10th European Forum on the rights of the child
The protection of children in migration

Background document

PARALLEL SESSIONS
30 November 2016

This document contains sets out specific information for each of the four parallel sessions that take place on the second day of the Forum, 30 November 2016.

The four parallel sessions address different issues that a child may encounter along his or her migration journey. The issues discussed naturally overlap from one session to another, and while we encourage participants to stay on-topic, we also ask you to make the necessary links and cross-references to the issues discussed in other sessions. This is why all of the background papers per session are grouped together in this document.

Each chapter, specific to a session, provides an overview of the issues that will be discussed, challenges that have been identified, and poses some session-specific questions to guide the discussion. There is a suggested reading list for each session, to which the speakers have contributed.

Alongside the questions specific to a session, we also encourage speakers and participants to address the general questions below, applicable to all sessions.

**GENERAL QUESTIONS FOR ALL SESSIONS:**

1. How do actors work together to ensure effective procedures and processes?
2. How are children informed and consulted on the issues described above, whether within families or when travelling unaccompanied or separated?
3. Identify good practice and most difficult challenges in each area.
4. Bearing in mind the EU’s role and remit, how can the EU contribute?
Session I: Identification and protection

The identification and registration of children entering EU territory are key factors contributing to their protection. Without children being identified and registered, they cannot exercise their right to special procedural guarantees and reception. Furthermore, identification of needs, referral to child protection authorities and registration can aid in preventing violence against children, such as child trafficking and children going missing. This session aims to focus particularly on the following issues:

- Identification of children at arrival
- Registration of children and age assessments
- The individual assessment of children's needs including child protection related follow-up
- Prevention of and responding to violence against children, including trafficking and sexual abuse and other forms of exploitation and children going missing
- Preservation of family unit at arrival
- Ensuring birth registration and/or other identity documents to prevent statelessness

1. Challenges in identification and protection

(This is an extract of some of the challenges as identified in the general background paper that hold particular relevance for this Session, and should be read with the full set of challenges as included in the general background paper)

- Lack of respect of the child's right to primary consideration of their best interests
- Dangers faced while irregularly crossing EU external borders, including transactional sex to finance the onward journey
- Children in families may face family separation during their journeys, at borders and in countries of arrival and residence, for example in the context of overcrowding/travelling in large groups of people, border closures, deliberate actions by smugglers, and apprehension or detention by state authorities of a parent
- Lack of access to protection while following EU migration routes undetected
- Gaps in registration and identification of unaccompanied children, leading also to gaps in referral to appropriate protection services
- The tension between their country of destination, often chosen because of family ties, and measures in place to prevent secondary movements
- Lack of procedures and mechanisms for identification of vulnerabilities in reception and detention centres
- Risk of sexual violence, sexual exploitation and trafficking in reception and detention centres, as well as along the route
- Lack of delivery of a good counter-narrative to that of traffickers and/or smugglers
Unaccompanied children may have put their entire focus and energy on survival, the journey and arrival - when they do arrive they are depleted, but find they have to cope with a whole new set of challenges.

Many (unaccompanied) children are traumatised and need specialised care on arrival and have frequently not had access to (health)care during their journey.

Gaps caused by lack of coordination among various services and agencies involved in the treatment of children in migration.

And we should also consider:

- Children born during their parents' migration journey or children born in exile have difficulties securing a nationality.
- If children arrive in the EU already stateless, this exacerbates their vulnerability in transit and following arrival.

2. **SESSION-SPECIFIC QUESTIONS:**

1. How does your organisation/how do you guarantee respect for the child's best interests in identification and registration processes? How do you work together with others in this regard? What are the common minimum data on children collected during identification and registration across the EU?

2. How can we make sure that the identification and registration procedures are timely and correct so as to ensure that no children fall through these initial system cracks in protection? Are there actors who are for instance not involved right now, or who are not adequately trained who could usefully be part of this process? What are examples of practices or protocols that address or tackle gaps in the follow-up and cooperation with other actors? What is needed for these actions/protocols to be implemented in the context in which you work and how could you further cooperate with similar actors in other regions and/or countries?

3. **BIBLIOGRAPHY**

This bibliography should be read in conjunction with the general background paper bibliography that is more comprehensive. The reading list included below is an addition, specifically for this Session:

1. **EASO tool for identification of persons with special needs.** This is a practical support tool for officials involved in the asylum procedure and reception and does not presuppose expert knowledge in medicine, psychology or other subjects outside the asylum procedure. The tool covers four procedural stages: first contact - making an application; lodging the application; personal interview; end of the first-instance asylum procedure; as well as reception support. These stages include brief generic guidance on support measures potentially relevant to each category. In case the special needs of the applicant fall under more than one category, the support measures are tailored to reflect this.

2. **Frontex VEGA Handbook on identification of children at risk of trafficking at air borders.** How can border guards and other people working at airports spot children who may be victims of trafficking? How does one talk to them? These are just a few questions answered in VEGA Handbook: Children at airports, published by Frontex. The handbook is the result of
years of cooperation between Frontex, border guards, non-governmental agencies and international organisations such as United Nations High Commissioner for Refugees (UNHCR) and International Organization for Migration (IOM) to create a set of guidelines for border guards to help assist children at risk.

3. **EASO practical guide on family tracing**: The legal instruments forming the Common European Asylum System (CEAS) foresee the obligation for Member States to start tracing the family members of unaccompanied children who may be in need of international protection when it is in their best interests. EASO’s mission is to support EU Member States and Associated countries (Liechtenstein, Norway and Switzerland) through inter alia common training, common quality and common country of origin information. As with all EASO support tools, the EASO Practical guide on family tracing is based on the common standards of the CEAS.

4. **EASO age assessment practice in Europe**: This publication was produced by the European Asylum Support Office (EASO), according to its mandate enshrined in Regulation (EU) No 439/2010 (1) and the European Commission action plan on unaccompanied minors (2010–14). In recognising age assessment as a ‘critical’ issue, which triggers a number of procedural and legal guarantees within legislation, the EC action plan specifically calls upon EASO to organise training activities on age assessment and develop best practices regarding reception conditions, asylum procedures and integration of unaccompanied minors, including a handbook on age assessment. In doing so it highlights the variety of procedures and techniques currently in use throughout Europe and in particular raises concerns about proportionality, reliability and standards of procedures. EASO will update this publication in 2017 and include guidance for Member States.

5. **Safeguarding Unaccompanied Migrant Minors from going Missing by Identifying Best Practices and Training Actors on Interagency Cooperation (SUMMIT Project)**: The SUMMIT project addresses how the issue of the disappearance of an unaccompanied child is tackled in different Member States and promotes successful strategies and behaviours related to the prevention and response to these disappearances. The project specifically looked at combining the experience of both the actors which primarily deal with the care of unaccompanied children and those which focus on disappearances of children, including law enforcement and hotlines for missing children, and from that combination examines how to cooperate better and on what issues.


7. **UNHCR Report - This Is Who We Are**: A study of the profile, experiences and reasons for flight of unaccompanied or separated children from Afghanistan seeking asylum in Sweden in 2015, 25 October 2016

8. **UNHCR, ‘I am here, I belong – The urgent need to address childhood statelessness’ November 2015** This UNHCR report reveals debilitating impact of statelessness on children. Stateless children across the world share similar feelings of discrimination, frustration and despair, says a new UNHCR report, creating problems that can endure into adulthood. The first geographically diverse survey of the views of stateless children says the common problems they face in the countries under review profoundly affect their ability to enjoy childhood, lead a healthy life, study and fulfil their ambitions.

9. **European Network on Statelessness, ‘No Child Should be Stateless’, September 2015**. The report offers a synthesis of research studies conducted by ENS members in eight European countries as well as analysis of nationality laws in 45 Council of Europe states. It explains why many thousands of children continue to grow up stateless due to gaps in European nationality laws or obstacles preventing birth registration. The report reveals that even among those states that have acceded to relevant international conventions, more than half are still failing to properly implement their obligations to ensure that children acquire a nationality. The research also sheds light on new and emerging cases of childhood statelessness, including the risk faced by children born to refugees and migrants or through surrogacy, adoption or to same sex couples.
10. European Network on Statelessness, ‘Ending Childhood Statelessness – A Comparative Study of Safeguards to Ensure the Right to a Nationality for Children Born in Europe’, May 2016. This working paper complements ENS’s earlier report ‘No Child Should be Stateless’ by providing deeper analysis of the nationality laws of 45 European countries. It assesses these laws against international norms granting nationality to otherwise stateless children born on the territory, as contained in the 1961 UN Convention on the Reduction of Statelessness, the European Convention on Nationality and the UN Convention on the Rights of the Child.

11. IOM, Egyptian Unaccompanied Migrant Children A case study on irregular migration, 2016

12. IOM, Addressing Migration of Unaccompanied Minors from and through the Western Balkans, 2015
Session II: Reception of children

This session will address the reception of children in the context of migration, in the light of every child's right to adequate reception (regardless of their migratory or residence status, or lack thereof). All children enjoy fundamental rights under the UNCRC to liberty, family, health, education, and to have their best interests taken as a primary consideration in any actions affecting them. Asylum-seeking children have the right, under EU law, to adapted reception conditions and to education and healthcare. However, many differences exist in how EU Member States have implemented EU law and organised reception in light of their international human rights law obligations. This session seeks to address some of these differences and current gaps in child protection upon reception by EU Member States, highlighting positive practices for the effective protection of child rights in the context of reception. For the purposes of this Session, reception can mean initial reception and care of children upon arrival, as well as the long-term (community- or family-based) reception of children whilst awaiting a decision on their migration or asylum application.

The following issues should be discussed during the panel:

- Access to adequate/age appropriate reception for children (unaccompanied or with families)
- Quality of care
- More recourse to foster/family based care for unaccompanied children or smaller scale living arrangement for older unaccompanied children (non-institutionalisation)
- Access to education and healthcare including psycho-social care
- Adequate standards of living
- Access to leisure activities
- (Prevention of) immigration detention of children and families, and consideration of alternatives to immigration detention where grounds for detention exist
- Community-based alternatives to detention for children and families
- Child protection and child safeguarding in reception including case management
- Prevention of violence and follow-up responses
- Cooperation with national child protection systems

1. CHALLENGES IN RECEPTION

(This is an extract of some of the challenges as identified in the general background paper that hold particular relevance for this Session, and should be read with the full set of challenges as included in the general background paper)

- Lack of respect of the child's right to primary consideration of their best interests
- Children in families may face family separation during their journeys, at borders and in countries of arrival and residence, for example in the context of overcrowding/travelling in large groups of people, border closures, deliberate actions by smugglers, and apprehension or detention by state authorities of a parent
• Reception: lack of safe reception/lack of age appropriate reception capacity/poor reception conditions/lack of focus on quality of care/lack of range of options including family-based care/lack of inspection and monitoring
• The tension between their country of destination, chosen because of family ties, and measures in place to prevent secondary movements
• Lack of procedures and mechanisms for identification of vulnerabilities in reception and detention centres
• Lack of inspection and monitoring of detention facilities
• The risk of administrative detention, including the risk of detention in inappropriate conditions (lack of separation from adults, etc.) or due to lack of space in open reception and lack of appropriate alternatives
• Lack of inspection and independent monitoring of reception and detention centres
• Risk of sexual violence, sexual exploitation and trafficking in reception and detention centres, as well as along the route
• Lack of, or limited, access to education and adequate healthcare, including psychosocial care
• Unaccompanied children may have put their entire focus and energy on survival, the journey and arrival - when they do arrive they are depleted, but find they have to cope with a whole new set of challenges
• Many (unaccompanied) children are traumatised and need specialised care on arrival
• Gaps caused by lack of coordination among various services and agencies involved in the treatment of children in migration

2. SESSION-SPECIFIC QUESTIONS

3. How can each and every child's best interests be ensured in reception, irrespective of their migratory or residence status, or lack thereof? How do you work to ensure that each child's situation is individually assessed? How is reception adapted to children with special needs, such as children with disabilities? Are there opportunities to expand the use of alternative care arrangements for unaccompanied children, such as foster-care, and family-based care, or smaller scale living arrangements with a focus on the quality of affective care? For children travelling together with parents, are there opportunities to expand the use of case management, community-based shelter and/or housing arrangements, with a focus on protecting the family unit? How can we harness further support for reception (e.g. in the context of corporate social responsibility, mentors, local community involvement, sharing of resources, volunteers)? What standards are in place? How can existing standards be better enforced? What monitoring is in place bearing in mind the State's primary responsibility for child protection and reception?

4. What can be done to ensure a range of viable alternatives to immigration detention of children?
5. In the reception context, are there examples of good practice for a child's access to education and healthcare (both physical and mental), concerning both unaccompanied and separated children and children within families?

3. Bibliography

This bibliography should be read in conjunction with the general background's paper bibliography that is more comprehensive. The reading list included below is an addition, specifically for this Session:

1. United Nations Guidelines for the Alternative Care of Children
6. No Child In Detention Coalition Report: “Dad, have we done something wrong?”, January 2014
7. UNHCR, Options Paper No. 1: Options for governments on care arrangements and alternatives to detention for children and families, 2015
8. FRA - Key migration issues: one year on from initial reporting, Key issues in need of priority action: Unaccompanied children; Safety and protection at reception facilities Impact on local communities, Violence and hate speech against migrants October 2016.
10. CONNECT: Local Cooperation for Unaccompanied Children: A tool to assess & improve reception conditions
11. CONNECT: The Right to be Heard and Participation of Unaccompanied Children; A Tool to support the collection of children’s views on protection and reception Services
17. Number of children arrived in Chios since 20/03 - breakdown (gender - nationality - age)

Chios Children Breakdown.xlsx

18. Number of unaccompanied and separated children currently on Chios - breakdown (gender - nationality - age)

Chios UASC Breakdown.xlsx
Session III: Access to asylum procedures and procedural safeguards

This session is cross-cutting; all the rights and procedural safeguards discussed here apply also in the other "phases" of a child's migration journey (identification, protection, reception and durable solutions). This session will focus on the following themes:

- The child's right of access to international protection procedures as well as other procedures (including Dublin procedures, intra EU family reunification, relocation, return, etc.)
- Procedural safeguards (right to information, legal advice and assistance and a legal representative if unaccompanied, a guardian, child-friendly age-assessments, child friendly procedures, including interviewers with specialised knowledge)
- The implementation of the principle of the best interests of the child at any stage of the (asylum) procedure
- The urgency principle in proceedings involving children¹.

The right to a guardian and related issues will have been discussed in the dedicated side event on 28-29 November 2016 and time has been built in this session for the co-chair (Rebecca O'Donnell) to report on the discussions and outcomes of the side event.

1. CHALLENGES IN ACCESS TO ASYLUM PROCEDURES AND PROCEDURAL SAFEGUARDS

(This is an extract of some of the challenges as identified in the general background paper that hold particular relevance for this Session, and should be read with the full set of challenges as included in the general background paper)

- Lack of respect of the child's right to primary consideration of their best interests
- Procedural and other obstacles to family reunion within the EU and family tracing challenges: under-developed (cross-border) mechanisms, lack of information, unavailability/unwillingness of family in EU to take care of the child, delays in initiating tracing and establishing and verifying family links
- Gaps in guardianship systems (lack of (trained) guardians, overstretched guardians; no immediate allocation of guardian)
- Lack of legal advice and/or representation
- Lack of reliable information and advice and lack of access to child-specific information and provision of information in a child-friendly manner
- Long delays or lack of access to family reunification and transfer procedures due to the lack of efficient transnational cooperation and coordination mechanisms

¹ In line with the Council of Europe Guidelines on child-friendly justice: 50. In all proceedings involving children, the urgency principle should be applied to provide a speedy response and protect the best interests of the child, while respecting the rule of law.
Disputed ages have a negative impact on children - invasive age assessment methods with variable degrees of results and reliability may be used.

Age assessment procedure outcomes may be linked to the child's credibility in asylum procedures/accommodation in adult accommodation pending the outcome of age assessment procedures/lack of access to appeal procedures.

Unaccompanied children may have put their entire focus and energy on survival, the journey and arrival - when they do arrive they are depleted, but find they have to cope with a whole new set of challenges.

Gaps caused by lack of coordination among various services and agencies involved in the treatment of children in migration.

2. Session-specific questions

6. What can be done to promote fair and effective child friendly procedures for both unaccompanied and separated children and children within families? What can be done to respect the urgency principle in all proceedings involving children in line with the Council of Europe guidelines on child-friendly justice?

7. More needs to be done to adapt procedures to the situation and needs of children. What can be done to strengthen fair and effective child friendly procedures and ensure the best interests of the child is properly considered in cases involving both unaccompanied children and separated children and children within families? How can you contribute to this?

3. Bibliography

This bibliography should be read in conjunction with the general background's paper bibliography that is more comprehensive. The reading list included below is an addition, specifically for this Session:

- Compilation of EU acquis on the rights of the child lists and links all legislation and proposals (see Section 16)
- Extract of new (2016) Common European Asylum System (CEAS) child-specific provisions
- CONNECT project reference document (tables start at page 48) overview of current EU asylum and migration law relevant to children
- EASO Practical Guide: Personal Interview
- Guardianship systems for children deprived of parental care (FRA, October 2015)
- CONNECT Project Standards to ensure that unaccompanied migrant children are able to fully participate A Tool to Assist Actors in Legal and Judicial Proceedings
- UNHCR, The Heart of the Matter, assessing credibility when children apply for asylum in Europe
- UNHCR-UNICEF, Safe & Sound; what States can do to ensure respect for the best interests of unaccompanied and separated children in Europe, October 2014
- Council of Europe Guidelines on child-friendly justice
• UK Royal Courts of Justice, Court of Appeal, Judgment on the Appeal by the Upper Tribunal Immigration and Asylum Chamber, Secretary of State for the Home Department (Appellant) vs ZAT et al. (Respondents), 2 August 2016

• Upper Tribunal Immigration and Asylum Chamber, Judicial Review Decision Notice, ZAT et al. vs Secretary of State for the Home Department, 21 January 2016;

• Upper Tribunal Immigration and Asylum Chamber, Judicial Review Decision Notice, MK et al vs Secretary of State for the Home Department, 21 April 2016.

• IOM, Recommendations from project PRUMA - Promoting Family Reunification and transfer of Unaccompanied Minor Asylum Seekers (UMASs) under the Dublin Regulation.
Session IV: Durable solutions including integration

This session focuses on durable solutions for children in migration, covering integration in an EU Member State as well as return and reintegration in the country of origin. The discussion will cover particularly:

- Durable solutions based on the individual assessment of the best interests of the child including regularisation
- Integration: access to education for all children, Early Childhood Education and Care, as well as provisions of social, health and mental healthcare and psycho-social support, housing and relevant services and infrastructures
- Transitional measures/durable solutions for children turning 18
- Return of the child where this is in their best interests (country of origin information specific to children, best interests of the child determination, child-friendly return procedures)

1. Challenges in Durable solutions including integration

(This is an extract of some of the challenges as identified in the general background paper that hold particular relevance for this Session, and should be read with the full set of challenges as included in the general background paper)

- Lack of mechanisms to identify and implement a durable solution
- Lack of, or limited, access to education (including language training) and adequate healthcare, including psychosocial care, as well as lack of appropriate housing
- Return to the country of origin may not be based on a best interests determination
- Absence of child-focused Country of Origin Information Reports to inform best interest determinations
- Lack of regularisation pathways/granting short-term leads to uncertainty, insecurity and limits full realisation of all rights/risk of remaining in legal limbo for long periods
- Gaps caused by lack of coordination among various services and agencies involved in the treatment of children in migration

2. Session-specific questions

1. How can we ensure that the child's best interests are a primary consideration in determining durable solutions? How can we ensure that a holistic, multidisciplinary

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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 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 best interests determination. A durable solution also ultimately allows the child to acquire, or to re-acquire, the full protection of a state. See UNHCR, Safe and Sound: http://www.refworld.org/pdfid/5423da264.pdf., p. 23
approach, duly considering different options, is assured in seeking to identify and select a durable solution?

2. How do you work to ensure that each child's situation and needs are individually assessed in terms of education and healthcare and that each child gets the best possible support? What are practical challenges you may encounter and how do you overcome them (e.g. lack of documents on education, vaccination)? Given that many children may have suffered trauma, how do you make sure children get the best possible support, including through their educational pathway?

3. Integration is a two-way process, what can be done to foster and harness collective efforts to integrate children in migration as from day 1 of arrival? How can we empower children as agents of their own integration?

3. Bibliography

This bibliography should be read in conjunction with the general background's paper bibliography that is more comprehensive. The reading list included below is an addition, specifically for this Session:

2. European Commission, School education for migrants webpage (includes reports of peer learning activities on education for child migrants)
3. EU Education and Training Monitor 2016 Recently published report and country analyses capturing the evolution of education and training and the main challenges across the EU.
4. Reducing early school leaving in Europe Website of the RESL.eu project
9. Needs Tackling and Networks Tracing for Unaccompanied minors integration (Net for U)
11. Programa Escolhas, Choices Programme Portugal (Luisa Malho intervention)
12. SOS Children’s Villages International, Ageing Out of Care: From Care to Adulthood in European and Central Asian Societies.
13. Matter Campaign, December 2010,
14. Monitoring mechanisms for returned minors, HIT Foundation,
15. UN High Commissioner for Refugees (UNHCR), Unaccompanied and Separated Asylum-seeking and Refugee Children Turning Eighteen: What to Celebrate?, March 2014
16. UN High Commissioner for Refugees (UNHCR), Safe & Sound: what States can do to ensure respect for the best interests of unaccompanied and separated children in Europe, October 2014
17. Durable solutions for separated children in Europe, Irish refugee Council
18. IOM, Enhancing the Safety and Sustainability of return and reintegration of Victims of Trafficking – including Child victims of trafficking, January 2015.


