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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 18 April 2017

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

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PARLIAMENT AND THE COUNCIL The protection of children in migration

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Delegations will find attached document COM(2017) 211 final.

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT AND THE COUNCIL**

**The protection of children in migration**

{SWD(2017) 129 final}

## 1. INTRODUCTION

In recent years, the number of children in migration arriving in the European Union, many of whom are unaccompanied, has increased in a dramatic way. In 2015 and 2016, around thirty per cent of asylum applicants in the European Union were children<sup>1</sup>. There has been a six-fold increase in the total number of child asylum applicants in the last six years<sup>2</sup>

**Behind statistics, there are individual children that live through a range of experiences linked to migration, many of them traumatic. Migrant children are in a state of particular vulnerability, because of their age, their distance from home, and often their separation from parents or carers. Thus, they require specific and appropriate protection.**

**Both girls and boys in migration are exposed to risks and have often suffered from extreme forms of violence, exploitation, trafficking in human beings, physical, psychological and sexual abuse and** before and/or after their arrival on EU territory. They may risk being marginalised and drawn into criminal activity or radicalisation. Children may go missing or become separated from their families. Girls are particularly at risk of forced marriages as families struggle in straitened circumstances or wish to protect them from further sexual violence. Risks are exacerbated when children travel unaccompanied or are obliged to share overcrowded facilities with adults who are strangers to them.

Protecting children is first and foremost about upholding European values of respect for human rights, dignity and solidarity. It is also about enforcing European Union law and respecting the Charter of Fundamental Rights of the European Union and international human rights law on the rights of the child. This is why protecting all children in migration, regardless of status and at all stages of migration, is a priority.

The European Union, together with its Member States, has been active on this front for many years. The existing EU policies and legislation provide a solid framework for the protection of the rights of the child in migration covering all aspects including reception conditions, the treatment of their applications and integration. The **Action Plan on Unaccompanied Minors (2010-2014)**<sup>3</sup> has been instrumental in increasing awareness about the protection needs of unaccompanied children in migration, and in promoting protective actions<sup>4</sup>. The European Agenda on Migration<sup>5</sup> and the Communication on the state of play of its implementation<sup>6</sup>, have most recently addressed the protection of children in migration. The Commission Recommendation "Investing in Children: Breaking the Cycle of Disadvantage" has provided guidance with a view to reducing child poverty and improving child well-being, through mainstream and targeted measures<sup>7</sup>. As a result, there is a

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<sup>1</sup> The terms 'children in migration', or 'children', in this document covers all third country national children (persons below 18 years old) who are forcibly displaced or migrate to and within the EU territory, be it with their (extended) family, with a non-family member (separated children) or alone, whether or not seeking asylum. This Communication uses the definition of 'separated child' as set out in paragraph 8 of General Comment No 6 of the United Nations Committee on the rights of the child.

<sup>2</sup> <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>.

<sup>3</sup> COM(2010) 213 final.

<sup>4</sup> A Staff Working Document reporting on the implementation of the Action Plan since 2012 is presented together with this Communication, SWD(2017)129.

<sup>5</sup> COM(2015) 240 final.

<sup>6</sup> COM(2016) 85 final.

<sup>7</sup> Commission Recommendation 2013/112/EU, of 20.02.2013, "Investing in children: breaking the cycle of disadvantage" (OJ L 59 of 2.03.2013, p. 59).

wealth of knowledge and good practice in the Member States on the protection of children in migration.

Notwithstanding this good practice and the progress achieved in Member States, the recent surge in the number of arriving migrant children has put national systems and administrations under pressure and exposed gaps and shortcomings in the protection of all categories of children in migration. The **10<sup>th</sup> Annual Forum on the rights of the child on the protection of children in migration** organised by the Commission on 28-30 November 2016<sup>8</sup> and discussions at dedicated roundtable meetings with non-governmental and international organisations, as well as the "*Lost in Migration*" conference on 26-27 January 2017<sup>9</sup>, have underlined the need for targeted actions to better protect children in migration. The Council of Europe Special Representative of the Secretary General on Migration and Refugees Report of 23 March 2017 also identified the main challenges faced by children in migration in Europe<sup>10</sup>.

In the light of this increased number of migrant children arriving in Europe and of the growing pressure on national migration management and child protection systems, **this Communication sets out a series of actions which need to be either taken or better implemented now by the European Union and its Member States also with the support of the relevant EU agencies (European Border and Coast Guard Agency; European Asylum Support Office (EASO) and the European Union Agency for Fundamental Rights (FRA)).**

**This Communication builds on relevant EU initiatives taken to address the migratory challenges, including the specific additional safeguards proposed in the context of the reform of EU asylum legislation<sup>11</sup>, the Action Plan on Integration<sup>12</sup> and the Commission Recommendation on return<sup>13</sup> accompanying the renewed Action Plan on return<sup>14</sup>. Therefore, the aim is to provide a series of coordinated and effective actions to the pressing protection gaps and needs that children face once they reach Europe, ranging from their identification, reception, implementation of procedural safeguards, as well as establishment of durable solutions. There is also scope for stepping up cross-cutting actions at all migratory stages, such as using better and in a more targeted way EU financial support, improving data collection on children in migration and providing training to all those working with children in migration. These actions will be implemented in synergy with those taken by the European Union to protect children globally, including in the countries of origin and transit.**

**All these elements should be taken forward as part of the EU's comprehensive approach to managing migration, and to ensuring effective protection of children in migration, with a focus on strengthening cross-border cooperation<sup>15</sup>.**

**The principle of best interests of the child must be the primary consideration in all actions or decisions concerning children.**

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<sup>8</sup> [http://ec.europa.eu/newsroom/just/item-detail.cfm?item\\_id=34456](http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=34456).

<sup>9</sup> [http://lostinmigration.eu/Conclusions\\_Lost\\_in\\_Migration\\_Conference.pdf](http://lostinmigration.eu/Conclusions_Lost_in_Migration_Conference.pdf)

<sup>10</sup> <https://www.coe.int/en/web/portal/-/srsg-identifies-main-challenges-for-migrant-and-refugee-children-in-europe>.

<sup>11</sup> See [http://europa.eu/rapid/press-release\\_IP-16-1620\\_en.htm](http://europa.eu/rapid/press-release_IP-16-1620_en.htm) and [http://europa.eu/rapid/press-release\\_IP-16-2433\\_en.htm](http://europa.eu/rapid/press-release_IP-16-2433_en.htm).

<sup>12</sup> COM(2016) 377 final.

<sup>13</sup> C(2017) 1600 final.

<sup>14</sup> COM(2017) 200 final.

<sup>15</sup> In line with the 'ten principles for integrated child protection systems' – [http://ec.europa.eu/justice/fundamental-rights/files/2015\\_forum\\_roc\\_background\\_en.pdf](http://ec.europa.eu/justice/fundamental-rights/files/2015_forum_roc_background_en.pdf).

## 2. ADDRESSING ROOT CAUSES AND PROTECTING CHILDREN ALONG MIGRATORY ROUTES: FURTHER STEEPING UP THE EU'S EXTERNAL ACTION

The protection of children in migration starts by addressing the **root causes** which lead so many of them to embarking on perilous journeys to Europe. This means addressing the persistence of violent and often protracted conflicts, forced displacements, inequalities in living standards, limited economic opportunities and access to basic services through sustained efforts to eradicate poverty and deprivation and to develop integrated child protection systems in third countries.<sup>16</sup> The European Union and its Member States have stepped up their efforts to establish a comprehensive external policy framework to reinforce cooperation with partner countries in mainstreaming child protection at the global, regional and bilateral level. The European Union is fully committed to implement the 2030 Agenda for Sustainable Development, which calls for a world in which every child grows up free from violence and exploitation, has his/her rights protected and access to quality education and healthcare.

The 2015 **Valletta Summit political declaration and its Action Plan**<sup>17</sup> calls for the prevention of and fight against irregular migration, migrant smuggling and trafficking in human beings (with a specific focus on women and children), while at the same time calls for addressing the root causes of irregular and unsafe migration. In 2016, with the adoption of the Partnership Framework<sup>18</sup>, migration has been more firmly embedded in EU foreign policy, to tackle its root causes and refocus the EU's aid to development.

Concrete actions to implement the above mentioned approach are currently ongoing and focusing on **supporting the development of child protection mechanisms in partner countries**, with specific focus on unaccompanied minors, in order to provide a safe environment for children along the migration route. For instance, the project 'Better Migration Management' (EUR 46 million), aims at improving migration management at regional level in the Horn of Africa providing specialised protection to unaccompanied and separated minors who have fallen prey to human trafficking and smuggling networks. In the Regional Development and Protection Programme framework, for which projects are on-going in Ethiopia (EUR 30 million), Kenya (EUR 15 million), Somalia (EUR 50 million), Sudan (EUR 15 million) and Uganda (EUR 20 million), a specific focus is put on the protection of unaccompanied minors to create evidence-based, innovative and sustainable development and protection solutions for both refugees and their host communities, including access to and provision of basic rights and services. In West Africa, support is provided to countries of origin and transit to strengthen regional cooperation on child protection supporting the West Africa Network for the protection of children on the move, providing assistance in developing common protection standards and sustainable return and reintegration mechanisms. Other specific targeted actions are currently implemented in the region, for example in Mauritania, focused on potential victims of child trafficking.

Irregular migration of unaccompanied children to the EU via unsafe routes leaves them prey to child trafficking and exploitation and places their health, if not their lives, at risk. **Awareness-raising campaigns** on the risks and dangers faced by children along the migration route have intensified.

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<sup>16</sup> See Commission Communication 'Lives in Dignity: from Aid-dependence to Self-reliance' COM(2016)234 (final)

<sup>17</sup> <http://www.consilium.europa.eu/en/press/press-releases/2015/11/12-valletta-final-docs/>.

<sup>18</sup> COM(2016) 385 final.

**EU funded humanitarian operations** will continue to take into consideration boys' and girls' specific needs and vulnerabilities and ensure their protection while they are displaced. Where appropriate, support will be provided both in the country of origin and throughout the different migration routes, including prevention of and response to violence (including sexual violence), case management, registration and restoration of lost civil documentation, family tracing and reunification, psycho-social support, provision of information, education and emergency shelters for unaccompanied children<sup>19</sup>. For example in South Sudan, the United Nations International Children's Emergency Fund (UNICEF) has carried out child protection activities focusing notably on prevention and response to separation, family tracing and reunification ; psychosocial support; mine risk education and other lifesaving prevention messaging; as well as the release and reintegration of children associated with armed forces and groups. In Iraq, Save the Children provides immediate lifesaving assistance to children and their families affected by the Mosul crisis and improve access to quality, inclusive education and child protection services for internally displaced persons and host communities girls and boys. In Afghanistan, the International Organisation for Migration provides humanitarian protection assistance for vulnerable undocumented Afghan unaccompanied minors.

**In response to the Syrian crisis**, and taking into account that half of those affected by the Syrian crisis in and outside of Syria are children, the Commission has been working to achieve the London conference<sup>20</sup> goal of **bringing all refugee children into education**. Over EUR 700 million has been allocated to providing access to education for children displaced by the Syrian crisis either through the Facility for Refugees in Turkey or through the EU Trust Fund in response to the Syrian crisis in the entire region. These efforts include through the establishment of a regional partnership on education with UNICEF, covering Lebanon, Turkey and Jordan and a cooperation with SPARK, the German Jordanian University, the British Council, the German Academic Exchange Service, Nuffic, Expertise France and the United Nations High Commissioner for Refugees (UNHCR), to help improve access to quality higher education opportunities distributing scholarships to vulnerable and internally displaced students in Syria, and to Syrian refugees. At the conference that was hosted in Brussels on the 4-5 of April on Supporting the future of Syria<sup>21</sup> the Commission - alongside the other Conference's participants - agreed to continue this work towards ensuring a No lost generation of children in Syria and in the region and getting all refugee children and vulnerable children in host communities into quality education with equal access for girls and boys.

The recently-revised **EU Guidelines on the Promotion and Protection of the Rights of the Child**<sup>22</sup> renew the EU's commitment to promote and protect the indivisibility of the rights of the child in its relations with third countries, including countries of origin or transit. They provide guidance to staff of EU institutions and Member States on how to operationalise a system-strengthening approach to ensure the protection of the rights of all children. In its conclusions adopted on 3 April 2017<sup>23</sup>, the Council underlined that the European Union will continue to **actively engage in the processes leading to the elaboration of the Global Compact on Refugees and Global Compact on Migration**, following the adoption of the New York Declaration for Refugees

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<sup>19</sup> See SWD(2016) 183 final - "Humanitarian Protection: Improving protection outcomes to reduce risks for people in humanitarian crises".

<sup>20</sup> See conference declaration <https://www.supportingsyria2016.com/news/co-hosts-declaration-of-the-supporting-syria-and-the-region-conference-london-2016/>

<sup>21</sup> See conference declaration <http://www.consilium.europa.eu/en/press/press-releases/2017/04/05-syria-conference-co-chairs-declaration/>

<sup>22</sup> EU Guidelines on the Promotion and Protection of the Rights of the Child, 7 March 2017, 6846/17. [https://eeas.europa.eu/headquarters/headquarters-homepage/22017/guidelines-promotion-and-protection-rights-child\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/22017/guidelines-promotion-and-protection-rights-child_en).

<sup>23</sup> Council Conclusions on the Promotion and Protection of the Rights of the Child, 3 April 2017, 7775/17.

and Migrants in September 2016<sup>24</sup>. In this context, the Council reaffirmed the need to protect all refugee and migrant children, regardless of their status, and give primary consideration at all times to the best interests of the child, including unaccompanied children and those separated from their families, in full compliance with the UN Convention on the Rights of the Child and its Optional Protocols.

**Key actions:**

The Commission and the Member States should:

- prioritise actions aimed at strengthening child protection systems along the migratory routes, including in the context of the implementing the Valletta Summit political declaration and Action Plan and the Partnership Framework, as well as in the framework of development cooperation;
- support partner countries in developing strong national child protection systems and civil registration services as well as cross-border cooperation on child protection;
- support projects targeting the protection of unaccompanied children in third countries along migratory routes, in particular to prevent child trafficking or smuggling;
- actively implement of the EU Guidelines on the Promotion and Protection of the Rights of the Child.

### 3. SWIFT AND COMPREHENSIVE IDENTIFICATION AND PROTECTION

Following their arrival in the European Union, children in migration should always be **identified and registered as children**, using a uniform data set across the European Union (for example, to indicate whether a child is unaccompanied, separated or travelling with family, nationality/statelessness, age, sex, etc.). Children should be prioritised in all border-related procedures and receive adequate support from specialised staff in the process of identification and registration. They should notably apply child-friendly and gender-sensitive approaches when collecting fingerprints and biometric data. Vulnerabilities and special protection needs, including healthcare needs, should be better systematically and individually assessed.

Children, especially those who are unaccompanied, are ever more exposed to the risks of **exploitation and child trafficking**<sup>25</sup>. Children are a particularly vulnerable group targeted by traffickers, and the risk of falling prey to such practices has been exacerbated by the number of children arriving in the European Union. Specific attention should be given to responding to the needs of girls and boys who may have been victims of any forms of sexual or gender-based violence. However, the necessary referrals to national child protection systems and/or to anti-trafficking referral mechanisms are not always implemented, or not implemented promptly. Children who are stateless, due for example to birth to stateless parents or due to gender discrimination in nationality laws in their mother's country of nationality, may be difficult to identify as such, and hence delay their status determination in the European Union.

A **person responsible for child protection** should therefore be present at an early stage of the identification and registration phase. Frontline Member States should, when needed, be supported by other Member States through deployment of experts by the EU agencies. There is an urgent need to integrate child protection at the hotspots by appointing in each hotspot a child protection officer – namely, a person responsible for child protection acting as a focal point for all issues relating to children, irrespective of whether children are applicants for international protection or not.

<sup>24</sup> New York Declaration for Refugees and Migrants, A/71/L.1\*, 13 September 2016.

<sup>25</sup> See COM(2016) 267 final.



Cross-border **family tracing and reunification** processes, including in countries of origin and transit, are often not carried out, protracted or started too late. These procedures should be smoother and faster for all children, whether applying for international protection (and thus eligible for transfers in application of the Dublin Regulation)<sup>26</sup> or under the Family Reunification Directive where applicable<sup>27</sup>. In addition, measures should be taken to verify the family links of separated children travelling with adults, before they are referred onwards, or guardianship is entrusted to the accompanying adult.

**Missing migrant children** have the same right to protection as missing national children. Tackling the phenomenon of missing children requires setting up robust prevention mechanisms and responses. In terms of prevention, missing children found anywhere on the territory of the European Union must be promptly identified, registered and referred to the child protection authorities.

Protocols and procedures need to be in place **to systematically report and respond** to instances of unaccompanied children going missing<sup>28</sup>. Reception centre managers, in particular, as well as others involved in the care of the child, should report all cases of children going missing to the police. The missing children hotlines (116 000 number, operational in all EU Member States) and national child alert mechanisms must be used where appropriate. All cases of missing unaccompanied children should be recorded by the police, who should enter an alert on the missing child in the Schengen Information System (SIS) and liaise with the national SIRENE bureau. Member States should also request a corresponding Interpol notice on missing persons to be issued<sup>29</sup>, involving Europol where relevant. Further efforts to raise awareness on the issue of missing children could also include information campaigns in relevant public places.

The recently proposed reform of SIS includes a proposal to add a classification to the missing child alert in the system, indicating where known the circumstances of the disappearance and the fact that the child is unaccompanied and/or a victim of trafficking<sup>30</sup>. Work is underway on an automated fingerprint identification system in SIS. This will allow searching SIS by fingerprints and to more reliably identify children in need of protection. Lowering the age for taking fingerprints and facial images from 14 to 6 years, as proposed in the revised Eurodac Regulation, could also facilitate the tracing of missing children<sup>31</sup>. Furthermore, the future Entry/Exit System<sup>32</sup> will also help improve the identification and detection of third country national children who go missing in Europe.

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<sup>26</sup> Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection, OJ L 180, 29.6.2013, p. 31–59.

<sup>27</sup> Directive 2003/86/EC on the right to family reunification, OJ L 251, 3.10.2003, p. 12–18.

<sup>28</sup> See for instance the Swedish comprehensive approach to missing unaccompanied children (national mapping/analysis/follow-up actions). <http://www.lansstyrelsen.se/Stockholm/Sv/manniska-och-samhalle/manskliga-rattigheter/ensamkommande-barn-som-forsvinner/Sidor/mapping-analysis-follow-up-on-missing-unaccompanied-minors-in-sweden.aspx>.

<sup>29</sup> Paying due regard to safeguards to avoid exposing applicants for international protection or their families to the risk of serious harm by actors in third countries.

<sup>30</sup> COM(2016) 883 final.

<sup>31</sup> COM(2016) 272 final.

<sup>32</sup> COM(2016) 194 final.



**Key actions:**

As of 2017, with the support of the Commission and the EU agencies, the Member States are encouraged to:

- collect and exchange comparable data to facilitate the cross-border tracing of missing children and the verification of family links;
- apply child-friendly and gender-sensitive approaches when collecting fingerprints and biometric data;
- ensure that a person responsible for child protection is present at an early stage of the identification and registration phase and that child protection officers are appointed in each hotspot;
- put in place the necessary procedures and protocols to systematically report and respond to all instances of unaccompanied children going missing.

#### 4. PROVIDING ADEQUATE RECEPTION IN THE EUROPEAN UNION

**Reception conditions for children** in migration include not only safe and appropriate accommodation, but also any necessary support services to secure the child's best interests and wellbeing, such as independent representation, as well as access to education, healthcare, psychosocial support, leisure and integration-related measures.

Reception facilities are not always adapted to the needs of children and staff are not always trained or qualified to work with them. Appropriate child protection and security measures are not yet in place in all reception facilities. Individual needs assessments may be inadequate or not carried out, preventing the implementation of a tailored response to meet the needs of each child. While the use of family-based care/foster care for unaccompanied children has expanded in recent years and proven successful and cost-effective, it is still under-utilised. Psychological support to traumatised children and families is needed, as well as specific services for girls and boys who may have suffered from sexual and gender-based violence, promoting access to sexual and reproductive care services. Children living in communities can face barriers accessing healthcare and education. Children are not always assured early access to education, although this is their human right according to the United Nations Convention on the Rights of the Child and fundamental for securing their future and wellbeing.

To address these challenges, the Commission will continue to prioritise safe access to formal and non-formal education, reducing the length of time children's education is disrupted<sup>33</sup>. Everything possible must be done to ensure the availability and accessibility of suitable and safe reception conditions. Suitable options could include, for unaccompanied children in particular, placement with adult relatives or a foster family, accommodation centres with special provision for children or other suitable accommodation, such as closely supervised open reception centres designed to ensure the protection of children, or small scale independent living arrangements for older children<sup>34</sup>. The United Nations Guidelines for the Alternative Care of Children constitute relevant standards.<sup>35</sup>

In some instances, children have been accommodated in closed facilities due to a shortage of suitable alternative reception facilities. Given the **negative impact of detention** on children, administrative

<sup>33</sup> In particular through the Emergency Support Instrument. [http://ec.europa.eu/echo/what-we-do/humanitarian-aid/emergency-support-within-eu\\_en](http://ec.europa.eu/echo/what-we-do/humanitarian-aid/emergency-support-within-eu_en).

<sup>34</sup> As set out in Article 24 of Directive 2013/33/EU, laying down standards for the reception of applicants for international protection (recast) OJ L 180, 29.6.2013, p. 96–116.

<sup>35</sup> <http://www.refworld.org/docid/4c3acd162.html>.

detention should be used, in line with EU law, exclusively in exceptional circumstances, where strictly necessary, only as a last resort, for the shortest time possible, and never in prison accommodation.

Moreover, where there are grounds for detention, everything possible must be done to ensure that a viable range of alternatives to the administrative detention of children in migration is available and accessible,<sup>36</sup> including through support provided by the EU funds. The promotion of alternatives to detention will be the main topic of the 11<sup>th</sup> forum on the rights of the child (November 2017).

The establishment of **effective monitoring systems** at the national level should also contribute to the good functioning of reception centres, making sure that business interests (for centres run for profit) do not prevail over child protection. To support Member States, EASO will in 2017 develop specific guidance on operational standards and indicators on material reception conditions for unaccompanied children, in addition to the guidance on reception conditions already developed last year that apply to all asylum seekers.

#### **Key actions:**

As of 2017, with the support of the Commission and the EU agencies, the Member States are encouraged to:

- ensure that individual gender- and age-sensitive vulnerability and needs assessments of children are carried out upon arrival and taken into account in all subsequent procedures;
- ensure that all children have timely access to healthcare (including preventive care) and psychosocial support, as well as to inclusive formal education, regardless of the status of the child and/or of his/her parents;
- ensure that a range of alternative care options for unaccompanied children, including foster/family-based care are provided;
- integrate child protection policies in all reception facilities hosting children, including by appointing a person responsible for child protection;
- ensure and monitor the availability and accessibility of a viable range of alternatives to the administrative detention of children in migration;
- ensure that an appropriate and effective monitoring system is in place with regard to reception of children in migration;
- make full use of the forthcoming EASO guidance on operational standards and indicators on material reception conditions for unaccompanied children.

## **5. ENSURING SWIFT AND EFFECTIVE ACCESS TO STATUS DETERMINATION PROCEDURES AND IMPLEMENTATION OF PROCEDURAL SAFEGUARDS**

**Appropriate safeguards** must be applied to all children present on the territory of the European Union, including at all stages of the asylum and return procedure. Currently, a number of key protection measures, notably as regards access to information, legal representation and guardianship, the right to be heard, the right to an effective remedy and multidisciplinary and rights-compliant age assessments, needs to be stepped up.

**Guardians** play a crucial role in guaranteeing access to the rights and in safeguarding the interests of all unaccompanied children, including those not applying for asylum. They can help build trust with

<sup>36</sup> See Article 11 of Directive 2013/33/EU laying down standards for the reception of applicants for international protection (recast), OJ L 180, 29.6.2013, p. 96–116, and background reading, UNHCR standards on detention, and Items 84–88 under “Alternatives to detention”. [http://ec.europa.eu/newsroom/document.cfm?doc\\_id=42359](http://ec.europa.eu/newsroom/document.cfm?doc_id=42359).

the child and ensure his or her wellbeing, including for integration, in cooperation with other actors. Guardians can also help prevent that children go missing or fall prey to trafficking. There are currently major shortcomings in the functioning of the guardianship systems in some Member States, particularly as regards the number of suitably qualified guardians available and the speed at which they are appointed. Where needed, guardianship institutions should be strengthened. Guardians need to be recruited in sufficient numbers, to be appointed faster and to be better equipped to fulfil their tasks. There is also a pressing need to develop and exchange good practices and guidance among guardians and guardianship authorities in the Member States. That is why, in 2017, a European guardianship network will be established.

The Commission's 2016 proposals to reform the **Common European Asylum System** recognise the fundamental role of guardians for unaccompanied children and seek to reinforce specific safeguards applicable to children<sup>37</sup>. The proposal for an Asylum Procedures Regulation<sup>38</sup> aims to strengthen guardianship systems in Member States, while the new Dublin Regulation<sup>39</sup> should secure rapid determination of the Member State responsible for the child's application for international protection.

**Age assessment** methods and procedures vary widely across Member States and do not always follow EASO recommendations and evolving practice. For example, unnecessary age assessments may be carried out and invasive methods are sometimes used, guardians are often appointed only after age assessment procedures have been carried out, and age disputes sometimes lead to children ending up in detention. In some cases, children are themselves expected to pay to challenge disputed age assessments. Reliable, multi-disciplinary age assessment procedures fully compliant with the legal safeguards related to age assessment provided by EU law are needed when there are doubts as to whether a person is under the age of 18. The person should be presumed to be a child and given the benefit of the doubt where results are inconclusive, in line with EU law<sup>40</sup>. In 2017, EASO will update its guidance on age assessment.

As mentioned above, **family tracing and family reunification/unity procedures** are often protracted or start too late. Such procedures should be carried out irrespective of the child's legal status, with the involvement of a person responsible for child protection or the child's guardian once appointed. For asylum applicants, transfers based on the family unity provisions in the Dublin Regulation are under-utilised, and sometimes take many months to be implemented. Concerted efforts should be made to speed up family reunification procedures, prioritising unaccompanied and separated children. Where children are transferred across borders within the European Union, whether pursuant to the Dublin Regulation or otherwise, close cooperation between the authorities responsible for the child's wellbeing in each Member State is essential. Member States should make full use of existing cooperation channels, for example through Central Authorities provided for in the Brussels IIa Regulation<sup>41</sup>.

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<sup>37</sup> See [http://europa.eu/rapid/press-release\\_IP-16-1620\\_en.htm](http://europa.eu/rapid/press-release_IP-16-1620_en.htm) and [http://europa.eu/rapid/press-release\\_IP-16-2433\\_en.htm](http://europa.eu/rapid/press-release_IP-16-2433_en.htm).

<sup>38</sup> COM(2016) 467 final.

<sup>39</sup> COM(2016) 270 final.

<sup>40</sup> For migrant children applying for asylum, this is set out in Directive 2013/32/EU on common procedures for granting and withdrawing international protection, OJ L 180, 29.6.2013, p. 60–95. See also Article 13(2) of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, OJ L 101, 15.4.2011, p. 1–11.

<sup>41</sup> Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, OJ L 338, 23.12.2003, p. 1–29.

There are sometimes long delays in **processing the asylum and other proceedings concerning children**. Children's status determination procedures should be prioritised (the 'urgency principle') in line with the Council of Europe Guidelines on child-friendly justice<sup>42</sup>.

Relocation of asylum-seekers from Italy and Greece is designed not only to relieve pressure on these Member States but also to ensure prompt access to asylum procedures for the persons relocated. Under the **Council Decisions on relocation**<sup>43</sup>, Member States should prioritise the relocation of vulnerable persons, including unaccompanied children and other children in particularly vulnerable situations. In December 2016, the European Council called on Member States to further intensify their efforts to accelerate relocation, in particular for unaccompanied children<sup>44</sup>. Despite constant encouragement from the Commission, as of 2 April 2017, only 341 unaccompanied and separated children had been relocated from Greece. In Italy, only one separated child has been relocated as the authorities have not yet developed a specific procedure for the relocation of unaccompanied children<sup>45</sup>. It is essential that Member States step up their pledging specifically for unaccompanied and separated children.

#### **Key actions:**

In 2017, the Commission and the EU agencies will:

- establish a European guardianship network, to develop and exchange good practices and guidance on guardianship in cooperation with the European Network of Guardianship Institutions;
- EASO will update its guidance on age assessment.

With the support of the Commission and the EU Agencies, the Member States are encouraged to:

- strengthen the guardianship authority/institution to ensure that guardians for all unaccompanied children are swiftly in place;
- implement reliable, multi-disciplinary age and non-invasive assessment procedures;
- ensure swift and effective family tracing, within or outside the EU, by making full use of existing cross-border cooperation channels;
- give priority to processing cases (e.g.: asylum applications) concerning children in line with the urgency principle;
- give priority to the relocation of unaccompanied children from Greece and Italy.

## **6. ENSURING DURABLE SOLUTIONS**

**Durable solutions** are crucial to establish normality and stability for all children in the long term. The identification of durable solutions should look at all options, such as integration in a Member State, return to the country of origin, resettlement or reunification with family members in a third country. It is essential that a thorough **best interests determination** be carried out in all cases<sup>46</sup>.

<sup>42</sup> In line with Article 31(7)b of the Asylum Procedures Directive, and the Council of Europe Guidelines on child-friendly justice:50. [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016804b2cf3](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016804b2cf3).

<sup>43</sup> Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece and Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece.

<sup>44</sup> [http://www.consilium.europa.eu/en/meetings/european-council/2016/12/20161215-euco-conclusions-final\\_pdf/](http://www.consilium.europa.eu/en/meetings/european-council/2016/12/20161215-euco-conclusions-final_pdf/).

<sup>45</sup> COM(2017)212 final.

<sup>46</sup> See [http://www.connectproject.eu/PDF/CONNECT-EU\\_Reference.pdf](http://www.connectproject.eu/PDF/CONNECT-EU_Reference.pdf) (page 59) for an overview of EU provisions on durable solutions.

Clear rules should be established on the legal status of children who are not granted asylum but who will not be returned to their country of origin<sup>47</sup>. Member States should establish procedures and processes to help identify durable solutions on an individual basis, and clearly set out the roles and duties of those involved in the assessment, in order to avoid that children are left for prolonged periods of time in limbo as regards their legal status. **Access to education, healthcare and psychosocial support** while awaiting the identification of a durable solution should also be ensured. Finally, Member States should seek to ensure availability of status determination procedures and resolution of residence status for children who will not be returned, in particular for those who have resided in the country for a certain period of time.

**Early integration** of children is crucial to support their development into adulthood. It is a social investment and essential factor contributing to societal cohesion overall in Europe. Integration of children at the earliest stage, through mainstream and targeted measures, is also important to minimise risks with regard to possible criminal activity and exposure to radicalisation<sup>48</sup>. The Radicalisation Awareness Network looks into available practices and approaches of how to support and protect children who may have been traumatised and might be vulnerable to radicalisation<sup>49</sup>. It includes continuing efforts to promote a positive approach to diversity, as well as to combating racism, xenophobia and in particular hate speech against children in migration.

Given that recently arrived children may not yet have been able to acquire sufficient skills and competences to fully and actively integrate in society, in particular for transition into further study or the labour market, children in this transitional phase should be provided with guidance, support and opportunities for continuing education and training. Furthermore, as is the case for children in State care who are EU nationals, mechanisms and processes need to be in place to help prepare children in migration in State care for the transition to adulthood/leaving care.

The Commission promotes cooperation between Member States in this area, facilitating exchanges of good practices<sup>50</sup> and providing financial support to pilot integration projects for all migrant children, including those who are unaccompanied. The integration of unaccompanied children is a priority under the Asylum, Migration and Integration Fund (AMIF) 2014-2020. In line with the Action Plan on integration of third country nationals<sup>51</sup> and the December 2016 Council Conclusions<sup>52</sup>, key steps taken so far include calls for proposals across policy areas, with integration as a main priority.

Member States' integration policies reflect their diverse social and economic backgrounds and conditions. **Early and effective access to inclusive, formal education**, including early childhood education and care, is one of the most important and powerful tools for the integration of children, fostering language skills, social cohesion and mutual understanding. Training that prepares teachers

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<sup>47</sup> In line with paragraph 13 of the Return Recommendation of 7 March 2017 (COM(2017) 1600 final).

<sup>48</sup> In line with the Council Conclusions of 3 November 2016 (13611/16) and COM(2016) 379 final. See also findings of the Council of Europe's Report of 15 March 2016 on "Preventing the radicalisation of children by fighting the root causes", and the Council of Europe Parliamentary Assembly's Resolution 2103/2016.

<sup>49</sup> See RAN Issue Paper of November 2016 on "Child returnees from conflict zones" setting out the particular challenges of working with children at risk: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/radicalisation\\_awareness\\_network/ran-papers/docs/issue\\_paper\\_child\\_returnees\\_from\\_conflict\\_zones\\_112016\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/radicalisation_awareness_network/ran-papers/docs/issue_paper_child_returnees_from_conflict_zones_112016_en.pdf) ; see also forthcoming manual on returnees responses including a dedicated chapter on children to be presented at the RAN Conference on Returnees of June 2017.

<sup>50</sup> See European website on integration <https://ec.europa.eu/migrant-integration/search?search=child+good+practices>.

<sup>51</sup> COM(2016) 377 final.

<sup>52</sup> <http://data.consilium.europa.eu/doc/document/ST-15312-2016-INIT/en/pdf>.

to work with children of diverse backgrounds is a key factor for integration. Attention to other dimensions of socialisation, including through leisure activities and sports, is also important. Effective access to education, and to any measures necessary to ensure such access (e.g. language classes), must be available to all children, even if they will be returned to a third country. Due to emerging risks of segregated education for children in migration<sup>53</sup>, access to inclusive and non-discriminatory education is the key towards children's integration in other areas of life. **Timely access to healthcare and an adequate standard of living** are key to the integration of children in the host countries. Improvement of living conditions, measures to tackle child poverty and to ensure healthcare (including mental healthcare) provision are critical<sup>54</sup>.

Member States should also increase the use of **resettlement and other legal pathways for children**, including children in families, with a particular focus on the most vulnerable. Unaccompanied or separated children and families may be eligible for urgent resettlement through Member States' national resettlement programmes or under the ongoing European resettlement schemes established by the Conclusions on resettlement<sup>55</sup> of 20 July 2015 and the EU-Turkey Statement of 18 March 2016. Resettlement of unaccompanied or separated children is encouraged through financial incentives in the Union resettlement programme under the AMIF Regulation<sup>56</sup>. On 13 July 2016, the Commission adopted a proposal for a Regulation establishing a Union Resettlement Framework in which children and adolescents at risk are designated as vulnerable persons eligible for resettlement<sup>57</sup>.

Where it is in their best interests, children should be **returned** to their country of origin or reunited with family members in another third country. Decisions to return children to their country of origin must respect the principles of non-refoulement and the best interests of the child, should be based on a case-by-case assessment, and following a fair and effective procedure guaranteeing their right to protection and non-discrimination. Particular priority should be attached to better cooperation with countries of origin, including by ensuring better family tracing and reintegration conditions. The Return Handbook<sup>58</sup> and the Commission Recommendation of 7 March 2017 on making returns more effective when implementing Directive 2008/115/EC<sup>59</sup> provide for specific guidelines as regards best interests of the child. It is important to ensure that children who will be returned are given prompt access to appropriate (re)integration measures, both before departure and after arrival in their country of origin or another third country.

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<sup>53</sup> See the Fundamental Rights Agency Report "Together in the EU – Promoting the participation of migrants and their descendants". <http://fra.europa.eu/en/publication/2017/migrant-participation>.

<sup>54</sup> Migrant children are exposed to a high risk of poverty and the integrated approach promoted in the Commission's Recommendation Investing in children: breaking the cycle of disadvantage warrants renewed focus in the context of integration. OJ L 59, 2.3.2013, p. 5-16.

<sup>55</sup> 11130/15.

<sup>56</sup> Regulation (EU) No 516/2014 establishing the Asylum, Migration and Integration Fund, OJ L 150, 20.5.2014, p. 168-194.

<sup>57</sup> COM(2016) 468 final.

<sup>58</sup> [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/return\\_handbook\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/return_handbook_en.pdf).

<sup>59</sup> C(2017) 1600 final.



**Key actions:**

In 2017, the Commission will:

- promote the integration of children through available funding and exchange of good practices addressing non-discriminatory access to public services and targeted programmes.

The Member States are encouraged to:

- ensure, within a short time span after arrival, equal access to inclusive, formal education, including early childhood education and care, and develop and implement targeted programmes to support it;
- ensure timely access to healthcare as well as to other essential public services to all children;
- provide support to enable children in the transition to adulthood (or leaving care) to access necessary education and training;
- foster social inclusion in all integration-related policies, such as prioritising mixed, non-segregated housing and inclusive education;
- increase resettlement to Europe for children in need of international protection;
- ensure that appropriate family tracing and reintegration measures are put in place to meet the needs of children who will be returned to their country of origin.

## 7. CROSS-CUTTING ACTIONS: RESPECT AND GUARANTEES FOR THE BEST INTERESTS OF THE CHILD; MORE EFFECTIVE USE OF DATA, RESEARCH, TRAINING AND FUNDING

The **child's best interests** must be assessed and taken into account as the primary consideration **in all actions or decisions that concern him or her**<sup>60</sup>. However, at present, the legislation of most Member States does not set out a process for identifying and implementing this requirement, including with regard to durable solutions for unaccompanied children based on an individual and multidisciplinary assessment. Nor does national legislation always clearly specify the guardian's role in this context. It is important that the European Union provides further guidance on this topic, building upon international standards. A robust determination of the child's best interests, in the identification of the most appropriate durable solution for him or her, should entail extra procedural safeguards, given the huge impact this decision has on a child's future<sup>61</sup>.

Targeted research can also serve a useful purpose. Horizon 2020, the EU Framework Programme for Research and Innovation, will carry out research on how to address the integration of children in migration within EU educational systems.

**Children need to be informed** – in a child-sensitive and age- and context- appropriate manner – on their rights, on procedures and on services available for their protection. More needs to be done to tackle gaps and to use a range of information methods to meet children's needs, and the role of cultural mediators as well as interpreters has proven to be beneficial in that respect.

The European Union has strengthened its **operational support** to Member States in terms of training, collection of data, funding and exchange of best practices. It will pursue this effort to support the implementation of all actions outlined in this Communication.

<sup>60</sup> [CRC General Comment No 14](http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf); [http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC\\_C\\_GC\\_14\\_ENG.pdf](http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf); procedural safeguards at Section V. UNHCR guidance on best interests: Safe and Sound, 2014: <http://www.refworld.org/docid/5423da264.html>; The 2012 Best Interests Determination guidelines (<http://www.unhcr.org/4566b16b2.pdf>) and the UNHCR/International Rescue Committee Field Handbook (<http://www.refworld.org/pdfid/4e4a57d02.pdf>).

<sup>61</sup> Article 6(1) of Dublin III Regulation, recital 35 of Eurodac Regulation, recital 33 of the recast Asylum Procedures Directive, recital 18 of the recast Qualification Directive, recital 9 and Article 23(2) of the Reception Conditions Directive.



People working with and for children (such as border guards, reception centre workers, guardians) are not always adequately **trained in child protection** and rights of the child and in communicating with children in a gender, age- and context- appropriate manner. Allocating resources to training should be a priority. In 2017, relevant EU agencies will increase the support and volume of training on the protection of children in migration.

**Data on children in migration** are still very fragmented, not always disaggregated by age and sex and not always comparable, making children and their needs "invisible". Moreover, the precise numbers of (unaccompanied) children who go missing or abscond from reception and care facilities are not known<sup>62</sup>. Only data on the number of children who apply for asylum are collected in a coordinated manner. More detailed data on all children in migration are needed to inform policy development and better target support services and to plan for contingencies<sup>63</sup>, in line with the New York Declaration for Refugees and Migrants of 19 September 2016<sup>64</sup>. To this end, the Commission's Knowledge Centre on Migration and Demography will compile a data repository on children in migration<sup>65</sup>. By the end of 2017, the Commission will also launch consultations on possible improvements to current EU-level data collection related to children and migration including based on the Migration Statistics Regulation<sup>66</sup> and the 2011 Guidelines<sup>6768</sup> with a view to improving the coverage, availability and level of disaggregation of these data

**EU funding** contributes to the protection of children in migration and supports **integrated child protection systems**. However, the increased proportion of children in the overall migrant inflow would also require that their needs are prioritised in accordance with the scale of the phenomenon in national programmes of Member States under AMIF and the Internal Security Fund (ISF). Protection is mainstreamed across emergency interventions supported by the Emergency Support Instrument. Other EU funds should be used more to support reception, integration, education and training or access to procedural safeguards, including the European Structural and Investment Funds, such as, the European Social Fund, the European Regional Development Fund, as well as the Fund for Aid to the Most Deprived, the Employment and Social Innovation programme (EaSI) and the Rights, Equality and Citizenship Programme<sup>69</sup>. At the same time, it is important to ensure that the necessary EU funding includes a child protection requirement so that organisations in direct contact with children ensure that their staff is vetted and qualified, and that reporting procedures and mechanisms and accountability measures are in place.

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<sup>62</sup> In 2013, a Commission study on Missing children in the European Union: Mapping, data collection and statistics provided data on the numbers of missing unaccompanied children in 12 Member States. [http://ec.europa.eu/justice/fundamental-rights/files/missing\\_children\\_study\\_2013\\_en.pdf](http://ec.europa.eu/justice/fundamental-rights/files/missing_children_study_2013_en.pdf).

<sup>63</sup> E.g. on withdrawals of international protection claims, pending cases, decisions granting or withdrawing status and Dublin transfers.

<sup>64</sup> <https://refugeemigrants.un.org/declaration> - Section II Commitments that apply both to refugees and migrants, para 40.

<sup>65</sup> <https://ec.europa.eu/jrc/en/migration-and-demography>.

<sup>66</sup> <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32009R0223>. Regulation (EC) No 223/2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities, OJ L 87, 31.3.2009, p. 164–173.

<sup>67</sup> Eurostat, First permits issued for other reasons by reason, length of validity and citizenship, at [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_resoth](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_resoth).

<sup>68</sup> Eurostat, First permits issued for other reasons by reason, length of validity and citizenship, at [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_resoth](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_resoth).

<sup>69</sup> Background document on EU funding to protect children in migration, 2016 European Forum on the rights of the child. [http://ec.europa.eu/newsroom/document.cfm?doc\\_id=19748](http://ec.europa.eu/newsroom/document.cfm?doc_id=19748).

There is a wealth of knowledge and **good practice** in the Member States on the protection of children in migration, which needs to be shared at local and national level.

Lastly, the Commission will ensure close monitoring of the implementation of all relevant aspects of EU law, including in particular compliance with fundamental rights obligations and safeguards related to the rights of the child<sup>70</sup>.

#### **Key actions:**

In/as of 2017, the Commission and the EU agencies will:

- provide additional training, guidance and tools on best interests of the child assessments;
- launch consultations on possible improvements to current EU-level data collection relating to children in migration including based on the Migration Statistics Regulation and the 2011 Guidelines, and the Commission's Knowledge Centre on Migration and Demography will compile a data repository on children in migration;
- require that organisations in direct contact with children have in place internal child protection policies in order to be granted EU funding;
- collect and disseminate good practices on the protection of children in migration via an online database.

The Member States are encouraged to:

- ensure that all children are provided with relevant information on their rights and on procedures, in a child-friendly and age- and context- appropriate manner;
- ensure that those working with children in migration – from arrival at EU borders to their integration or return – are appropriately trained and child protection professionals are involved where relevant;
- prioritise children in migration under AMIF and ISF national programmes; make use of any other available complementary EU funding, ensure that organisations to be funded have child protection policies in place;
- enhance collection of more disaggregated data and statistics on children in migration.

## **8. CONCLUSION**

Progress has been made on the Action Plan on Unaccompanied Minors of 2010-2014, including as regards the legal framework for the protection of children in migration, as shown in the Staff Working Paper accompanying this Communication. There is also a wealth of knowledge and good practice in the Member States on the protection of children in migration, which should be widely shared. However, further tangible improvements to the protection of **all children in migration are needed** to adequately address the current challenges.

Therefore, a **determined, concerted and coordinated follow-up** to the key short-term actions set out in this Communication is required at the **EU and national, regional and local levels**, also in cooperation with civil society and international organisations. The swift approval by the legislators of the pending proposals for the reform of the Common European Asylum System, which contain several provisions specifically targeted to improve the protection of children and other vulnerable persons, would provide additional protection of the rights of children in migration and will need to be swiftly implemented by the Member States.

<sup>70</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).

The Member States remain at the forefront in ensuring the protection of children in migration, and the Commission will support them with the actions outlined in this Communication, including by providing increased training, guidance, operational support and available funding. The cooperation among EU agencies will also be reinforced as well as cooperation with national authorities, United Nations agencies and civil society organisations active in the field. The Commission will closely monitor the follow-up of the actions set out in this Communication and will regularly report to the European Parliament and the Council.