



30 April 2015

## 9<sup>th</sup> European Forum on the rights of the child

### Coordination and cooperation in integrated child protection systems

#### Reflection paper

##### 1. INTRODUCTION

The European Forum on the rights of the child will focus on integrated child protection systems and this reflection paper is intended to inform and guide Forum discussions on 3-4 June 2015. The aim of the Forum is to bring together stakeholders working on rights of the child and child protection, to promote more effective coordination and cooperation in integrated child protection systems.

The number of child victims of violence in the EU remains high. The causes of this persistent violence are manifold. Socially or culturally accepted forms of violence against children constitute deeply entrenched barriers in the EU, where to date, for example, only 19 EU Member States have prohibited corporal punishment of children in all settings.<sup>1</sup>

Violence is understood to mean **all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.**<sup>2</sup>

In line with international and European standards, Member States are under an obligation to protect children from violence, and hold primary responsibility to establish comprehensive child protection systems. There are fields involving child protection where the EU has scope to act to reinforce protection, particularly in **cross-border and transnational situations**. The EU has also emphasised the need to promote and support child protection systems outside of the EU through its external relations role. **More generally, the EU also aims to support Member States** in ensuring respect for rights of the child.

This document takes a systems approach to the protection of children from all forms of violence, with emphasis on capacity of the system to prevent and respond to violence.

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<sup>1</sup> See [UN GC No 8](#) and 2014 Global report Ending legalised violence against children <http://www.endcorporalpunishment.org/pages/pdfs/reports/GlobalReport2014.pdf>.

<sup>2</sup> As defined in Article 19 on the child's right to protection of all forms of violence and [General Comment No 13 \(2011\) of the UN Committee on the rights of the child on the right of the child to freedom from all forms of violence](#)

Consequently, the purpose of this document is to:

- Promote a shared understanding among Forum participants of the value and remit of integrated child protection systems
- Enhance understanding of where and how the EU can act to reinforce national child protection systems and forge the necessary links between them to address cross-border protection needs
- Focus discussions around ten overarching principles of integrated child protection systems Identify where Member States and other actors can draw on and contribute to EU activities

This document is informed by:

- the input from previous European Fora on the rights of the child<sup>3</sup>
- close to 300 responses<sup>4</sup> from a broad range of stakeholders to a 2014 online public consultation<sup>5</sup>, from which a summary of responses and examples of good practice were compiled<sup>6</sup>
- the 2014 EU Fundamental Rights Agency (FRA) mapping of national child protection systems in the 28 Member States of the EU<sup>7</sup>

Most violence against children takes place in the context of families, but some children may be exposed to great risks of violence due to external factors, such as those in situations of migration or seeking international protection, including undocumented or stateless children, children who are neglected, or without appropriate care, children in detention or in residential care, children who go missing or who are abducted by a parent, child victims of trafficking, discriminated against children including Roma children and children with disabilities, children in detention, children in conflict with the law, children left behind by parents moving abroad for work, EU national children who themselves move alone or without appropriate care within the EU, children of parents in prison, or children in situations of extreme material deprivation.

Children may face multiple risks, for example those at risk of human trafficking (whether to the EU, across borders within the EU or within an individual Member State). There is also a gender dimension to violence and girls and boys may be exposed to different risks.<sup>8</sup>

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<sup>3</sup> See 2012 and 2013 reports: [http://ec.europa.eu/justice/fundamental-rights/rights-child/european-forum/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/rights-child/european-forum/index_en.htm)

<sup>4</sup> Online survey on integrated child protection systems <https://ec.europa.eu/eusurvey/publication/EU-guidance-on-integrated-Child-Protection-Systems>

<sup>5</sup> Responses submitted to survey [http://ec.europa.eu/justice/newsroom/fundamental-rights/opinion/140402\\_en.htm](http://ec.europa.eu/justice/newsroom/fundamental-rights/opinion/140402_en.htm)

<sup>6</sup> [Summary compilation: http://ec.europa.eu/justice/fundamental-rights/files/cps\\_summary\\_contribution](http://ec.europa.eu/justice/fundamental-rights/files/cps_summary_contribution); Good practice compilation: [http://ec.europa.eu/justice/fundamental-rights/files/cps\\_practices\\_standards](http://ec.europa.eu/justice/fundamental-rights/files/cps_practices_standards)

<sup>7</sup> EU FRA mapping of national child protection systems <http://fra.europa.eu/en/news/2014/fra-releases-initial-data-its-mapping-national-child-protection-systems-project>

<sup>8</sup> See data on material deprivation cases in FRA Roma survey <http://fra.europa.eu/en/publication/2012/situation-roma-11-eu-member-states-survey-results-glance>

Violence is still relatively hidden and under-reported with 90% of all abuse undetected, ranging from child sexual abuse and exploitation to bullying and cyber-bullying.<sup>9</sup> While violence against children has been documented, a comprehensive picture at EU level is lacking as most initiatives have focused on specific forms of violence or categories of victims.<sup>10</sup> A 2014 EU Fundamental Rights Agency (FRA) report on violence against women reveals that, on average in the EU, 27% of women had experienced some form of **physical violence** before the age of 15 by an adult (i.e. roughly 61 million women who were physically or sexually abused in childhood by an adult).<sup>11</sup> Approximately 16% of **victims of trafficking** registered by EU Member States are children.<sup>12</sup> An estimated 500.000 girls and women are victims of **female genital mutilation**.<sup>13</sup> In the nine EU Member States within which data were available, there were around 74.000 **child victims of all crime** in 2010. In the 11 Member States where comparable data were available, there were around **13.000 child victims of violent crime** in 2010.<sup>14</sup>

## 2. THE ROLE OF NATIONAL CHILD PROTECTION SYSTEMS

The overarching goal of national child protection systems is to protect children from violence. Child protection systems cover a wide range of interventions including prevention, identification, reporting, referral, investigation, treatment, follow-up, judicial involvement and effective procedures, taking into due account the different Member States' unique national perspective and historical context, resources available and cultural and societal factors. The primary responsibility lies with each Member State to establish comprehensive child protection systems.

For the purposes of this document and the Forum discussions, we define an **integrated child protection system** as the way in which all duty-bearers (namely the state authorities represented by law enforcement, judicial authorities, immigration authorities, social services, child protection agencies, etc.) and system components (e.g. laws, policies, resources, procedures, processes, sub-systems) work together across sectors and

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<sup>9</sup> WHO 2013 European report on preventing child maltreatment [http://www.euro.who.int/\\_data/assets/pdf\\_file/0019/217018/European-Report-on-Preventing-Child-Maltreatment.pdf](http://www.euro.who.int/_data/assets/pdf_file/0019/217018/European-Report-on-Preventing-Child-Maltreatment.pdf) – geographical scope is wider than the EU, covering 53 countries; WHO European Region countries: <http://www.euro.who.int/en/countries>.

<sup>10</sup> A September 2014 report from UNICEF - 'Hidden in plain sight: A statistical analysis of violence against children'<sup>10</sup>, - prevalence of different forms of violence against children data from 190 countries [http://www.unicef.org/publications/index\\_74865.html](http://www.unicef.org/publications/index_74865.html).

<sup>11</sup> 2014 FRA Gender-based violence against women <http://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report>.

<sup>12</sup> 2014 Eurostat statistics on trafficking in human beings [http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20141017\\_working\\_paper\\_on\\_statistics\\_on\\_trafficking\\_in\\_human\\_beings\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20141017_working_paper_on_statistics_on_trafficking_in_human_beings_en.pdf).

<sup>13</sup> COM(2013)833 final – Towards the elimination of female genital mutilation [http://ec.europa.eu/justice/gender-equality/files/gender\\_based\\_violence/131125\\_fgm\\_communication\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/gender_based_violence/131125_fgm_communication_en.pdf).

<sup>14</sup> European Union, 2014, Study on children's involvement in criminal judicial proceedings in the 28 Member States of the EU, EU Summary [http://bookshop.europa.eu/is-bin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en\\_GB/-/EUR/ViewPublication-Start?PublicationKey=DS0313659](http://bookshop.europa.eu/is-bin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en_GB/-/EUR/ViewPublication-Start?PublicationKey=DS0313659) – see also Table A2.8.

agencies sharing responsibilities to form a protective and empowering environment for all children.<sup>15</sup>

In an *integrated* child protection system, components and services are multi-disciplinary, cross-sectorial and inter-agency, and they work together in a coherent manner. The integrated child protection system places children at the centre, putting in place laws and policies, governance, resources, monitoring and data collection, as well as prevention, protection and response services and care management. In formal and informal ways, the results of these combined and collective efforts protect children from violence as set out in the UNCRC.<sup>16</sup>

Some Member States define child protection more broadly to include social protection (services, benefits, other support) to secure rights of the child and child wellbeing more generally. While the focus of this document is on violence against children, effective measures to protect children from violence must certainly be seen in the broader context of the social protection of children, as set out in the 2013 Commission Recommendation *Investing in children: breaking the cycle of disadvantage*, in particular with regard to prevention, treatment and follow-up.<sup>17</sup>

### **3. THE RATIONALE FOR EU INVOLVEMENT IN DISCUSSIONS ON INTEGRATED CHILD PROTECTION SYSTEMS**

Children are not all, always, first and foremost recognised as children. This is particularly the case for Roma children and children in situations of migration, including undocumented and stateless children, whose protection rights and needs may be ignored. Although no EU Member States report child labour in the context of Directive 94/33/EC on the protection of young people at work, children can be seen working long hours either as a result of exploitation and/or as a result of the economic crisis. Some children in vulnerable situations are over-represented in institutional care (e.g. Roma children, children with disabilities) and in the criminal justice system and detention. These are situations that do not affect only one or more individual Member States, but are common challenges that require responses.

Once a child *is* recognised as being in need of protection, there are disparities in the level of responses and the quality of services provided when a child protection need is identified and the standards set out in the UN Convention on the rights of the child may not be adhered to.

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<sup>15</sup> For additional information on child protection systems see the UNICEF 2012 Delhi conference report <https://knowledge-gateway.org/sharekluo5tgnjrn31p71ra1zp7b2hnl48j5vz27/childprotection/cpsystems/cpsconference/library>.

<sup>16</sup> In particular Article 19 on the child's right to protection of all forms of violence and [General Comment No 13 \(2011\) of the UN Committee on the rights of the child on the right of the child to freedom from all forms of violence](#), which inform the guidelines set out in this document.

<sup>17</sup> Commission Recommendation of 20 February 2013 C(2013) 778 final, [http://ec.europa.eu/justice/fundamental-rights/files/c\\_2013\\_778\\_en.pdf](http://ec.europa.eu/justice/fundamental-rights/files/c_2013_778_en.pdf).

Both migration to the EU and mobility within the EU have led to increasing numbers of transnational and cross-border child protection situations. These require cooperation and coordination with counterparts in other countries.

In view of Member States' responsibilities to protect children from violence, mutual trust needs to be enhanced with regard to the necessity and appropriateness of States' interventions and on the assessment of the best interests of the child.

EU legislation and policy are relevant to child protection, both at national and transnational levels, and in fulfilling its Treaty objective to promote the protection of the rights of the child, the Commission should contribute to the protection of children from violence.

The **promotion of the protection of the rights of the child is an explicit objective** in the Treaty on European Union (Article 3(3) TEU). The EU Agenda for the rights of the child<sup>18</sup> and the EU Action plan on human rights and democracy<sup>19</sup> comprised work programmes aimed at turning that treaty-based commitment into practice. The protection of children from all forms of violence is a priority issue for Member States and for the EU. However, while several Commission policy initiatives contribute to prevention of violence against children, until now EU initiatives concerning child protection have generally focused on targeted interventions to address a specific dimension of a child's situation.

Although all provisions of the Charter on Fundamental Rights of the EU (the Charter) equally apply to children, **Article 24<sup>20</sup> on the rights of the child** (based on the specific provisions of the UN Convention on the rights of the child (UNCRC)<sup>21</sup>, which all Member States have ratified) ensures visibility and respect for the rights of the child within EU law.<sup>22</sup> Furthermore, The EU and 25 Member States are parties to the UN Convention on the Rights of Persons with Disabilities (CRPD) and are bound by it within their respective competences.<sup>23</sup> The CRPD requires that all necessary measures are taken to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

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<sup>18</sup> An EU Agenda for the rights of the child (COM/2011/0060 final), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52011DC0060:en:NOT>

<sup>19</sup> EU Action plan for human rights and democracy (2012) [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/131173.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131173.pdf)

<sup>20</sup> Article 24 of the Charter stipulates that *children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.* The Charter is binding on the EU institutions in all their actions and it is binding on national authorities when applying EU law and the rights of the child are therefore mainstreamed in EU legislation and policy.

<sup>21</sup> UN Convention on the rights of the child: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>22</sup>: European and international standards relevant for child protection systems: [http://ec.europa.eu/justice/fundamental-rights/files/cps\\_international\\_standards](http://ec.europa.eu/justice/fundamental-rights/files/cps_international_standards)

<sup>23</sup> Finland, Ireland and the Netherlands have signed the Convention but have not yet ratified it.

#### 4. THE CHALLENGES THAT CHILD PROTECTION SYSTEMS FACE

There are common and recurring challenges within Member States and on a cross-border basis in preventing and responding to all forms of violence against children. Challenges, as well as good practice have also been reported in the identification, reporting, referral, investigation, treatment and follow-up of cases of violence against children.<sup>24</sup>

There is often a lack of operational coordination/cooperation mechanisms in place to ensure inter-agency and multi-disciplinary practices, for example where families at risk move around within a country or across borders to avoid detection of child abuse. There may not be equity of access for all children, such as children from third countries or undocumented or stateless children. The goals of the child protection system may not be clearly set out with regard to the elimination of violence and this can have an impact on whether primary and secondary prevention are adequately targeted.<sup>25</sup> Respect for the child's right to be heard may not be systematic and their participation may not be central to child caregiving and protection strategies and programmes. Good practices do exist; often developed locally or regionally or within particular fields. Efforts to share such experience and replicate effective protective measures, or build on them, would benefit from further support and momentum nationally and across Europe.

Overall, the need to focus more on prevention of violence has been identified as a major challenge. Similarly, the UN 2006 *World Report on violence against children* called on societies to treat 'prevention as the key'. Despite political commitments, few countries have devoted adequate resources and attention to its prevention.<sup>26</sup> A rights-based approach to child protection implies taking all actions necessary to protect children's rights through **preventing** as well as **responding** to violations of those rights. Prevention, as a crucial aspect of a well-functioning child protection system, entails inter-agency and multi-disciplinary work to tackle the **root causes of violence against children, such as poverty, exclusion and discrimination**.

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<sup>24</sup> Good practice referenced by respondents is compiled here: [http://ec.europa.eu/justice/fundamental-rights/files/cps\\_practices\\_standards](http://ec.europa.eu/justice/fundamental-rights/files/cps_practices_standards) Summary list of challenges identified: [http://ec.europa.eu/justice/fundamental-rights/files/cps\\_annex\\_challenges](http://ec.europa.eu/justice/fundamental-rights/files/cps_annex_challenges).

<sup>25</sup> e.g. to prevent repeat victimisation, such as additional support for victims to maintain their educational pathway.

<sup>26</sup> WHO 2013 European Report on preventing child maltreatment [http://www.euro.who.int/\\_data/assets/pdf\\_file/0019/217018/European-Report-on-Preventing-Child-Maltreatment.pdf](http://www.euro.who.int/_data/assets/pdf_file/0019/217018/European-Report-on-Preventing-Child-Maltreatment.pdf).

## 5. EU INSTRUMENTS IN THE AREA OF CHILD PROTECTION

The EU has developed several **legislative instruments** relevant to child protection systems or several of their components, some of which are still in the early stages of implementation. A full list of EU *acquis* and policy documents on the rights of the child - many of which are relevant in a broader context particularly with regard to prevention, follow-up and the broader continuum of social protection – has been compiled and figures in annex.<sup>27</sup> EU legislation ranges from judicial cooperation in matrimonial matters to fighting organised crime in the field of child sexual abuse and trafficking in human beings, victims' rights and procedural rights in criminal proceedings, asylum and migration.

The EU mainstreams rights of the child in all EU legislation and policy. Recent EU legislation emphasises in particular the primary consideration to be given to the child's best interests and to the child's right to be heard. The EU also supports and encourages the development of training and capacity-building activities for judicial and other professionals/practitioners regarding EU law and international standards to protect children from violence. An integrated, coherent and comprehensive approach to child protection can only be taken in full knowledge of all relevant law and policy and relies also on Member States actively engaging in EU-level discussions on child protection concerns and effective responses (e.g. in legislative contact committees, formal and informal networks such as those on trafficking in human beings or rights of the child, the European Judicial Network in civil and commercial matters. Member State experience and expertise provides orientations for ongoing EU actions (e.g. child-friendly justice, Roma integration, trafficking in human beings, child sexual abuse and exploitation, asylum and migration, social inclusion, victims' rights, etc).

The European Commission **assists Member States** in the field of child protection when implementing EU law, or when exploring new dimensions of a policy field and, as stated above, some are particularly relevant in a broader social protection context and pertain to prevention and follow-up. To name just one, the 2010 EU action plan on unaccompanied minors identified the need for comprehensive child protection systems in the context of prevention, and led to increased financing targeting the protection, assistance to and integration of unaccompanied children as well as post-return monitoring and follow-up. The same approach was fostered in the EU Strategy towards the eradication of trafficking in human beings 2012-2016, which calls for integrated child protection and the support thereof, including by issuing guidelines<sup>28</sup>.

A wide range of **EU financial programmes** contribute to the protection of children from all forms of violence.<sup>29</sup> EU funds cover research and innovation, capacity-building, peer reviews, the support of mutual learning and the implementation of international standards, as well as the fostering of crossborder cooperation and exchange of expertise. The overview now available of the different funds available and used to strengthen child protection systems can help to ensure a more coherent use of EU funds in the future. As

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<sup>27</sup> [http://ec.europa.eu/justice/fundamental-rights/files/acquis\\_rights\\_of\\_child.pdf](http://ec.europa.eu/justice/fundamental-rights/files/acquis_rights_of_child.pdf)

<sup>28</sup> "The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016", COM(2012)286 final <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012DC0286&from=EN>

<sup>29</sup> An overview of EU funding programmes of relevance to child protection systems [http://ec.europa.eu/justice/fundamental-rights/files/roc\\_funding\\_mechanisms\\_2014.pdf](http://ec.europa.eu/justice/fundamental-rights/files/roc_funding_mechanisms_2014.pdf)

of 2014, the Commission set funding requirements for project organisations working directly with children in the area of rights of the child and DAPHNE to have in place a robust child protection policy.

Overall, EU funds have proven **valuable for the development of child protection systems** by helping to implement policies that promote the transition from institutional to community-based care and by making quality early childhood education and care more accessible and affordable. In the 2014-2020 programming 20% of the ESF has been ring-fenced for social inclusion projects. This means that ESF money can also be used on children in vulnerable situations, for instance by developing child-centred approaches to prevent violence against children. EU funding has helped to strengthen childcare and early childhood education and care structures and services, as well as diversion programmes for children in conflict with the law, etc. In 2014 the DAPHNE programme prioritised child-centred and child rights approaches to specialist support services for child victims (in line with Directive 2012/29/EU), bullying in schools, in residential care and detention settings, and the prevention of female genital mutilation. The rights of the child strand under the rights, equality and citizenship programme has prioritised capacity-building for duty-bearers, for example judicial, child protection and other practitioners, and has also prioritised the capacity-building of children to claim their rights. Funding in the area of asylum and migration has addressed research, the development of standards, identification of protection gaps, the delivery of reception facilities and services, and action research projects, and funding in the area of crime prevention has focused on child trafficking, identification of child victims, protection, guardianship and further research on risk and vulnerability factors.

When children are in need of protection in **cross-border situations**, clear roles and responsibilities and procedures are needed to address exchange of information on the situation of a child, assessment of best interests or the restoration of family links across borders. Regular dialogue is needed on child protection matters among EU institutions, EU Agencies, Member State authorities and other stakeholders. EU agencies such as Europol and Eurojust can assist Member States in their fight against serious international crime in cross-border cases such as cybercrime or child trafficking. EASO aims to enhance practical cooperation on asylum matters and to help Member States fulfil their European and international obligations with regard to international protection.

FRONTEX, whose mission is to promote, coordinate and develop European border management in line with the EU fundamental rights charter applying the concept of Integrated Border Management, has recently developed and piloted an operational handbook for border guards (to be published in 2015) to support the procedural gaps and challenges identified concerning children at risk at external air borders. The handbook collects and depicts best practices on child protection and establishes the groundwork for awareness raising and enhancing tailored inter-agency cooperation at national and international level at the borders.<sup>30</sup> The EU institutions, EU Agencies, Member State authorities and other stakeholders contribute to enhanced cross-border cooperation through their collective efforts.

Finally, the EU also actively contributes to narrowing the gap in **research, statistics and data collection** through specific studies and surveys either commissioned or developed in-house. The FRA plays a particularly important role in gathering data on rights of the child. FRA has worked on rights of the child since its establishment in 2007. It began by

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<sup>30</sup> <http://frontex.europa.eu/about-frontex/origin/>



developing rights-based indicators<sup>31</sup> to measure respect for and the promotion of children's rights in the EU and then collected data and published research across a broad range of themes under rights of the child, and a joint Commission-FRA handbook on Guardianship for children deprived of parental care focused specifically on the needs of child victims of trafficking. In 2015, FRA will publish extensively on rights of the child, including on children and justice, children with disabilities and the mapping of national child protection systems.

Research to support evidence-based policy making, to monitor respect for rights and contribute to accountability mechanisms, as well as to reflect the views and opinions of children themselves is essential. As many gaps still exist in research and data collection in this area, it is essential to make full use of existing studies and surveys as well as to further develop mechanisms to monitor the needs of child protection authorities and to facilitate data collection in this field.

## **6. PRINCIPLES TO INFORM FORUM DISCUSSIONS ON INTEGRATED CHILD PROTECTION SYSTEMS**

### **Note**

The overarching principles are intended to stand alone, in that they are relevant to a broad range of child protection situations. They do not in any way constitute legal interpretation of any EU law.

Working closely with the Member States, EU actions can effectively contribute to protecting children from violence, using the instruments at the EU's disposal. In this context, it is important to acknowledge the significant role played by a wide range of stakeholders, including civil society organisations, international and regional organisations, children's ombudspersons and national human rights institutions, research communities and academia, in this field (for example in the areas of standard-setting, data collection, awareness-raising, advocacy and assistance). The European Forum on the rights of the child is one among several means to foster cooperation and collaboration with stakeholders (others include through consultations, exchange of expertise and funding opportunities).

In its work in the area of child protection and promotion of the protection of the rights of the child, the EU is guided by international instruments and mechanisms, in particular the UNCRC and the General Comments of the UN Committee on the rights of the child. Council of Europe instruments and Hague Conference on Private International Law conventions are also relevant.<sup>32</sup>

The 10 Principles presented for discussion in the Forum are based on a child-rights approach and fully recognise children as rights-holders, placing emphasis on enhancing children's resilience and capacity to claim their rights, with due regard to the cross-cutting principles: the best interests of the child, non-discrimination, child participation

<sup>31</sup> <http://fra.europa.eu/en/publication/2012/developing-indicators-protection-respect-and-promotion-rights-child-european-union>

<sup>32</sup> International standards relevant for child protection systems: [http://ec.europa.eu/justice/fundamental-rights/files/cps\\_international\\_standards](http://ec.europa.eu/justice/fundamental-rights/files/cps_international_standards).

and the right to life, survival and development. They represent a contribution to ensuring that national child protection systems form a protective environment around all children in all settings, responding to all forms of physical and mental violence as listed under Article 19 of the UNCRC.

## PRINCIPLES

1. **Every child is recognised, respected and protected as a rights holder, with non-negotiable rights to protection.** Every child is treated with dignity and as a unique and valuable human being with an individual personality, distinct needs, interests and privacy, with due regard to the child's right to participation. There are measures to empower children to protect themselves and their peers and to claim their rights. Child-sensitive and accessible complaint and reporting mechanisms, including helplines and hotlines, are integrated in the system. Children are involved in decisions that concern them, including the development, monitoring and evaluation of child protection strategies, policies, programmes and services.
2. **No child is discriminated against.** *All* children, regardless of their sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation have access to and benefit from national child protection systems on an equal basis.
3. **Child protection systems include prevention measures.** This may include the adoption of national legislation prohibiting all forms of violence against children in all settings, policy measures promoting child rights, awareness-raising and education for children, parents and society at large, proactive policy and outreach measures especially to discriminated against groups, parenting and family support, universal and targeted social services, integrated strategies to reduce child poverty, mechanisms for children to claim their rights, links with other policy areas, robust data collection.
4. **Families are supported in their role as primary caregiver.** The primary position of families in child caregiving and protection is recognised and supported through universal and targeted services, through every stage of intervention, particularly through prevention.
5. **Societies are aware and supportive of the child's right to freedom from all forms of violence.** There are concerted efforts to inform the public, including children, about children's rights and encouraging action to prevent violence against children, and to prevent the stigmatisation of child victims of violence.
6. **Child protection systems ensure adequate care**<sup>33</sup>
  - **Professionals are committed and competent.** Professionals and practitioners working for and with children receive training and guidance on the rights of the child, on child protection law and procedures and more generally on child development. The necessary protocols and processes are in place to facilitate their role and responses to violence against children are inter- or multi-disciplinary.
  - Information is shared on **certification and training** to promote trust, including cross-border.

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<sup>33</sup> In line with international standards including the [UN Guidelines for the alternative care of children](#).

- **Standards, indicators and tools and systems of monitoring and evaluation** are in place, under the auspices of a **national coordinating framework**. Systems are effectively regulated and independently monitored and accountable, ensuring accessible, quality, child-sensitive services and care for all children. The monitoring system guarantees unrestricted access to monitor the quality of services delivered, in particular for any form of institutional care.
  - **Within organisations working directly for and with children, child protection policies and reporting mechanisms are in place.** All agencies and service providers, civil society organisations, private associations, commercial or non-profit organisations, working directly with children have robust child protection policies.<sup>34</sup>
7. **Child protection systems have transnational and cross-border mechanisms in place:** In view of the increasing prevalence of children in cross-border situations in need of child protection measures, efforts are stepped up by: clarifying roles and responsibilities, keeping abreast of country of origin information, ensuring a national focal point for cross-border child protection matters, adopting procedures/guidance/protocols/processes, for example for the transfer of responsibility within the context of asylum procedures (Dublin Regulation), or when considering out of country care placements, or family tracing and protection in cases of child trafficking. However, for children seeking international protection or child victims of trafficking where contact could put the child and/or family at risk, caution should be exercised.
  8. **The child has support and protection:** No child should be without the support and protection of a legal guardian or other recognised responsible adult or competent public body at any time. In view of the need for continuity of actions, the child protection system appoints a person of reference responsible for the child from reporting and referral through to follow-up and reintegration, to assure liaison among the different sectors and to guarantee a coherent and comprehensive response.
  9. **Training on identification of risks** for children in potentially vulnerable situations is also delivered to teachers at all levels of the education system, social workers, medical doctors, nurses and other health professionals, psychologists, lawyers, judges, police, probation and prison officers, journalists, community workers, residential care givers, civil servants and public officials, asylum officers and traditional and religious leaders. Rules on reporting cases of violence against children are clearly defined and professionals who have reporting obligations are held accountable.
  10. **There are safe, well-publicised, confidential and accessible reporting mechanisms in place:** Mechanisms are available for children, their representatives and others to report violence against children, including through the use of 24/7 helplines and hotlines.

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[http://www.un.org/en/pseataforce/docs/keeping\\_children\\_safe\\_standards\\_for\\_child\\_protection\\_tool.pdf](http://www.un.org/en/pseataforce/docs/keeping_children_safe_standards_for_child_protection_tool.pdf).

## 7. HOW TO TRANSLATE THE PRINCIPLES IN PRACTICE: SOME CASE STUDIES

The fictional cases studies below serve to illustrate how and where the principles might come into play.

### Case study 1: child victim of online sexual abuse

A member of the public in the UK comes across and reports an online child sexual abuse image to [Internet Watch Foundation](#). The NGO analyses the image, refers it to law enforcement authorities and takes the necessary steps to have it taken down. The resulting investigation serves to identify that the child victim appears to be Polish. The UK authorities apply the relevant protocols for contacts with Poland. Investigations in Poland serve to identify the four-year-old child victim, Jan, living in Poland. Immediate measures are taken to ensure the child's protection, treatment and follow-up. The investigation leads to the prosecution and conviction of the perpetrator, the child's uncle, and sentencing takes account of the aggravating circumstances in the case.

#### EU law and policy documents

Directive 2011/93/EU on Child sexual abuse and exploitation, Directive 2012/29/EU on Victims' rights

#### Relevant Principles:

Principles 1, 2, 3, 5 and 10 – the member of the public is aware of the rights of the child and of hotlines and helplines and how to report issues of concern.

Principle 7: Measures, mechanisms and protocols are in place for cross-border cases.

Principle 6: the investigation and forensic interviewing are carried out by specialists who are trained on rights of the child, child protection and on communicating and dealing with children. Treatment for the child is delivered by specialists and is child-sensitive, prevents secondary victimisation, and ensures adequate follow-up and reintegration measures, including additional school support to make up for time out of school.

### Case study 2: cross-border placement of a child

A court in Germany considers a placement of a 7-year-old child with a foster family in Spain, in view of the child's ties to Spain, to allow the child to find an appropriate environment for his development and to recover from a difficult situation the child has experienced within his family. Due weight is given to the views of the child. The court consults the Central Authority in Spain to enquire about appropriate foster family arrangements and to obtain formal agreement for this placement, as public authority intervention for such placements is required by Spanish law. The Spanish authorities request a report about the child from a psychologist and the German local child welfare authority in order to identify a foster family that can meet the child's needs and to issue the consent for placement by the local court.

### **EU law and policy documents**

Brussels IIa Regulation (2201/2003) concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.

### **Relevant Principles**

Principle 1 – Due weight is given to the child's views.

Principles 6 and 7 – the social workers and psychologist should receive appropriate training to be aware of aspects relating to, and indeed the possibility of, cross-border placements and to assess in this context the best interests of the child. The Central Authorities coordinate the work of all actors involved in the placement process, in particular with respect to contacts with their domestic bodies such as child welfare/social authorities and ensure swift proceedings in cross-border situations. The necessary mechanisms and protocols are in place to regulate the cross-border placement and also to ensure monitoring and follow-up of the child's case.

### **Case study 3: child victim of physical abuse**

Zuzana, a primary school teacher on the outskirts of Zagreb, has been concerned for some weeks that Maja, an 11-year-old girl with learning difficulties, has been very withdrawn. Noticing a livid bruise on Maja's upper arm, she initiates a conversation and Maja eventually confides that since both her parents lost their jobs it has been very tough at home and her Dad has been hitting her. Maja says she wants the hitting to stop but is very afraid of what might happen to her family. Zuzana refers the case to the [Child Protection Centre of Zagreb](#) (a multidisciplinary children's house) and pending a first interview two days later, it is arranged that Maja stays with her grandmother. Maja is interviewed in the Centre by specialists who are also trained to work with children with disabilities, and her interviews are audio-visually recorded, and an assessment is made of the abuse suffered and the treatment needed. Maja's mother and grandparents are also interviewed. The multidisciplinary team coordinates with the social welfare centre and law enforcement. Maja's father cooperates fully with the investigation. The case proceeds to court and the audio-visually recorded interviews are admissible evidence. Maja's views are given due weight, in particular that she wants her family to stay together and for her Dad to get some help. Her Dad had already committed to following training on non-violent parenting and to participate in a parenting group run by the Child Protection Centre; the judge orders these measures, and asks for a report in six months' time. The social welfare centre initiates steps to help reintegrate both parents into the labour market. The Child Protection Centre ensures follow-up of the case.

### **EU law and policy documents**

Directive 2012/29/EU on Victims' rights, 2013 Recommendation Investing in children: breaking the cycle of disadvantage

### **Relevant Principles:**

Principles 9 and 10: Zuzana, Maja's teacher, has been trained in the identification of risks and knows who to report to in line with her job description.

Principles 1, 3, 4, 5, 6: specialist professionals intervene in a child-sensitive manner in Maja's case and her views are given due weight. Professionals who work with her have experience in working with children with disabilities. The professionals look also at the root causes of the violence and assess that the family could adequately care for Maja again subject to some support. The child protection centre and social welfare centre assure monitoring and follow-up of her case.

#### **Case study 4: child in a migratory situation**

Ali, a 14-year-old Afghan from Paktya has been sent to Europe by his family to join his brother, in view of the random attacks on civilians by Anti-Government Elements and the pervading fear and insecurity including at school. During his voyage, he hears that his younger brother was killed by the Taliban. After a hazardous experience, the last leg of his journey involved a dangerous trip by sea to a Greek island. He was detained by the police for three days and then let go and lived in a park in Athens, depending on the kindness of strangers. From there he slowly made his way to the Netherlands and applied for asylum. On applying for asylum, he is fingerprinted, but there is no match in the EURODAC system. [NIDOS](#), the organisation mandated to fulfil guardianship responsibilities for unaccompanied children, is entrusted with his guardianship. Given his young age, after a preliminary short stay in a reception centre and an assessment of his risk of vulnerability with regard to trafficking, NIDOS arranges for Ali to live with foster parents and he settles in well. Ali's older brother Hussaini lives in Belgium. Ali's guardian, Annick, ascertains that Ali wants to live with Hussaini, who is willing and capable of taking care of Ali. NIDOS liaises with the Belgian authorities to carry out preliminary checks and Ali's case is eventually transferred, under the Dublin Regulation, to Belgium, where he is granted refugee status.

#### **EU law and policy documents**

The Dublin Regulation (604/2013/EU), the Eurodac Regulation (603/2013/EU), the Asylum procedures directive (2013/32/EU), the Reception Conditions Directive (2013/33/EU), anti-trafficking directive (2011/36/EU), the EU action plan on unaccompanied minors (COM(2010)213 final), Council Conclusions on the education of children with a migrant background (26 November 2009)

#### **Relevant Principles:**

Principles 1 and 2, 5, 6: There are still gaps in the protection of unaccompanied children whose protection needs may not be recognised.

Principle 7: the necessary mechanisms and protocols are in place with regard to Dublin cross-border transfers and the procedures are completed in due time, with the child's best interests being the primary consideration.

Principle 8: Once he is identified as an unaccompanied child in the Netherlands, a guardian is assigned to him and he is given appropriate care in a family-based situation.

Principle 9: NIDOS staff are trained to identify risks, particularly with regard to trafficking.

## **8. THE WAY AHEAD**

The prevalence of violence against children warrants concerted efforts to prevent it and ensure full prohibition and elimination. All countries in the EU face national, transnational and crossborder challenges. This reflection paper clarifies the EU role and instruments available, taking a child rights approach, to address the protection of children from all forms of violence in the EU.

Forum participants are invited to explore how they (and the EU) can contribute to optimising coordination and cooperation in integrated child protection systems.



Key EU legislative and policy documents relevant to child protection<sup>35</sup>

Key EU legislation relevant to integrated child protection systems	
The Victims' Rights Directive (2012/29/EU)	Establishes minimum standards on the rights, support and protection of victims of crime and includes extensive provisions for child victims.
The Directive on Trafficking in Human Beings (2011/36/EU)	Takes a victim-centred approach and provides for the right for child victims to assistance, support and protection.
Directive on Child Sexual Abuse and Exploitation (2011/93/EU)	Introduces provisions to strengthen the prevention of abuse and exploitation offences and the protection, prescribes the criminalisation of a wide range of situations of sexual abuse and exploitation and includes provisions on extensive victim assistance and support measures.
Brussels IIa Regulation (2011/2003/EC)	Determines the responsible court to settle parental responsibility disputes including custody and visiting rights, aiming at the protection of the best interests of the child. Provides for specific jurisdictional and procedural rules in cases of wrongful removal or retention of a child taking into account the possibility of the need for protection after the child's return.
Directive on the European Protection Order (2011/99/EU)	Ensures mutual recognition among Member States of decisions concerning protection measures for victims of crime.
Regulation on mutual recognition of protection measures in civil matters (2013/606/EU)	Ensures mutual recognition among Member States of decisions concerning protection measures in civil matters.
Reception Conditions Directive (2013/33/EU)	Sets standards for detention conditions of (unaccompanied) children and for access to education; provides rules on the protection of physical and mental health; requires Member States to take into account age-specific concerns and to ensure adequate living standards for children as well as access to rehabilitation services; provides rules for the placement and family tracing of unaccompanied children
Asylum Procedures Directive (2013/32/EU)	Establishes common standards for safeguards and guarantees to access a fair and efficient asylum procedure. It creates a coherent system, which ensures that asylum decisions are made more efficiently and more fairly and that all Member States examine applications according to common high quality standards and includes special guarantees for children.
Return Directive (2008/115/EU)	Sets common standards and procedures for returning third-country nationals staying illegally on Member State territory, with certain exceptions, and includes provisions on children.

<sup>35</sup> A comprehensive compilation is available here: [http://ec.europa.eu/justice/fundamental-rights/files/acquis\\_rights\\_of\\_child.pdf](http://ec.europa.eu/justice/fundamental-rights/files/acquis_rights_of_child.pdf)

Dublin Regulation (604/2013/EU) <sup>36</sup>	The Dublin Regulation establishes the Member State responsible for the examination of the asylum application, emphasising the best interests of the child.
Council Directive Right to Family Reunification (2003/86/EC)	The Directive aims to establish common rules of law relating to the right to family reunification. The intention is to enable family members of third-country nationals residing lawfully on the territory of the European Union (EU) to join them in the Member State in which they are residing.
Commission proposal for a Directive on Special Safeguards for Children suspected or accused in Criminal Proceedings (COM(2013)822 final)	As part of the “procedural rights package” adopted on 27 November 2014 the Commission proposed a Directive on children suspected or accused in criminal proceedings.

<b>Key soft-law instruments relevant to integrated child protection systems</b>	
The EU Strategy towards the eradication of trafficking in human beings 2012-2016 (COM(2012)286 final)	Takes a system approach to child protection, and calls for strengthening integrated child protection systems; Stresses the need for formal, functional referral mechanisms for victims; calls for an increase in prevention measures and multidisciplinary cooperation and coordination
Communication on the elimination of Female Genital Mutilation (COM(2013)833 final)	Calls for multi-sectorial protocols to be put in place; stresses the need for more services with sufficient expertise and knowledge to provide support to (potential) victims
EU Action plan on unaccompanied minors (COM(2010)213 final)	Identifies the need for comprehensive child protection systems as one of the strands of preventive action; calls upon the EU and its Member States to regularly address child protection issues in human rights and migration dialogues with third countries; calls for financial programmes to support activities aimed at protecting, assisting and integrating (unaccompanied) children as well as post-return monitoring and follow-up
EU Guidelines for the promotion and the protection of the rights of the child	Reaffirms the EU commitment to promote and protect the rights of the child in its external relations and in international fora; introduces as a first priority area for the Guidelines “all forms of violence against children”
European disability strategy 2010-2020 (COM(2010)636 final)	Commits to support the transition from institutional to community-based care including through support for training human resources and promotion of sound working conditions for professional carers; contributes to raising awareness of the situation of, among others, children with disabilities living in residential institutions; contributes to the collection of periodic disability-related statistics with a view to monitoring the situation of persons with disabilities

<sup>36</sup> A reference document developed by the CONNECT project [www.connectproject.eu](http://www.connectproject.eu) gives a comprehensive overview of all EU legislative and policy documents on unaccompanied children, with many different access points, including a table highlighting key provisions starting at page 49: [http://www.connectproject.eu/PDF/CONNECT-EU\\_Reference.pdf](http://www.connectproject.eu/PDF/CONNECT-EU_Reference.pdf)

Guidance document related to the transposition and implementation of the Victims' Rights Directive	Stresses inter-agency cooperation and a child-sensitive approach to criminal justice systems; calls for standardized national practices in child victim support services
Communication on protecting children in the Digital World (COM(2011)556 final)	Addresses the need for more efficient and easily accessible hotlines; encourages Internet Service Providers to become more active in the protection of children; stresses the importance of control systems and reporting points; calls for enhanced cooperation and harmonised protection concerning problematic Internet content; points to inconsistent introduction of a right to reply covering online media
Recommendation on Investing in children: breaking the cycle of disadvantage (C(2013) 778 final)	Calls on Member States to step up social investment targeted towards children and explains how EU financial instruments can be better mobilised to ensure that children are given the best start in life and to make sure that children are not locked into a life of disadvantage, focusing also on children who are more at risk because they face multiple disadvantages, for example Roma children or some migrant children. Covers child participation, parents' access to the labour market, child care, early childhood education and care, health, housing, afterschool activities, and seeks to promote a combination of universal policies and targeted approaches.
Communication on the 2014 European Semester (COM(2014)400 final)	Contains country-specific recommendations aiming, among others, to promote social inclusion and reduce poverty, improve coverage and performance of education and welfare systems