-made testimony by smugglers, or fear of reprisals. They may be too young or immature to be able to evaluate what information is important or to interpret what they have witnessed or experienced in a manner that is easily understandable to an adult.
- Paragraph 73: Although the burden of proof usually is shared between the examiner and the applicant in adult claims, it may be necessary for an examiner to assume a greater burden of proof in children's claims, especially if the child concerned is unaccompanied.
- Paragraph 74: Children may have only limited knowledge of conditions in the country of origin or may be unable to explain the reasons for their persecution. For these reasons, asylum authorities need to make special efforts to gather relevant country of origin information and other supporting evidence
- Paragraph 77: Decisions need to be communicated to children in a language and in a manner they understand. Children need to be informed of the decision in person, in the presence of their guardian, legal representative, and/or other support person, in a supportive and non-threatening environment.

* Cape Town Principles: Definitions and paragraphs 1 – 43.

* CFREU, Art. 18: The right of asylum shall be guaranteed with respect to the 1951 Refugee Convention.

* Inter-Agency Principles, page 42: All children are entitled to emergency care and provision for their basic subsistence. Assistance for separated children must adequately meet their basic needs at a standard comparable to the surrounding community and should be provided in a way that preserves family unity, keeps children with their relatives or other caregivers and does not lead to separation.

* Joint General Comment No 4,

- Paragraph 26: States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless.
- Paragraph 33: In the case of undocumented children in the context of international migration, States shall develop and implement guidelines, taking particular care that time limits, discretionary powers, and/or lack of transparency in administration procedures should not hinder the child's right to family reunification.

C 2. Separated Migrant Children

* CRC, Arts. 2 & 20, *op.cit.*

* CRC, Art. 7: Children have the right to acquire a nationality.

* UNHCR Child Asylum Claims, paragraph 52(i): Children living and/or working on the streets are among the most visible of all children, often identified by society as social outcasts. They share the common characteristics of their youth and having the street as their home and/or source of livelihood. Especially for children who have grown up in such situations, their way of life is fundamental to their identity and often difficult to change. Many of these children have embraced the term “street children”, as it offers them a sense of identity and belonging, while they may live and/or work on the streets for a range of reasons. They also may share past experiences, such as domestic violence, sexual abuse, and exploitation or being orphaned or abandoned.

* General Comment No 12, paragraph 125: The Committee underlines that the right embodied in Article 12 (CRC) does not cease in situations of crisis or in their aftermath. There is a growing body of evidence of the significant contribution that children are able to make in conflict situations, post-conflict resolution and reconstruction processes following emergencies.

* Inter-Agency Principles, page 42: All children are entitled to emergency care and provision for their basic subsistence. Assistance for separated children must adequately meet their basic needs at a standard comparable to the surrounding community and should be provided in a way that preserves family unity, keeps children with their relatives or other caregivers and does not lead to separation.

* UN Convention Statelessness, Art. 1(!a & 1b): A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless. Such nationality shall be granted at birth, by operation of law, or upon an application being lodged with the appropriate authority, by or on behalf of the person concerned, in the manner prescribed by the national law.

* UNHCR Statelessness, paragraph 21: In assessing evidence of whether a child would otherwise be stateless, special procedural considerations to address the acute challenges faced by children, especially unaccompanied children, in communicating basic facts with respect to their nationality are to be respected.

C 3. Separated Trafficked Children

- * CRC,
 - Art. 34: States shall protect children from all forms of sexual exploitation and abuse.
 - Art. 35: States shall take all appropriate measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.
 - Art. 36: States shall protect children from all other forms of exploitation prejudicial to their welfare.
 - Art. 37: Children shall not be deprived of their liberty arbitrarily or unlawfully; they shall be detained only as a measure of last resort and separated from adults.
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- * General Comment No 6,
 - Paragraphs 23 & 24, *op.cit.*
 - Paragraphs 50 – 53: Separated children are vulnerable to trafficking and States should take measures to prevent both trafficking and re-trafficking. Trafficked children should not be criminalised and they should not be returned to their country of origin, unless this can be demonstrated to be in the child's best interests.
 - Paragraph 95, *op.cit.*
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* UNHCR Child Asylum Claims, paragraph 24: As recognized by several jurisdictions, trafficked children or children who fear being trafficked may have valid claims to refugee status. The particular impact of a trafficking experience on a child and the violations of child-specific rights that may be entailed also need to be taken into account.

* UNHCR Child Asylum Claims, paragraph 25: The trafficking of children occurs for a variety of reasons but all with the same overarching aim to gain profit through the exploitation of human beings. In this context, it is important to bear in mind that any recruitment, transportation, transfer, harbouring or receipt of children for the purpose of exploitation is a form of trafficking, regardless of the means used. Whether the child consented to the act or not is, therefore, irrelevant.

* UNHCR Child Asylum Claims, paragraph 26: The trafficking of a child is a serious violation of a range of fundamental rights and, therefore, constitutes persecution.

* UNHCR Child Asylum Claims, paragraph 27: The impact of reprisals by members of the trafficking network, social exclusion, ostracism and/or discrimination against a child victim of trafficking who is returned to their home country needs to be assessed in a child-sensitive manner. Child victims of trafficking may have very limited possibilities of accessing and enjoying their human rights, including survival

rights, if returned to their homes.

* UNHCR Child Asylum Claims, paragraph 28: In asylum cases involving child victims of trafficking, decision makers will need to pay particular attention to indications of possible complicity of the child's parents, other family members or caregivers in arranging the trafficking or consenting to it. In such cases, the State's ability and willingness to protect the child must be assessed carefully. Children at risk of being (re-)trafficked or of serious reprisals should be considered as having a well-founded fear of persecution within the meaning of the refugee definition.

* CEDAW, Art. 6: States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and the sexual exploitation of women (and girls).

* CoE Ministers 91.

* CoE Ministers 2000.

* CoE Trafficking

- Art. 1(c): A purpose of the Convention is to promote international cooperation in combating the trafficking of human beings.
- Art. 4(c): Where a child has consented to the exploitation, they shall still be perceived as a victim of trafficking.
- Art. 5: States shall take measures to reduce children's vulnerability to trafficking.
- Art. 7(1): States shall strengthen border controls to prevent and detect trafficking.
- Art. 10(1): Competent authorities should be trained in identifying and helping victims, including children.
- Art. 10(3): Where age is disputed, the benefit of the doubt should go with the victim.
- Art. 10(4): A separated trafficked child should be appointed a guardian and steps should be taken to identify these children and locate their family when in the best interests of the child.
- Art. 11(2): States should adopt measures to ensure that the identity of child victims of trafficking is not revealed.
- Art. 12: Trafficked children should have access to education and receive assistance with their physical and psychological recovery.
- Art. 13: There will be a 30-day reflection period to allow victims time to consider an informed decision on cooperation with the competent authorities.
- Art. 14: Residence permits should be issued to victims of trafficking if necessary for their safety or to aid cooperation with the competent authorities. Where the victim is a child, residence permits will be issued if in their best interests.
- Art. 16(7): Child victims will not be returned if there are indications that return is not in the child's best interests.
- Art. 28(3): A child victim shall be afforded special protection that takes their best interests into account.
- Art. 30: Legislative and judicial proceedings shall take care of children's needs and ensure their right to special protection.

* CoE Young Migrants, paragraph 8: As regards the issue of trafficking in children and young people, the Assembly recommends that the Committee of Ministers

includes in its working programme activities aimed at assisting Member States to establish effective protection regimes for children and young people who are victims of trafficking, devise and implement appropriate programmes to meet the care and assistance needs of traumatised children and young people who are victims of trafficking in host countries and devise and implement appropriate reintegration programmes for young victims of trafficking returning to their countries of origin.

* Council of the EU: Brussels Declaration on Preventing and Combating Trafficking in Human Beings, May 2003: paragraphs 9, 12 & 13.

* Council of the EU: Joint Action to Combat Trafficking in Human Beings and Sexual Exploitation of Children, 24 Feb. 1997.

* ECHR, Art. 4: No one shall be held in slavery or servitude or subjected to forced labour.

* EU Dir. Trafficking,

- Preamble (8): Children are more vulnerable than adults and therefore at greater risk of becoming victims of trafficking in human beings.
- Preamble (12): In the context of this (Trafficking) Directive, particularly vulnerable persons should include at least all children.
- Preamble (11): When a child is concerned in trafficking, no possible consent should ever be considered valid.
- Preamble (4): Victims of trafficking in human beings should be protected from prosecution or punishment for criminal activities, such as the use of false documents or offences under legislation on prostitution or immigration, that they have been compelled to commit as a direct consequence of being subject to trafficking.
- Preamble (18): Member States should provide for resources to support victim assistance, support and protection.
- Preamble (19): Victims of trafficking in human beings should be given access without delay to legal counselling.
- Preamble (22): Member States should ensure that specific assistance, support and protective measures are available to child victims of trafficking.
- Preamble (23): Particular attention should be paid to unaccompanied child victims of trafficking in human beings, as they need specific assistance and support due to their situation of particular vulnerability. From the moment an unaccompanied child victim of trafficking in human beings is identified and until a durable solution is found, Member States should apply reception measures appropriate to the needs of the child and should ensure that relevant procedural safeguards apply. Art. 14(1): Member States shall take the necessary measures to ensure that the specific actions to assist and support child victims of trafficking in human beings, in the short and long-term and in their physical and psycho-social recovery, are undertaken following an individual assessment of the special circumstances of each particular child victim, taking due account of the child's views, needs and concerns, with a view to finding a durable solution for the child.

* ICCPR, Art. 8: No one shall be held in slavery or servitude or forced to perform compulsory labour.

- * ICESCR, Art. 10(3): Children should be protected from economic and social exploitation.

- * ILO C182, Art. 3: The definition of “the worst forms of child labour” includes the sale and trafficking of children.

- * Inter-Agency Principles, page 42: All children are entitled to emergency care and provision for their basic subsistence. Assistance for separated children must adequately meet their basic needs at a standard comparable to the surrounding community and should be provided in a way that preserves family unity, keeps children with their relatives or other caregivers and does not lead to separation.

- * Joint General Comment No 4,
 - Paragraph 41): It is essential that States take all necessary measures to prevent and combat the illicit transfer and non-return of children as well as the worst forms of child labour, including all forms of slavery, commercial sexual exploitation, the use of children for illicit activities, including begging, and hazardous work, and protect them from violence and economic exploitation.
 - Paragraph 43: For migrant children for whom there are indications of trafficking, sale or other forms of sexual exploitation or who may be at risk of such acts or of child marriage, States should adopt the following measures; Establish early identification measures to detect victims of sale, trafficking and abuse, as well as referral mechanisms, and in this regard carry out mandatory training for social workers, border police, lawyers, medical professionals and all other staff who come into contact with children; Where different migration statuses are available, the most protective status (i.e., asylum or residence on humanitarian grounds) should be applied and granting such status should be determined on a case-by-case basis in accordance with the best interests of the child; Ensure that the granting of residence status or assistance to migrant child victims of sale, trafficking or other forms of sexual exploitation is not made conditional on the initiation of criminal proceedings or their cooperation with law enforcement authorities.

- * OSCE
 - * Protocol 1 to CRC,
 - Art. 3: Requires the criminalisation of sexual exploitation of children and trafficking of children for any purpose (organ transplants, adoption, prostitution, child labour).
 - Art. 8(1): States shall adopt appropriate measures to protect the best interests of children who are victims of sexual exploitation and trafficking.
 - * Protocol on Smuggling, Art. 19: Child victims of trafficking should not be criminalised.

- * Protocol on Trafficking in Persons,
 - Art. 3(a): Trafficking in persons means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation

of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

- Art. 3(c): The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in subparagraph (a) of this article.
- Art. 6: States shall provide assistance and protection to victims of trafficking.
- Art. 7: Each State Party shall consider permitting victims of trafficking to stay in its territory, temporarily or permanently, in appropriate cases.
- Art. 9: States shall take various measures to prevent human trafficking and protect victims.
- Art. 10: Law enforcement, immigration and other authorities shall co-operate by exchanging information regarding trafficking. States shall provide and strengthen training of relevant authorities.

* UN Commentary Trafficking,

- Page 12: When transposing the Directive, Member States are encouraged to ensure that the definition of ‘particularly vulnerable persons’ includes, amongst others, age.
- Page 14: When transposing the Directive, Member States may wish to note the relevance of the provisions of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.
- Page 27: Anti-trafficking responses should take a child rights approach.
- Page 29: All actions undertaken in relation to child victims and children at risk should be guided by the CRC and in its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. Child victims are entitled to special protection measures, irrespective of their legal status both as victims and as children, in accordance with their special rights and needs.
- Page 69: The involvement of a child victim in criminal activities or administrative offences as a consequence of their being trafficked, including immigration violations, should not undermine their status as both a child and a victim and their related rights to special protection.

* UN Guidelines on HR & Trafficking, Guideline 8: Outlines special measures for the protection and support of child victims of trafficking.

* UNHCR-AP, Part III, Goal 2(2): States should ensure that their own asylum processes are open to receiving claims from individual trafficked persons, including women and girls.

D. Good Practice

Pre-arrival

* Joint General Comment No 3, paragraph 12: The obligations of States parties under the Conventions apply to each child within their jurisdictions, including the jurisdiction arising from a State exercising effective control outside its borders. Those obligations cannot be arbitrarily and unilaterally curtailed either by excluding zones or areas from the territory of a State or by defining particular zones or areas as not or only partly under the jurisdiction of the State, including in international waters or other transit zones where States put in place migration control mechanisms. The obligations apply within the borders of the State, including with respect to those children who come under its jurisdiction while attempting to enter its territory.

Phase One: Arrival, Reception and Interim Care

D 1. Access to the Territory

- * CRC,
 - Art. 6(1): Every child has the inherent right to life.
 - Art. 37(b): Children shall not be deprived of their liberty arbitrarily or unlawfully; they shall be detained only as a measure of last resort and separated from adults.
 - * General Comment No 6, paragraph 20: Allowing the child access to the territory is a prerequisite to an initial assessment process.
 - * UNHCR Guidelines, paragraph 4.1: Because of their vulnerability, unaccompanied children seeking asylum should not be refused access to the territory and their claim should always be considered under the normal refugee determination procedure.
 - * CAT, Art. 3. No State shall return a person to a country where he or she is at risk of being tortured.
 - * Dublin II, Art. 3(1): Member States shall examine the asylum application of any third-country national who applies at the border or in their territory.
 - * ECHR,
 - Art. 2(1): Everyone's right to life shall be protected by law.
 - Art. 3. No one shall be subjected to torture or to inhuman or degrading treatment or punishment.
 - * ECRE (Children),
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- Paragraph 14: European host States should give refugee children immediate access to their territory.
 - Paragraph 15: An unaccompanied child seeking protection should never be returned at the point of entry, never be detained at the point of entry and never be subject to detailed interviews by immigration authorities at the point of entry, nor prior to the provision of a guardian and legal representative.
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- * EU Res. Minimum, paragraph 1: Procedures will comply fully with Art. 1 of the 1951 Convention Relating to the Status of Refugees and Art. 33 relating to the principle of 'non-refoulement'.
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- * ICCPR, Art. 6(1): Everyone has the inherent right to life, which should be protected by law, and no one shall be arbitrarily deprived of his or her life.
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- * Inter-Agency Principles, page 60: Separated children seeking refugee status should be admitted to the territory of an asylum country.
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- * Joint General Comment No 4, paragraph 17(a): Children should be guaranteed the right of access to the territory, regardless of the documentation they have or lack, and to be referred to authorities in charge of evaluating their needs in terms of protection of their rights, ensuring their procedural safeguards.
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- * Safe and Sound, page 27: The unaccompanied or separated child who is considered at risk needs first and foremost to be given access to the procedures established for having their best interests assessed. The ability to provide such protection and care is dependent on the prompt referral to and identification of these needs by child protection services and upon granting the child access to the State territory.
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- * 1951 Refugee Convention,
 - Art. 31: States shall not penalise those who illegally enter or are present in a country if they arrive from a territory where they faced persecution as per Art. 1.
 - Art. 33: States shall not return a refugee to a country where his or her life or freedom is threatened as per Art.1.

D 2. Identification

- * CRC, Art. 8: Every child has the right to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
- * General Comment No 6, paragraph 31(1): Prioritised identification of a separated child as soon as their presence becomes known to the authorities.
- * UNHCR Child Asylum Claims, paragraph 76: In normal circumstances, DNA testing will only be done when authorized by law and with the consent of the individuals to be tested, and all individuals will be provided with a full explanation of the reasons for such testing. In some cases, however, children may not be able to consent due to their age, immaturity, inability to understand what this entails or for other reasons. DNA tests should be used only where other means for verification have proven insufficient.
- * UNHCR Guidelines, paragraphs 5.1 - 5.3 & Annex II: Procedures need to be in place to establish whether a child is unaccompanied and whether they are seeking asylum. This applies to both children arriving at the border and children coming to the attention of the authorities after arrival.
- * EU Dir. Residence Permits, Art. 10(c): In the case of third-country nationals who are unaccompanied children, Member States shall take the necessary steps to establish their identity, nationality and the fact that they are unaccompanied.
- * EU Res., Art. 3(1): Member States should endeavour to establish a minor's identity as soon as possible after arrival, and also the fact that he or she is unaccompanied. Information on the minor's identity and situation can be obtained by various means, in particular by means of an appropriate interview, which should be conducted as soon as possible and in a manner in keeping with his age. The information obtained should be effectively documented.
- * Safe and Sound, page 33: Identified unaccompanied or separated children need immediate referral to child protection services in order to meet their needs relating to care, safety, education and health.
- * UN Commentary Trafficking, page 49: States shall take all necessary measures to establish effective procedures for the rapid identification of child victims.
- * UN Guidelines on Alternative Care, paragraph 162: Identifying, registering and documenting unaccompanied or separated children are priorities in any emergency and should be carried out as quickly as possible.
- * UNHCR Refugee Children, page 122: It is essential that unaccompanied children be identified as soon as possible.
- * UNICEF Child Trafficking,
 - Page 14: The State should develop and adopt effective procedures for the rapid identification of trafficked children.
 - Page 14: Immigration, border and law enforcement authorities shall establish procedures to identify child victims at frontiers and at any other location.

D 3. Appointment of a Guardian

- CRC,
Art. 12: The views of children are to be given due weight in relation to their age and maturity and children shall have the opportunity to be heard in all proceedings affecting them.
 - Art. 18(2): States shall assist legal guardians to carry out child-rearing responsibilities.
 - Art. 20(1): Children deprived of their families are entitled to special protection and assistance.
 - Art. 20(3): The care provided to children deprived of their families shall take account of their ethnic, religious, cultural and linguistic background.
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- * General Comment No 6,
 - Paragraphs 21 & 24, *op.cit.*
 - Paragraphs 33 – 38: States should appoint a guardian (or adviser) as soon as the separated child is identified.
 - Paragraph 95, *op.cit.*
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- * UNHCR Child Asylum Claims,
 - Paragraph 66: Child applicants will need time to build trusting relationships with their guardian and other professional staff and to feel safe and secure.
 - * Paragraph 69, *op.cit.*
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- * UNHCR Guidelines, paragraph 5.7: It is suggested that an independent and formally accredited organization be identified/established in each country, which will appoint a guardian or adviser as soon as the unaccompanied child is identified.
 - * ACE Toolkit, page 22: All decisions about childcare placements and discharge should be made in consultation with the child.
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- * CoE Young Migrants, paragraph 4.6: Council of Europe Member States should adopt a legal framework for the appointment of a legal guardian for separated children who are under their jurisdiction, irrespective of whether they apply for asylum or not, who should look after the child individually. The appointment of the guardian should take place as a matter of urgency and the guardian should ensure that all decisions affecting the child are taken in his or her best interests. The guardian should also act as a link between the child and various service providers and advocate on behalf of the child where necessary.
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- * Core Standards for Guardians,
 - Preface: We have a duty to protect these (separated) children. The first step should not therefore be to automatically decide on return, but rather to designate rapidly a guardian who would represent the interest of the child.
 - Preface: A timely provision of proper guardianship is fundamental for the concrete application of the best interests of the child and it is central to establishing appropriate action for finding durable and appropriate solutions for separated children.
 - Preface: It is important that such (separated) children are met with respect and by personnel who have the necessary training and capacity to understand them

and their situation. Guardians should have sufficient powers to perform their functions and act in the best interests of the child, while taking the views of the child into account.

* Dublin Recast, Art. 6(2): Member States shall ensure that a representative represents and/or assists an unaccompanied child with respect to all procedures provided for in this Regulation. The representative shall have the qualifications and expertise to ensure that the best interests of the child are taken into consideration during the procedures carried out under this Regulation.

* ECRE (Children), paragraphs 16 – 18: Outlines the importance of a guardian for separated children and identifies the role of the guardian.

* EU Dir. Qualifications Recast, Art. 31(1): As soon as possible after the granting of international protection, Member States shall take the necessary measures to ensure the representation of unaccompanied children by a legal guardian or, where necessary, by an organisation responsible for the care and well-being of children, or by any other appropriate representation, including that based on legislation or court order.

* EU Dir. Procedures Recast, Art. 25(1): Member States shall as soon as possible take measures to ensure the necessary representation of unaccompanied children by legal guardianship or representation by an organisation which is responsible for the care and well-being of children. The representative should act in the best interests of the child and organisations or individuals where there could be a conflict of interest will not be eligible for this role.

* EU Dir. Reception Recast, Art. 24(1): Member States shall as soon as possible take measures to ensure the necessary representation of unaccompanied children by legal guardianship or representation by an organisation which is responsible for the care and well-being of children. The representative should act in the best interests of the child and organisations or individuals where there could be a conflict of interest will not be eligible for this role. Regular assessments shall be made by the appropriate authorities

* EU Dir. Returns, Art. 10(1): Before deciding to issue a return decision in respect of an unaccompanied child, assistance by appropriate bodies other than the authorities enforcing return shall be granted with due consideration being given to the best interests of the child.

* EU Dir. Trafficking,

- Art. 14(2): Member States shall appoint a guardian or a representative for a child victim of trafficking in human beings from the moment the child is identified by the authorities where, by national law, the holders of parental responsibility are, as a result of a conflict of interest between them and the child victim, precluded from ensuring the child's best interest and/or from representing the child.

- Art. 16(3): Member States shall take the necessary measures to ensure that, where appropriate, a guardian is appointed to unaccompanied child victims of trafficking in human beings.

* EU Res., Art. 3(4&5): Member States should provide as soon as possible legal

guardianship or representation by an organisation which is responsible for the care and well-being of the child, or other appropriate representation. The guardian should ensure that the child's needs (for example, legal, social, medical or psychological) are duly met.

* FRA Guardianship,

- Page 18: The guardian should be the person with the most comprehensive view of the child's situation and individual needs. A guardian is in a unique position to connect the various authorities and the child.
- Page 27: Appointed guardians and legal representatives must be in a position to make independent and impartial decisions, assessments, actions and representations guided by the best interests of the child.
- Page 27, *op.cit.*
- Page 27: National law should provide the legal basis of guardianship and define the authority responsible for it. This guardianship authority should be held responsible and accountable for the acts of the appointed guardian.
- Page 32, *op.cit.*
- Page 33: Guardians play a vital role in preventing child abuse and exploitation. They should therefore be aware of child-specific risk factors relating to trafficking and be familiar with strategies to avoid children disappear from residential facilities.
- Page 35, *op.cit.*
- Page 35: No guardian should be allowed to work before he or she has undergone a vetting procedure.
- Page 36: Agencies or individuals whose interests could potentially be in conflict with the interests of the child should not be eligible for guardianship.
- Page 44: The guardianship authority should ensure that guardians are able to manage effectively all children assigned to them.
- Page 46: Guardians must possess the knowledge and skills required to perform their tasks.
- Page 48: In addition to general training, guardians should have expertise and/or receive training specifically tailored to the needs and the rights of particular groups of children, such as unaccompanied children, child victims of sexual abuse or child victims of trafficking.
- Page 51: Guardianship authorities should directly provide guardians with access to support services or facilitate their access when other actors provide the services.
- Page 55: Prompt appointment of a guardian is a key safeguard for a child's rights and overall well-being, protecting unaccompanied children and preventing child trafficking and other forms of child abuse and exploitation.
- Page 55: A guardian must be appointed from the moment the authorities identify a child as a possible victim of trafficking, when required to safeguard the child's best interests.
- Page 58: When the need to appoint a guardian has been established, a guardian should be assigned to the child as soon as possible.
- Page 58: When a guardian is being appointed, children should be given the opportunity to be heard, and due weight should be given to their views.

- Page 61: The guardianship authority should provide the child with relevant information about the guardian in a language and a manner that the child understands, based on the child's age, maturity and developing capacities.
- Page 61: The guardianship arrangement must last until a durable solution in the best interests of the child is identified and implemented or until the child reaches the age of majority.
- Page 67: The guardian is responsible for safeguarding the best interests of the child, ensuring the child's overall well-being and exercising legal representation for the child to complement his or her limited legal capacity.
- Page 69: The guardian is given the duty of safeguarding and promoting the child's well-being. Each time a decision is taken affecting the child, the guardian's role is to promote the option which is in the best interests of the child. The guardian must ensure that the child's views are heard and given due weight. The guardian must inform the child and consult with him or her on all aspects of the guardian's work, taking into consideration the child's maturity and developing capacities.
- Page 70: Guardians who work with child victims of trafficking should be aware of the effect that the experience of trafficking can have on children's behaviour and of the consequences of trauma.
- Page 72: Safeguarding the best interests of the child must guide the guardian's work and actions.
- Page 72: The guardian shall hold public authorities accountable for any decisions affecting the child and ensure respect for the principle of the best interest as a primary consideration, as required by Article 3 of the CRC, throughout the decision-making processes. Page 74: The guardian must participate in such formal Best Interests Determinations to make sure that the child's best interests are a primary consideration in all decision-making processes and that the right of the child to be heard is respected, as required by Article 12 of the CRC.
- Page 74: Promoting the child's well-being requires the guardian to ensure that the child's legal, social, health, psychological, material and educational needs are met.
- Page 78: Restrictions on the child's freedom of movement should be proportional and follow on from the results of the risk assessment. They should always be confirmed by judicial authorities. The guardian should also check that intrusive safety measures, such as frequent changes in place of residence or severe restrictions to the child's freedom of movement, are taken only when deemed absolutely necessary to protect the child's safety.
- Page 82: Guardians acting in the best interests of the child should assist the child in tracing the family, when the child wishes it, and in establishing or maintaining contacts with family members.
- Page 88: As the person responsible for safeguarding the best interests of the child, the guardian must help the child participate in all decision-making processes affecting him or her, ensuring that the decision-making authorities respect the child's right to be heard and that his or her views are given due weight.
- Page 88: The guardian must keep the child informed of his or her rights and

- duties, as well as on the proceedings in which the child might be involved.
 - Page 90: The guardian must act as a link between the child and the specialist agencies and individuals who are responsible for providing the continuum of care the child requires.
 - Page 95: The guardian should be a first point of contact for authorities intending to issue a return decision to an unaccompanied child.
 - Page 97: Merely allowing a child to remain in a particular country until the age of 18 is not a meaningful or durable solution. It does not address the future needs of the child or take a long-term perspective. It does not ensure that the child's rights are protected in the foreseeable future.
 - Page 97: When integration in the receiving country is in the best interests of the child, guardians should insist that the child's long-term needs be addressed. This will require the competent authorities to ensure that the child has a residence status in the country that allows him or her to stay lawfully after reaching the age of majority.
 - Page 101: Before the age assessment procedure begins, the person who carries out a guardian's tasks should be assigned to the individual claiming to be a child.
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- * General Comment No 12, paragraph 124: A guardian or adviser should be appointed, free of charge.
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- * Hague Convention, 1993
 - * Hague Convention, 1996,
 - Art. 3: States where separated children have habitual residence can take measures of protection, including guardianship or analogous institutions.
 - Art. 6: The Convention applies to separated children who are refugees or internationally displaced due to disturbance occurring in their own country.
 - * Inter-Agency Principles, page 47: Guardianship should be used in administrative or judicial proceedings wherever the system exists to support it, as it provides an important safeguard for ensuring that children's rights and best interests are upheld.
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- * Joint General Comment No 3,
 - Paragraph 32(h): State Parties shall ensure that children are identified promptly in border controls and other migration-control procedures within the State's jurisdiction, and that anyone claiming to be a child is treated as such, promptly referred to child protection authorities and other relevant services, and appointed a guardian, if unaccompanied or separated.
 - Paragraph 36: States parties should appoint a qualified legal representative for all children, including those with parental care, and a trained guardian for unaccompanied and separated children, as soon as possible on arrival, free of charge
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- * Joint General Comment No 4, paragraph 17(i): Unaccompanied and separated children, should have appointed a competent guardian, as expeditiously as possible, who serves as a key procedural safeguard to ensure respect for their best interests.
 - * Safe and Sound, page 21: Unaccompanied or separated children are at a distinct disadvantage without the protection of their parents and need the support of their own representative who is independent from the entities deciding on their protection claim and can assist them in obtaining their rights.
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* UN Commentary Trafficking, page 14: When transposing the Directive, Member States are encouraged to assign guardians or representatives a specific duty to advocate for the best interest of the child on a regular basis, to act as an advocate for the child as well as a bridge and focal point for the child's interaction with other authorities and actors. The guardian or representative should also be provided with a role in ensuring that the child is able to participate in decisions.

- * UN Guidelines on Alternative Care,
- Paragraph 19: No child should be without the support and protection of a legal guardian or other recognized responsible adult or competent public body at any time.
 - Paragraph 145: As soon as an unaccompanied child is identified, States are strongly encouraged to appoint a guardian or, where necessary, representation by an organization responsible for his or her care and well-being, to accompany the child throughout the status determination and decision-making process.
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* UNHCR Child Asylum Claims, paragraph 69: An independent, qualified guardian needs to be appointed immediately and free of charge in the case of unaccompanied or separated children.

- * UNHCR Refugee Children,
- Page 101: A legal representative or a guardian should be appointed immediately to ensure that the interests of an applicant for refugee status who is a child are fully safeguarded.
 - Page 126: An unaccompanied child should have a legal guardian with respect to involvement in any legal proceedings and may need a legal guardian to advocate for the child's interests or to make decisions on behalf of the child in other situations.
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* UNICEF Child Trafficking, page 16: Individuals appointed as guardians must have relevant child protection experience, knowledge of child rights/human rights and an understanding of the specific needs of child victims, including those specific to gender.

D 4. Registration and Documentation

* CRC, Art. 8: Every child has the right to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

- * General Comment No 6,
- Paragraph 31(ii): Prompt registration and initial interview to collect bio data and social history to enable identification of the child.
 - Paragraph 99: The development of an integrated system of data collection on separated children is a prerequisite for the development of effective policies.
 - Paragraph 100: Outlines the data that should be gathered regarding separated children.
 - Paragraph 95, *op.cit.*
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- * UNHCR Guidelines,
 - Paragraph 5.6: Unaccompanied children should be registered through interviews. In addition to the initial registration of basic biographical data, the dossier should include a social history of the child, which should be compiled over time and must accompany the child whenever there is a transfer of his or her location or care arrangements.
 - Paragraphs 5.8 & 5.9: Initial interviews of unaccompanied children to collect biodata and social history information should be done immediately after arrival and in an age-appropriate manner. The Guidelines outline the information that should be gathered.

- * ACE Toolkit, page 31: Identify and register children in need of interim care, tracing and child protection, and children in informal care arrangements.

- * EU Dir. Reception Recast, Art. 6(1): Member States shall ensure that, within three days of the lodging of an application for international protection, the applicants are provided with a document issued in their own name, certifying their status as an applicant or testifying that they are allowed to stay on the territory of the Member State while their application is pending or being examined.

- * EU Res., Art. 3(1), *op.cit.*

- * Joint General Comment No 3, paragraph 32(h): State Parties shall ensure that children are identified promptly in border controls and other migration-control procedures within the State's jurisdiction, and that anyone claiming to be a child is treated as such, promptly referred to child protection authorities and other relevant services, and appointed a guardian, if unaccompanied or separated.

- * Joint General Comment No 4, paragraph 22: Should a child's identity documents have been procured irregularly on his or her behalf and the child requests the restoration of his or her identity documents, States parties are encouraged to adopt flexible measures in the best interests of the child, specifically by issuing corrected documents and avoiding prosecution where falsification has been committed.

- * Safe and Sound, page 25: When a child arrives at the border or is found within a State's territory alone or accompanied by someone who is not the child's caregiver by law or by custom, there will need to be a very rapid assessment of whether the child is at risk.

- * UNHCR Refugee Children, page 106: All refugee children in the country of asylum must be considered as having, or being able to acquire, including through naturalization, an effective nationality.

- * UNICEF Child Trafficking, page 18: Registration and documentation shall be done following the best interests of the child. Child victims shall be questioned in a manner which respects their dignity and capacity, and special safeguards shall be developed to avoid any thoroughly abusive interrogation process for children.

D 5. Age Assessment

- * General Comment No 6,
 - Paragraph 31(i): Age assessments should be safe, in a child- and gender-sensitive way and the individual should be given the benefit of the doubt.
 - Paragraph 95, *op.cit.*

- * UNHCR Child Asylum Claims, paragraph 75: Age assessments are conducted in cases when a child's age is in doubt and need to be part of a comprehensive assessment that takes into account both the physical appearance and the psychological maturity of the individual. It is important that such assessments are conducted in a safe, child- and gender-sensitive manner with due respect for human dignity. The margin of appreciation inherent to all age assessment methods needs to be applied in such a manner that, in case of uncertainty, the individual will be considered a child. As age is not calculated in the same way universally or given the same degree of importance, caution needs to be exercised in making adverse inferences of credibility where cultural or country standards appear to lower or raise a child's age. Children need to be given clear information about the purpose and process of the age assessment procedure in a language they understand. Before an age assessment procedure is carried out, it is important that a qualified independent guardian is appointed to advise the child.

- * UNHCR Guidelines, paragraph 5.11 Outlines considerations where an age assessment is necessary.

- * CoE Trafficking, Art. 10 (1), *op.cit.*

- * CFREU, Art. 3(1): Everyone has the right to respect of his or her physical integrity.

- * ECRE (Children), paragraph 9: In determining age, ECRE believes that young asylum-seekers should be given the benefit of the doubt. If an age assessment is necessary, for example when it is thought that travel documents have been falsified to present a child as an adult or an adult as a child, an independent medical examination by a paediatrician should be carried out. Such an age assessment should take into account the child's physical appearance and psychological maturity. However, medical testing should be handled with the utmost care, with due consideration given to the scientific limitations. Any medical testing which is forcible and/or violates the physical or cultural integrity of the individual should be ruled out.

- * EU Dir. Procedures Recast,
 - Art. 5: Medical examinations must respect the individual's dignity and use the least invasive measure. They should be undertaken by qualified medical professionals.
 - Art. 25(5a): Unaccompanied children are informed prior to the examination of their application for asylum and in a language which they may reasonably be supposed to understand, of the possibility that their age may be determined by medical examination. This shall include information on the method of examination and the possible consequences of the result of the medical examination for the examination of the application for asylum, as well as the consequences of refusal on the part of the unaccompanied child to undergo the

medical examination.

- Art. 25(5b): Unaccompanied children and/or their representatives consent to carry out an examination to determine the age of the individual concerned.
- Art. 25(5c): The decision to reject an application for international protection from an unaccompanied child who refuses to undergo this medical examination shall not be based solely on that refusal.

* EU Dir. Trafficking Art. 13(2): Member States shall ensure that, where the age of a person subject to trafficking in human beings is uncertain and there are reasons to believe that the person is a child, that person is presumed to be a child in order to receive immediate access to assistance, support and protection.

* EU Res., Art. 4(3): Age assessment should be carried out objectively. For such purposes, Member States may have a medical age-test carried out by qualified medical personnel, with the consent of the child, a specially appointed adult representative or institution.

* FRA Guardianship, page 101, *op.cit.*

* Joint General Comment No 3, paragraph 32(h): State Parties should ensure that children are identified promptly in border controls and other migration-control procedures within the State's jurisdiction, and that anyone claiming to be a child is treated as such, promptly referred to child protection authorities and other relevant services, and appointed a guardian, if unaccompanied or separated.

* Joint General Comment No 4, paragraph 4: To make an informed estimate of age, States should undertake a comprehensive assessment of the child's physical and psychological development, conducted by specialist paediatricians or other professionals who are skilled in combining different aspects of development. Such assessments should be carried out in a prompt, child-friendly, gender sensitive and culturally appropriate manner, including interviews of children and, as appropriate, accompanying adults, in a language the child understands. Documents that are available should be considered genuine unless there is proof to the contrary, and statements by children and their parents or relatives must be considered. The benefit of the doubt should be given to the individual being assessed. States should refrain from using medical methods based on, *inter alia*, bone and dental exam analysis, which may be inaccurate, with wide margins of error, and can also be traumatic and lead to unnecessary legal processes. States should ensure that their determinations can be reviewed or appealed to a suitable independent body.

* 1951 Refugee Convention, Art. 31: Penalties shall not be imposed on asylum-seekers who enter a country illegally if they can show good cause for their illegal entrance.

* UN Commentary Trafficking,

- Page 14: When implementing the Directive, Member States are encouraged to provide for a multidisciplinary approach to age assessment, where such assessment is strictly necessary, and accompanied by the necessary procedural safeguards.
 - Page 73: When carrying out an age assessment, the individual should be exempt from removal and should have the right to appeal the outcome of the assessment.
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- * UNHCR Handbook, paragraphs 196 & 197: Considers the burden of proof in relation to an asylum application.
 - * UNHCR Refugee Children, page 103: Sometimes scientific procedures are used, such as dental or wrist bone x-rays. Precautions must be taken if such methods are used. First, these methods only estimate age. Authorities must therefore make sure their methods are accurate and allow for margins of error.
 - * UNICEF Child Trafficking, page 15: Verification of the victim's age shall be done in a child-friendly and, whenever possible, independent and impartial way.
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D 6. Exemption from Detention

- * CRC,
 - Art. 37(a): Children shall not be subject to cruel, inhuman or degrading treatment.
 - Arts. 37(b) & 22(2), op.cit
- * General Comment No 6, paragraphs 61 – 63: Separated children should not, as a general rule, be detained and illegal entry into a country may be justified to prevent a violation of a child's fundamental human rights. The best interests principle should govern the conditions of detention.
- * UNHCR Guidelines,
 - Paragraph 7.6: Children seeking asylum should not be kept in detention. This is particularly important in the case of unaccompanied children.
 - Paragraph 7.7: Reaffirms CRC, Art. 37.
- * ECHR, Art. 3: No one shall be subjected to torture or to inhuman or degrading treatment or punishment.
- * ECHR, Art. 5: Everyone has the right to liberty and security of person.
- * ECRE (Children), paragraph 20: ECRE maintains that unaccompanied children should never be detained. This includes detention at the border, for example in international zones, or any form of detention after the asylum claim has been rejected.
- * EU Dir. Reception Recast,
 - Preamble (15): The detention of applicants should be applied in accordance with the underlying principle that a person should not be held in detention for the sole reason that they are seeking international protection.
 - Art. 11(2): Children shall be detained only as a measure of last resort and after it having been established that other less coercive alternative measures cannot be applied effectively. Such detention shall be for the shortest period of time and all efforts shall be made to release the detained children and place them in accommodation suitable for children. Where children are detained, they shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age.

- Art. 11(3): Unaccompanied children shall be detained only in exceptional circumstances. All efforts shall be made to release the detained unaccompanied child as soon as possible. Unaccompanied children shall never be detained in prison accommodation. As far as possible, unaccompanied children shall be provided with accommodation in institutions provided with personnel and facilities which take into account the needs of persons of their age. Where unaccompanied children are detained, Member States shall ensure that they are accommodated separately from adults.

- * EU Dir. Returns,
 - Art. 17(1): Unaccompanied children shall only be detained as a measure of last resort and for the shortest appropriate period of time.
 - Art. 17(3): Children in detention shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age, and shall have, depending on the length of their stay, access to education.

- * EU Res., Art. 2(3): Unaccompanied children, who must remain at the border until a decision has been taken on their admission or return, should receive all necessary material support and care.

- * ICCPR,
 - Art. 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
 - Art. 9: No one shall be subjected to arbitrary arrest or detention.

- * ICRMW, Art. 16(4): Migrant workers and members of their families should not be subjected individually or collectively to arbitrary arrest or detention.

- * Inter-Agency Principles, page 60: Refugee or asylum-seeking children should not be detained. However, in situations where they are detained, this detention must be used as a measure of last resort and should be for the shortest period of time.

- * Joint General Comment No 4, paragraph 5: Every child, at all times, has a fundamental right to liberty and freedom from immigration detention.

- * Safe and Sound, page 26: Detention of children is particularly serious due to the devastating effect it may have on their physical, emotional and psychological development.

- * UN Commentary Trafficking, page 39: The authorities must be able to demonstrate that the detention is in the best interest of the child and that there is no other reasonable option.

- * UN Guidelines on Alternative Care,
 - Paragraph 143: Unaccompanied or separated children, including those who arrive irregularly in a country, should not, in principle, be deprived of their liberty solely for having breached any law governing access to and stay within the territory.
 - Paragraph 144: Child victims of trafficking should neither be detained in police custody nor be subjected to penalties for their involvement under compulsion in unlawful activities.

- * UN Rules for the Protection of Juveniles Deprived of Their Liberty

- * UNHCR Refugee Children, pages 86 & 87: If refugee children are detained in

airports, immigration holding centres or prisons, they must not be held under prison-like conditions.

D 7. Family Tracing and Contact

- * CRC,
 - Art. 9(3): Children who are separated from their parents have the right to maintain contact with their parents.
 - Art. 10(1): Applications for family reunification shall be dealt with in a “positive, humane and expeditious manner”.
 - Art. 10(2): Children whose parents reside in different countries have the right to maintain regular relations with their parents.
 - Art. 22(2): States shall co-operate, as they consider appropriate, with efforts by the UN or other IGOs or NGOs in family tracing measures.

- * General Comment No 6, paragraph 80: Tracing is an essential component in the search for a durable solution and should be prioritised unless this is not in the child’s best interests or would jeopardise those being traced.

- * General Comment No 14,
 - Paragraph 66: When the child’s relations with his or her parents are interrupted by migration (of the parents without the child or of the child without their parents), preservation of the family unit should be taken into account when assessing the best interests of the child in decisions on family reunification.
 - Paragraph 59: The term “family” must be interpreted in a broad sense to include biological, adoptive or foster parents or, where applicable, the members of the extended family or community as provided for by local custom.

- * UNHCR Child Asylum Claims, paragraph 68: For unaccompanied and separated child applicants, efforts need to be made as soon as possible to initiate tracing and family reunification with parents or other family members.

- * UNHCR Guidelines, paragraph 5.17: Tracing for parents or families is essential and should begin as soon as possible.

- * FRA Guardianship, page 82, *op.cit.*

- * ACE Toolkit, page 43: When the child wishes, tracing should be available to all separated children to enable reunification with parents, other close relatives, or primary legal or customary caregivers.

- * Dublin Recast,
 - Art. 6(4): The Member State where the unaccompanied child lodged an application for international protection shall, as soon as possible, take appropriate action to identify the family members, siblings or relatives of the unaccompanied child on the territory of Member States, whilst protecting the best interests of the child.
 - Art. 8(1): Where the applicant is an unaccompanied child, the Member State responsible shall be that where a family member or a sibling of the

unaccompanied child is legally present, provided that it is in the best interests of the child.

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- * ECHR, Art. 8: Everyone has the right to respect for his private and family life, his home and his correspondence.
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- * ECRE (Children), paragraph 32: In tracing family members of refugee children and in taking steps to facilitate contact between refugee children and family members, ECRE calls on States to cooperate in efforts made by the UN and by other competent intergovernmental or non-governmental organizations which work with the UN.
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- * EU Dir. Qualifications Recast, Art. 31(5): Member States, protecting the unaccompanied child's best interests, shall endeavour to trace the members of his or her family as soon as possible. In cases where there may be a threat to the life or integrity of the child or their close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information is undertaken on a confidential basis.
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- * EU Dir. Reception Recast, Art. 24(3): Member States, protecting the unaccompanied child's best interests, shall endeavour to trace the members of his or her family as soon as possible. In cases where there may be a threat to the life or integrity of the child or their close relatives, care must be taken to ensure that the collection, processing and circulation of information is undertaken on a confidential basis, so as to avoid jeopardising their safety.
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- * EU Dir. Residence Permits, Art. 10(c): Member States shall make every effort to locate the families of unaccompanied children as quickly as possible.
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- * EU Res., Art. 3(3): Member States should endeavour to trace the members of the family of an unaccompanied child, or to identify the place of residence of the members of the family, regardless of their legal status and without prejudging the merits of any application for residence. Unaccompanied children may also be encouraged and assisted in contacting the International Committee of the Red Cross, national Red Cross organisations, or other organisations for tracing of their family members. Confidentiality should be duly respected in order to protect both the child and the members of his or her family.
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- * General Comment No 12, paragraph 124: Asylum-seeking children may also need effective family tracing and relevant information about the situation in their country of origin to determine their best interests.
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- * ICCPR, Art. 23(1): The family is entitled to protection by the State.
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- * ICRMW, Art. 44(1): States shall take measures to ensure the protection of the unity of the families of migrant workers.
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- * Inter-Agency Principles,
 - Page 16: Unaccompanied and separated children must be provided with services aimed at reuniting them with their parents or primary legal or customary caregivers as quickly as possible.
 - Page 35: Tracing must be carried out for all separated children at the earliest possible time. Even if immediate family reunification is not possible, tracing is important for restoring links with their families.

- Page 35: Tracing should be proactive, but the safety of the child and their family must be paramount.
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- * Quality4Children, Standard 8, page 15: The child's relationship with their family of origin is encouraged, maintained and supported if this is in the best interests of the child.
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- * UN Guidelines on Alternative Care,
 - Paragraph 146: As soon as an unaccompanied or separated child is taken into care, all reasonable efforts should be made to trace their family and re-establish family ties, when this is in the best interests of the child and would not endanger those involved.
 - Paragraph 151: Those responsible for the welfare of an unaccompanied or separated child should facilitate regular communication between the child and their family, except where this is against the child's wishes or is demonstrably not in their best interests.
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- * UNHCR Refugee Children,
 - Page 42: Restoring normalcy for unaccompanied children requires that tracing for parents begins immediately. When parents or relatives are located, children need help in maintaining communication with them until they can be reunited.
 - Page 128: Tracing for parents or other relatives is essential. Begin tracing as early as possible. In addition to the possibility of family reunion, it can be very important to a child to know that someone is looking for his or her parents.

D 8. Interim Care

D 8.1 Care Placements

- * CRC,
 - Arts. 3(3) & 13, *op.cit.*
 - Art. 14: Children have the right to freedom of thought, conscience and religion.
 - Art. 15: Children have the right to freedom of association.
 - Art. 16: Children shall not be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence.
 - Art. 19: States shall take all appropriate measures to protect children from all forms of physical and mental violence, abuse, negligence, maltreatment or exploitation.
 - Arts. 20(1), 20(3) & 25, *op.cit.*
 - Art. 26: Children have the right to benefit from social security and social insurance.
 - Art. 27: Children have the right to a standard of living adequate for their physical, mental, spiritual, moral and social development.
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- * Arts. 30, 34, 35, 36, *op.cit.*
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- * General Comment No 6,
 - Paragraph 40: Placements should offer continuity in a child's upbringing regarding their cultural and linguistic background, changes of placements should be kept to a minimum and siblings should be placed together. Child-headed families should receive effective protection and children should be informed about the plans that are being made for them.
 - Paragraph 90: Once it is determined that a separated child will remain in the community, an assessment should take place to determine appropriate long-term arrangements. Separated children should have the same access to service rights as national children.

- * General Comment No 14,
 - Paragraph 56: Regarding religious and cultural identity, for example, when considering a foster home or placement for a child, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.
 - Paragraph 62: Where alternative care is provided, it is delivered under appropriate conditions responding to the rights and best interests of the child.

- * UNHCR Guidelines,
 - Paragraph 7.1, *op.cit.*
 - Paragraph 7.5: Whether they are accommodated in foster homes or special reception centres, children seeking asylum should be under regular supervision and assessment by qualified persons, to ensure their physical and psychosocial well-being.

- * ACE Toolkit,
 - Page 23: All residential care facilities must be registered and independently inspected. If the quality of care is unknown, a child should not be placed in the facility until a minimum inspection has been completed.
 - Page 23: All formal and informal interim care placements must be registered, monitored and reviewed on a regular basis and in a manner that does not disrupt the arrangement.
 - Page 31: For each child entering care, ensure that the placement is registered, the child has had a medical screening and, if required, has access to emergency medical treatment or prescription medicines. Provide the child and caregiver with basic information about each other, the placement, the plan forward, and who they should go to in case of serious problems.
 - Page 35: Every child in interim care should have a care plan.
 - Page 41: The priority is for the child's best interests, informed by the child's own views and feelings, to dictate the care placement.
 - Page 89: Once a child has been identified as unaccompanied or separated or in need of urgent protection, an assessment should be made to determine the most appropriate form of care for the child.
 - Page 104: Monitoring, reviews and care planning are an essential component of the use of interim or longer-term alternative care. Children who are not monitored on a regular basis, with reviews of their situation, are at risk of permanent separation from their families, remaining in temporary care for years, moving from placement to placement, institutionalisation, or receiving insufficient

- support required for their healthy development.
- Page 130: While foster care and kinship care can provide children with good-quality care within a family, it should never be assumed that because children are with a family they are protected or that they no longer need to be reunited with their birth families. Children living with adults who are not well-known to the child are more at risk of abuse and exploitation.
 - Page 142: All forms of group care should be based on a small-group model in order to provide children and young people with sufficient care and attention, and to avoid their institutionalisation.
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* ECHR,

- Art. 9: Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his or her religion or belief and freedom, either alone or in community with others and in public or private, to manifest his or her religion or belief, in worship, teaching, practice and observance.
 - Art. 10: Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
 - Art. 11: Everyone has the right to freedom of peaceful assembly and to freedom of association with others.
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* ECRE (Children),

- Paragraph 12: Children who arrive without an accompanying adult, but who do have family members in the host State, should be reunited with those family members as soon as possible. Unaccompanied siblings should never be separated by the reception system of the host State.
 - Paragraph 19: Suitable accommodation facilities, responding to material, cultural, religious, linguistic and psychological needs in an age-appropriate way, should be provided by the host State for all unaccompanied children.
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* EU Dir. Qualifications Recast,

- Art. 31(3): Unaccompanied children who make an application for international protection shall be placed, with adult relatives, with a foster family, in accommodation centres with special provisions for children or in other accommodation suitable for children. Member States may place unaccompanied children aged 16 or over in accommodation centres for adult applicants, if it is in their best interests.
 - Art. 31(4): As far as possible, siblings shall be kept together, taking into account the best interest of the child and his or her age and degree of maturity. Changes of residence shall be limited to a minimum.
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* EU Dir. Reception Recast, Art. 24(2): Unaccompanied children who make an application for international protection shall be placed, with adult relatives, with a foster family, in accommodation centres with special provisions for children or in other accommodation suitable for children. Member States may place unaccompanied children aged 16 or over in accommodation centres for adult applicants, if it is in their best interests. As far as possible, siblings shall be kept together, taking into account the best interest of the child and his or her age and degree of maturity. Changes of residence shall be limited to a minimum.

* EU Res., Arts. 3(2, 4&5) and 4(4): Irrespective of their legal status, unaccompanied children should be entitled to the necessary protection and basic care in accordance with the provisions of national law. Member States should normally place unaccompanied children during the asylum procedure with adult relatives, with a foster family, in reception centres with special provisions for children or in other accommodation with suitable provisions for children.

* FRA Guardianship,

- Page 30: In view of the need to prevent child trafficking, authorities should pay special attention to children who for various reasons are temporarily or permanently deprived of their parental environment. This will include, in particular, children who are living in residential care facilities and unaccompanied children.

- Page 78, *op.cit.*

- Page 79: All children on EU territory have the right to protection. Disappearances should be acted upon on the same basis for all categories of children.

* ICCPR, Art. 18(1): Everyone shall have the right to freedom of thought, conscience and religion.

* ICCPR,

- Art. 19(1): Everyone shall have the right to hold opinions without interference.

- Art. 21: Everyone shall have the right to freedom of assembly with others.

- Art. 22: Everyone shall have the right to freedom of association with others.

- Art. 24(1): Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

* ICESCR,

- Art. 9: The States Parties to the present Covenant recognise the right of everyone to social security, including social insurance.

- Art. 11(1): The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

* Inter-Agency Principles, page 45: The status of all children in foster families must be monitored. Although children are generally better off growing up in a family setting than in an institution, there are still risks in living in a foster family where children may be neglected, abused, exploited or have other rights denied.

* Joint General Comment No 3, paragraph 32(f): Conduct a best interests assessment on a case-by-case basis in order to decide what care, if needed, should be provided and this should be in accordance with the Guidelines for the Alternative Care of Children.

* Joint General Comment No 4, paragraph 28: Children, in the context of international migration and families should not be subjected to arbitrary or unlawful interference with their privacy and family life.

* Quality4Children,

- Preface: Children who cannot live with their parents are the most exposed to poverty, exclusion and discrimination, which in turn can cause them to become even more vulnerable to abuse, neglect and exploitation.
- Standard 4, page 14: During the out-of-home care process, siblings are cared for together. Siblings are only placed separately if it serves their well-being. In this case, contact between them is ensured, unless this affects them negatively.
- Standard 5, page 14: After the form of care has been agreed upon, the future care organisation prepares the child's admission thoroughly. The welcome must be gradual and cause as little disruption as possible. Transition to the new placement is arranged as a process, the main purpose of which is to ensure the child's best interests and the well-being of all relevant parties involved.
- Standard 6, page 15: An individual care plan is created during the decision-making process to be further developed and implemented during the entire out-of-home care process. This plan is intended to guide the overall development of the child.
- Standard 7, page 15: The child grows up in an inclusive, supportive, protective and caring environment.
- Standard 12, page 16: The living standards and infrastructure of the care organisation satisfy the child's needs in respect to comfort, security and healthy living conditions, as well as uninhibited access to education and to the community.
- Standard 14, page 16: The child/young adult is supported in shaping their future towards becoming a self-reliant, self-sufficient and participating member of society.
- Standard 15, page 17: The leaving-care process is a crucial stage in out-of-home childcare and is thoroughly planned and implemented. It is primarily based on the child's/young adult's individual care plan.
- Standard 18, page 17: After the child/young adult has left out-of-home care, they have the opportunity to receive assistance and support. The care organisation strives to ensure that they do not perceive the leaving-care process as a major new disruption. If the young adult has reached the age of majority, the care organisation should continue offering support and opportunity to maintain contact.

* UN Commentary Trafficking,

- Page 14: When implementing the Directive, Member States are encouraged to ensure a multidisciplinary approach in the assessment of the individual needs of a child victim for both short-term and long-term care and support, followed by periodic updates of the assessment.
- Page 39: The disappearance of asylum-seeking children from care centres is an increasingly worrying phenomenon, which requires better adjusted approaches to outreach services for these children, in particular those who are resisting self-identification as refugees and/or victims of trafficking, accompanied by strengthened child protection measures, such as guardianship and closer supervision, rather than using detention to try to prevent disappearance.

* UN Guidelines on Alternative Care,

- Paragraph 4: Every child and young person should live in a supportive, protective

and caring environment that promotes their full potential. Children with inadequate or no parental care are at special risk of being denied such a nurturing environment.

- Paragraph 21: The use of residential care should be limited to cases where such a setting is specifically appropriate, necessary and constructive for the individual child concerned and in their best interests.
- Paragraph 142: In determining appropriate care provision, the diversity and disparity of unaccompanied or separated children (such as ethnic and migratory background or cultural and religious diversity) should be taken into consideration on a case-by-case basis.

* UNHCR Refugee Children,

- Page 39: Refugee children need a daily routine that is predictable. When life becomes stable, when they can rely on good things happening on a predictable basis, such as eating, going to school and playing, the sense of normalcy gives psychological security.
- Page 40: Play is vital to the healthy development of a child. It is a child's way of coping with what has happened, of relaxing and relieving tensions and of assimilating what they have experienced and learned. This process is crucial to a child's healthy development, ability to cope and to learn to function within the family and the community.
- Page 92: The care and placement of unaccompanied children should be supervised by national or local child welfare services to ensure that they receive care that meets at least the minimum standards provided for national children. Siblings must be kept together. Children who have developed close ties should also be kept together. The most appropriate form of placement must be determined for each unaccompanied child.

* UNICEF Child Trafficking, page 22: Child victims have the right to receive immediate care and protection, including security, food, and accommodation in a safe place, access to social and health services, psychosocial support, legal assistance and education.

D 8.2 Health

* CRC,

- Art. 23: Children with disabilities have the right to enjoy a full and decent life and have the right to special care.
- Art. 24, *op.cit.*
- Art. 39: States shall take measures to promote the physical and psychological recovery and social re-integration of child victims.

* General Comment No 6,

- Paragraphs 46 – 49: Separated children should have the same access to health services as national children and States must address the particular vulnerabilities of separated children and the impact of these on a child's health. Rehabilitation should be provided.

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- Paragraph 90, *op.cit.*
 - * General Comment No 14, paragraph 77: The child's right to health and their health condition are central in assessing the child's best interest.
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- * UNHCR Guidelines,
 - Paragraph 7.1, *op.cit.*
 - Paragraph 7.5: Whether they are accommodated in foster homes or special reception centres, children seeking asylum should be under regular supervision and assessment by qualified persons, to ensure their physical and psychosocial well-being.
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- * CAT, Art. 14: Victims of torture shall be able to obtain redress, compensation and rehabilitation.
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- * CFREU, Art. 35: everyone has the right to health care and medical treatment.
 - * ECRE (Children) paragraph 36: ECRE maintains that medical and psychological services should be available for refugee children at the same standard available to children of the host country.
 - * ECRE (Integration), paragraphs 120 – 133: Recognises the particular health needs of those seeking international protection, outlines considerations as to how these needs can be addressed and affirms the non-discriminatory approach to accessing health care.
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- * EU Dir. Qualifications Recast, Art. 30(1) Member States shall ensure beneficiaries of international protection receive access to health care under the same conditions as Member State nationals.
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- * EU Dir. Reception Recast,
 - Art. 17(1&2): Member States shall make provisions on material reception conditions to ensure a standard of living adequate for the health of applicants and capable of ensuring their subsistence. Member States shall ensure that standard of living is met in the specific situation of persons who have special needs.
 - Art. 21: Member States shall take into account the specific situation of vulnerable persons such as children and unaccompanied children.
 - Art. 23(1): The best interest of the child shall be a primary consideration when implementing the provisions that involve children.
 - Art 23(4): Member States shall ensure access to rehabilitation services for children who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment, or who have suffered from armed conflicts, and ensure that appropriate mental health care is developed and qualified counselling is provided when needed.
 - * EU Dir. Residence Permits, Art. 9(2): Member States shall provide necessary medical or other assistance to children.
 - * EU Dir. Trafficking, Art. 11(7): Member States shall attend to victims with special needs, where those needs derive, in particular, from whether they are pregnant, their health, a disability, a mental or psychological disorder they have, or a serious form of psychological, physical or sexual violence they have suffered from.
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- * EU Res., Art. 3(7): Unaccompanied children should receive appropriate medical care. Special medical or other assistance should be provided for children who have suffered from any form of neglect, exploitation, abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment, or armed conflicts.
- * General Comment No 15, paragraph 8: In order to fully realize the right to health for all children, States Parties have an obligation to ensure that children's health is not undermined as a result of discrimination, which is a significant factor contributing to vulnerability.
- * General Comment No 31/18, paragraph 79: Refugee and internally displaced children with disabilities are vulnerable to multiple forms of discrimination, particularly refugee and internally displaced girls with disabilities, who are more often than boys subject to abuse, including sexual abuse, neglect and exploitation.
- * ICESCR, Art. 12: The States Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
- * ICRMW, Art. 28: Migrant workers and members of their families have the right to receive urgent medical care.
- * Inter-Agency Principles, page 48: Separated children's access to appropriate health care should be promoted and monitored.
- * Joint General Comment No 4, paragraph 55: Every migrant child should have access to health care equal to that of nationals, regardless of their migration status. This includes all health services, whether preventive or curative, and mental, physical or psychosocial care, provided in the community or in health-care institutions.
- * UNHCR Refugee Children,
 - Page 48: States should ensure that children who suffer from emotional distress or mental disorders benefit from culturally appropriate mental health services and treatment.
 - Page 49: Special difficulties, such as trauma related to witnessing or being a victim of torture, sexual assault or other forms of violence, require the involvement of a qualified mental health professional trained to work with children. Such a professional should preferably be of the same ethnic background as the refugees or at least have good cross-cultural skills.
 - Page 62: Refugee children should have access to the national health services of the host country.

D 8.3 Education, Language and Training

- * CRC,
 - Art. 28: Children have the right to free and compulsory primary education. States shall encourage different forms of secondary education and make them available to all children. Educational and vocational guidance shall be available to all children.
 - Art. 29(1c): The aims of education shall be to encourage respect of children's cultural identity, language and values.

- Art. 30, *op.cit.*
 - Art. 32: Children should be protected from economic exploitation and hazardous work.
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- * General Comment No 6,
 - Paragraph 41: States should ensure that access to education is maintained during all phases of the displacement cycle.
 - Paragraph 42: The unaccompanied or separated child should be registered with appropriate school authorities as soon as possible and get assistance in maximizing learning opportunities. All unaccompanied and separated children have the right to maintain their cultural identity and values, including the maintenance and development of their native language. All adolescents should be allowed to enrol in vocational/professional training or education, and early learning programmes should be made available to young children. States should ensure that unaccompanied or separated children are provided with school certificates or other documentation indicating their level of education, in particular in preparation of relocation, resettlement or return.
 - Paragraph 90, *op.cit.*
 - * General Comment No 14, paragraph 79: It is in the best interests of the child to have access to quality education, including early childhood education, non-formal or informal education and related activities, free of charge. All decisions on measures and actions concerning a specific child or a group of children must respect the best interests of the child or children with regard to education.
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- * UNHCR Guidelines,
 - Paragraph 7.12: Every child, regardless of status, should have full access to education in the asylum country.
 - Paragraph 7.14: All juveniles should be allowed to enrol in vocational/professional training or education which would improve their prospects, especially when returning to their country of origin.
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- * CDE, Art. 3: States shall take immediate measures to eliminate and prevent discrimination in education.
 - * CERD, Art. 5, e) v: Education and training should be provided without discrimination.
 - * CoE Young Migrants, paragraph 6: Migrant children should have unimpeded access to compulsory education and additional resources should be available to help professionals work effectively with young migrants. The curriculum should not contain any national or ethnic prejudices and should not convey any discriminatory or racist interpretation of the history, culture and society of foreign countries or communities.
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- * CFREU, Art. 14(1): Everyone has the right to education and to have access to vocational and continuing training.
 - * ECRE (Children), paragraphs 37 – 39 : ECRE believes that a refugee child has the same right to education as other children of the same age within the territory of the host State; this includes the period during which the asylum claim is examined. European host States should actively take steps to ensure that each refugee child's

right to education is fully realized. Schools need to be flexible and responsive to refugee children, and should provide the child with any necessary language or other support. A child refugee should be able to benefit from additional education in their mother tongue in order to preserve cultural identity.

- * EU Dir. Qualifications Recast,
 - Art. 26(2) Member States shall ensure that activities such as vocational training are offered to beneficiaries of international protection.
 - Art. 27(1) Member States shall grant full access to education to all children granted international protection.
 - EU Dir. Reception Recast,
 - Art. 14(1): Member States shall grant to children access to the education system under similar conditions as nationals. Member States shall not withdraw secondary education for the sole reason that the child has reached the age of majority.
 - Art. 14(2): Access to the education system shall not be postponed for more than three months from the date the application for international protection was lodged.
 - Art. 14(3): Where access to the education system is not possible due to the specific situation of the minor, the Member State may offer other education arrangements.
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* EU Dir. Residence Permits, Art. 10(b): Member States shall ensure that children have access to the educational system under the same conditions as nationals.

* EU Dir. Returns, Art. 14(1): During the period for voluntary departure, children are granted access to the basic education system subject to the length of their stay.

* EU Dir. Trafficking Art. 14(1): Within a reasonable time, Member States shall provide access to education for child victims.

* EU Res., Art. 3(6): When assumed that an unaccompanied child of school age will be staying for a prolonged period, the child should have access to general education facilities on the same basis as nationals.

- * European Social Charter,
 - Part I (7): Children and young persons have the right to special protection against the physical and moral hazards to which they are exposed.
 - Part I (9): Everyone has the right to appropriate facilities for vocational guidance.
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* ICESCR, Art. 13(1): Education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups.

* ICRMW, Arts. 43 & 45: Members of the families of migrant workers shall enjoy equality of treatment with nationals in relation to access to education, vocational guidance and training.

- * Inter-Agency Principles,
 - Page 49: Separated children, like all children, have a right to education.
 - Page 49: It is important that separated refugee children return to their country of origin with school certificates or other documentation of education obtained in the country of asylum.
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- * Joint General Comment No 4, paragraph 59: All children in the context of international migration, irrespective of status, shall have full access to all levels and all aspects of education, including early childhood education and vocational training, on the basis of equality with nationals of the country where those children are living.
- * Quality4Children, Standard 14, page 16: The child has access to education and is given the opportunity to acquire life skills and adopt values.
- * UDHR, Art. 26: Everyone has the right to education.
- * UN Commentary Trafficking, page 76: Trafficked children, as well as the children of adult trafficking victims, should have access to the same statutory education as national children.
- * UNHCR-AP, Part III, Goal 6(2): States should accord importance to primary and secondary education for refugees.
- * UNHCR Refugee Children,
 - Page 45: School is one of the best ways to give children the structure and predictability they need. School can focus children's attention, stimulate their creativity, and develop their social skills. Teachers can be trained to look for signs of emotional problems and to help children talk about their experiences.
 - Page 112: Refugee and national children should have the same access to full primary education and post-primary academic and vocational education.

D 8.4 Social Assistance

- * CRC,
 - Art. 26: Every child has the right to benefit from social security.
 - Art. 27: Children should have a standard of living adequate for their physical, mental, spiritual, moral and social development.
- * General Comment No 6, paragraph 44: Children should receive material support.
- * UNHCR Guidelines, paragraph 10.9: Young adults who have left their "care" environment should be given access to "after care". They should be assigned a contact person and should have access to information and advice on issues like welfare rights, housing and education. Such services should be available to the young adult as long as considered necessary.
- * CFREU, Art. 34(1): The European Union recognises and respects the entitlement to social security benefits.
- * EU Dir. Qualifications Recast, Art. 29(1) Member States shall ensure beneficiaries of international protection receive necessary social assistance.
- * EU Dir. Residence Permits, Art. 7(1): Member States shall ensure that the third-country nationals concerned, who do not have sufficient resources, are granted standards of living capable of ensuring their subsistence and access to emergency medical treatment.
- * Joint General Comment No 4, paragraph 49: States should ensure that children in the context of international migration have a standard of living adequate for their physical, mental, spiritual and moral development.

* UN Commentary Trafficking, page 90: Child victims of trafficking should equally be entitled to receive reparation, irrespective of their immigration status. Procedures for obtaining and enforcing reparation should be readily accessible and child-sensitive.

D 8.5 Employment

* General Comment No 6, paragraph 90, *op.cit.*

* CFREU, Art. 15(3): Nationals of third countries who are authorised to work in Member States are entitled to the same working conditions as citizens of the Union.

* EU Dir. Qualifications Recast, Art. 26(1): Member States shall authorise beneficiaries of international protection to engage in employed or self-employed activities.

* Joint General Comment No 4, paragraph 46: States should take all appropriate legislative and administrative measures, including a gender dimension, to regulate and protect the employment of migrant children with respect to the minimum age of employment and hazardous work.

D 9. Access to the Best Interests Determination Process

- * CRC, Art. 22, *op.cit.*
- * General Comment No 6, paragraph 66: Separated children, irrespective of age, shall enjoy access to asylum procedures and other mechanisms for providing international protection.
- * General Comment No 14,
 - Paragraph 13: Each State Party must respect and implement the right of the child to have his or her best interests assessed and taken as a primary consideration, and is under the obligation to take all necessary, deliberate and concrete measures for the full implementation of this right.
 - Paragraph 14(a): States Parties are obliged to ensure that the child's best interests are appropriately integrated and consistently applied in every action taken by a public institution, especially in all implementation measures and administrative and judicial proceedings which directly or indirectly impact on children.
 - Paragraph 14(b): States Parties are obliged to ensure that all judicial and administrative decisions, as well as policies and legislation concerning children, demonstrate that the child's best interests have been a primary consideration. This includes describing how the best interests have been examined and assessed, and what weight has been ascribed to them in the decision.
 - Paragraph 14(c): States Parties are obliged to ensure that the interests of the child have been assessed and taken as a primary consideration in decisions and actions taken by the private sector, including those providing services, or any other private entity or institution making decisions that concern or impact on a child.
 - Paragraph 25: The obligation of the States to duly consider the child's best interests is a comprehensive obligation encompassing all public and private social welfare institutions, courts of law, administrative authorities and legislative bodies involving or concerning children.
 - Paragraph 30: The Committee emphasizes that the scope of decisions made by administrative authorities at all levels is very broad, covering decisions concerning education, care, health, the environment, living conditions, protection, asylum, immigration and access to nationality, among others. Individual decisions taken by administrative authorities in these areas and all implementation measures must be assessed and guided by the best interests of the child.
 - Paragraph 32: The concept of the child's best interests is flexible and adaptable.

It should be adjusted and defined on an individual basis, according to the specific situation of the child or children concerned, taking into consideration their personal context, situation and needs. For individual decisions, the child's best interests must be assessed and determined in light of the specific circumstances of the particular child.

* General Comment No 14, paragraph 37: Children have less possibility than adults to make a strong case for their own interests and those involved in decisions affecting children must be explicitly aware of their interests.

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- * UNHCR Child Asylum Claims,
 - Paragraph 5, *op.cit.*
 - Paragraph 10: The principle of the best interests of the child requires that the harm be assessed from the child's perspective.
 - Paragraph 53: The child's best interests are relevant in all assessments regarding internal flight and displacement.
 - Paragraph 54: The best interests of the child are among the factors to be considered in assessing the viability of a proposed place of internal relocation.

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- * UNHCR Guidelines,
 - Paragraph 4.1, *op.cit.*
 - Paragraph 5.4: If it is confirmed that the child is an asylum-seeker, every effort should be made to process the examination of their claim as expeditiously and as child-appropriate as possible.
 - Paragraph 10.1: In recognition of the particular vulnerability of unaccompanied children, every effort should be made to ensure that decisions relating to them are taken and implemented without any undue delays.

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- * ECRE (Children),
 - Paragraph 22: ECRE maintains that each unaccompanied child should immediately be admitted to the full asylum procedure and adequate reception facilities and be exempt from all accelerated procedures, including "safe third country" procedures.
 - Paragraph 23: A child may have grounds for seeking asylum in their own right and is entitled to an individual determination of their application.

* EU Dir. Qualifications Recast, Art. 9(2): Acts of persecution may be of a child-specific nature.

* EU Res., Art. 4(1): Every unaccompanied child should have the right to apply for asylum.

* EU Res. Minimum, paragraphs 26 - 27: Provision must be made for unaccompanied children seeking asylum to be represented by a specifically appointed adult or institution. During the interview, unaccompanied children may be accompanied by that adult or representatives of that institution. When an application from an unaccompanied child is examined, their mental development and maturity will be taken into account.

* General Comment No 14, paragraph 98: States should establish mechanisms within their legal systems to appeal or revise decisions concerning children when a decision seems not to be in accordance with the appropriate procedure of assessing

and determining the child's or children's best interests.

* Inter-Agency Principles, page 60: When assessing an individual child's claim for refugee status, the following aspects should be taken into account: the child's age and views, noting in particular the need for expert assessment; the appointment of a legal representative, as well as a guardian to promote a decision that will be in the child's best interests; and recognition that the child should be given the benefit of the doubt should there be some concern regarding the credibility of their story.

* Protocol Relating to the Status of Refugees, 1967

* Safe and Sound, page 41: The decision to enter into immigration procedures, whether through lodging an application for international protection or other procedures, has considerable consequences for the child and his or her development opportunities. At this stage, the best interests principle would indicate that a high level of procedural safeguards be put in place.

* 1951 Refugee Convention: Art. 1: There are no distinctions according to age. A person of any age can be recognised as a refugee.

* UN Commentary Trafficking, page 11: When transposing the Directive, Member States are encouraged to include in their national legislation a reflection period of a minimum of 90 days for all victims of trafficking. For suspected child victims, such decisions should reflect consideration of their best interests.

* UDHR, Art. 14(1): "Everyone has the right to seek and to enjoy in other countries asylum from persecution."

* UNHCR-AP, Part II, Operative paragraph 6: States Parties to the 1951 Refugee Convention call upon all States to take measures to strengthen asylum, giving special attention to vulnerable groups, including women and children.

D 10. Legal Representation and Assistance

* CRC,

- Arts. 12 & 22, *op.cit.*

- General Comment No 6, paragraph 69: Separated children should have free access to legal representation.

* General Comment No 14, paragraph 96: The child will need appropriate legal representation when his or her best interests are to be formally assessed and determined by courts and equivalent bodies.

* UNHCR Child Asylum Claims, paragraph 69: Children who are the principal applicants in an asylum procedure are also entitled to a legal representative. Such representatives should be properly trained and should support the child throughout the procedure.

* UNHCR Guidelines,

- Paragraph 4.2: Upon arrival, a child should be provided with a legal representative.

- Paragraph 8.3: Not being legally independent, an asylum-seeking child should be represented by an adult who is familiar with the child's background and who would protect his or her interests. Access should also be given to a qualified legal representative. This principle should apply to all children, including those between sixteen and eighteen, even where the application for refugee status is processed under the normal procedures for adults.

* ECRE (Children), paragraph 24: ECRE maintains that each refugee child who is seeking international protection in their own right should be provided promptly with legal advice and representation throughout the determination procedure, including any appeals, be provided, if necessary, with the means to obtain this legal representation, if unaccompanied, automatically receive such representation at no cost to the child or those caring for the child, be provided with interpreters trained in both refugee and child issues and have the right to appeal against a negative decision to an independent judicial authority.

* EU Dir. Procedures Recast,

- Art. 20 (1): Member States shall ensure free legal assistance to applicants for international protection appealing a negative decision.
- Art. 25(4): Unaccompanied children and their representatives shall be provided, free of charge, with legal and procedural information.

* EU Dir. Residence Permits, Art. 10(c): And take the necessary steps immediately to ensure legal representation, including representation in criminal proceedings, if necessary, in accordance with national law.

* EU Dir. Returns, Art. 13(4): Member States shall ensure that the necessary legal assistance and/or representation is granted on request free of charge in accordance with relevant national legislation or rules regarding legal aid.

* EU Dir. Trafficking, Art. 15(2): Member States shall, in accordance with the role of victims in the relevant justice system, ensure that child victims have access without delay to free legal counselling and to free legal representation, including for the purpose of claiming compensation, unless they have sufficient financial resources.

* General Comment No 14, paragraph 96: The child will need appropriate legal representation when his or her best interests are to be formally assessed and determined by courts and equivalent bodies

* Joint General Comment No 3,

- Paragraph 32(c): State Parties should ensure due process safeguards are established, including the right to free, qualified and independent legal representation.
- Paragraph 36: States parties should appoint a qualified legal representative for all children, including those with parental care, and a trained guardian for unaccompanied and separated children, as soon as possible on arrival, free of charge.

* Joint General Comment No 4, paragraph 17(f): Children should be assisted by an attorney trained and/or experienced in representing children at all stages of the proceedings and communicate freely with the representative, and have access to free legal aid.

* Safe and Sound, page 21: The child has a right to independent legal advice and representation, especially in respect to decisions which have a fundamental impact on their future.

D 11. Minimum Procedural Guarantees

* CRC, Art. 3.3: Institutions, services and facilities responsible for the care or protection of separated children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

* General Comment No 6,

- Paragraph 71: Applications should be determined by competent authorities.
 - Paragraph 95, op cit.
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* General Comment No 14,

- Paragraph 6(c): Assessing and determining the best interests of the child requires procedural guarantees.
 - Paragraph 85: To ensure the correct implementation of the child's right to have his or her best interests taken as a primary consideration, some child-friendly procedural safeguards must be put in place and followed.
 - Paragraph 87: States must put in place formal processes, with strict procedural safeguards, designed to assess and determine the child's best interests for decisions affecting the child, including mechanisms for evaluating the results. States must develop transparent and objective processes for all decisions made by legislators, judges or administrative authorities, especially in areas which directly affect the child or children.
 - Paragraph 98: States should establish mechanisms within their legal systems to appeal or revise decisions concerning children when a decision seems not to be in accordance with the appropriate procedure of assessing and determining the child's or children's best interests.
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* UNHCR Child Asylum Claims,

- Paragraph 2: Children's unique experiences of persecution, due to factors such as their age, their level of maturity and development and their dependency on adults must be taken into account. Children may not be able to articulate their claims to refugee status in the same way as adults and, therefore, may require special assistance to do so.
- Paragraph 6: Each child has the right to make an independent refugee claim, regardless of whether they are accompanied or unaccompanied.
- Paragraph 8: Even at a young age, a child may still be considered the principal asylum applicant. Where the child is the principal asylum-seeker, their age and, by implication, level of maturity, psychological development and ability to articulate certain views or opinions will be important factors in a decision maker's assessment.
- Paragraph 65: Due to their young age, dependency and relative immaturity,

children should enjoy specific procedural and evidentiary safeguards to ensure that fair refugee status determination decisions are reached with respect to their claims

- Paragraph 66: Claims made by child applicants, whether they are accompanied or not, should normally be processed on a priority basis, as they often will have special protection and assistance needs. Priority processing means reduced waiting periods at each stage of the asylum procedure, including as regards the issuance of a decision on the claim. However, before the start of the procedure, children require sufficient time in which to prepare for and reflect on rendering the account of their experiences. They will need time to build trusting relationships with their guardian and other professional staff and to feel safe and secure.
- Paragraph 69, *op.cit.*
- Paragraph 70: The right of children to express their views and to participate in a meaningful way is also important in the context of asylum procedures. A child's own account of their experience is often essential for the identification of their individual protection requirements and, in many cases, the child will be the only source of this information. Ensuring that the child has the opportunity to express these views and needs requires the development and integration of safe and child-appropriate procedures and environments that generate trust at all stages of the asylum process. It is important that children be provided with all necessary information in a language and manner they understand about the possible existing options and the consequences arising from them.
- Paragraph 71: Appropriate communication methods need to be selected for the different stages of the procedure, including the asylum interview, and need to take into account the age, gender, cultural background and maturity of the child, as well as the circumstances of the flight and mode of arrival. Useful, non-verbal communication methods for children might include playing, drawing, writing, role-playing, story-telling and singing. Children with disabilities require "whatever mode of communication they need to facilitate expressing their views".
- Paragraph 72: It is essential that examiners have the necessary training and skills to be able to evaluate accurately the reliability and significance of the child's account. This may require involving experts in interviewing children outside a formal setting or observing children and communicating with them in an environment where they feel safe, for example, in a reception centre.
- Paragraph 77: Decisions need to be communicated to children in a language and in a manner they understand. Children need to be informed of the decision in person, in the presence of their guardian, legal representative, and/or other support person, in a supportive and non-threatening environment. If the decision is negative, particular care will need to be taken in delivering the message to the child and explaining what next steps may be taken in order to avoid or reduce psychological stress or harm.

* UNHCR Guidelines,

- Paragraph 4.2, *op.cit.*
- Paragraph 8.1, *op.cit.*
- Paragraph 8.2: Minimum procedural guarantees should include determination by

a competent authority, fully qualified in asylum and refugee matters; where the age and maturity of the child permits, the opportunity for a personal interview with a qualified official before any final decision is made; and a possibility to appeal for a formal review of the decision.

- Paragraph 8.4: The interviews should be conducted by specially qualified and trained representatives of the refugee determination authority who will take into account the special situation of unaccompanied children, in order to carry out the refugee status assessment.
- Paragraph 8.5, *op.cit.*

* CoE Rec. Airports, paragraph 2: The Committee of Ministers acknowledges the special situation in which asylum-seekers find themselves on arrival at airports.

* ECRE (Children),

- Paragraph 22, *op.cit.*
- Paragraph 24, *op.cit.*
- Paragraph 26, *op.cit.*
- Paragraphs 27: Those who interview children and assess their claims should be appropriately trained, with additional knowledge of child development, the Convention on the Rights of the Child, and relevant cultural factors.
- Paragraph 28: ECRE calls on States to adopt and implement administrative procedures which help assure the fair and efficient processing of asylum claims from children, as keeping children in an insecure situation for long periods of time can be extremely harmful.

* EU Dir. Procedures Recast, Preamble (21): As long as an applicant can show good cause, the lack of documents on entry or the use of forged documents should not entail an automatic recourse to border or accelerated procedures.

- Preamble (29): Specific procedural guarantees for unaccompanied children should be laid down on account of their vulnerability.
- Preamble (39): Certain applicants may be in need of special procedural guarantees due to their age, gender, sexual orientation, gender identity, disability, serious illness, mental disorders or as a consequence of torture, rape or other serious forms of psychological, physical or sexual violence.
- Art. 7(3): Member States shall ensure that a child has the right to make an application for international protection either on their own behalf, if they have the legal capacity to act in procedures according to the law of the Member State concerned, or through their parents or other adult family members, or an adult responsible for them, whether by law or by the practice of the Member State concerned, or through a representative.
- Art. 15(3e): Interviews with children are conducted in a child-appropriate manner.
- Art. 25 (1a): As soon as possible, measures should be taken to provide unaccompanied children with representation to assist with their application.
- Art. 25 (3): If an unaccompanied child has a personal interview regarding their application for international protection, the interview shall be conducted by a person who has the necessary knowledge of the special needs of children. The decision shall be prepared by an official with understanding of the special needs of children.

- Art. 31(7b): Member States may prioritise an examination of an application for international protection from children.
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- * EU Dir. Trafficking,
 - Art. 15(3): Where child victims of trafficking are interviewed as part of criminal investigations and proceedings, these interviews should take place promptly, in appropriate premises, and be conducted by trained staff. Interviews should only be undertaken when absolutely necessary and the number of interviews should be kept to a minimum, involving the same interviewers wherever possible. Children may be supported in these interviews by a representative or adult of their choice.
 - Art. 15(4): Member States shall take the necessary measures to ensure that in criminal investigations, all interviews with a child victim or, where appropriate, with a child witness, may be video-recorded and that such video-recorded interviews may be used as evidence in criminal court proceedings, in accordance with the rules under their national law.
 - Art. 15(5): Member States shall take the necessary measures to ensure that in criminal court proceedings, it may be ordered that the hearing take place without the presence of the public and the child victim be heard in the courtroom without being present, in particular, through the use of appropriate communication technologies.
 - Art. 16(4): Member States shall take the necessary measures to ensure that, in criminal investigations and proceedings, in accordance with the role of victims in the relevant justice system, competent authorities appoint a representative where the child is unaccompanied or separated from their family.
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- * EU Res.,
 - Art. 4(2): Having regard to the particular needs of children and their vulnerable situation, Member States should treat the processing of their application as a matter of urgency.
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- * EU Res. Minimum, paragraphs 26 & 27: Provision must be made for unaccompanied children seeking asylum to be represented by a specifically appointed adult or institution if they do not have capacity under national law. During the interview, unaccompanied children may be accompanied by that adult or representatives of that institution. These persons are to protect the child's interests. When an application for asylum from an unaccompanied child is examined, their mental development and maturity will be taken into account.
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- * General Comment No 12, paragraph 124: Attention is needed to ensure that stateless children are included in decision-making processes within the territories where they reside.
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- * General Comment No 13, paragraph 54(b): Child victims of violence should be treated in a child-friendly and sensitive manner throughout the justice process, taking into account their personal situation, needs, age, gender, disability and level of maturity and fully respecting their physical, mental and moral integrity.
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- * Joint General Comment No 4,
 - Paragraph 15: The Committees are of the view that States should ensure that their legislation, policies, measures and practices guarantee child-sensitive due

process in all migration and asylum administrative and judicial proceedings affecting the rights of children and/or those of their parents.

- Paragraph 17(b): Children should be notified of the existence of a proceeding and of the decision adopted in the context of the immigration and asylum proceedings, its implications and possibilities for appeal.
- Paragraph 17(c): Immigration proceedings should be conducted by a specialized official or judge, and any interviews carried out in person by professionals trained in communicating with children.
- Paragraph 17(h): Children should be able to appeal the decision to a higher court or independent authority, with suspensive effect.

* Safe and Sound, page 21: Decisions, such as international protection or immigration decisions, may normally be appealed.

* UN Commentary Trafficking, page 36: Child victims of trafficking are not subjected to criminal procedures or sanctions for offences related to their situation as trafficked persons.

* UNHCR Handbook, paragraph 214: The question of whether an unaccompanied minor may qualify for refugee status must be determined in the first instance according to the degree of his mental development and maturity. In the case of children, it will generally be necessary to enrol the services of experts conversant with child mentality.

* UNHCR Refugee Children,

- Page 100: The question of how to determine whether an unaccompanied refugee child qualifies for refugee status will depend on the child's degree of mental development and maturity. An expert with sufficient knowledge of the psychological, emotional and physical development and behaviour of children should be called upon to make the necessary assessment, bearing in mind that children may manifest their fears in ways different from adults. When possible, such an expert should have the same cultural background and mother tongue as the child.
- Pages 100 & 101: Where the child has not reached a sufficient degree of maturity to make it possible to establish a well-founded fear in the same way as for an adult, it is necessary to examine in more detail objective factors, such as the characteristics of the group the child left with, the situation prevailing in the country of origin and the circumstances of family members, inside or outside the country.
- Page 101: The problem of proof is great in every refugee status determination. It is compounded in the case of children. For this reason, the decision on a child's refugee status calls for a liberal application of the principle of the benefit of the doubt. This means that, should there be some hesitation regarding the credibility of the child's story, the burden is not on the child to provide proof, but the child should be given the benefit of the doubt.

D 12. Criteria for Making a Decision on a Child's Protection Needs and a Durable Solution

- * CRC,
 - Arts. 3, 12, 22, 32, 34, 35, 36 & 37, *op.cit.*
 - Art. 38: States shall ensure that persons under the age of 15 do not take a direct part in armed conflict.

- * General Comment No 6,
 - Paragraph 72: Assessment should comprise a case-by-case examination of the unique combination of factors presented by each child.
 - Paragraph 74: When assessing refugee claims, States shall take into account the particular motivations for and manifestations of persecution experienced by children.

- * UNHCR Child Asylum Claims,
 - Paragraph 4: Alongside age, factors such as rights specific to children, a child's stage of development, knowledge and/or memory of conditions in the country of origin, and vulnerability, also need to be considered to ensure an appropriate application of the eligibility criteria for refugee status.
 - Paragraph 10: Ill-treatment, which may not rise to the level of persecution in the case of an adult, may do so in the case of a child.
 - Paragraph 11: Both objective and subjective factors are relevant to establish whether or not a child applicant has a well-founded fear of persecution. An accurate assessment requires both an up-to-date analysis and knowledge of child-specific circumstances in the country of origin, including of existing child protection services. Dismissing a child's claim based on the assumption that perpetrators would not take a child's views seriously or consider them a real threat could be erroneous. It may be the case that a child is unable to express fear when this would be expected or, conversely, exaggerates the fear. In such circumstances, decision makers must make an objective assessment of the risk that the child would face, regardless of that child's fear. This would require consideration of evidence from a wide array of sources, including child-specific country of origin information. When the parent or caregiver of a child has a well-founded fear of persecution for their child, it may be assumed that the child has such a fear, even if they do not express or feel that fear.
 - Paragraph 12: Alongside age, other identity-based, economic and social characteristics of the child, such as family background, class, caste, health, education and income level, may increase the risk of harm, influence the type of persecutory conduct inflicted on the child and exacerbate the effect of the harm on the child.
 - Paragraph 14: Children's socio-economic needs are often more compelling than those of adults, particularly due to their dependency on adults and unique developmental needs. Deprivation of economic, social and cultural rights, thus,

may be as relevant to the assessment of a child's claim as that of civil and political rights. It is important not to automatically attribute greater significance to certain violations than to others, but to assess the overall impact of the harm on the individual child.

- Paragraph 15: While children may face similar or identical forms of harm as adults, they may experience them differently. Actions or threats that might not reach the threshold of persecution in the case of an adult, may amount to persecution in the case of a child, because of the mere fact that he or she is a child.
- Paragraph 16: In the case of a child applicant, psychological harm may be a particularly relevant factor to consider.
- Paragraph 17: Children are also more sensitive to acts that target close relatives. Harm inflicted against members of the child's family can support a well-founded fear in the child.
- Paragraphs 18 - 36: Children may also be subjected to specific forms of persecution that are influenced by their age, lack of maturity or vulnerability. The fact that the refugee claimant is a child may be a central factor in the harm inflicted or feared. This may be because the alleged persecution only applies to, or disproportionately affects, children or because specific child rights may be infringed. Child-specific forms of persecution may include underage recruitment, child trafficking and female genital mutilation. Other examples include, but are not limited to, family and domestic violence, forced or underage marriage, bonded or hazardous child labour, forced labour, forced prostitution and child pornography. Such forms of persecution also encompass violations of survival and development rights, as well as severe discrimination of children born outside strict family planning rules and of stateless children as a result of loss of nationality and attendant rights.
- Paragraph 37: In child asylum claims, the agent of persecution is frequently a non-State actor. This may include militarized groups, criminal gangs, parents and other caregivers, and community and religious leaders. In such situations, the assessment of the well-founded fear of persecution has to include considerations as to whether or not the State is unable or unwilling to protect the victim.
- Paragraph 38: The assessment will depend not only on the existence of a legal system that criminalizes and provides sanctions for the persecutory conduct. It also depends on whether or not the authorities ensure that such incidents are effectively investigated and that those responsible are identified and appropriately punished.
- Paragraph 39: The child's access to State protection also depends on the ability and willingness of the child's parents, other primary caregiver or guardian to exercise rights and obtain protection on behalf of the child.
- Paragraphs 40 - 52: It is necessary to establish whether or not the child's well-founded fear of persecution is linked to one or more of the five grounds listed in the 1951 Refugee Convention.
- Paragraph 54: Internal relocation is only relevant where the applicant can access practically, safely and legally the place of relocation.

- Paragraph 59: In view of the particular circumstances and vulnerabilities of children, the application of the exclusion clauses (contained in Article 1F of the 1951 Convention) to children always needs to be exercised with great caution. In the case of young children, the exclusion clauses may not apply at all. Where children are alleged to have committed crimes while their own rights were being violated (for instance while being associated with armed forces or armed groups), it is important to bear in mind that they may be victims of offences against international law and not just perpetrators.
- Paragraph 73: Although the burden of proof usually is shared between the examiner and the applicant in adult claims, it may be necessary for an examiner to assume a greater burden of proof in children's claims, especially if the child concerned is unaccompanied.

* UNHCR Guidelines,

- Paragraphs 8.6 - 8.10: Outlines procedural safeguards for children.
- Paragraph 9.7: Outlines the need for a multi-disciplinary approach to the identification of durable solutions.
- Paragraph 10.4: A careful individual assessment, taking into account such factors as the child's age, sex, emotional state, family background, continuity/discontinuity of care, possibilities of family reunion, reasons for flight and educational background should be carried out.

* CAT, Art. 1: The term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity.

* EU Dir. Procedures Recast, Art. 25 (3): An official with the necessary knowledge of the special needs of children prepares the decision by the determining authority on the application of an unaccompanied child.

* EU Dir. Trafficking,

- Art. 14(1): Member States shall take the necessary measures to ensure that the specific actions to assist and support child victims of trafficking in human beings, in the short and long-term and in their physical and psycho-social recovery, are undertaken following an individual assessment of the special circumstances of each particular child victim, taking due account of the child's views, needs and concerns with a view to finding a durable solution for the child.
- Art. 16(2): Member States shall take the necessary measures with a view to finding a durable solution based on an individual assessment of the best interests of the child.

* EU Res., Art. 4(6): When an application for asylum from an unaccompanied child is examined, allowance should be made for a child's age, maturity and mental development, and for the fact that he may have limited knowledge of conditions in the country of origin.

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- * FRA Guardianship, page 97, *op.cit.*
 - * ICESCR, Art. 10(3), *op.cit.*
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- * Inter-Agency Principles,
 - Page 38: Long-term solutions need to be found for children who cannot be reunited with their families within a reasonable period of time.
 - Page 54: Any long-term solution must be planned to serve the individual child's best interests and should meet his developmental needs.
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- * Joint General Comment No 3, paragraph 32(j): State Parties shall develop and put into practice, with regard to unaccompanied children and children with families, a best interests determination procedure aimed at identifying and applying comprehensive, secure and sustainable solutions, including further integration and settlement in the country of current residence, repatriation to the country of origin or resettlement in a third country.
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- * Protocol 1 Additional to the Geneva Conventions of 12/8/1949, and Relating to the Protection of Victims of International Armed Conflicts:
 - Art. 77(2): Parties to conflicts must take all feasible measures to ensure that children under 15 do not take direct part in hostilities.
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- * Protocol II Additional to the Geneva Conventions of 12/8/1949, and Relating to the Protection of Victims of Non-International Armed Conflicts
 - Art. 4(3): Children under 15 shall not be recruited in the armed forces or allowed to take part in hostilities.
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- * Protocol 1 to CRC
 - * Protocol 2 to CRC
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- * Protocol on Trafficking in Persons
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- * RSICC, Art. 8(2)(b)(xxv) and (e)(vii): Conscripting or enlisting children under the age of fifteen years into the national armed forces, armed forces or groups, or using them to participate actively in hostilities constitutes a war crime.
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- * UN Commentary Trafficking,
 - Page 12: When implementing the Directive, Member States are encouraged to provide for a formal Best Interests Determination procedure for decisions having a long-term impact on a trafficked child's future, such as the determination of a durable solution.
 - Page 70: The Directive requires that a durable solution is found for child victims of trafficking, whether that child is accompanied or unaccompanied and separated. In either case, a durable solution is one that seeks to provide a long-term and sustainable solution for the child. As this is a decision that clearly has a significant impact on the child's life, it should be based on a formal Best Interests Determination, designed to determine the child's best interests.
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- * UN Guidelines on Alternative Care, paragraph 12: Decisions regarding children in alternative care, including those in informal care, should have due regard for the importance of ensuring children a stable home and of meeting their basic need for safe and continuous attachment to their caregivers, with permanency generally being a key goal.
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- * UNHCR-AP, Part III, Goal 1(2): States and the UNHCR should work together to ensure that authorities take into account gender and age, including forms of persecution which have specific gender- and age-related aspects.

- * UNHCR BID, chapter 2(1.1): Identifying the most appropriate durable solution for an unaccompanied or separated refugee child generally requires carefully balancing many factors. Before taking such decisions, a Best Interests Determination must be carried out to ensure sufficient focus on the child's rights.

- * UNHCR Refugee Children,
 - Page 147: Decisions on durable solutions for unaccompanied refugee children must be taken by competent bodies that include experienced child welfare personnel.
 - Page 147: Cases must be thoroughly assessed on an individual basis. The procedure should permit the effective participation of the refugee child and, as with status determination, arrangements should be made for him or her to be represented.

- * UNHCR Handbook,
 - Paragraph 203: After the applicant has made a genuine effort to substantiate their story, there may still be a lack of evidence for some of his statements. It is therefore frequently necessary to give the applicant the benefit of the doubt.
 - Paragraphs 213 – 219: Outlines procedural safeguards regarding the processing of asylum applications lodged by children.

- * UNICEF Child Trafficking, page 21: States shall adopt legislative or other appropriate measures that permit victims of trafficking who are not nationals/residents of the country in which they find themselves, to remain in their territory, temporarily or permanently.

D 13. Family Reunification

- * CRC, Art. 10(1): Applications for family reunification shall be dealt with in a positive, humane and expeditious manner.

- * General Comment No 6,
 - Paragraph 81: All efforts should be made to return a separated child to his or her parents, except where further separation is necessary for the best interests of the child.
 - Paragraph 83: Applications by a child to have his or her parents enter a State for the purpose of family reunification shall be dealt with humanely and quickly.

- * UNHCR Child Asylum Claims, paragraph 68: For unaccompanied and separated child applicants, efforts need to be made as soon as possible to initiate tracing and family reunification with parents or other family members. There will be exceptions, however, to these priorities, where information becomes available suggesting that tracing or reunification could put the parents or other family members in danger, that the child has been subjected to abuse or neglect, and/or where parents or family members may be implicated or have been involved in the child's persecution.

- * UNHCR Guidelines,
 - Paragraph 5.5: There may be a situation where families are split between countries. If one of the child's parents is in another asylum country, every effort should be made to reunite the child with that parent at an early stage before status determination takes place.
 - Paragraph 10.5: Family reunion is the first priority and it is essential that unaccompanied children are assisted in locating and communicating with their family members. Advice may be sought from the ICRC Central Tracing Agency or, if need be, from the tracing services of other international institutions.
 - Paragraph 10.11: When it is considered that resettlement is in the best interest of the child, generally on the ground of family reunification, swift implementation is necessary.

- * ACE Toolkit,
 - Page 21: All reasonable measures should be taken to understand the causes of separation, to help families stay together and to reunite families who become separated, where this is in the best interests of the child.
 - Page 22: Unaccompanied and separated children in informal and formal kinship and foster care, and children in all forms of residential care, should be provided with services aimed at reuniting them with their parents or primary legal or customary caregivers as quickly as possible.
 - Page 43: Before reunification, there must be a system in place for assessing the family's willingness and ability to care for the child, and determining whether reunification is in the best interests of the child and according to his or her wishes.
 - Page 122: When tracing and verification is successful, an assessment must be made to confirm that reunification is in the child's best interests, and that the family is willing and capable of caring for the child.

- * CoE Young Migrants, paragraph 7: States should facilitate family reunification between separated children and their parents or other family members.

- * Dublin Recast,
 - Preamble (16): When the applicant is an unaccompanied child, the presence of a family member or relative on the territory of another Member State, who can take care of him or her, should also become a binding responsibility criterion.
 - Art. 8(2): Where the applicant is an unaccompanied child who has a relative who is legally present in another Member State and where it is established, based on an individual examination, that the relative can take care of him or her, that Member State shall unite the child with his or her relative and shall be the Member State responsible, provided that it is in the best interests of the child.

- * ECHR, Art. 8.1: Everyone has the right to respect for their private and family life, their home and their correspondence.

- * ECRE (Children),
 - Paragraph 32, *op.cit.*
 - Paragraph 34: States should take immediate steps to allow reunion of refugee children with family members who have already found protection or are otherwise resident in countries outside the region of origin.

- Paragraph 35: ECRE specifically recommends that unaccompanied children seeking asylum in EU Member States should be immediately assisted with family tracing and reunion in other EU host countries. Family reunification in such cases can enable a family's application to be dealt with in one Member State rather than in several, which is both more efficient and more humane.

- * ECRE (Integration), paragraph 139: Special consideration should be given to the family reunion requirements of unaccompanied refugee children and elderly refugees.

- * EU Dir. Family,
 - Art. 10.3(a): If the refugee is an unaccompanied child, the Member States shall authorise the entry and residence, for the purposes of family reunification, of first-degree relatives in the direct ascending line.
 - Art. 18: The Member States shall ensure that the sponsor and/or the members of their family have the right to mount a legal challenge where an application for family reunification is rejected or a residence permit is either not renewed or withdrawn or removal is ordered.

- * EU Res., Art. 5(3a): The competent authorities should co-operate in re-uniting unaccompanied children with other members of their family, either in the child's country of origin or in the country where those family members are staying.

- * ICCPR, Art. 23(1): The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

- * ICRMW, Art. 44(1): States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers.

- * Inter-Agency Principles, page 37: When tracing is successful, an assessment should verify that family reunification is in the best interests of the child.

- * Joint General Comment No 4, paragraph 34): In the case of unaccompanied or separated children, including children separated from their parents due to the enforcement of immigration laws, such as the parents' detention, efforts to find sustainable, rights-based solutions for them should be initiated and implemented without delay, including the possibility of family reunification.

- * Safe and Sound, page 47: In order to assess whether family reunification is in the best interests of the child, information about the family situation, including a possible home study, would be relevant. The home study includes a detailed report of the situation of the family, including a description of conditions that may affect reunification, including housing, the economic situation of the family, health conditions of family members, willingness to re-unite with the child, ability to take care of the child, relationships between family members and any issues, such as substance abuse, which may be pertinent.

- * UN Guidelines on Alternative Care, paragraph 49: In order to prepare and support the child and the family for their possible return to the family, their situation should be assessed by a duly designated individual or team with access to multidisciplinary advice, in consultation with the different actors involved (the child, the family, the

alternative caregiver), so as to decide whether the reintegration of the child in the family is possible and in the best interests of the child, which steps this would involve and under whose supervision.

* UNHCR-AP, Part III, Goal 1(2): States should introduce or enhance gender- and age-specific safeguards in asylum procedures, with due weight being given to the principle of family unity.

* UNHCR Refugee Children, page 129: Social work support may be necessary in the family reunion and reintegration process. Depending on the duration and reasons for separation, individual care and, sometimes, material assistance may be required. In cases of lengthy separation during which a child has integrated into another family, or where a child has been abused by the parents, a careful assessment should be made by a child welfare worker to determine whether family reunion is in the child's best interests.

D 14. Remaining and Integration in a Host Country

* CRC,

- Arts. 2, 3, 13, 14, 15, 16, 19, 20, 24 – 28, 29(1c), 30 & 39, *op.cit.*
- Art. 7(1): Children have the right to acquire a nationality.
- Art. 21: States obligations with regard to inter-country adoption.
- Art. 23: States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
- Art. 31: States Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts; States Parties shall respect and promote these rights and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activities.

* General Comment No 6,

- Paragraph 77: Separated children shall benefit from available forms of complimentary protection.
- Paragraph 82: Family reunification in the country of origin is not in the child's best interest when there is a reasonable risk that return would lead to a violation of the child's fundamental human rights.
- Paragraph 89: Integration is the primary option if return is not possible and should be based on a secure legal status.
- Paragraph 91: Adoption of a separated child should only be considered if it has been established that the child is in a position to be adopted; adoptions should not take place in haste; the adoption must be in the child's best interests and carried out under applicable law; the views of the child must be sought; and priority must be given to adoption by relatives in their country of residence.

Adoption should not take place unless all feasible steps have been taken to trace the child's parents or other family members, it has been established that there is no reasonable hope of tracing the child's family and the child wants to be adopted. There can also be the possibility of voluntary repatriation under conditions of safety and dignity.

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- * UNHCR Guidelines,
 - Paragraph 9.1, *op cit*.
 - Paragraph 9.4: The best interests of an unaccompanied child require that the child not be returned unless, prior to the return, a suitable caregiver such as a parent, other relative, other adult caretaker, a government agency or a childcare agency in the country of origin has agreed, and is able to take responsibility for the child and provide him or her with appropriate protection and care.
 - Paragraph 10.3: To facilitate the integration of the child into the host country, a structured orientation programme in which the child is given a thorough explanation of their legal status and a brief introduction to the host culture should be provided. The information should be adapted to the age of the child.
 - Paragraph 10.4, *op cit*.
 - Paragraphs 10.6 - 10.10: Outlines considerations regarding placements and integration
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- * Convention Relating to the Status of Stateless Persons, 1954, Art. 32: States shall facilitate the naturalisation of stateless persons.
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- * ECRE (Children), paragraph 19, 30, 36, 41 & 42.
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- * ECRE (Integration), paragraphs 103 – 107: Outlines specific needs of children seeking international protection and considers how these issues can be addressed.
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- * EU Dir. Qualifications Recast, Art. 34: In order to facilitate the integration of beneficiaries of international protection into society, Member States shall ensure access to integration programmes which they consider to be appropriate, so as to take into account the specific needs of beneficiaries of refugee status or of subsidiary protection status, or create pre-conditions which guarantee access to such programmes.
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- * EU Res.,
 - Art. 4(7): As soon as an unaccompanied child is granted refugee status or any other permanent right of residence, he or she should be provided with long-term arrangements for accommodation.
 - Art. 5(2): As long as return is not possible, Member States should make it possible for the child to remain.
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- * FRA Guardianship, page 97, *op.cit*.
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- * ICCPR, Art. 24(3): Every child has the right to acquire a nationality.
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- * Inter-Agency Principles, page 55: Unaccompanied or separated children must not be adopted in haste at the height of the emergency. Any adoption must be determined as being in the child's best interests and carried out in keeping with applicable national, international and customary law.
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- * Hague Convention 1993
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* Joint General Comment No 3, paragraph 22: States parties should ensure that migrant children and their families are integrated into receiving societies through the effective realization of their human rights and access to services in an equal manner with nationals.

* Protocol on Trafficking in Persons, Art. 7: States Parties shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in their territory, temporarily or permanently, in appropriate cases.

* Recommendation Concerning the Application to Refugee Children and Other Internationally Displaced Children of The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, Oct. 1994

* 1951 Refugee Convention,

- Art. 21: Housing provision for recognised refugees.
- Art. 22: Education rights of recognised refugees.
- Art. 23: Provision of “public relief” for recognised refugees.
- Art. 24: Working conditions and social security provisions for recognised refugees.
- Art. 27 & 28: States shall issue identity papers and travel documents to recognised refugees.
- Art. 34: States shall facilitate the naturalisation of refugees.

D 15. Return to Country of Origin or Third Country Resettlement or Transfer

* CRC,

- Art. 3, *op.cit.*
- Art. 5: States shall respect the rights and duties of parents or the extended family to provide the child appropriate direction and guidance.
- Arts. 6, 12, 19, 20, 24, 27, 28, 34, 35, 36, 37(a), 38 & 39, *op.cit.*

* General Comment No 6,

- Paragraph 84: Return to the country of origin is not an option if there is a reasonable risk that return will result in a violation of the child’s fundamental human rights. Return should only take place if it is in the best interests of the child.
- Paragraph 85: Concrete care arrangements and custodial responsibilities must be in place prior to return.

* UNHCR Child Asylum Claims,

- Paragraph 27: The impact of reprisals by members of the trafficking network, social exclusion, ostracism and/or discrimination against a child victim of trafficking who is returned to their home country needs to be assessed in a child-sensitive manner.
- Paragraph 55: In cases where an internal flight or relocation alternative is deemed relevant, a proposed site of internal relocation that may be reasonable

in the case of an adult, may not be reasonable in the case of a child. The reasonableness test is one that is applicant-specific and thus not related to a hypothetical reasonable person. Age and the best interests of the child are among the factors to be considered in assessing the viability of a proposed place of internal relocation

- Paragraph 56: Where children are unaccompanied and, therefore, not returning to the country of origin with family members or other adult support, special attention needs to be paid as to whether or not such relocation is reasonable.
- Paragraph 57: If the only available relocation option is to place the child in institutional care, a proper assessment needs to be conducted of the care and health and educational facilities that would be provided, and with regard to the long-term life prospects of adults who were institutionalized as children.

* UNHCR Guidelines, paragraphs 9.4, 9.5, & 10 – 12, *op.cit.*

* CAT, Art. 3, *op.cit.*

* CoE Rec. on Expulsion, paragraph 13.v.h: Unaccompanied children must be treated in accordance with their age, must immediately be taken charge of by a judge for children, and must have access to independent legal consultation and representation.

* CoE Young Migrants, paragraph 7: States should make sure that return is not in breach of their international obligations under the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol, or the European Convention on Human Rights and other relevant instruments.

* Dublin Recast,

- Preamble (24): Member States should ensure that supervised or escorted transfers are undertaken in a humane manner, in full compliance with fundamental rights and respect for human dignity, as well as the best interests of the child.
- Art. 31(2c): The transferring Member State shall, in so far as such information is available to the competent authority in accordance with national law, transmit to the Member State responsible any information that is essential in order to safeguard the rights and immediate special needs of the person to be transferred, and in particular, in the case of children, information on their education.

* ECRE (Children),

- Paragraph 33: ECRE emphasizes the need for investigation of a family's situation and ability to care for the child prior to family reunion. This should be carried out by an independent agency which has no vested interest in the outcome other than the welfare of the child.
- Paragraph 42: As a general rule, following a negative asylum determination, an unaccompanied child should not be returned from the host country to their country of origin, unless all the following conditions are satisfied: it is determined, with the agreement of the child's guardian, to be in the best interests of the child that they should return; parent(s), relative(s), another adult care-taker, or a government childcare agency have agreed, and are assessed as being able, to provide immediate and long-term care upon arrival in the country of

origin: during the return, the child is properly accompanied: after the return, the situation of the child is effectively monitored by a designated NGO or international agency.

* EU Dir. Returns,

- Art. 10(1): Before deciding to issue a return decision in respect of an unaccompanied child, assistance by appropriate bodies other than the authorities enforcing return shall be granted with due consideration being given to the best interests of the child.
 - Art. 10(2): Before removing a child from the territory of a Member State, the authorities of that Member State shall be satisfied that he or she will be returned to a member of their family, a nominated guardian, or adequate reception facilities in the State of return.
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* EU Res., Art. 5(1): Where a child is not allowed to prolong his stay in a Member State, the Member State concerned may only return the child to their country of origin or a third country prepared to accept them, if on arrival therein - depending on their needs in light of age and degree of independence - adequate reception and care are available. This can be provided by parents or other adults who take care of the child, or by governmental or non-governmental bodies.

* Inter-Agency Principles, page 62: The decision on the return of a child to the country of origin for family reunification should be based on the best interests of the child. Each case should be reviewed individually by balancing the desirability of family reunification with the following non-exhaustive list of factors: conditions in the proposed place of return in the country of origin; the threat to the child's physical security and/or the risk of persecution; conditions in the country of asylum; the wishes of the child; the wishes of the parents and their capacity to care for the child; the quality of care arrangements in the country of asylum.

* Joint General Comment No 3,

- Paragraph 32(g): State Parties should conduct a best interests determination in cases that could lead to the expulsion of migrant families due to their migration status, in order to evaluate the impact of deportation on children's rights and development, including their mental health.
 - Paragraph 32(k): If determined that it is in the best interests of the child to be returned, an individual plan should be prepared, together with the child where possible, for his or her sustainable reintegration.
 - Paragraph 33: States parties are obliged, in line with article 3 of the Convention on the Rights of the Child, to ensure that any decision to return a child to his or her country of origin is based on evidentiary considerations on a case-by-case basis and pursuant to a procedure with appropriate due process safeguards, including a robust individual assessment and determination of the best-interests of the child.
 - Paragraph 47: Each case that could eventually become an expulsion should be examined and decided individually, ensuring the effective fulfilment of all the due process guarantees and the right to access to justice. States parties should adopt all measures necessary in order to prevent collective expulsions of migrant children and families.
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* Protocol on Trafficking in Persons Definition, Art. 8: States shall facilitate the repatriation of victims of trafficking

* 1951 Refugee Convention,

- Art. 32(1): States shall not expel a refugee lawfully in their territory.
 - Art. 33(1): No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
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* UN Commentary Trafficking, page 84: In the case of child victims, special care should be taken in relation to decisions about their repatriation.

* UN Guidelines on Alternative Care, paragraph 148: Unaccompanied or separated children must not be returned to their country of habitual residence if, following the risk and security assessment, there are reasons to believe that the child’s safety and security are in danger. Prior to the return, a suitable caregiver, such as a parent, other relative, other adult caretaker, a government agency or an authorized agency or facility in the country of origin, has agreed and is able to take responsibility for the child and provide him or her with appropriate care and protection. A child should not be returned if, for other reasons, it is not in the best interests of the child, according to the assessment of the competent authorities.

* UNHCR-AP, Part III, Goal 2(7): States, working in consultation with relevant intergovernmental organisations, should develop strategies to promote return and readmission of persons not in need of international protection, in a humane manner and in full respect for their human rights and dignity, without resort to excessive force, and in the case of children, taking due account of their best interests.

* UNHCR Refugee Children, page 133: If an asylum-seeker who is an unaccompanied child, after due process, is denied refugee status or is not permitted to stay for other compelling reasons, the question of their return to the country of origin may arise. Although such return is recognized as being primarily a bilateral matter between States, there could be a serious problem of gaps in protection and care of the unaccompanied child who is required to return to the country of origin, unless prior arrangements have been made.

Colophon

Statement of Good Practice - Annex

5th revised edition

Separated Children in Europe Programme 2019

Design

Designink.nl, Den Haag

The Statement of Good Practice and the Annex (references) can be found online at:
www.scepnetwork.org and www.childrightshelpdesk.org

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Endorsed by:



Separated Children in Europe Programme

Published by:



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ISBN 978-90-74270-44-1



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