



# EASO Report on asylum procedures for children

*EASO Practical Guide Series*

2019





# EASO Report on asylum procedures for children

*EASO Practical Guide Series*

**2019**

Manuscript completed in May 2019.

Neither the European Asylum Support Office (EASO) nor any person acting on behalf of the EASO is responsible for the use that might be made of the following information.

Illustrations page 21 © iStock, 2019

Luxembourg: Publications Office of the European Union, 2019

Print	ISBN 978-92-9476-447-8	doi:10.2847/075846	BZ-03-18-530-EN-C
PDF	ISBN 978-92-9476-448-5	doi:10.2847/70505	BZ-03-18-530-EN-N

© European Union, 2019

Reproduction is authorised provided the source is acknowledged.

For any use or reproduction of photos or other material that is not under the EASO copyright, permission must be sought directly from the copyright holders.

# Contents

List of abbreviations .....	5
Introduction and purpose.....	6
<b>Section 1. Operational definitions .....</b>	<b>8</b>
<b>Consideration and treatment of these figures .....</b>	<b>8</b>
Accompanied children.....	9
Unaccompanied children .....	10
Unaccompanied children with accompanying adults (not responsible for them) .....	14
<b>Section 2. Best interests of the child in the asylum procedures.....</b>	<b>19</b>
<b>Process for assessing BIC in the asylum procedures.....</b>	<b>19</b>
When the BIC assessment takes place.....	19
Actors involved in the assessment of BIC .....	20
Quality tools and mechanisms .....	22
<b>Section 3. Asylum procedures for children .....</b>	<b>24</b>
<b>Mechanism for the identification of special procedural needs of children .....</b>	<b>24</b>
<b>Procedural safeguards for children .....</b>	<b>24</b>
Prioritisation of the examination of applications for international protection .....	24
Border and accelerated procedures .....	25
Making and lodging of application by or on behalf of a child.....	26
Personal Interview.....	27
<b>Additional procedural guarantees and special reception conditions for children .....</b>	<b>32</b>
<b>Section 4. Referral .....</b>	<b>34</b>
<b>Referral to other authorities .....</b>	<b>34</b>
<b>Procedures in place if the child goes missing, shows indications of trafficking or abuse, in cases of disability, health issues, pregnancy, or other cases.....</b>	<b>35</b>
<b>Section 5. Specialisation and training of staff.....</b>	<b>44</b>
<b>Training .....</b>	<b>44</b>
<b>Specialisation on child-related issues .....</b>	<b>45</b>
<b>Recommendations.....</b>	<b>46</b>
<b>Operational definitions.....</b>	<b>46</b>
Children accompanied by parents .....	46
Unaccompanied children .....	46
Separated children .....	47
Married children.....	47
Children with their own children.....	48
Children at risk of, or victims of, trafficking .....	48
Missing children.....	48
LGBTI children.....	49
Children with disabilities .....	49
Children with psychological trauma or distress.....	49
Multiple vulnerabilities .....	50
<b>Best interests of the child.....</b>	<b>50</b>

<b>The asylum procedure .....</b>	<b>51</b>
Prioritisation .....	52
Vulnerability assessment and identification of special needs.....	53
Representation .....	53
Information provision.....	54
Right to be heard .....	54
Decision-making process .....	55
<b>National referral mechanism .....</b>	<b>55</b>
<b>Qualified staff .....</b>	<b>56</b>

## List of abbreviations

<b>AT</b>	Austria
<b>APD</b>	Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)
<b>BE</b>	Belgium
<b>BIA</b>	best interests assessment
<b>BIC</b>	best interests of the child
<b>BG</b>	Bulgaria
<b>CH</b>	Switzerland
<b>COI</b>	country of origin information
<b>CoO</b>	country of origin
<b>CRC</b>	United Nations Convention on the Rights of the Child (1989)
<b>CRC Committee</b>	United Nations Committee on the Rights of the Child
<b>CY</b>	Cyprus
<b>DE</b>	Germany
<b>DK</b>	Denmark
<b>EASO</b>	European Asylum Support Office
<b>EE</b>	Estonia
<b>EL</b>	Greece
<b>ES</b>	Spain
<b>EU+ States</b>	Member States of the European Union, plus Norway and Switzerland
<b>FGM</b>	female genital mutilation/cutting
<b>FI</b>	Finland
<b>FR</b>	France
<b>HU</b>	Hungary
<b>IE</b>	Ireland
<b>IP</b>	International protection
<b>IT</b>	Italy
<b>LT</b>	Lithuania
<b>LV</b>	Latvia
<b>MS</b>	Member State(s) of the European Union
<b>NIDOS</b>	NIDOS Foundation (guardianship institute for unaccompanied minor applicants for international protection in the Netherlands)
<b>NL</b>	Netherlands
<b>NO</b>	Norway
<b>PL</b>	Poland
<b>RO</b>	Romania
<b>SE</b>	Sweden
<b>SI</b>	Slovenia
<b>SK</b>	Slovakia
<b>SMA</b>	Swedish Migration Agency
<b>THB</b>	trafficking in human beings
<b>TUSLA</b>	the Child and Family Agency, Ireland
<b>UAM</b>	unaccompanied minor(s)
<b>UNHCR</b>	United Nations High Commissioner for Refugees

# Introduction and purpose

The situation of children in need of international protection arriving to the EU continues to pose an enormous challenge for national asylum systems. Often, children arrive in Europe after experiencing exploitation and abuse, deprived of parental care or in situations of risk that stress their inherent vulnerability. Many authorities face serious difficulties responding to their special needs by providing the protection and adequate treatment to which children are entitled. Furthermore, due to the differences between national systems, children in similar situations or circumstances may be treated or considered differently depending on the EU+ State in which they find themselves. This diversity of practice could eventually cause undue disparities and inconsistencies in the identification and protection of these children, partially hindering the objectives of the CEAS.

In light of the Communication from the [Commission on the protection of children in migration](#)<sup>1</sup> and the EASO's mission to support EU Member States through enhancing practical cooperation, identifying good practices, and mainstreaming child-related issues in the asylum procedures, EASO launched a consultation in 2017 on Asylum procedures for children and validated the findings in 2018. The aim was to gather national practices and policies on asylum procedures for children. The purpose of this report is to identify gaps and areas of diverging practise in the EU+ States, to highlight good practices adopted and provide key recommendations to strengthen the protection of children in the EU territory.

## Scope of the report and the methodology

As a result of this exercise, EASO elaborated this report based on the contributions provided by 24 EU+ States (AT, BE, BG, CH, CY, DE, DK, EE, EL, ES, FI, FR, HU, IE, IT, LT, LV, NL, NO, PL, RO, SE, SI and SK).

The scope of the report is limited to asylum procedures for children and therefore collateral stages such as reception or other legal pathways for children (to obtain the residence or stay permit based on the minority age) are beyond the scope of this report and therefore not covered here within. The elaboration of this report followed a desk analysis of the information sent by the EU+ States in 2017 regarding their existing practice, legislation and policy documents.

The preliminary findings were verified in March 2018 by the EASO Contact Points before consolidating the final version.

## Structure

The report follows the structure of the consultation:

### Section 1: Operational definitions

The different terms and definitions are analysed and compared throughout the EU+ States. It encompasses the consideration and treatment that different categories of children are subject to in the different EU+ States.

### Section 2: Best interests of the child in asylum procedures

This section explores the operationalisation of the best interests of the child principle in the asylum procedure by the national authorities.

### Section 3: Asylum procedures for children

This part maps the safeguards and special conditions granted to children in the asylum procedure.

<sup>1</sup> European Commission, [Communication to the European Parliament and the Council on the protection of children in migration](#), 12 April 2017, COM(2017) 211 final.



## Section 4: Referral

This section illustrates the existing referral mechanisms and the circumstances that would activate them.

## Section 5: Specialisation and training of staff

This section details the different tools and training to equip the staff in contact with or handling the files of children with specialist knowledge

## Recommendations

A compilation of recommendations providing guidance on how to address the issues raised in the report.

In addition to the recommendations, the report also includes a number of text boxes with the following:

- Examples from the practice: information extracted from the mapping carried out by EASO.
- Notes on terminology: legal or operational definitions to develop a common understanding of some terms in use.

### ➤ Notes on terminology

‘Asylum procedure(s)’ is the preferred term for the purpose of this publication as opposed to ‘international protection procedure(s)’. This is consistent with the terminology employed by a key legal instrument on this topic, the Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), hereinafter the APD.

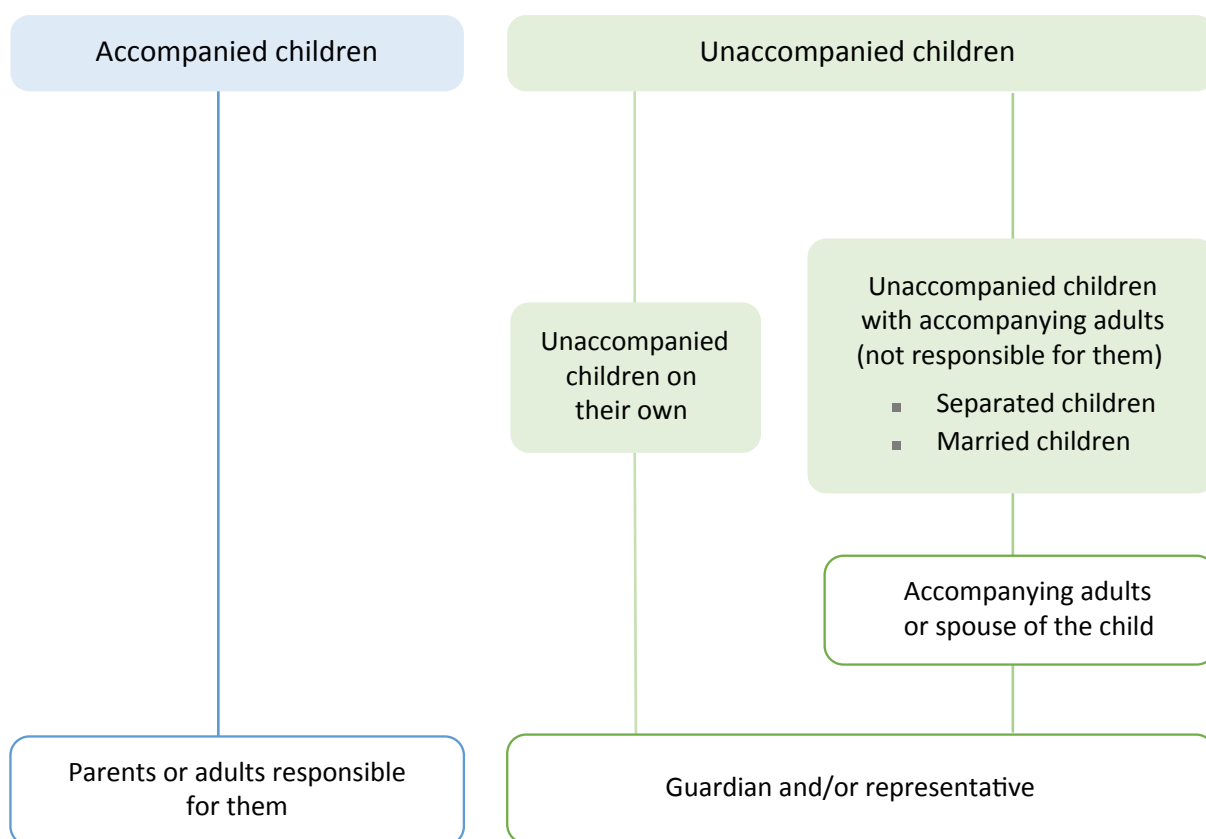
The EU asylum acquis refers to the following set of EU legal instruments: the Reception Conditions Directive recast (RCD), the Asylum Procedures Directive recast (APD), the Qualification Directive recast (QD), the Temporary Protection Directive (not triggered), the Dublin Regulation III (Dublin III) and the Eurodac Regulation recast (Eurodac).

# Section 1. Operational definitions

## Consideration and treatment of these figures

The majority of EU+ States have a legal or operational definition for the terms **accompanied** and **unaccompanied child**, **guardian** and/or **representative** but not for the terms **separated child** or **accompanying adult**. However, only in a few cases does the existing national definition literally match the definitions established in the EU asylum *acquis* or the definition proposed by EASO.

The absence of harmonised terms and definitions may lead to differing treatment or consideration of similar cases as illustrated in the following findings. These findings are presented with a particular focus on the different categories of children where the associated adults are integrated as subsections:



## Accompanied children

### ➤ Notes on terminology

The term 'accompanied child/minor' does not appear explicitly defined in the EU asylum *acquis* but EASO proposes a definition *a contrario* of the term unaccompanied child/minor based on the EU asylum *acquis*:

A child who arrives on the territory of the Member States accompanied by his/her parent/s or an adult responsible for him/her whether by law or by the practice of the Member State concerned, and for as long as he/she is effectively taken into the care of such a person.

This definition matches with the one used in three EU+ States' national legislation (**HU, PL, SI**).

Seventeen EU+ States (**BE, BG, CH, CY, DE, DK, EL, EE, FI, FR, IE, IT, LV, NL, NO, SE, SK**) have their own national definition for the term 'accompanied child', whereas in four EU+ States (**AT, ES, LT, RO**) there is no definition in the national legal system.

### Adult responsible for the child

During the consultation process, EASO did not propose any definition for the term '**adult responsible for the child**' since according to the EU legal instruments, this figure should be defined at the national level, according to the law or the practice of the Member State (MS) concerned.

All respondent EU+ States (**AT, BE, BG, CH, CY, DE<sup>2</sup>, DK, EE, EL, FI, FR, HU, IE, IT, LT, LV, NL, NO, PL, RO, SE, SI and SK**) identify biological or adoptive parents as the responsible adult for the child.

According to the findings, in some EU+ States (**AT, BG, CH, CY, EE, EL, FR, LT, PL, and SE**) a person with legal custody may also be accepted as the responsible adult of the child. In particular, in **EL** and **FR**, the parental authority has to be assigned by a judicial authority. In **EE**, the responsible adult has to certify before the Police, Border Guard Board or the Estonian Internal Security Service the right to custody to be considered as such.

Family members and relatives<sup>3</sup> can be considered as the adult responsible for the child in **AT, CH, DK, FR, HU, IE, IT, SI, SK**. In particular, in **SI**, a relative of the child living in a community whose role is essentially similar to that of the nuclear family or has the same function as a family, for example providing physical care, protection, emotional support and financial dependence, can be considered responsible for the child.

In 18 EU+ States (**AT, BE, BG, CH, DE, EE, FI, FR, HU, IE, IT, LT<sup>4</sup>, LV, NL, NO<sup>5</sup>, RO, SE and SK**) the legal guardian or representative appointed would also be considered a responsible adult. In **IT**, for example, the guardian is appointed in the absence of parents or relatives (up to 4<sup>th</sup> grade) and they are required to possess the necessary competences and carry out their duty in accordance with the principle of the best interests of the child (BIC).

#### Examples from practice: responsible adults

In **DK**, adults other than the parents are considered responsible adults if the Danish Immigration Service consider them as the primary caretaker in absence of the parents. An assessment will be made as to whether or not the child in question should be considered accompanied by the adult. The assessment is based on an interview with both the child and the adult, and the following is taken into account: whether the family member has accompanied the child on the way to DK, whether they had contact in the home country before leaving, and contact during their stay in DK, and the parents' wishes. It is always a pre-condition that the adult companion is competent and has de facto taken over responsibility for that child.

In **NL**, children are considered unaccompanied when not accompanied by parents or legal guardians. Children accompanied by family members or relatives are also considered unaccompanied and a guardian is appointed.

<sup>2</sup> In **DE**, the following categories can be identified as responsible for the child only according to specific requirements: minimum age of 18 years, married parents, unmarried mother unless a court decides otherwise, or other persons appointed by a court.

<sup>3</sup> EASO does not consider family members, siblings or relatives as adults responsible for the child unless they appear defined as such at the national level, according to the law or the practice of the MS concerned or they have been granted the guardianship of the child.

<sup>4</sup> The guardian/representative would be considered responsible for the child if they have documents attesting to this.

<sup>5</sup> The guardian/representative would be considered responsible for the child if they have documents attesting to this.

## Verification of links

The parental links of the responsible adult are verified in all cases in **BE, BG, CY, DE, EE, EL, ES, FR, HU, LV, NL, PL, RO** and **SI**, whereas in others (**AT, CH, DK, IE, IT, LT, NO, SE** and **SK**) only if doubts arise or it is considered necessary.

When asked about the methods used to verify family links<sup>6</sup>, respondents stated that it can be done by performing DNA tests (12 EU+ States), interviews (8 EU+ States) or through the presentation of official documents (17 EU+ States).

### Examples from practice: verification of links

In **EL**, parental links that existed before entry into the country are explored during the interview (according to the relevant legal framework of the Qualification Directive). When in doubt, and if relevant documentation concerning family ties is non-existent, DNA tests may be asked by Asylum Service and the Public Prosecutor may be informed.

In **FI**, a scientific verification will be carried out in cases of family reunification.

In **NO**, accompanying adults who are not the child's biological parents are required to provide documentation proving their parental responsibility for the child. If the parental responsibility is not demonstrable through documentation, the child shall be treated as an unaccompanied minor.

In **NL**, more emphasis is placed on verifying family ties if family members have become separated at some point, such as during the reunification process. In these cases, documentation is required. If no documentation is available, an interview and/or DNA analysis will take place to determine family ties.

## Unaccompanied children

Eight EU+ States (**CY, DE, EE, EL, HU, LT, RO** and **PL**) include the definition of **unaccompanied child**<sup>7</sup> as foreseen in the EU asylum *acquis* in their national legal system, while 14 EU+ States (**BE, BG, CH, DK, ES, FI, FR, IE, IT, LV, NO, SE, SI, SK**) have a slightly different definition. Usually the divergence with the EU definition comes from the fact that the reference to those children left unaccompanied after entering the territory of the Member States is omitted. In **AT** and **NL**, there is no legal definition of the term unaccompanied child/minor, though the **NL** nevertheless applies the concept to children not accompanied by their parents or legal guardians.

## Guardian and/or representative

In asylum procedures, the figure of the guardian and/or representative<sup>8</sup> is crucial for ensuring that safeguards for children are in place. The EU *acquis* establishes this figure to help the child navigate the procedure by assigning important tasks, such as exercising the legal capacity of the child and making or lodging the application on the child's behalf when needed. Responsibilities also include informing the child about and presence during the personal interview in order to ask questions or make comments, etc. However, the figure and the role of guardian and/or representative vary in the national systems, which has an impact on the assistance that the child receives.

<sup>6</sup> The process of establishing the authenticity of a family relationship between the child and the alleged family member. Further guidance about the verification of family links can be found in the EASO, *Practical Guide on family tracing*, March 2016.

<sup>7</sup> EASO's legal definition extracted from the EU asylum *acquis*: An unaccompanied child is a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person. It includes a minor who is left unaccompanied after he or she has entered the territory of the Member States.

<sup>8</sup> According to Article 2(n) APD (recast), a representative means a person or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied child in international protection procedures with a view to ensuring the best interest of the child and exercising legal capacity for the minor where necessary.

According to their legal systems, some EU+ States (**BE, BG, CY, DK, EL, EE, ES, HU, IE, IT, LV, PL, RO** and **SE**) recognise **one figure** that can take the name of either representative (**BG, CY, DK, EL, ES, RO**) or guardian (**BE, LV, SE**). In five EU+ States (**EE, HU, IE, IT, PL**), the terms guardian and representative are used indistinctly.

In other EU+ States (**AT, CH, DE, FI, FR, LT, NO, SI** and **SK**) **both figures** with different roles coexist in national systems to protect the child:

- **Representative** (**AT** – legal counsellor; **CH** – also called deputy; **DE** - parents (minimum age of 18) or legal guardian; **FI** - for legal matters, **FR** - *administrateur ad hoc*; **LT** - with legal knowledge; **NO** - an independent person appointed during the asylum procedure; **SI** - appointed before the asylum procedure starts by the social work centre; **SK** - among close persons related to the child or institutional)
- **Guardian** (**AT** - appointed by the youth welfare; **CH** - volunteers or professionals assigned by the Cantons; **DE** - responsible for the care of the child in case the parents are not available; appointed by court following a request of the youth welfare service; **FI** - appointed by the Court to ensure the BIC after hearing from the social worker from the reception centre, no professional qualification is required; **FR** - *tuteur*; **LT** - social worker; **NL** - professional social workers are appointed by the court as a temporary guardian; **NO** - independent person appointed to unaccompanied children who are granted a permit to stay; **SI** - when granted international protection; **SK** - to safeguard the child's best interests and general well-being in the same way as parents do).

**Additional figures** In some national systems, additional figures are foreseen to support the child (**CH** - person of trust; **DE** - until a guardian is appointed, the youth welfare service acts instead of the parents/guardian; **NL** - attorney; **NO** – attorney)

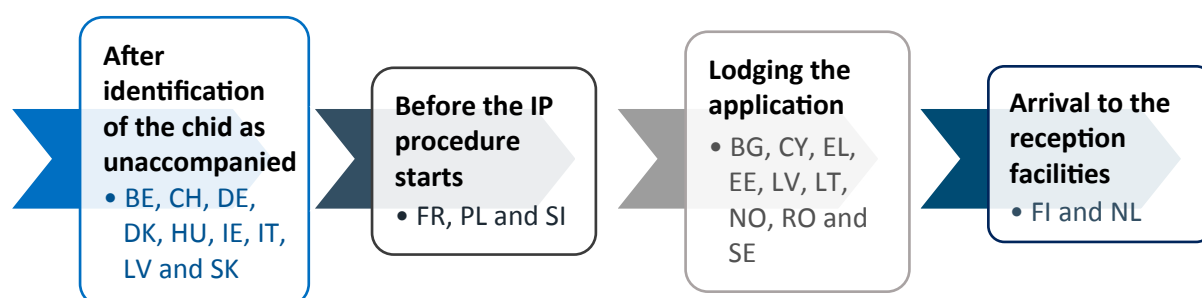
### Appointing authority

For the majority of the responding EU+ States, the guardian/representative is appointed by the judicial authority (**AT, DE, EL, FI, FR, IT, LV, NL, PL, SK**) or the social welfare authority (**CY, ES, HU, IE, LT, RO** and **SI**). In other cases, the appointing authority is the guardianship service (**BE**), regional authority (**CH, DK**) or the local authority (**BG, EE, NO, SE**).

The appointment of a guardian/representative is *ex officio* in **nine** EU + States (**DE, FI, LV, HU, NL, PL, RO, SE** and **SK**). Meanwhile, in the following cases the appointment is at the initiative of another authority or organisation:

- police and border guards in **LV, PL**, and **SK**;
- social welfare services (in case the guardian is appointed by the judicial authority) in **DE, FI** in the reception facilities;
- an NGO with a specific role on guardianship: in **DK** upon the recommendation of the Danish Red Cross, in the **NL** by NIDOS.
- the determining authority (immigration/asylum authority) in **HU, RO** and **SE**.

**Figure 1: Timeframe for the appointment of a guardian**



In **BE, CH, DE, DK, HU, IE, IT, LV** and **SK**, the guardian/representative is appointed immediately after the child is identified as unaccompanied.

The appointment of the guardian/representative takes place before the start of the process for international protection in **FR**<sup>9</sup>, **PL** and **SI**, while it takes place at a later stage when/after lodging the application for international protection in **BG**<sup>10</sup>, **CY**, **EE**, **EL**, **LV**, **LT**, **NO**, **RO** and **SE**. In **EL**, if the child is under 15 years old a representative must be present for the child to lodge the application.

In **FI** and **NL**, the child needs to arrive at the reception/accommodation facilities in order to have a guardian/representative appointed. In **FI**, the manager of the reception centre takes on the tasks of the guardian before the guardian is appointed by the district court.

In **AT**, the time of appointment differs from case to case.

**ES** gives immediate attention to any unaccompanied/separated minor appointing the Minor Protection Public Entity as the legal representative with legal custody of the unaccompanied minor. **ES** did not provide additional information about the specific timeframe for the appointment of the legal representative.

In **FR**, as soon as an unaccompanied minor is found or claims legal protection, they are immediately sheltered for five days. During these days, an assessment is carried out in order to establish the minority age, and attempts are made to find family or relatives and determine the specific needs of the minor. As soon as it is determined that they are in fact a minor, the public prosecutor entrusts the minor to social child protection authorities (*l'aide sociale à l'enfance*) for 15 days and officially refers the case to the judge responsible for the protection of children (*le juge des enfants*). At the same time, the judge appoints a representative (*administrateur ad hoc*) for the asylum procedure.

The judge responsible for the protection of children (*le juge des enfants*), entrusts the minor to the social child protective services until a guardian (*tuteur*) is appointed. During the period of this placement, the child protection services provide for the general well-being of the child.

Then a guardian is appointed by the judge who deals with family matters, especially guardianship (*juge des tutelles des mineurs*). The guardian is appointed until age 18; the guardian is a legal representative, can make all the decisions for the minor, can represent the minor in legal procedures including asylum, and provides all that they need.

## Qualifications

The vast majority of the respondents have requirements for a person to be the guardian/representative of a child, though these requirements differ in nature. In 16 EU+ States (**AT**, **BG**, **CH**<sup>11</sup>, **CY**, **DK**, **EE**, **FR** (for the guardian), **HU**, **IE**, **LT**, **LV**, **NL**, **NO**, **PL**, **RO** and **SK**) the guardian/representative is a professional or social/child protection officer. In **AT**, **DK**, **IE**, **LT**, **NL** and **RO**, the person has to have a certified degree while in **AT**, **BG**, **CH**, **CY**, **EE**, **ES**, **FR** (for the guardian), **HU**, **LV**, **NO** and **PL**, specific training is required or provided to guarantee that the guardian/representative can carry out their functions.

In **BE**, **DK**, **ES**, **FI**, **FR** (for the representative), **HU**, **IT**, **NO**, **PL**, **SE** and **SI**, the guardian/representative can be a private person with specific qualifications and training. In **HU**, for example, the guardian/representative can also be the accompanying adult that has an established relationship with the child as well as a professional guardian. The appointment of a private person as a guardian/representative of the child may be subject to some temporary limits, i.e. in **FR**, this person called 'trustworthy third person' (*un tiers digne de confiance*) is appointed for a few months, after which they have to request to be appointed as legal guardian or '*tuteur*'.

Some EU+ States accept other individuals as guardian/representative of the child. **EL** as well as **DE** provide that any person can be appointed as a guardian/representative provided they have the approval of the judicial authority. In particular, in **EL**, the relatives or staff of the NGO can be appointed as guardian/representative. Relatives or close persons can be appointed as guardian/representative also in **LV** and **SK**. In **BE**, professionals, volunteers, private persons as well as staff of the NGO in the social and legal sector

<sup>9</sup> For the representative.

<sup>10</sup> It may differ from case to case.

<sup>11</sup> Including volunteers.

can be appointed as guardian/representative of the child. In **FR**, the staff of the NGO can only be appointed as the representative of the child while relatives can only be appointed as guardian.

#### Examples from practice: appointment of a guardian/representative

In **BE**, the Guardianship Service pays attention to the number of guardianships the guardian already has. The guardian must have the adequate profile and competences to deal with the UAM (unaccompanied children) in order to be efficient and to establish a relationship of trust.

In **FI**, the social worker meets the child and the candidate to be guardian and evaluates if the candidate is the right person. The child's opinion is also heard in this regard.

In **SK**, the guardian/representative is the person appointed by the parents if not in conflict with the best interest of the child. In the absence of such a person, the functions are assumed by the Commune of the Department of Social in case of accompanied children or Legal Protection of Children and Social Curatorship in case of unaccompanied children.

### Third country guardianship

According to the responses of the EU+ States, the guardian/representative appointed by a third country is recognised in **AT, EL, ES, FR**, and **HU** if the appointment is in line with their national legal framework. In **BE, EE, IT** and **LT**, the person is required to provide documentation to prove their appointment in the third country. In **SE**, the chief guardian has to decide whether a guardian should also be appointed.

Appointment of guardianship/representation in a third country is not recognised in **BG, DK, FI, IE, NL, SI** and **SK**.

There is no practice in **DE, CH, LV** and **PL** regarding third country guardianship. In **CY** and **NO**, the recognition of the guardian/representative appointed by a third country is not applicable. **RO** did not provide information in this regard.

### Meeting with the child

In 15 EU+ States (**AT, BE, CH, CY, DE, ES, FR, IE, LT, LV, NL, RO, SE, SI** and **SK**) the guardian/representative is required to meet regularly with the child. In **LT**, communications between the guardian and the child are daily, while in **DE** and **NL**, a meeting must take place at least once a month.

In **PL** and **NO**, even if the guardian/representative is not required to meet regularly with the child, they should in any case attend the interview.

In five EU+ States (**BG, EE, EL, FI** and **HU**), a meeting with the child is not required unless needed. For example, in **BG**, this meeting takes place in the cases determined by law and in **EL**, it depends on the decision adopted by the public prosecutor. In **HU**, the meeting has to be held if it is in the best interest of the child.

In **DK** and **IT**, the meeting is not required but in **DK**, it is recommended by the Danish Red Cross (twice per month) and in **IT** is recommended by the guidelines of the Independent Authority for Children and Adolescents.

### Monitoring mechanisms

These mechanisms consist of regular evaluations as well as the adoption of specific measures to guarantee the effective performance of duties by the guardian/representative appointed.

In 20 of the responding EU+ States (**AT, BE, CH, CY, DE, EE, EL, ES, FI, HU, IE, LT, LV, NL, NO, PL, RO, SE, SI** and **SK**), there is a monitoring mechanisms in place to ensure the guardian/representative performs their duties in accordance with the principle of the best interest of the child. In most cases, the monitoring body will be the appointing or the child protection authority, while in **DE, EE, EL** and **SK** the monitoring duties fall under the mandate of the judicial authority.



In **FR**, there is no systematic mechanism but the judge for minors can ask for reports and can review complaints about the guardian lodged by a minor. The representative must make a report at the end of each mission, and every four years there is a possibility that they are dismissed by the judge.

A monitoring mechanism is not foreseen by law in **BG, IT** and **NO**.

#### Examples from practice: monitoring mechanisms for guardians

In **BE**, the guardian must regularly draw up reports to the Justice and to the Guardianship service concerning the personal situation of the minor. The first report has to be submitted within the first 15 days after designation, intermediary reports are required every 6 months and a final report has to be submitted 15 days after the end of the guardianship. Measures, from information meetings to warnings and withdrawal of certification in last instance, can be taken against the guardian/representative if they do not comply with the duties of guardian/representative.

In **CY**, the Head of the Asylum Service conducts regular evaluations including assessment of the availability of the necessary means to represent the unaccompanied child. According to these evaluations, appropriate measures are adopted for the effective representation of the child.

In **IE**, a clinical supervision is performed every 4-6 weeks.

In **DK**, training is provided by the Danish Red Cross to ensure that the guardian/representative performs their duties in accordance with the principle of the BIC.

In **LT**, the supervision of the guardian/representative performance of duties includes child visits and child foster care reviews. The child and guardian's opinions are heard during the visit and during the review.

The inadequate performance of duties by the guardian/representative may result in the revocation of their appointment (**AT**), withdrawals of their certification (**BE**) or title (**SI**).

### Conditions for the appointments of the guardian/representative

Almost all respondent EU+ States appoint a representative, even if the unaccompanied child reaches the age of 18 before a decision at first instance is taken. Exceptions to this are **RO** (only if the child reaches the age of 18 in a period of 15 days after lodging the application), and **DK** (in case of doubts until the DIS<sup>12</sup> has established that the individual is a child through an age assessment).

#### Example from practice: appointment of a guardian when the child turns 18 before a final decision is taken

In **ES**, protection of unaccompanied children can be extended beyond 18 in specific circumstances, in order to protect the person from the risk of vulnerability.

In **IE**, the guardian will accompany the young person until the final stage of determination no matter if the child is 17 years old, 11 months and 29 days when lodging the application for international protection.

## Unaccompanied children with accompanying adults (not responsible for them)

### Separated children

Most of the respondent EU+ States (**AT, BE, BG, CH, CY, DE<sup>13</sup>, DK, EE, ES, FI, FR, HU, IT, LT, NL, PL, RO, SE, SI, SK**) do not have a legal or operational definition for the term 'separated children'<sup>14</sup>. However, in **EL**,

<sup>12</sup> Danish Immigration Service.

<sup>13</sup> In **DE**, a separated child is also an unaccompanied child. The definition of unaccompanied minor/child is applicable to separated child.

<sup>14</sup> "“Separated children” are children...who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives.’ CRC Committee, General comment No. 6 (2005), Treatment of unaccompanied and separated children outside of their country of origin, 1 September 2005, p.6.



an operational definition of separated children has been developed while a legal definition of separated children is given in **IE** and **NO**<sup>15</sup>.

**LV** did not specify any definition for separated children.

**Separated children** may be considered accompanied or unaccompanied depending on different circumstances. According to national practice, the separated child is considered accompanied if:

- accompanied by an adult family member, statutory representative (**DK**, and **SI**);
- once the respective authority confirms the family link or select a suitable guardian (**IE** and **LV**).

In 19 EU+ States (**BE, BG, CH**<sup>16</sup>, **CY, DE, EE, EL, ES, IE**<sup>17</sup>, **FI, FR**<sup>18</sup>, **HU, LT, LV**<sup>19</sup>, **NL, PL**<sup>20</sup>, **RO, SE** and **SK**), separated children are considered as unaccompanied children, while in **IT**, separated children may be treated as accompanied or unaccompanied depending on the circumstances of each case.

In **AT**<sup>21</sup>, this distinction is not applicable.

#### Example from practice:

In **LV**, as soon as an unaccompanied minor submits an asylum application, the Orphan's court shall immediately decide on appointing a guardian for the unaccompanied minor. The Orphan's Court and the determining authorities will take measures to look for family members of the minor and ascertain the possibilities of returning such a person to their family.

If the nearest kin are suitable for assuming the guardianship of the child, then the orphan court will confirm their role as a guardian. If no one capable is found among the kin of the minor (those capable are unable to assume guardianship or are discharged from guardianship for legal reasons), or if a minor does not have any kin, then the Orphan's court shall appoint guardians from among other persons. The court shall act on its own accord as soon as it is informed that there are such orphans.

In **ES**, separated children considered to be in a situation of risk are subject to specific assessment and surveillance for the purposes of providing assistance and fulfilling their reception needs.

In **NL**, children will be considered unaccompanied when not accompanied by parents or legal guardians. Children accompanied by family members or relatives are also considered unaccompanied and a guardian is appointed.

## Married children

Most of the responding EU+ States (**AT, BE, CH, CY, DE, EL, FI, IE**<sup>22</sup>, **LT, NL, NO, PL, SE** and **SK**) categorise married children as unaccompanied children. However, in seven EU+ States (**DK, EE, ES, FR, HU, IT** and **SI**), married children may be considered accompanied depending on the age, national law or the individual assessment carried out. In two EU+ States (**BG**<sup>23</sup> and **LV**), married children are considered adults.

In **CH, CY, DE, EL** and **DK**, a guardian/representative is appointed to assist the child as well as in **BE** where in case of customary marriage an experimented guardian is appointed.

**RO** did not specify how married children are considered according to national policies and practices.

<sup>15</sup> In particular, **NO** recognises children that may be accompanied by other family member/accompanying adult, as a specific category with the particular procedures and arrangements that applies to unaccompanied children.

<sup>16</sup> While the custody held by the accompanying adult or relatives is uncertain.

<sup>17</sup> While the family link is not confirmed by TUSLA, the State-run Child and Family Agency.

<sup>18</sup> If there is no adult considered responsible for the child. In this case, a representative will be appointed by a judge.

<sup>19</sup> In **LV**, until the Orphan's Court selects a suitable guardian.

<sup>20</sup> In **PL**, separated children might be accommodated with their relatives, if they have documents that confirm they are family.

<sup>21</sup> The legal framework provides no definition of an accompanied or unaccompanied child. The law operates in this context with the term 'minors, whose interests cannot be exercised by their legal representative'.

<sup>22</sup> If both children are under 18 years old.

<sup>23</sup> If over 16 years old.

## Recognition of child marriage

The age of the spouses or the legality/compliance with the national law<sup>24</sup> are factors taken into account by the majority of EU+ States for the recognition of the marriage. This will therefore have effect in the specific country except in **six EU+ States (CH<sup>25</sup>, DE, DK, LT, NL and SK)** that reported that the marriage is not recognised whenever one of the spouses is a child.

### Examples from practice:

**DE** new legislation came into force in July 2017 concerning the marriage of children. DE sets the age of consent by 18 years for any individual (national or foreigner) living on the national territory. Thus, marriage will be considered invalid where one of the spouses was younger than 16 years old at the time of entering into marriage. When spouses are under 18 years old, the decision must be taken by the court.

According to FRA Mapping minimum age requirements concerning the rights of the child in the EU only in **DE, DK**, the **NL** and **SE** (as well as in **PL**, but only with regards to men, girls can be married at 16 years old), no possibility to marry below 18 years exists, as recommended by the CRC Committee. In **ES**, separated children considered to be in a situation of risk are subject to specific assessment and surveillance for the purposes of providing assistance and fulfilling their reception needs.

In **NL**, children will be considered unaccompanied when not accompanied by parents or legal guardians. Children accompanied by family members or relatives are also considered unaccompanied and a guardian is appointed.

## Assessment of the situation of married children

Most of the respondents (**BE, BG, DE, DK, EE, EL, ES, FI, FR, HU, IE<sup>26</sup>, IT, NL** (for reception), **NO, PL<sup>27</sup>, SE<sup>28</sup>** and **SK**) carry out an assessment of the potential risk situation of the married child. More particularly, the BIC is specifically assessed in four EU+ States (**DK, EL, FR** and **NL**). The vulnerability of the child (**BE**), and risk of being a victim of trafficking in human beings (THB), smuggling, exploitation or sexual abuse are the factors the EU+ States pay attention to when carrying the assessment.

In some EU+ States (**DK, FI, IT** (psychosocial interviews), **NO, SE**) an interview to assess the risk will be conducted, and in **DK** and **HU**, the relationship between the spouses will be analysed. In **SE**, the interview takes place without the spouse if the child is under 15.

**RO** did not specify how the assessment of the situation of married children is conducted.

### Examples from practice: assessment of child marriage cases

In **BE**, special attention is paid to customary marriages, as this can be indicative of extreme vulnerability. A guardian is appointed to deal with the situation and assist the child while additional measures are adopted to guarantee the safety of the child, i.e. appropriate accommodation separated from the spouse.

In **CY**, married children are initially considered unaccompanied children and a further assessment of each case is carried out by the Social Welfare Services.

In **DK**, the spouses are initially located in separated reception facilities (the child in a child reception facility) and a careful assessment is carried out by the Danish Immigration Service. The assessment includes separated interviews of both the minor and the spouse as well as evaluation of other factors i.e. whether

<sup>24</sup> Useful information regarding the minimum age to marry and requirements according to EU national laws is available in FRA Mapping minimum age requirements concerning the rights of the child in the EU at <http://fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements/marriage-age>

<sup>25</sup> The cantonal civil register offices are responsible for the procedure of recognition of marriages. Usually, this type of marriage is not recognised.

<sup>26</sup> The IPO defers to the professional opinion of the Child and Family Agency – TUSLA for risk assessment in all cases involving a minor. All such cases are referred.

<sup>27</sup> Special attention is paid to the assessment of the risk of sexual abuses.

<sup>28</sup> The SMA makes a report to the social services and the police if the child is under 15 years old. In these cases, it is important to interview the child without the accompanying spouse.

the couple had a prolonged cohabitation, whether they have children, and indicators of forced marriage. In any case, if the child is considered accompanied by the spouse, a personal representative is always appointed.

In **ES**, the measures to be adopted vary depending on the age of the spouses:

- If both spouses are under 16 they are located together for reception purposes but treated as unaccompanied children.
- If one of the spouses is under 16 (typically a girl) they would be treated as an unaccompanied child in situation of risks and specific measures in reception are considered. Measures are adopted to guarantee the safety and protection of the child i.e. supervised visits of the spouse, and entrance and exit of the accommodation will be scrutinised.
- If one of the spouses is between 16 and 18 years old, the assessment of the situation is considered individually. Depending on the assessment, the spouse may be treated as an adult responsible and no specific measures need to be adopted.

## Accompanying adult and spouse of the child

### ➤ Note on terminology

An ‘accompanying adult’ can be defined as the adult who appears accompanying the child before the authorities but who is not the adult responsible for the child

In most national legal systems of the responding EU+ States (**AT, BE, CY, DE, EE, ES, FI, FR, HU, IT, LT, LV, NL, NO, PL, RO, SE, SI** and **SK**) there is no operational definition. The other five EU+ States (**BG, CH, DK, EL** and **IE**) have incorporated the figure of ‘accompanying adult’ as defined above within their national legal systems. Four of these EU+ States (**BG, CH, EL** and **IE**) recognise the accompanying adult as the representative/guardian of the child.

Responses showed that in the states where this figure is recognised, the adult does not need to have family links with the child in seven of the EU+ responding States (**BE, EL, FR, IE, NL, SE** and **SK**). In eight other EU+ States (**BG, DK, EE, FI, NO, PL, RO** and **SI**), this is a requisite for an individual to be considered the accompanying adult of a child. More particularly, in **DK**, an exception is envisaged in case the child lost their parents and the individual has been the primary caretaker since birth.

In **CH** and **ES**, family links are usually not necessary in order to be considered as an accompanying adult, while in some other states (**AT, CY, DE, HU, IT, LT** and **LV**) family links are not applicable.

### Example from practice: accompanying adult

In **SI**, when a minor is accompanied by a person who is not a relative, the minor would most likely be considered unaccompanied and would be appointed a legal representative. This is also important from the perspective of the possibility of trafficking.

In **NL**, children will be considered unaccompanied when not accompanied by parents or legal guardians. Children accompanied by family members or relatives are also considered unaccompanied and a guardian is appointed.

The accompanying adult may play a role in the asylum procedure in 14 EU States (**BG, CH, DE, DK, EE, EL, ES, FR, IE, NO, LV, PL, SE** and **SK**), in particular:

- as a legal representative in seven EU+ States (**BG, CH, EL, FR** - only if given parental authority by the judge, **IE, LV** - if appointed by the Orphans Court and **SK** - if appointed by the Court);
- with a participative role in a phase of the asylum process in three EU+ States (**EL, ES** and **IE**);
- providing information in four EU+ States (**DE, DK, NO** and **SE**);
- ensuring the BIC in **EE** and **EL**;
- being present/participating in the child’s interview (**DK** and **PL**<sup>29</sup>).

<sup>29</sup> If the child wishes.

In some states (**BE, FI, HU, NL** and **SI**) the accompanying adults do not play any role in the asylum procedure and it is not applicable in **AT, CY, IT, LT** and **RO**.

The accompanying adult and the adult spouse are not appointed as guardian/representative of the child in **FI, FR**<sup>30</sup>, **LT, NO, SE** and **SI**. In **BE**, the court decides whether an accompanying adult can be nominated as civil guardian of the child once the procedures to obtain permission to stay in Belgium have ended. However, during the asylum procedure, an accompanying adult cannot be nominated as guardian of the child.

In the remaining respondent EU+ States, the option of appointing both the accompanying adult or adult spouse as guardian/representative of the child is contemplated under different circumstances:

- If appointed by a court and when it is in the BIC in **AT**. In **DE**, each court decides on any requirements for the appointment. In **EL**, they can be appointed by a public prosecutor.
- In **FR**, they can be appointed only as guardian and not as representative. In **IE**, they are appointed as guardian/representative unless the state has concerns as to the safety of the child. Regarding the accompanying adult, they will be appointed if the child is under their care and taking into consideration the wish of the child and the BIC.
- In the **NL**, if so requested by Nidos, while an assessment will be carried out in **SK** to verify if the accompanying adult or adult spouse are morally and physically mature to perform the duties of a guardian.
- In **BG** and **EE**, the adult spouse can be appointed if the marriage is in accordance with the law.
- **ES, HU, CY** and **LV** did not indicate any specific applicable requirements.

In **CH, DK, IT** and **PL**, the accompanying adult might be appointed as guardian/representative but the adult spouse cannot be appointed as guardian/representative of the child. In **CH**, the accompanying adult is appointed as guardian/representative if they exercised those functions in the CoO, while in **PL** this option is contemplated only when there are difficulties in finding a different guardian for the child.

In **RO**, this practice is not applicable.

To guarantee the protection of the child, a representative is appointed in **DK** if the minor is considered vulnerable or accompanied by spouse. A representative is appointed in **FR** if there is a risk of conflict of interest, in **LV** if the child does not have any kin and in **SI** if the child is with the accompanying adult or if under 15 and married.

<sup>30</sup> Not as representative, meaning that the accompanying adult can be appointed as guardian.

## Section 2. Best interests of the child in the asylum procedures

The obligation to ensure the best interests of the child as a primary consideration in all decisions affecting the child derives from Article 3 UN Convention on the Rights of the Child (CRC)<sup>31</sup>, Article 24 EU Charter on Fundamental Rights, and it has been reiterated in the EU asylum *acquis*. However, the implementation of the principle poses numerous challenges to the authorities and other stakeholders. In order to identify these challenges and potential gaps, as well as good practices that could be replicated, EASO addressed this topic in the questionnaire with the following key findings:

### Process for assessing BIC in the asylum procedures

In this regard, 11 responding States (**BE, BG, CH, CY, DK, EE<sup>32</sup>, IE, ES, FR, LV and SE**) have a formal process in place to assess the BIC regarding the asylum procedure.

The BIC is a primary consideration within the asylum procedure in **AT, DE, EL, PL, FI, IT, NO and SK**, although these countries confirmed there is no formal process for assessing the BIC.

Similarly, in **FI, HU<sup>33</sup>, LT, NL, PL, RO and SI** there is not a formal process of assessing the BIC but some safeguards are in place. In **NL**, if the need to assess the BIC arises, Nidos and the Council for Child Protection will be involved. In **PL**, the BIC is assessed in a frame of assessment of needs for international protection. In **SI**, the BIC is to be considered a primary concern at all phases of the asylum procedure and by all authorities and personnel involved.

### When the BIC assessment takes place

According to the practice, the assessment of the BIC may take place at different moments, in some cases before starting the asylum procedure (**IE and SK<sup>34</sup>**), or at one specific stage of the procedure, for example the child has applied for international protection as in **BG and EL** (when the prosecutor is duly informed<sup>35</sup>). In **PL**, the assessment is carried out when making a decision on international protection.

However, most respondents stated that the assessment might take place at all stages of the asylum procedure. This is the case in 16 EU+ States (**AT, BE, CH, CY, DE, DK, EE, ES, FI, FR<sup>36</sup>, IT, LV, NO, SE, SI and SK**). More particularly, in **ES and FI**, the assessment of the BIC takes also place at the reception centres.

In some of those states (**HU, LT, NL and RO**) where a formal process of assessing the BIC is not in place this question is not applicable.

<sup>31</sup> Article 3.1: 'In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration; 3.2 States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures; 3.3 States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.' UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p.2.

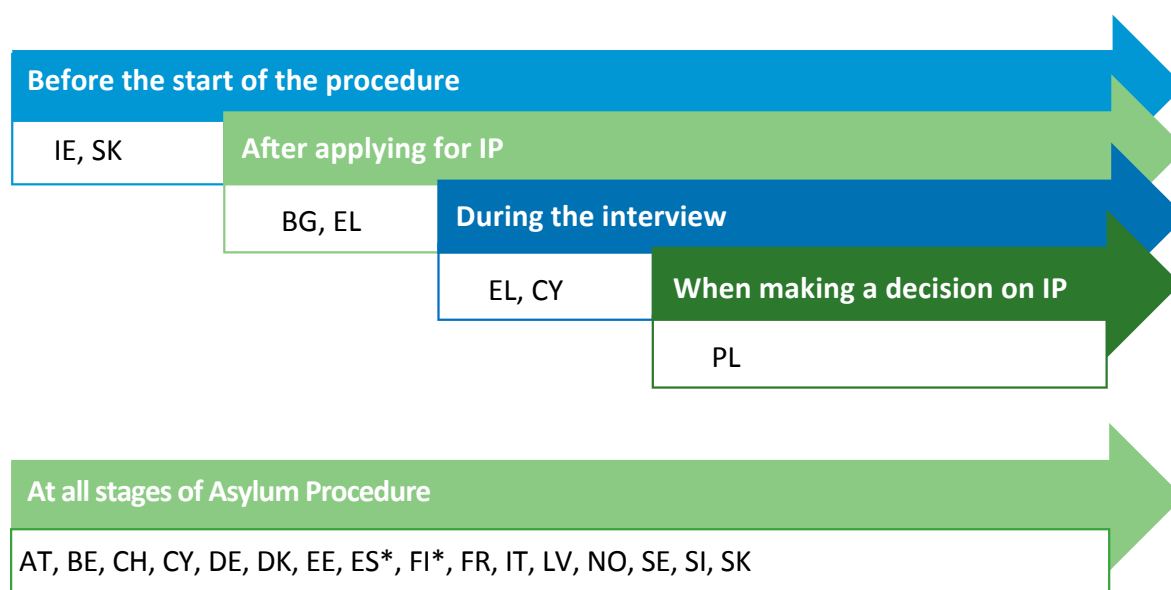
<sup>32</sup> Guaranteed by the guardian.

<sup>33</sup> Regulations to ensure the application of the BIC will be extended by the next amendment of the Hungarian Act on Asylum.

<sup>34</sup> It starts from the moment the child is found.

<sup>35</sup> Otherwise, it takes place during the interview.

<sup>36</sup> In **FR**, the BIC assessment starts as soon as an unaccompanied minor is detected, it does not depend on the existence/stages of the asylum procedure. BIC is assessed at the same time as the age assessment and later by the determining authority.

**Figure 2: Timeframe of the BIA (\*including at the reception stage)****Example from practice: best interests assessment**

In **CY**, upon submission of the application for international protection, the applicant is provided with a separated form for the identification of vulnerable persons. The assessment of the BIC is carried out by the Social Welfare Services on an ongoing basis until the child turns 18 years old.

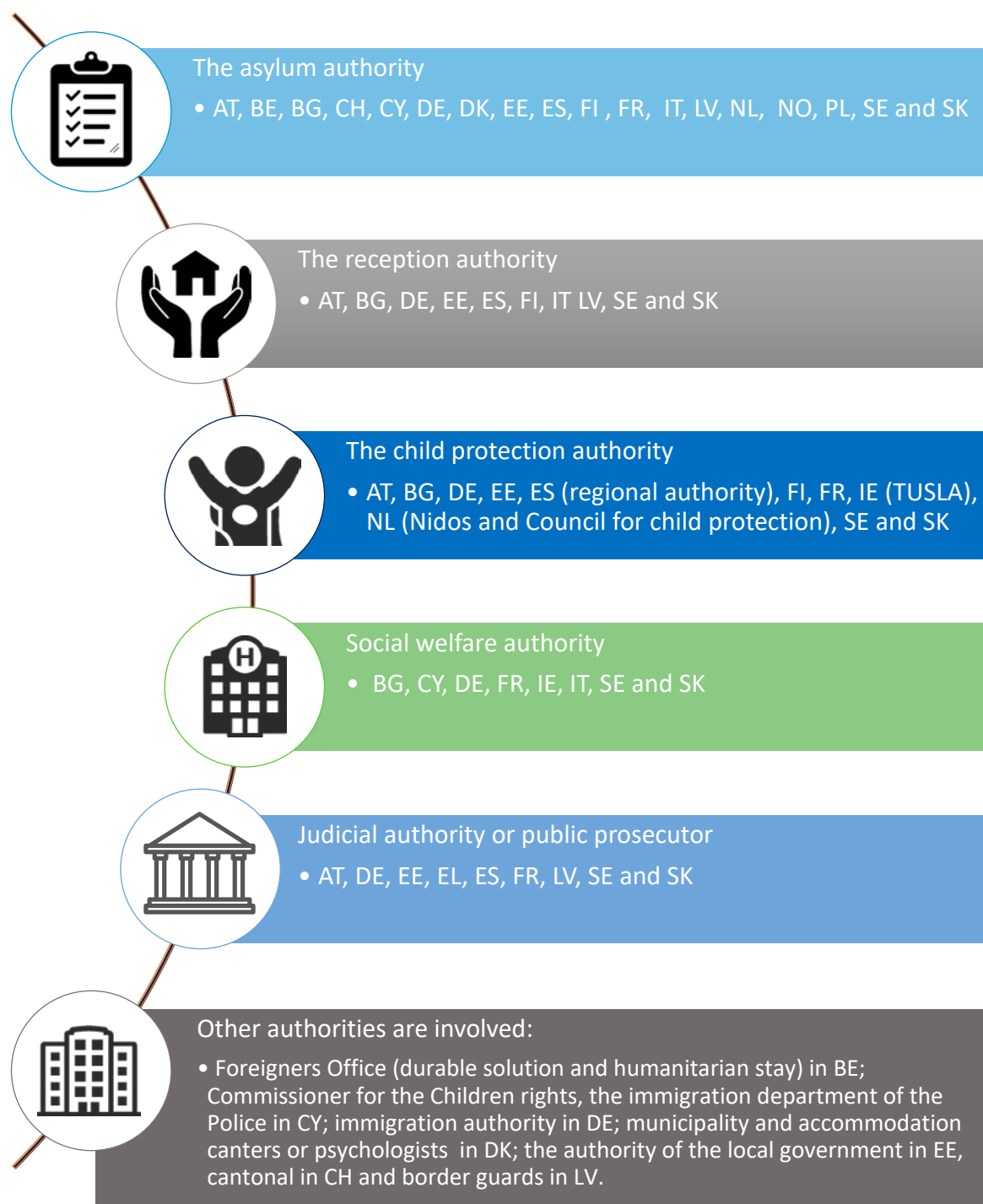
In **LV**, the BIC is assessed during the whole asylum procedure through observation and oral communication with the child that is contacted on different occasions.

In **NO**, the Norwegian Directorate of Immigration's assessment of the BIC requires that the child is given the opportunity to express their views on every matter pertaining to them.

**Actors involved in the assessment of BIC**

In 15 of the responding EU+ States (**AT, BG, CY, DE, DK, EE, ES, FI, FR, IE, IT, LV, NL, SE** and **SK**), different authorities share responsibility for the assessment of the BIC (asylum authorities, reception authorities, child protection authorities, social welfare agencies, judiciary, the guardian or representative of the child, among other actors). In **EL**, the public prosecutor carries out the assessment of the BIC while other authorities are also responsible depending on the stage of the procedure. In **SK**, all authorities working with the minor are required to assess the BIC.

In **HU, LT, RO** and **SI** this is not applicable. According to the findings, the following authorities have primary responsibility in the assessment of BIC in the respective EU+ States:

**Figure 3: Actors involved in the process of assessing the best interests of the child**

Additional actors may also participate in the BIC assessment process by providing information on specific issues of the BIC. This is the case for the:

- Guardian/representative: **AT, BE, DE, DK, EE, IE, NO, SE, SK**<sup>37</sup>;
- NGOs in **BG, CY** and **LV**;
- Health or school personnel: **DK, FI, IT** and **NO**.

### BIC assessment in case of accompanying adult as guardian/representative

In case of a possible nomination of an accompanying adult as guardian of the child, a best interests assessment is conducted prior the nomination in 11 of the responding EU+ States (**AT, DE, DK, EE, EL, ES, FR, IT, LV, PL** and **SK**). More particularly, the assessment and nomination is made by the Court in **AT, FR, IT, LV** and **SK**<sup>38</sup>. In **EL**, the Public Prosecutor is the one that appoints the caretaker and/or representative of the minor taking into consideration the assessment made by other authorities.

In **BE** and **NO**, a best interest assessment is not carried out prior the nomination of an accompanying adult.

#### Example from practice: best interests assessment

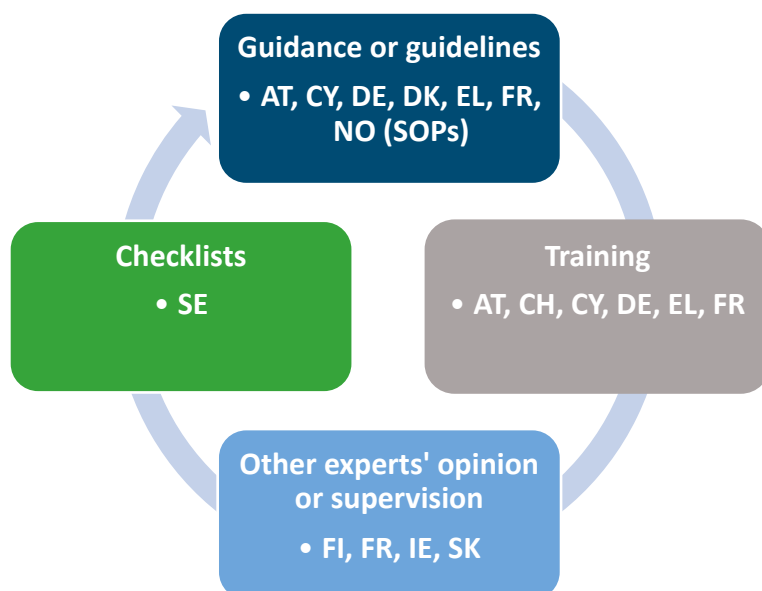
In **IE**, it is considered to be in the best interest of any unaccompanied minor in the state to be allocated to a social worker (who acts in loco parentis as the child's guardian) immediately.

**BG, CY, FI, IE, LT, RO, SE** and **SI** indicated that this practice is not applicable in their systems. The replies of **CH, HU** and **NL** did not provide any further specification on this question.

### Quality tools and mechanisms

Twelve EU+ States do use tools to support the responsible officer to assess the best interests of the child, while in five states (**BE, IT, LT, LV, PL**) no tools are being used. The tools used by the EU+ States were the following:

**Figure 4: Supporting the responsible officer to assess the best interests of the child**



<sup>37</sup> The child is also given the opportunity to provide information in **SK**.

<sup>38</sup> The Orphan's Court shall take a decision according to the opinion of the Office of Citizenship and Migration Affairs.



The 7 EU+ States (**AT, CY, DE, DK, EL, FR** and **NO**) where guidance or guidelines are in use specified that UNHCR guidelines as well as the EASO practical guides and tools<sup>39</sup> are used to support the responsible officers to assess the BIC.

In **AT, CH, CY, DE, EL** and **FR** training is provided to officers responsible for the assessment of BIC. In **SE**, there is a checklist for the BIC assessment involving all stages of the asylum procedure.

In **FI, FR, IE** and **SK**, other experts' opinion on the BIC are required when conducting the assessment by the responsible officer. More particularly, in **IE**, during the clinical intake process of the child protection services, the BIC is assessed and TUSLA recommendations are made to the asylum authorities when needed.

**Example from practice:**

The **SMA** (Swedish Migration Agency) is developing its policy on children and various steering documents in order to strengthen children's rights in accordance with the CRC. Several trainings will also be developed in the BIC and implemented throughout the agency in the second semester of 2018.

Since 2013, **OFPPA**, the French determining authority, has established a group of specialised experts on child special procedural needs, in charge of developing internal guidelines on unaccompanied children applications' assessment, training case officers and providing support with case assessments.

Some States (**BG, EE, ES, HU, NL, RO** and **SI**) did not provide specific information in this regard.

<sup>39</sup> See EASO Tool for the Identification of Persons with Special Needs, available online at <https://ipsn.easo.europa.eu/>; EASO, *Practical Guide on family tracing*, March 2016; UNHCR, *Safe & Sound Report*, 2014; EASO, Training Module on Interviewing Vulnerable Persons; UNHCR, *Guidelines on Determining the Best Interests of the Child*, May 2008; UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Article 1(A)2 and 1(F) of the 1951 Convention/or 1967 Protocol relating to the Status of Refugees*, (2009).

## Section 3. Asylum procedures for children

This part maps safeguards and special conditions granted to children in the asylum procedures; particular attention is paid to the differences between accompanied and unaccompanied children, and how the presence of related actors (guardian/representative, accompanying adults, etc.) may affect the application of these safeguards and conditions.

### Mechanism for the identification of special procedural needs of children

In 10 of the responding EU+ States (**CY, DK, EL, ES, LT, NL, NO, RO, SE** and **SI**) there is a mechanism in place for the identification of special procedural needs of children, while in four EU+ States (**AT, LV, PL** and **SK**) there is no such mechanism in place.

In particular, in the **NL**, there is a special procedure for victims of THB and a multidisciplinary risk analysis. **SE** processes each case through a special procedure with regard to circumstances that are specific for children and that may be a ground for asylum.

In **BG, DE, ES, FI, HU, IE** and **IT**, there is no formal mechanism but there are some guarantees in place for the identification of special procedural needs of children. For example, in **BG**, during the procedure social experts, psychologists, legal advisers and other professionals are available to provide the necessary support. In **FI**, the guardian evaluates the procedural needs of the child and communicates any special needs to the asylum unit.

In **CH**, the CRC is followed in this regard.

**EL** and **EE** follow relevant EASO tools and UNHCR guidelines.

Two countries (**BE** and **FR**) did not specify.

#### Example from practice: mechanism for the identification of special procedural needs of children:

In **SI**, all children are considered vulnerable persons with special needs and as such are provided with special care and treatment. The nature of their needs is assessed individually and at any point during the asylum procedure.

### Procedural safeguards for children

#### Prioritisation of the examination of applications for international protection

When the applicant is a child, regardless if accompanied or unaccompanied, the examination of applications for international protection is prioritised in **BE** (if possible), **EE, EL, FI, IE, IT, NO, PL, RO, SE, SI** and **SK** (if according to the BIC).

When the child is unaccompanied, the case is prioritised in **CY** (except in cases of family reunification of the child with a family member in another MS), **DE, DK** (if the child is accompanied by adults other than parents, or unaccompanied), **ES, FR** (where necessary, depending on the grounds of the child or the parents), **HU**, and **LT**.

In **NL**, interviews may be prioritised if needed while the examination of the asylum application is not prioritised in **AT** and **LV**.

In **IT**, if the applicant is a child this is immediately notified when registering the application for asylum by the Provincial Police Headquarters to the Territorial Commissions in order to proceed with the prioritisation and appointment of a specialised interviewer.

**CH** is not bound by, and does not apply, the APD.

## Border and accelerated procedures

In some of the responding states (**AT**, **EE**, **EL**, **ES**<sup>40</sup>, **HU**<sup>41</sup>, **IT**, **LT**<sup>42</sup>, **NO**, **RO**, **SE** and **SK**) border and accelerated procedures apply in case the applicant is an accompanied child.

When the child is unaccompanied, these procedures will not be normally applied in **FI**.

In eight EU+ States (**CY**, **DE**<sup>43</sup>, **DK**, **FR**<sup>44</sup>, **HU**<sup>45</sup>, **LV**, **PL** and **SI**), border and/or accelerated procedures are also applicable to unaccompanied including separated children. In some of these responding, (**HU**, **LV** and **SI**), the procedures apply when the established grounds are met. More particularly, in **LV** and **SI**, the accelerated procedure applies if there are substantial reasons to believe that the applicant constitutes a threat to public order, public security or national security, or has been forcibly expelled due to substantial reasons of being a threat to public order, public security or national security. In **SI**, accelerated procedures are also applicable to unaccompanied children in the case of the use of the concept of a safe country of origin.

**CH** is not bound by, and does not apply, the APD. **BE**, **BG**, **IE** and **NL** did not specify.

### Example from practice: Application of border and accelerated procedures

In **SI**, in border procedures, the BIC must be considered. Accelerated procedures are applicable to unaccompanied children only if:

- using the concept of a safe country of origin;
- if there are substantial reasons to believe that the applicant presents a threat to the public order, public security or national security;
- if the applicant was forcibly expelled due to substantial reasons of a threat to public order, public security or national security.

<sup>40</sup> Border and accelerated procedures are not applicable to unaccompanied children. In cases concerning separated children, they could be applicable.

<sup>41</sup> Only border procedures.

<sup>42</sup> Accelerated procedure cannot be applicable. There is no border procedure in Lithuanian legal system.

<sup>43</sup> In **DE**, border procedures are applicable on arrival on persons with unclear age until the age is confirmed (clearing procedure). An accelerated procedure applicable to unaccompanied/separated children is the one for safe countries of origin and in principle for subsequent applications or in case of serious reasons to be considered a danger to the national security or public order, or the applicant has been forcibly expelled for serious reasons of public security or public order.

<sup>44</sup> In **FR**, border procedures are applicable. Accelerated procedures, only when the child is from a safe country of origin; presents a subsequent application which is not inadmissible; or is considered as a threat for public or state security.

<sup>45</sup> In **HU**, border procedures are not applicable to unaccompanied children. Accelerated procedures may be applicable to unaccompanied children if any of the grounds are established.

## Making and lodging of application by or on behalf of a child

### Accompanied children

In **AT, DE, ES, FR<sup>46</sup>, HU, LV, SE** and **SK**, the application for international protection of a child has to be lodged by their parent, guardian or legal representative while in **FI, EE, IT, LT, NO** the application can be lodged by the child.

In some cases in 14 of the responding EU+ States (**BE<sup>47</sup>, BG** when the child is over 14 years old with parental consent, **CY, DK, EE, EL, FI, IE** where the adult is no longer an applicant, **IT, LT, NL<sup>48</sup>, NO, RO** and **SI**), the child has the capacity to lodge an application for international protection on their own behalf.

In some EU States, the age of the child is considered in order to establish the capacity to lodge the application. The following are examples of practice in EU+ States with regard to the age that the minor has to reach to apply on their own for international protection:

<b>BG</b> +14 years with parents' consent	<b>EL</b> +15	<b>NL</b> + 15	<b>RO</b> +14	<b>SI</b> +15 years
--	------------------	-------------------	------------------	------------------------

#### Example from practice: lodging on behalf of the child

In **BE**, as of the first semester of 2018, the Commissioner General for Refugees and Stateless Persons can decide to make an application ex officio on behalf of the accompanied child, when he considers that the child is in danger.

In **CY**, the child has capacity to lodge the application on their own behalf if they ask to have a separate application or if an officer considers it adequate in accordance with the BIC. The Social Welfare Services are informed.

### Unaccompanied children

In 15 of the responding EU+ States (**AT, BE, BG, CH, DK, EL, FI, HU, IT, LT, LV, NL, NO, RO** and **SE**) the unaccompanied child has capacity to lodge the application on their own. In **DK**, the unaccompanied child always has the capacity while in **BE, BG, CH, FI, HU, LT, LV** and **NO**, the unaccompanied child can lodge the application without a representative if they have sufficient capacity. In other EU+ States, the age of the child is considered in order to determine the capacity to lodge the application:

<b>AT</b> +14 years old*	<b>EL</b> +15 years old	<b>NL</b> +12 years old	<b>RO</b> +14 years old*
--------------------------------	----------------------------	----------------------------	--------------------------------

The agreement of the guardian/legal counsellor is a requirement in **AT** (for children under 14 years old) and in **SE**, for the child applicant to lodge an application for international protection.

In **IT**, in case a guardian has not been appointed yet, an unaccompanied child can lodge an application with the support of the Director of the reception centre where she/he is hosted.

<sup>46</sup> In **FR**, children do not have legal capacity. Therefore, they cannot make an application on their own behalf. Thus, either their parents apply for asylum where children are present in France and mentioned in the parent's application form – children are supposed to be applicants too. Alternatively, the parents (legal representatives) are not applicants themselves but they make an application on behalf of their child. In any case, the child does not act on their own.

<sup>47</sup> As of the first semester of 2018, the Commissioner-General for Refugees and Stateless Persons can decide to make an application on behalf of the accompanied child, when the Commissioner-General considers the child to be in danger.

<sup>48</sup> The request made by a minor may be granted depending on individual circumstances. Note that the asylum requests may still be granted based on grounds specifically connected to the minor.

In **FR**, it may happen that the applicant has not been identified yet as a minor and the applicant has been delivered an application form for the lodging whereas the minor has no legal capacity. Upon reception of this application, the determining authority would nevertheless lodge the application under the BIC procedure and require the Public Prosecutor to appoint a legal representative (*administrateur ad hoc*) for the applicant. The assessment of the application is on hold until the legal representative is appointed.

In **CY, DE, EE, ES, FR, IE, NL** (for children under 12 years old), **PL, RO** (14 years old) **SI** and **SK**, the unaccompanied child cannot lodge an application for international protection without a representative.

## Personal Interview

### When the interview is conducted

The personal interview is always carried out in **AT, BE**<sup>49</sup>, **BG, EL** (+15 years old), **FI** (+12 years old), **NL** (+15 years old), **NO, SE** and **SI** (+15 years old). In **CH**, usually children are personally interviewed (+14 years old).

More particularly, in **BG** the interview is conducted to determine the BIC.

In **BE** and **NO**, the child has the right to be heard in all matters pertaining to them.

In **DE, EE** (above 10 years old), **ES** (12-14 years old), **FR, LT, NL** (under 15 years old), **NO** (if the child desires), **RO, SI** (under 15 years old) and **SK**, the interview is conducted when deemed necessary. In **DE**, if the child is 6 to 13 years old, the interview takes place only if considered necessary to accomplish the parent's statement and under the condition that the child is able to contribute effectively.

In **EE, LT** and **SI**, the personal interview will be conducted if considered necessary for the proceedings. In **NL**, the decision to carry out the interview as well as the need for the parents to be present is made on a case-by-case basis. Accompanied children are not interviewed if they are below 15 years old, except if requested in cases where there may be independent grounds for asylum for the child.

In **CH** (under 14 years old), **CY, DE, DK, EL** (if under 15 years old), **ES** (14-18 years old), **FR, HU, IE, IT, LV** and **PL**, the interview is conducted in certain circumstances:

- In **CY**, the interview will be carried out if needed on exceptional cases for the BIC and with the approval of the parents or responsible adult.
- In **DE**, when there is a situation of familiar violence or parents involved in female genital mutilation (FGM) against their child. In such cases, the interview will also take place in cases where the child is under 14 years old.
- In **DK**, the interview is carried out in cases of separated children<sup>50</sup>.
- In **FR**, the child will be interviewed only if the child is at the centre of the family's grounds for asylum; or where there are indications that the child may have personal grounds for international protection but the parent(s) are not aware of them. The child will also be interviewed where there are indications that the parent(s) might be involved as perpetrator(s) or accomplice(s) in the persecution or serious harm.
- In **HU**, the interview takes place in case of family reunification while in **IE**, the children are interviewed if they lodge a separate application. In **PL**, it depends on the wishes of the parents or the child (if they request the interview) or on the assessment of the case officer (if the interview is considered necessary).

<sup>49</sup> As of the first semester of 2018, every accompanied child will be giving the right to be heard, as foreseen in the new aliens law.

<sup>50</sup> Children accompanied by an adult family member, who is not one of their parents.

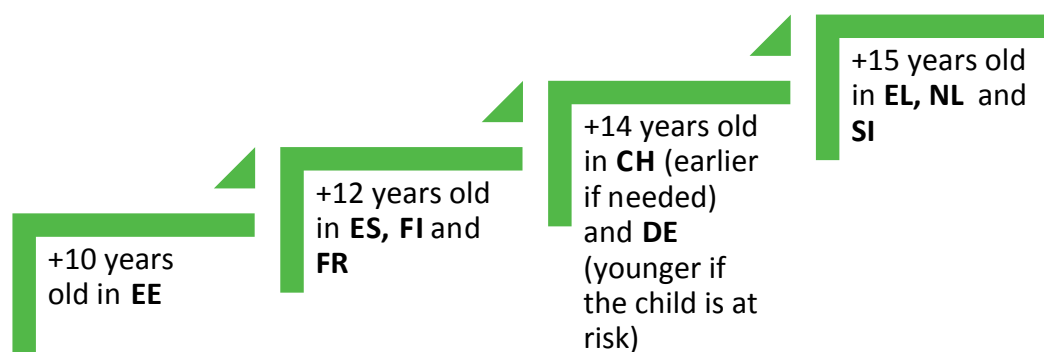
## Accompanied children

### Minimum age

The minimum age to interview an accompanied child is a requirement in 10 EU+ States (**CH, DE, EE, EL, ES, FI, FR, NL, NO** and **SI**). According to the responding EU+ States' practice, the child has to be:

- **CH**: over 14 years old;
- **DE**: from 6-13 years old if capable and needed upon parents' consent and under 6 only in exceptional cases, from 14 years old they will be interviewed on a regular basis;
- **DK**: if the child has their own reasons to apply for asylum or if the child is accompanied by an adult other than the parents;
- **EE**: above 10 years old;
- **ES, FI and FR**: over 12 years old
- in **EL, NL** and **SI** above 15 years old. In **EL** interview can take place below 15 years old depending on age and maturity of the child; while in **NL** only if requested in cases of independent grounds
- in **NO**, 7 years or younger if mature

Figure 5: Minimum age for interviewing accompanied children



In 12 of the EU+ States (**AT, BE, CY, DK, HU, IE, IT, LT, LV, PL, SE** and **SK**) there is no minimum age requirement for a child to be interviewed.

**BG** and **RO** did not specify if a minimum age for a child to be interviewed is required.

### Child-friendly interview

In some EU+ States (**AT, EL** (if less than 15 years old), **HU, IE, RO** and **SK**), the maturity of the child is taken into consideration to determine whether a personal interview should be conducted.

#### Example from practice: maturity during the interview

In **AT**, the authority has to adapt the questions to the intellectual maturation of the child at the time the interview takes place.

In **CY**, the authorities carry out an individual assessment of each case to decide whether a child should be interviewed.

In **RO**, for example, the protection officer must decide whether to interview the child in light of the BIC and depending on the level of maturity as well as understanding and the stage of the child's development at that time.

Specially trained staff is assigned to cases of interviews with accompanied children in **DE** (in case of additional vulnerability), **DK** (in case of separate interview from that of the parents), **FR** (where an interview with the child is deemed necessary), **IT, NL, NO**, and **PL**.

Additionally, the accompanied child will be appointed a legal adviser in **BG, DK** (when the application for asylum is considered manifestly unfounded, or when the negative decision will be reviewed by the Danish Refugee Board), **LT, NL** and **SK** (if requested by parents/guardian).

### *The role of the parents or adult responsible for the accompanied child*

The parents/guardian have to be present during the personal interview in 14 of the responding States (**AT, BG, CH, CY, DE, FI, FR<sup>51</sup>, IE, IT<sup>52</sup>, LT, NO, PL, SI** and **SK**). In **IE**, the parents will be present during the interview only if the child expressly desires, or in cases of younger children being also able to answer on behalf of the child.

The legal representative/lawyer of the child has to be present in case the interview is conducted in **AT, EE, LT** and **SI**. Specifically, in **LT** the legal representative is appointed in case it is necessary to conduct the interview in absence of the child's parents. In **SI**, the legal representative has to be present during the personal interviews conducted with children under 15 years old.

Alternatively, the authorities conduct a **separate interview** with the accompanied child in 15 EU+ States (**BE<sup>53</sup>, CY, DE, DK, EE, EL, ES, FI, FR, HU, IT, LV** (unless presence of the parents needed), **NL** (over 15 years old)<sup>54</sup>, **PL** and **SE**.

In **BE, DK** (if accompanied by an adult other than parents, or if child has own reasons to lodge an application), and the **NL** (over 15 years old), the interview will be always conducted separately, while in the other 12 responding states it will vary depending on different circumstances:

- In **CY**, the child will be interviewed alone or in the presence of the parents depending on how he/she feels more comfortable.
- In **DE**, in cases of familiar violence or if parents are involved in FGM against their child, the child is separated from his/her parents during the interview. In such cases, a personal interview may also take place if the child is under 14 years old or the parents decide against a personal interview.
- In **EL**, accompanied children over 15 years old are interviewed in most cases, in principle separately. Depending on their age, maturity and personal circumstances, children under the age of 15 can also be interviewed. The interview can take place without the presence of their parents or legal representative/lawyer.
- **FR** will conduct a separate interview where there are indications that the parents may not be aware of the persecution or serious harm, or that they might be involved as perpetrators or accomplices to the persecution or serious harm.
- In **FI** and **PL**, the child may be interviewed separately upon parents/caregivers' consent.
- In **HU**, the separate interview of the child takes place in case of conflict of interest and in **IT** if asked or recommended for BIC or requested by the child.
- In **SE**, an assessment is carried out to decide whether it is suitable to interview the child without the parents or responsible adult present.

#### **Example from practice: separate interview**

**NO:** The child has the right to be heard in all matters pertaining to them. UDI offers interview/conversation with the case-officer to all children above the age of seven (or younger if they are mature). The parents cannot reserve themselves against the child's right to be heard. Usually, one of the parents or another person who exercises parental responsibility will be present under the interview. The child may also be interviewed separately (though with an appointed guardian present) should the child want to, or where there is reason to assume that there is a conflict of interest between the child and the parents.

In **SK**, if the minor does not want to undergo the interview in the presence of the parents or responsible adult, a guardian ad litem will be assigned.

<sup>51</sup> in case of personal grounds known to the family

<sup>52</sup> unless separate interview for BIC

<sup>53</sup> As of the first semester of 2018, parents can no longer be present during the interview of their accompanied child.

<sup>54</sup> Below age 15, the presence of parents during the interview is decided on an individual basis.

## Transcript/report of the interview

In 19 of the responding EU+ States (**AT, BG, CH, DE, DK, EE, EL, ES, FI, FR, HU, IE, IT, LT, NO, PL, RO, SI** and **SK**), the transcript of the personal interview is shared with the parents or responsible adult. However, in 13 of these (**CH, DK, EE, EL, ES, FI, FR, HU, IE<sup>55</sup>, LT, NO<sup>56</sup>, RO, SI**), exceptions apply to this general rule. For example, in **CH, DK** and **ES**, the transcript will be shared unless the child requests the opposite. In **EE** and **RO**, it will be shared if it is in the BIC. In **EL**, the transcript is not shared if the child is over 15 years old and submitted a separate application for international protection. In **HU** and **SI**, the interview transcript would not be shared with the parents or the responsible adult, in cases of conflict of interest or, specifically in **SI**, if sharing the information does not comply with the BIC.

The transcript of the child's interview is not shared with the parents or legal representatives in **BE<sup>57</sup>, CY, LV, NL** and **SE<sup>58</sup>**.

### Example from practice: transcript/report of the interview

In **DK**, the child is always asked if they allow their parents to read the summary of the interview with the Danish Immigration Service or if there is any specific part of the summary that should not be shared.

In **FI**, the transcript of the interview remains secret in case the child reveals things that the parents should not see i.e. for security reasons in cases of abuse. In these cases, a separate report can be made.

## Unaccompanied children

### Minimum age

In terms of minimum age requirement only two countries reported age limits for interviewing unaccompanied children: **DE** (from 14 years on a regular basis, minors 6-13 years old if capable and needed upon parents' consent, under 6 only in exceptional cases), and the **NL** (above 6 years old).

### Child-friendly interview

Some of the replies (12 EU+ States) reported on the use of child-friendly interview techniques to support unaccompanied children to substantiate their application. These EU+ States are **AT** (child-friendly language adapted to the child's maturity), **DE, DK** (if the child is considered immature, most likely under the age of 12, the interview is short), **EL, FI** (more time is given to unaccompanied children for the personal interview), **FR, IE, IT, NL** (in case of children below 12 years old), **LV, NO** (more time for the interview), and **SK**.

Regarding the location of the interview, children are interviewed in the care centre where they are accommodated in **PL** and in **NO** (if below age 12 or have more than 2 hours travel).

Unaccompanied children will be interviewed by specialised trained staff in **AT, BE, CY, DE, DK, EL, FI, FR, IE, LV, NL** and **PL**. There is also the possibility to support children by appointing a legal advisor in **BE, BG** (if necessary), **CY** (free legal advice), **DK** (if application is manifestly unfounded or when the negative decision will be reviewed by the Danish Refugee Board), **ES** (in case of an interview under the border procedure), **FR, NO** (attorney), **SE** and **SK** (if requested).

<sup>55</sup> The interview notes are copied to the applicant/guardian and his/her legal representative together with the Report of the examination of the claim in circumstances where the recommendation is negative. The interview notes are not shared immediately after the interview

<sup>56</sup> Exceptions to the general rule apply should UDI, for example, refuse to share the information of the interview, should there be genuine reason to assume that the information may negatively affect the parent's behaviour in regards to the child or affect the relationship between them.

<sup>57</sup> As of first semester of 2018 parents have no longer access to the file of their child if it is not BIC.

<sup>58</sup> Unless request from the parents/legal representative



### *The role of the guardian and/or representative for the unaccompanied child*

The guardian/representative of the child has an active role during the personal interview in 22 of the EU+ States (**AT, BE, BG, CH, CY, DE, DK, EE, EL, ES, FI, FR, HU, IE, IT, LT, LV, NO, PL, RO, SI** and **SK**). In **SE** and the **NL**, the guardian/representative does not have an active role during the interview. In particular, in **NL**, if the child is below 12 years old, the guardian is present outside the interview room. They watch the interview via a television screen.

The role of the guardian/representative varies in the different responding states. The main roles played by the guardian/representative during the interview are the following:

- ⇒ Prepares the child for the interview in **AT, BE, DE, DK, NO** and **SK**;
- ⇒ Is present in **AT, BE, CY, DE, DK, FR, NL** (child +12 years old)<sup>59</sup> **NO, SE** and **SK**;
- ⇒ Gives support in **AT, BE, BG, CH, CY, DE, DK, ES, FI, FR, IE, IT, NO, SE** and **SK**;
- ⇒ Asks questions in **AT** (and submit applications) **CH, DE, ES, FR, HU, LT, PL, SI** and **SK**;
- ⇒ Provides additional information and/or makes comments in **AT, DE, DK, EL, HU, FR, IT, LT, LV, NO, SI** and **SK**;
- ⇒ Ensures BIC in **AT, BG, DE, DK, EE, HU, LT, NO, SI** and **SK**;
- ⇒ Ensures respect for the rights of the child in **AT, BG, DE, DK, HU, IE, IT, PL, RO, SI** and **SK**;
- ⇒ Is consulted before the decision is taken in **AT, DK** and **SE**<sup>60</sup>
- ⇒ Exercises legal capacity in **DE, FR, NO, SE** (give consent to some measures);
- ⇒ Submit applications in **AT, DE, FR**, and **SK**.

#### **Example from practice: role of guardian/representative during the interview**

In **DK**, the personal representative is consulted before decisions about maturity or transfer to other countries are taken. Likewise, the representative can comment on the transcript, but he or she is not consulted before the final decision on the asylum case is made

In **LV**, there are no strict rules that define the role of the guardian/legal representative during the interview. In the practice, they are an active participant and can ask questions or give remarks for the interviewer in case they think the BIC is not respected.

### *The role of the spouse in case of a married child*

In the case of married children, the **adult spouse** can attend the personal interview with the child in seven EU+ States (**AT, BE, DK, ES, HU, IE** (if the adult is not also an applicant), and **IT**). However, in all the responding states the adult spouse has to meet some requirements to attend the interview. In this regard, in **AT, HU** and **IT**, only the spouse who has been appointed as legal representative/guardian of the child is allowed to be present during the interview. In **BE**, the marriage has to be considered a legal marriage and the child has to be over 16 years old. In **DK**, the child's consent is required. In **IE**, the spouse cannot be an applicant; otherwise, they would not be able to attend the interview, while in **ES** it depends on the assessment of the child and the age.

In **HU**, the child will be interviewed to explore possible abuses or conflicts of interests.

In 14 responding EU+ States (**BG, CH, CY, DE** (in general), **EE, EL** (in principle), **IE** (when the adult is also an applicant), **FI, FR, NL, NO** (in general), **PL, SE** and **SI**) the spouse cannot attend the personal interview. Specifically, in the **NL**, the asylum seeker is considered an unaccompanied child as the marriage is not recognised and, therefore, the child will be interviewed separately from the adult and they will receive a separate decision.

<sup>59</sup> The guardian has a passive role. They watch the interview from outside the interview room via a television screen if the child is under 12 years old.

<sup>60</sup> The guardian has a passive role during the interview. Nevertheless, in some cases, the guardian is involved in giving consent to certain measures, such as age assessment.

Separate decisions are issued in **BE, BG, CH, CY, DE, DK, EE, EL, ES, FI, FR, HU, IE, IT, NL, NO, PL, SE** and **SI**. Exceptions apply in the following responding states:

- **AT**, if the adult spouse is the legal representative, the decision is issued to the legal representative;
- **ES**, depends on the assessment of the child and the age;
- **HU**, when the adult is accepted as legal representative and there is a joint application;
- **SI**, when the child and the spouse apply to the same situation and refer to the same facts.

**LT, LV, RO** and **SK** did not provide information in this regard.

## Additional procedural guarantees and special reception conditions for children

### ➤ Note on terminology

Procedural guarantees are specific support measures put in place in order to create the conditions that are necessary for persons with special needs to have effective access to procedures and present the elements needed to substantiate their application for international protection.

They enable applicants with special needs to benefit from their rights and comply with their obligations under the APD (recast) (recital 29 and Article 2(d)).

Additional procedural guarantees and special reception conditions for children extracted from the consultation include:

ACCOMPANIED CHILDREN	UNACCOMPANIED CHILDREN
⇒ Views of the child are heard in <b>DK</b> (accompanied by adults other than the parents), <b>LV, NO</b> and <b>SI</b> .	⇒ Views of the child are heard in <b>AT, DK</b> and <b>NO</b> .
	⇒ Preparation and information provision: Children will be given more time to rest and prepare before the actual asylum procedure starts in <b>FR</b> (unless it needs to be prioritised, the decision is subsequently notified as soon as possible after the interview, unless otherwise required for appropriate assessment of the application), <b>NL</b> and <b>SE</b> . In <b>AT, CY, DK, FR</b> (a special leaflet for unaccompanied children applicants has been developed to explain the asylum procedure in a child-friendly manner) and <b>SE</b> , children are informed on the phases of the asylum procedure, while in <b>AT, DK, IE, FR</b> and <b>NO</b> they receive information on the appeal in case of rejection.
⇒ Family (re)unification considered/enabled: <b>SI</b> .	⇒ Family tracing <sup>61</sup> : <b>AT, DE</b> (within the Dublin procedure), <b>DK, NO</b> (if possible), <b>SE, SI</b> and family reunification possibilities in a Dublin State: <b>AT, CY<sup>62</sup>, DE, DK, SE</b> .

<sup>61</sup> The search for family members (including relatives or former caregivers of unaccompanied children) with the purpose of the restoration of family links and family reunification when this is in the best interests of the child. See also EASO, *Practical Guide on Family Tracing*, March 2016.

<sup>62</sup> In the Dublin procedure

<sup>63</sup> As well as a person of trust if the child wishes.

ACCOMPANIED CHILDREN	UNACCOMPANIED CHILDREN
<ul style="list-style-type: none"> <li>⇒ Medical and/or psychological counselling</li> <li>⇒ <b>BG</b> (if needed), <b>DK</b> (all children are offered a psychological/medical screening. If needed the applicants will be offered further medical/psychological treatment/counselling), <b>FR</b> (any applicant suffering from mental disease may ask that their regular qualified mental health professional should be allowed to attend the interview as a passive observer. The request is approved on a case-by-case basis), <b>PL</b> (for the interview), <b>SI</b> and <b>SK</b> (if needed).</li> </ul>	<ul style="list-style-type: none"> <li>⇒ Medical and psychological counselling (*if needed): in <b>AT</b>, <b>BG*</b>, <b>DE*</b> (if needed by the youth welfare office), <b>FR</b>, <b>IT*</b>, <b>PL</b><sup>63</sup>, <b>SI</b> and <b>SK*</b></li> <li>⇒ Special circumstances such as age, trauma, maturity, medical conditions will be fully considered by the case officer in <b>AT</b>, <b>DE</b>, <b>DK</b>, <b>FR</b> and <b>IE</b>.</li> </ul>
<ul style="list-style-type: none"> <li>⇒ Special accommodation for families</li> <li>⇒ <b>NL</b>, <b>SI</b> and <b>SK</b></li> <li>⇒ No detention for more than 30 days and only in case of last resort for families with children <b>HU</b></li> </ul>	<ul style="list-style-type: none"> <li>⇒ Children under 15 years old are placed in foster families in the <b>NL</b>, and under the responsibility of the child protection services in <b>NO</b>.</li> <li>⇒ Children can file the application in any police station and they do not have to travel to the reception centre on their own in <b>AT</b> and the <b>NL</b>.</li> <li>⇒ Children do not have to travel to the asylum authority on their own - they are escorted by the finding authority in <b>SE</b>.</li> <li>⇒ Special accommodation with specially trained staff in <b>AT</b>, <b>DK</b>, <b>NL</b>, <b>SE</b>, <b>SI</b> and <b>SK</b>.</li> <li>⇒ Unaccompanied children cannot be placed in detention <b>SE</b> and <b>SI</b>. In <b>AT</b> (only for children under the age of 16).</li> </ul>
<ul style="list-style-type: none"> <li>⇒ Leisure activities provided: <b>SI</b></li> <li>⇒ Guarantees will be based on case-by-case analysis: <b>BG</b>, <b>CY</b> (at the request of a competent officer, otherwise no specific practice), <b>NL</b>, <b>SI</b></li> <li>⇒ Special guidelines and procedures for children: <b>FR</b>, <b>NO</b></li> <li>⇒ All the guarantees applied to vulnerable people: <b>ES</b>, <b>FR</b></li> <li>⇒ All guarantees from Asylum Directive: <b>RO</b></li> <li>⇒ Guarantees according to the CRC: <b>CH</b></li> <li>⇒ No special guarantees provided: <b>EL</b> (when accompanied)</li> <li>⇒ Did not specify: <b>BE</b></li> </ul>	

## Section 4. Referral

### ➤ Note on terminology

For the purpose of this report, the referral mechanisms are those cooperative frameworks aimed at identifying, protecting and assisting children through the timely referral to the adequate support and involving relevant public authorities and civil society.

This section illustrates the existing referral mechanisms and the circumstances would activate them.

In 14 of the responding States (**AT, BE, CY, EE, ES, FI, IE, IT, NL, NO, PL, RO, SE** and **SI**) there is a protocol in place for the collaboration with child protection authorities.

In **ES**, once the police become aware of the situation (which is normally once the applicant arrives to the Spanish territory at the border), they immediately get in contact with the public prosecutor. The public prosecutor is responsible for coordinating the child's supervision together with the minors' protection public entities that will be appointed as guardian.

In **FR**<sup>64</sup>, **DK, EL** and **SK**, the collaboration is regulated according to national legislation, while in **CH**, there are some recommendations in place made by the cantonal social directors and implemented by the cantons.

In **HU** and **DE**, there are regular meetings with the child protection authority to ensure cooperation. In **DE**, the Federal Office regularly meets with the Federal Association for Unaccompanied Minors to discuss general questions related to unaccompanied children. The association is also part of the training modules concerning unaccompanied children.

There are no protocols or recommendations in place in **BG**<sup>65</sup>, **LT** and **LV**.

### Referral to other authorities

Regarding the referral to child protection authorities or other service providers for further assistance of children applying for international protection, the authorities will refer the child in the following situations:

- ⇒ Disappearance of children in **BG, EL, NO** and **PL**
- ⇒ Indications of being/been trafficked or abused or child at risk in **AT, BG, DE, DK, EL, FI, FR, IE, LV, LT, NO, PL, SE** and **SI**
- ⇒ If child is found unaccompanied, in **BE, CY, EL, ES, FR, HU, IE, NL, SI** (if very young) and **SK**
- ⇒ If the child has further special needs in **DE**<sup>66</sup>, **IT, LT, NO** and **SI** (if early age)
- ⇒ If the accompanying adult is unsuitable in **IE** and **NO**
- ⇒ For assessing BIC in case of accompanied children in **CY**
- ⇒ In case of request for further information on the situation of the child in **CH**
- ⇒ Based on case by case analysis in **EE** and **RO** for BIC
- ⇒ When the case officer considers it necessary in **LT** and **NO**

#### Example from practice: referral to competent authorities and support

In **BE**, unaccompanied children under 12 years old, who are eligible for foster care, will receive this care through an accelerated procedure. In addition, in some cases, the assistance provided to unaccompanied children in BE might last until they are 21 or 25 years old.

<sup>64</sup> Local protocols are being discussed concerning child trafficking issues.

<sup>65</sup> To be adopted: a coordination mechanism for interaction between institutions and organisations in case of unaccompanied children or foreign children separated from their families located on the territory of the Republic of Bulgaria, including children seeking and/or having received international protection.

<sup>66</sup> The youth welfare service is responsible for the child in any situation of risk where parents or guardians do not act in their favour.

In **DK**, if there are indications of abuse, human trafficking or parental abuse, relevant authorities can be consulted. Consent from the child might be necessary.

## Procedures in place if the child goes missing, shows indications of trafficking or abuse, in cases of disability, health issues, pregnancy, or other cases.

Different authorities are involved in the processes and in different grade. A synthesis of those procedures is as follows:

### When the child goes missing<sup>67</sup>

The following authorities are involved and those responsible for taking the primary actions have been flagged with an asterisk (\*):

- ⇒ the asylum authority in **CY, DK\*, FI, NO, SE** and **SK**;
- ⇒ the reception authorities in **AT, BE, FI\*, LT, NL, NO, SE, SI** and **SK**;
- ⇒ social welfare authorities (child protection services) in **AT\*, CY\*, DE\*, EL, FR, HU, IE\*, NL\*** and **SE**;
- ⇒ police in **AT\*, BE\*, BG\*, DK\*, EL, FR\*, HU\*, LT\*, NL, NO, PL\*, SE, SI \*** and **SK\***;
- ⇒ public prosecutor in **AT\*** and **EL**;
- ⇒ Court and guardian in **SK\***;
- ⇒ Accommodation centre, legal representative in **SI**.

A) CHILD'S DISAPPEARANCE (The following authorities are involved):					
	Asylum authorities	Reception authorities	Social welfare authorities (child protection services)	Other actors	Police
<b>AT</b>		✓	✓Youth Welfare*	✓* Public prosecutor if a potential crime	✓ *Criminal investigation department if potential crime
<b>BE</b>		✓ Protocol with the police <sup>68</sup>			✓ *Protocol with reception centre
<b>BG</b>					✓ *Territorial Unit of the Ministry of Interior is informed
<b>CH</b>	Cooperation with the competent (cantonal) authorities (e.g. prosecution authorities, cantonal child protecting authorities, NGOs etc)				
<b>CY</b>	✓ Identifies the case		✓*		
<b>DE</b>			✓ *Youth welfare services		

<sup>67</sup> In the MS marked with an asterisk, the authorities involved share responsibility for taking the first steps/actions.

<sup>68</sup> If an unaccompanied child disappears (goes missing) from a reception place in **BE**, this will be signalled to the local police (immediately if 'worrying' disappearance, otherwise after 24 hours). If this disappearance is worrying, the parquet may ask Child Focus to take action. Currently, there is a specific protocol of cooperation between the police in the area where one of the reception centres for unaccompanied children is located and the centre. This serves as a starting point for a national initiative.

A) CHILD'S DISAPPEARANCE (The following authorities are involved):					
	Asylum authorities	Reception authorities	Social welfare authorities (child protection services)	Other actors	Police
<b>DK</b>	✓* Danish Immigration Service register the disappearance				✓*
<b>EE</b>	The cases are processed on a case-by-case basis. There are specific guidelines in place for children that show indication of being trafficked or abused.				
<b>EL</b>			✓ National Centre for Social Solidarity	✓ Public Prosecutor	✓ competent department of the police
<b>ES</b>	Unaccompanied minors are treated as vulnerable				
<b>FI</b>	✓ Contact the reception unit	✓*			
<b>FR</b>	✓ Inform the police				✓*
<b>HU</b>			✓ Informs the police when child is missing for more than 24 hours		✓*
<b>IE</b>	✓* TUSLA will be informed				
<b>IT</b> <sup>69</sup>					
<b>LT</b>	✓ Informs the police				✓*
<b>LV</b>	In all these cases, authorities involved in the asylum procedure needs to act in accordance with legislation. No specific procedures have been made so far.				
<b>NL</b>		✓ If indications of risk, is placed in protected shelter with additional security and supervision	✓ (NIDOS is informed*)		✓ Police and Expertise Centre for Human Smuggling and Human Trafficking* are informed of the disappearance and the police is informed of additional risks
<b>NO</b>	✓*	✓*			✓*
<b>PL</b>	✓*				
<b>RO</b> <sup>70</sup>					

<sup>69</sup> No specific information provided.

<sup>70</sup> No specific information provided.

A) CHILD'S DISAPPEARANCE (The following authorities are involved):					
	Asylum authorities	Reception authorities	Social welfare authorities (child protection services)	Other actors	Police
<b>SE</b>	✓ SMA reports to the other authorities	✓	✓		✓
<b>SI</b>		✓		✓ Institution where the child is accommodated, legal representative	✓*
<b>SK</b>	✓ Migration Office)*	✓ The orphanage will inform the other authorities		✓ court* / guardian*	✓*

#### Example from practice: referral in case of disappearance or risk of disappearance

In the **NL**, if there is an indication or a real suspicion of premature departure and/or occurrence of a suspicious situation, the unaccompanied minor will be placed in the protected shelter. Here additional security measures are taken, such as additional security and supervision. Furthermore, the (local) police is informed of any additional risks. In some cases, an employee knows that an unaccompanied minor is planning to leave the shelter. In that case, the staff of the shelter tries to convince the child to stay.

If an unaccompanied minor departs prematurely from the protected shelter, the police is immediately warned and NIDOS and the Expertise Center for Human Smuggling and Human Trafficking (EMM) are informed. Furthermore, the parties involved will meet and decide on further actions to try to find the minor based on the available information. If the police finds the minor, they will return them to the protected shelter. If the minor is not found, the guardian (NIDOS) will file a report with the police. In addition to these measures, there is one multidisciplinary risk analysis of the vulnerabilities of minors in the protected shelter to assess extra protection needs, what kind of follow-up is appropriate and whether the minor needs additional guidance and protection.

#### Where the child shows indications of being/been trafficked or abused<sup>71</sup>

The following authorities are involved and those responsible to take the primary actions have been flagged with an asterisk (\*):

- ⇒ The asylum authority in **AT, BE, CY, DE\*, DK, FI, IE, NO, SE** and **SI**;
- ⇒ The reception authorities in **AT, BE, DK, FI, LT\*, NL, NO** and **SI**;
- ⇒ Child protection authorities in **AT, DK, LT\*, NL** (NIDOS and EMM), **NO** and **SI**;
- ⇒ Social Welfare authorities in **CY\*, DE\*, DK, EL, SE\*** if suspicious of child mistreated and **SI**;
- ⇒ Police in **AT\*, BG\*, DK<sup>72</sup>, EL, FI\*, FR, HU, IE\*, NL\*, NO, PL\*, SE\*, SI** and **SK\***;
- ⇒ Judicial authorities and other actors in **AT\*, DK** (Danish Red Cross), **EL** (public prosecutor), **FR\*** (public prosecutor) and **SI** (legal representative, NGOs).

EASO and UNHCR specific guidelines are used in **EE**, while in **ES**, there are specific protocols that apply in cases of trafficking or abuse as well as any other form of violence suffered.

<sup>71</sup> In the MS marked with an asterisk, the authorities involved share responsibility for taking the first steps/actions.

<sup>72</sup> May also contact the Danish Centre against THB.

B) INDICATIONS OF BEING OR BEEN TRAFFICKED OR ABUSED						
	Asylum authorities	Reception authorities	Child protection authorities	Social Welfare authorities	Judicial authorities and other actors	Police
AT	✓	✓	✓		✓*	✓*
BE	✓ Immigration Office	✓ Reception centre - sent to specialised shelter				
BG						✓* National Commission for Combating THB
CH	Cooperation with the competent (cantonal) authorities (e.g. prosecution authorities, cantonal child protecting authorities, NGOs, etc.)					
CY	✓ Identifies the case			✓*		
DE	✓* Special trained staff (Sonderbeauftragte)			✓ Youth Welfare Service *		
DK	✓ Danish Immigration Service contacts the Danish Centre against THB	✓	✓	✓	Danish Red Cross	✓ May also contact the Danish Centre against THB ✓* Danish Centre against Human Trafficking is contacted by or Danish Red Cross Danish Immigration Service
EE <sup>73</sup>	Specific guidelines					
EL				✓ National Centre for Social Solidarity	✓ Public Prosecutor	✓ Competent department of the Police
ES <sup>74</sup>	Specific Protocol applies. Asylum procedure may be suspended until the well-being of the minor is guaranteed in general terms and depending on the profile of vulnerability.					
FI	✓ Contact the reception unit	✓				✓* National assistance system for victims of trafficking
FR					✓* Public Prosecutor	✓ Police, forensic medicine

<sup>73</sup> Case by case analysis.<sup>74</sup> No specific information provided.



B) INDICATIONS OF BEING OR BEEN TRAFFICKED OR ABUSED						
	Asylum authorities	Reception authorities	Child protection authorities	Social Welfare authorities	Judicial authorities and other actors	Police
HU						✓ psychological help
IE	✓ IPO informs the police					✓* Police
IT <sup>75</sup>						
LT		✓*	✓*			
LV <sup>76</sup>	In all these cases, authorities involved in the asylum procedure needs to act in accordance with legislation. No specific procedures have been made so far.					
NL	✓ Place minor in protected shelter		✓ NIDOS and EMM			✓* Expertise Center* for Human Smuggling and Human Trafficking
NO	✓ *	✓ *	✓ *			✓ *
PL						✓* Border Guard/ National Consulting and Intervention Centre for the victims of trafficking
RO <sup>77</sup>						
SE	✓ The SMA reports to police/ social services			✓* If suspicions that the child has been mis-treated		✓* Police
SI	✓	✓	✓	✓	✓ Legal representative, NGOs	✓
SK						✓* Police

#### Example from practice: referral to competent authorities and support

**HU:** If it can be established that the child applicant was trafficked or abused, or there is a case of gender-based violence, the applicant has the opportunity to receive psychological help. The rules for applicants with special needs will be applied. Their situation will be taken into consideration during the asylum process.

<sup>75</sup> No specific information provided.

<sup>76</sup> Authorities involved in the asylum procedure need to act in accordance with legislation. No specific procedures in place.

<sup>77</sup> No specific information provided.

### Where there is an imminent case of gender-based violence such as forced marriage<sup>78</sup>

The following authorities are responsible to take the necessary steps to protect the child and those responsible for taking the primary actions have been flagged with an asterisk (\*):

- ⇒ the asylum authority in **AT, BE, CY, DE\*, DK, FI, IE, NO, SE** and **SI**;
- ⇒ the reception/accommodation authorities in **AT, BE, DK, FI\*, LT, NO** and **SI**;
- ⇒ child protection authorities in **AT, BG\*, DK, LT NL\*, NO** and **SI**;
- ⇒ social welfare authorities in **CY\*, DE\*, DK, EL, SE** and **SI**;
- ⇒ police in **AT\***(criminal investigation department), **DK, EL** (competent department of the police), **FI** (if security concerns), **IE\*, NL, SE, SI** and **SK\***;
- ⇒ judicial authorities (public prosecutor) in **AT\*, EL, FR\*, NL** and **NO**;
- ⇒ NGOs in **SI**.

C) IMMINENT CASE OF GENDER-BASED VIOLENCE, SUCH AS FORCED MARRIAGE IN YOUR COUNTRY						
	Asylum authorities	Reception/ accommodation authorities	Child protection authorities	Social welfare authorities	Judicial authorities and other actors	Police
AT	✓	✓	✓		✓* Public Prosecutor	✓* Criminal Investigation department
BE	✓	✓ Reception centre - separate accommodation if under 16 years				
BG			✓* Child Protection Department			
CH	Cooperation with the competent (cantonal) authorities (e.g. prosecution authorities, cantonal child protecting authorities, NGOs etc)					
CY	✓ identifies the case			✓*		
DE	✓* Special trained staff (Sonderbeauftragte)			✓* Youth welfare service		
DK	✓	✓ If municipal authorities decide that the child needs social measures, the operator of reception or accommodation centre decides the measures	✓	✓		✓
EE	Cases are processed on a case by case basis					
EL				✓ National Centre for Social Solidarity	✓ Public Prosecutor	✓ Competent department of the Police

<sup>78</sup> In the MS marked with an asterisk, the authorities involved share responsibility for taking the first steps/actions.

C) IMMINENT CASE OF GENDER-BASED VIOLENCE, SUCH AS FORCED MARRIAGE IN YOUR COUNTRY						
	Asylum authorities	Reception/ accommodation authorities	Child protection authorities	Social welfare authorities	Judicial authorities and other actors	Police
ES <sup>79</sup>	Specific protocol applies. Asylum procedure may be suspended until the well-being of the minor is guaranteed in general terms and depending on the profile of vulnerability.					
FI	✓ Contact the reception unit	✓*				✓ If security concerns
FR					✓* Public Prosecutor	
HU						✓ Receives psychological help <sup>80</sup>
IE	✓ IPO informs the police					✓* Police
IT <sup>81</sup>						
LT		✓	✓			
LV	In all of these cases, authorities involved in the asylum procedure need to act in accordance with legislation. No specific procedures have been made so far.					
NL			✓* NIDOS		Public prosecutor	✓
NO	✓*	✓*	✓*		✓*	
PL <sup>82</sup>						
RO <sup>83</sup>						
SE	✓ SMA reports to the other authorities			✓		✓ Police
SI	✓	✓	✓	✓	✓ NGOs	✓
SK						✓* Police

#### Example from practice: cases of forced marriage

In the **NL**, the government wants to prevent forced marriage. The law on marriage in the NL requires both partners to be at least 18 years old. If someone under 18 marries (or has married) abroad, the government will not recognise the marriage until both partners have reached the age of 18. This is set out in the Forced Marriage (Prevention) Act. In all cases involving child marriage, NIDOS will make an assessment and decide if a child can be placed in a shelter with the partner. It is up to the guardian to decide the best interests of the child. However, under the age of 16 (and in cases of forced marriage) children will not be placed with a partner.

<sup>79</sup> No specific information provided.

<sup>80</sup> In **HU**, if it can be established that the child applicant was trafficked or abused, or it is a case of gender-based violence, the applicant has the opportunity to receive psychological help. The rules for applicants with special needs will be applied. Their situation will be taken into consideration during the asylum process.

<sup>81</sup> No specific information provided.

<sup>82</sup> No specific information provided.

<sup>83</sup> No specific information provided.

### In cases of disability, health issues, pregnancy, etc.<sup>84</sup>

The following authorities are involved and those responsible for the primary actions have been flagged with an asterisk.

- ⇒ The asylum authority in **CY, DE, DK, FI, IE, NO** and **SI**;
- ⇒ The reception/accommodation authorities in **AT, BE\*, DK, FI, LT, NO, PL** and **SI**;
- ⇒ Child protection authorities in **AT\*, DK, LT, NL** and **NO**;
- ⇒ Social Welfare authorities in **AT, BE\*, BG\*, CY\*, DE\*, DK, EL, FR, HU, SE\*, SI** and **SK\***;
- ⇒ Other actors/authorities **BG** (health authorities), **DK** (health authorities), **IE\*** (police) and **SI** (legal representative).

D) IN CASE OF DISABILITY, HEALTH ISSUES, PREGNANCY, ETC.						
	Asylum authorities	Reception authorities	Child protection authorities	Social Welfare authorities	Judicial authorities	Other actor/ authority
<b>AT</b>		✓	✓* Youth Welfare	✓		
<b>BE</b>		✓* Separate reception and adapted		✓* Belgian health system in cases of extremely serious medical problems <sup>85</sup>		
<b>BG</b>				✓* Social and health authorities		✓ Health authorities/ other
<b>CH</b>	Cooperation with the competent (cantonal) authorities (e.g. prosecution authorities, cantonal child protecting authorities, NGOs, etc.					
<b>CY</b>	✓ identifies the case			✓*		
<b>DE</b>	Special needs will be taken into account as much as possible for the interview			✓*		
<b>DK</b>	✓	✓ If municipal authorities decide that the child needs social measures, the operator of accommodation centre decides the measures	✓	✓		✓ Health authorities
<b>EE</b>	The cases are processed on a case by case basis					
<b>EL</b>				✓ National Centre for Social Solidarity		
<b>ES</b> <sup>86</sup>	Specific Protocol applies. Asylum procedure may be suspended until the well-being of the minor is guaranteed in general terms and depending on the profile of vulnerability					

<sup>84</sup> In the MS marked with an asterisk, the authorities involved share responsibility for taking the first steps/actions.

<sup>85</sup> Involving unaccompanied children.

<sup>86</sup> No specific information provided.

D) IN CASE OF DISABILITY, HEALTH ISSUES, PREGNANCY, ETC.						
	Asylum authorities	Reception authorities	Child protection authorities	Social Welfare authorities	Judicial authorities	Other actor/ authority
FI	✓ Contact the reception unit	✓				
FR				✓ Healthcare		
HU				✓ Healthcare		
IE	✓ IPO informs the police					✓* Police
IT <sup>87</sup>						
LT		✓	✓			
LV	In all of these cases, authorities involved in the asylum procedure needs to act in accordance with legislation. No specific procedures have been made so far.					
NL			✓ NIDOS			
NO	✓*	✓*	✓*			
PL		✓ Specialised care centres				
RO <sup>88</sup>						
SE				✓* Healthcare services contacted by the guardian		
SI	✓	✓		✓	✓ Legal representative	
SK				✓* Healthcare services		

#### Example of practice: cases of disability, health issues, pregnancy

**DK:** In cases of disability, health issues, pregnancy as well as cases of gender-based violence, such as forced marriage etc., the following measures are in place:

Unaccompanied asylum seeking and migrant children who fall under the DIS provision are, as a general rule, accommodated in special children's asylum centres. The staff of these centres are trained to cater for the specific needs of vulnerable children.

Upon the arrival of an unaccompanied minor in **DK**, a personal representative is appointed in order to serve the minor's interests. The personal representative is appointed as early in the process as possible and prior to any return decision and is engaged with the child throughout the whole process. The appointment ends when the child turns 18 years old.

<sup>87</sup> No specific information provided.

<sup>88</sup> No specific information provided.

## Section 5. Specialisation and training of staff

This section shows the different tools and trainings to qualify and specialise the staff in contact with children or handling the files of children.

The majority of the responding States (**AT, BE, CH, CY, DE, DK, EE, EL, FI, FR, HU, IE, IT, LV, NL, NO, SE, SI** and **SK**) have specific arrangements in place for examining applications for international protection sought by children. Among them, 13 EU+ States (**AT, BE, BG, CH, CY, DE, DK, EL, FI, FR, NL, NO** and **SE**) have specialised case officers/units who receive specific relevant training. In **BG, ES, LT** and **PL** specific arrangements for examining children's applications are not in place. **RO** did not specify in this regard.

In ten EU+ States (**BG, EE, ES, IT, IE, LT, LV, PL, RO** and **SI**), the case officers dealing with applications for international protection submitted by children are specifically trained while in **HU, IE** and **SK** there are specialised officers dealing with child applications but no training is provided.

Other arrangements in place include:

- ⇒ specific arrangements that would be in the BIC in **EE, EL** (particular premises, where possible), **FI**<sup>89</sup> and **SE**;
- ⇒ adapted interview rooms in **BE, CY, DE, FR, IE, NL, IT, PL** and **SK**;
- ⇒ training provided to interpreters in **BE, DE**<sup>90</sup>, **FR** and **IE**;
- ⇒ interpreters of the same gender in **CY, FR** and **SE**;
- ⇒ trained legal representative in **DK, FR** and **SE**;
- ⇒ specific arrangements are provided according to the individual needs in **SI**;
- ⇒ specific guidelines are provided **CH, EL, FR**;
- ⇒ psychologist present in **PL, FR** (if the child has mental health problems).

### Example from practice: Specialisation

In **BE**, for example, there is a specialised team handling asylum applications submitted by children. This team of experts receives specialised training and directives regarding the handling of asylum applications from children and they have regular meetings regarding child-specific subjects (both accompanied and unaccompanied). Similar arrangements are in place in **SK** while in **SE**, the examination of the asylum application is adapted to the child's age and maturity and takes place in premises adapted for children.

In **DK**, case officers take into account the child's age, maturity, nationality and background when explaining the asylum procedure, and the questions and interview techniques are adapted in this regard. This is to ensure that the child understands the asylum procedure and questions.

In **PL**, specialised psychologists provide assistance during interviews with children.

## Training

Case officers receive specific training on handling applications for international protection sought by children in 23 EU+ States (**AT, BE, BG, CH, CY, DE, DK, EE, EL, ES, FI, FR** (those designated to interview children), **HU, IE, IT, LV, NL, NO, PL, RO, SE, SI** and **SK**). In **LT**, no training is provided for case officers.

In 19 of the responding States (**AT, BE, BG, CY, DE, DK, EE, EL, ES, FI, FR, HU, IT, LV, NL, PL, RO, SE** and **SK**) a combination of EASO training modules, tools and practical guidelines are used. The EASO tools are used in 18 of the responding States (**AT, BG, CH, CY, DE, DK, EE, EL, ES, HU, IT, LT, LV, NO, PL, RO, SE** and **SI**). The EASO practical guidelines are followed in 5 EU+ States (**CY, EE, HU, LV, NO**) and the EASO training modules in 17 MS (**AT, BE, BG, CH, CY, EL, FI, FR, HU, IT, LV, NL, PL, RO, SE, SI** and **SK**).

<sup>89</sup> The case officer requests the BIA from the social worker

<sup>90</sup> In the form of a special video tool.

In **BE**, completing the EASO Interviewing Children Module is compulsory. A further specialised 3-day training regarding the child in the asylum procedure, focusing on stages of development, trauma, cultural sensitivity, loss, the effects of migration on children and resilience is also part of the national compulsory training for case officers handling child applications. Further specialisation for some case officers of the minors' team is provided by means of the EASO Modules on IVP and SOGI. In **CY**, Experienced case officers handle child applications for international protection after having received a number of training sessions including the EASO modules. Similarly, in **EE**, case officers have passed EASO's module as well as appropriate internal training.

Ten of the responding States have national training in place (**AT, BE, CH, DE, DK, FI, FR, NO, PL** and **SE**). In **AT**, case officers are offered specific training on interviewing children by national experts at regular intervals. Similarly, in **CH** and **DK**, specific training regarding the technique of interviewing children and the BIC is provided. In **DE**, special basic training on national law and practice is provided as well as psychological background information where necessary. In **NO**, national training on interviewing techniques, age assessment, credibility assessment, the BIC and other child-specific legal requirements is provided. In **SI**, public officials receive regular training as per the International Protection Act, and specifically on the treatment of minors and providing assistance for the efficient exercise of minors' right.

In addition, some states (**CH, FR, IE – TUSLA**) adopt their own national/internal guidelines.

Country of origin (COI) reports are used in nine EU+ States (**CH, DK, EE, EL, FR, IT, PL, SI** and **SK**) while UNHCR guidelines are followed in nine MS (**CY, DK, EE, FR, HU, IE, LV, RO** and **SK**).

## Specialisation on child-related issues

The possibility to seek advice, when necessary, from experts on child-related issues is available in 21 of the responding States (**AT, CH, CY, DE, DK, EE, EL, ES, FI, FR, HU, IE, IT, LT, LV, NO, PL, RO, SE, SI, SK**). Experts can seek advice from:

- ⇒ Experts within the unit/specialised unit: **CH, DE, FI, FR, HU, NO**
- ⇒ Specialised institutions (Child protection authorities/ public prosecutor): **EE, EL, ES, HU, IE, SI**
- ⇒ Other experts (i.e. doctors, psychologist, lawyers): **DK, EE, IT** (in reception centres), **LV, SK**
- ⇒ External professional advice: **CY<sup>91</sup>, DE, SI**;
- ⇒ Operational and legal specialists: **SE**

This option is not available in **BE** and **NL**.

**BG** did not provide specific information on the possibility to seek advice from experts on child-related issues.

<sup>91</sup> In the framework of the EASO Special Support Plan to Cyprus, the specialised case officers have the opportunity to discuss these kinds of matters with EASO experts deployed to Cyprus.

## Recommendations

Based on the key findings from the mapping and inspired by the good practices adopted by the respondent authorities and other stakeholders, EASO proposes the following recommendations to respond to the identified challenges and issues undermining the effective protection of children in asylum procedures.

### Operational definitions

Practice shows some important differences in the figures and roles analysed throughout the EU territory, which creates a disparity in the consideration and treatment of children with similar cases.

► While respecting the particularities of the national systems, authorities should enhance convergence in the categorisation and treatment of children so that they receive the same protection regardless of the host state.

### Children accompanied by parents

There is a risk that the protection needs of children accompanied by their parents are overlooked. Such needs should be addressed independently of whether the child is an applicant in their own right or as a dependant of their parents in the asylum procedure. In some cases, the interests of the child and the interests of the parent(s) may diverge or even be in conflict. In such situations, hearing the views of the child is of paramount importance. Not only because it is a right enshrined in the CRC, but also as an opportunity for the case officer to **explore potential grounds for international protection** that the child might not be willing to share in the presence of their parents (e.g. sexual orientation or gender identity claims).

► Ensure accompanied children participate actively in decisions affecting their lives and are heard during the asylum interviews.

In that sense, effective information provision and the presence of the safeguards such as ‘confidentiality’ or ‘access to a legal advisor’ are of particular relevance to the accompanied child. The national asylum authority, together with CP actors, need to assess whether the child should be interviewed in the presence of the legal advisor as opposed to the presence of the parents. These actors also need to assess whether the parents should have access to the child’s case file where it contains confidential information, and whether the child and the parents should be issued separate decisions on their applications for international protection.

► It is of utmost importance that the child’s statements are not used against the child when examining their application for international protection, or when examining the application of the parents. The child should be informed and reassured of this during the interview.

Overall, the asylum national authority should ensure that whenever dealing with a case such as this that the child is not placed in a situation that could cause them harm and that confidential information is not provided to the parents without the child’s consent. Whenever signs of abuse and/or exploitation are noted, the responsible officer will ensure that the responsible authorities are informed accordingly and that the **child receives assistance and care**.

### Unaccompanied children

Children who are not accompanied by their parents or by an adult responsible for them, or who find themselves in this situation after entering the territory, are unaccompanied and should be considered and treated as such. The appointment of a representative and/or guardian should be immediate so as not to prolong the period in which the child is in a situation of such acute vulnerability.



► The role of the representative in the asylum procedure requires a person who is aware of the national asylum procedure and can help the child navigate through it.

The role of the representative, or guardian where applicable, requires independence, knowledge, and dedication. It is important that the role is free from any conflict of interest and exercised by professionals, not other applicants for international protection.

## Separated children

Children who are accompanied by relatives or unrelated adults are unaccompanied children and should be provided with the necessary safeguards, including the assignment of a guardian or representative just as with any other unaccompanied child. Separated children may face particular risks and vulnerabilities in the hands of the accompanying adult, especially where the adult is unable to provide effective care for the child or may abuse the child. In order to prevent this, the relationship between the child and the adult should be thoroughly assessed.

Consequently, siblings, spouses, family members or other relatives or persons accompanying the child should not be considered responsible for the child. In order to identify a suitable caretaker, child protection authorities should conduct an exhaustive assessment of the capacity and willingness of the person to take care of the child.

► Ensure an assessment of the capacity and willingness of the caretaker is conducted and the care arrangements are in the child's best interests.

It is particularly important to verify the connections and links between the child and the adult to ensure that the relationship is in the child's best interests. However, this verification should not be limited to documented family links or blood relations (extended family or primary caretakers may not be related by blood). At the same time, not allowing the child to have contact with the accompanying adult, who may be the only person of trust for the child in the situation of displacement, may also be harmful for the child. All relevant elements, including the risks of trafficking and or exploitation, must be carefully considered in terms of the child's best interests.

Proceeding through separate asylum applications, not being present at the child's interview or not being formally appointed as the guardian of the child do not imply physical separation of the family unit. The separation of the family should happen only when it is in the child's best interest (where there are indications the child is at risk).

## Married children

Married children should be considered and treated as children in all cases.

The CRC Committee<sup>92</sup> recommends setting the minimum age for marriage with and without parental consent to 18 years, for both girls and boys. Furthermore, the Council of Europe calls on its Member States to 'fix at or raise to 18 years the minimum statutory age of marriage for women and men'. The Council further urges its Member States to 'refrain from recognising forced marriages and child marriages contracted abroad except where recognition would be in the victims' best interests with regard to the effects of the marriage, particularly for the purpose of securing rights which they could not claim otherwise.'<sup>93</sup>

The EU asylum *acquis* definition of an unaccompanied child<sup>94</sup> does not exclude married children. Therefore, the married child ought to be considered unaccompanied and benefit from the special procedural

<sup>92</sup> CRC Committee, General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6, paras. 23-24

<sup>93</sup> Council of Europe Parliamentary Resolution 1468 (2005) on forced marriages and child marriages, available at <http://assembly.coe.int/nw/xml/xref/xml2html-en.asp?fileid=17380&lang=en>

<sup>94</sup> Article 2(l) QD (recast).

guarantees available to unaccompanied children under the APD (recast), or accompanied if the child is accompanied by parents or an adult responsible (guardian or representative).

► In a situation where the child is separated from their parents or legal guardian, ensure that the spouse is not appointed as the child's guardian.

The appointment of the child's spouse as the guardian would create a situation of imbalance where the child would legally depend on the adult rendering the child vulnerable.

When considering the best interests of the married child during asylum procedures, the **relationship between the child and the spouse must be carefully considered**, to determine the purpose of the marriage and whether the child has provided consent to be married.

Remaining with an adult spouse should only be an option if it is beneficial for the child, after considering the reasons of dependency. It is important to consider whether the couple has children and if so, the right to family unity. In Member States where the age of consent is established by the nationality of the spouses, but not the Member States itself, special safeguards should be put in place.

Once it is established that the relationship is consensual and in the child's best interests, and only in such a case, it may be considered whether the child and the spouse should be assessed under the same application and how this may affect their reception arrangements. Close involvement of the relevant authorities in the Member State is required to ensure the protection of the child throughout the procedure.

## Children with their own children

It is important to consider whether the couple has children and if so, the right to family unity, and whether there may be additional protection concerns for those children. The best interests of the child's own children should also be assessed separately.

► Ensure a best interests assessment is performed for every child.

## Children at risk of, or victims of, trafficking

Any potential risks of trafficking of the child should be carefully considered, including in terms of reception conditions and counselling.

► Ensure all safeguards are in place to guarantee the protection and the safety of child victims or potential victims of THB, as well as their loved ones. These safeguards include applying the national referral mechanism to ensure adequate assistance.

Consider whether it is in the child's best interests to continue within the specific procedures for victims of trafficking or the asylum procedure, or whether the child should simultaneously continue in both procedures, depending on the national practice of the EU+ State concerned.

## Missing children

The disappearance of children from the official channels and procedures is one of the most concerning issues for the authorities and other stakeholders.

On the move, before and after entering the EU, children following EU migration routes undetected face the risk of becoming easy prey for trafficking networks. Often, the transporters of trafficking networks pose as regular smugglers to facilitate the transfer of the child to trafficking networks. In addition, smugglers may take advantage of a child's vulnerability to abuse them.

► Ensure the risk of the child disappearing/going missing from their accommodation for any reason, including to attempt to cross into another EU+ State, is assessed and measures to mitigate this risk are in place.

The risk can be mitigated by properly informing the child of the asylum procedures and the expected timelines; by regularly providing the child with clear, understandable and age-appropriate information, specifically on the consequences and risks of attempting to travel irregularly to another EU+ State, whether alone or with the support of criminal networks or smugglers. Prioritising the case is another way of mitigating this risk.

## LGBTI children

Children can also have claims based on their sexual orientation, gender identity and expression. Early disclosure remains a challenge since often the child comes from a country where being an LGBTI person is a taboo and even a crime. Information provision is essential to make the child aware of the available protection in the host country.

It is also very important to have access to a specialised interpreter who has received training on the neutral and simple terms used in the target language, and thus will select those terms deprived of pejorative connotations. The interpreter and the interviewer should accept and mirror the terms used by the child to describe themselves (unless the terms are pejorative) and to refer to their circumstances as per relevant COI and not Eurocentric perceptions.

Additionally, it is very likely that the child has negative thoughts of not belonging to society, has suffered from stigma, isolation and feelings of shame.

► Ensure the way of assessing these grounds is through the description of these feelings and walking you through their thinking process.

The analysis of the claim should not be based on mannerisms or subjective presumptions (what a homosexual child should look like, or how they should behave, etc.); the consequences of one's prejudices. The case officer should never ask personal questions about the applicant's sexual practices and they must neither view nor accept any explicit material.

## Children with disabilities

Children with disabilities may have more difficulties understanding the information provided to them and may have difficulties effectively substantiating their application. Therefore, the case officer and those in contact with the child should assume a larger burden of proof and the benefit of the doubt should apply to its maximum extent. As a result of this, adopting a proactive and empathetic attitude is essential in terms of assessing special needs, and a referral for assistance should take place as required, for example for medical or psychological care and support or material assistance including at the reception stage.

► Ensure the necessary support (specialised interviewer and interpreter, adapted channels for information provision and premises) is made available.

No conclusions regarding the health diagnosis of the child or accompanying applicants should be included, unless a medical report is attached.

## Children with psychological trauma or distress

Experiences in their home country (such as war, deaths of family members or sexual abuse), during the journey (for example exposure to violence or discrimination) or in the host country (racism, uncertainty regarding their future legal status) might be traumatic in nature. Even though children prove to be very resilient, there is also a heightened risk that children develop mental health issues as a result of these difficult experiences.

The manner in which children react to stressful situations depends on their age and developmental stage. As a result of a severe experience of loss, the development of a child may deteriorate on a cognitive and emotional level. Children may have difficulties expressing their emotions, expressing grief or their

emotions as explosive behaviour. They may suffer from other common mental health problems due to the uprooting, including depression, anxiety, grief, sleep disturbance, as well as aggression, suicidal tendencies, and psychosis.

Psychological trauma or distress can affect the ability of a child to testify as to their experiences and therefore these vulnerabilities should be taken into account during the personal interview. In order to help children share their experiences, the **empathetic** attitude of the interviewer is essential.

► Ensure staff is trained in child-friendly interviewing techniques to prevent further trauma and distress.

Additionally, the case officer handling the case of the child should **proactively** seek information from other actors in order to complete the information obtained.

In cases of fragmented and disjointed thoughts, a **greater burden of proof** needs to be assumed by the case officer. Where the information obtained during the course of the personal interview is still not sufficient, the **benefit of the doubt** applies. Where the child appears to be deeply traumatised or unable to express themselves, the interview may be harmful for the child or hinder their recovery. In those cases, the interview should not take place or be postponed until the child is fit for it.

## Multiple vulnerabilities

The above recommendations target specific and additional vulnerabilities (child victims of THB, children with disabilities), however, there may be cases with less visible but equally important vulnerabilities (child victims of torture or other forms of serious physical and psychological violence including gender-based violence, etc.) which have not been identified. It is thus very important that the official is particularly sensitive to any additional indicators of special needs and indicators for other less identifiable vulnerabilities, in particular, those derived from child-specific persecution grounds (for example, a girl with serious health issues because she has been subjected to FGM).

Certain vulnerabilities can impair the child's ability to understand the international protection procedure and to present and substantiate their claim during the personal interview.

► It is the duty of every official to identify additional vulnerabilities at any stage and to make the necessary adjustments throughout the different stages of the procedure to ensure that the special needs of the child are met.

## Best interests of the child

The BIC is a primary consideration that may need to be balanced with the interests of others, including those of the State. The weight to be attached to the BIC will be part of the decision-maker's analysis. It will have high priority and will not be just one of several considerations<sup>95</sup>.

Giving primary consideration to the BIC is a continuous process that requires an assessment before any important administrative decision is made. The BIC processes should start before the asylum procedure and continue after it. While the child is in the asylum procedure, assessing the BIC remains an obligation of child protection, asylum authorities and other actors. Child protection actors will be simultaneously carrying out BIA for multiple purposes (reception, education, custody, etc.). At the same time, the asylum authorities are also responsible for giving primary consideration to the BIC at all stages of the asylum procedure. These assessments should feed each other, so that all processes may benefit from the necessary synergies and avoid overlaps.

<sup>95</sup> CRC Committee, [General comment No. 14 \(2013\) on the right of the child to have his or her best interests taken as a primary consideration \(art. 3, para. 1\)](#), 29 May 2013, CRC /C/GC/14, Section IV.A.4, paras. 36-40.

► When asylum authorities are the first to be in contact with the child, or they are in charge of different procedural/legal pathways, they could be called upon to initiate the BIC processes.

In these cases, and especially where they embed BIC-related questions and procedural guarantees in the personal interview, they should involve all relevant actors and not deprive the child of opportunities to be heard on the issue of their BIC separately.

The child's best interests should be considered prior to making any decision affecting the child. These decisions include deciding whether to separate the child's application from that of the parents, spouse or other family members, or whether to conduct a separate personal interview with the child without the parents present. Other decisions include, *inter alia*, whether it is in the child's best interests to be interviewed, in which location, when, and how long the interview should last; selecting an interpreter/case officer/registration officer dealing with the child's application; deciding to conduct age assessment<sup>96</sup> or begin family tracing of the child; and where to allocate the child, etc.

It is considered good practice to ensure any recommendation or assessment made regarding the child's best interests is further reviewed and approved, using the four-eye principle where at least two officers look at the case.

When assessing the BIC, if the child so wishes and if possible, the BIA interviews with the child could be done by an official-assessor and interpreter of the gender preferred by the child.

The assessors should proactively seek to obtain information from relevant sources for the purpose of the assessment, in particular from those knowledgeable about the child's situation (such as the guardian/representative, current caretaker, social workers at the reception centres, representative, family members, etc.). For this reason, the contact details of the relevant parties should be collected as required prior to the BIA.

Any decision-making process that takes the BIC as a primary consideration must include respect for the child's right to express their views freely. When the child decides they want to be heard, they can decide how (writing, drawing, orally), and whether directly or through a representative (guardian/parent). If the child has expressed their views, directly or indirectly, due weight must be given to said views in accordance to age and maturity.

When the child understands that their views are taken into consideration, they may be more willing to cooperate, which is further beneficial for the procedure. Taking into consideration the views of the child does not mean that all wishes might become true, but when possible, they will guide the process while the ultimate decision will depend on the circumstances of the case.

## The asylum procedure

These procedural guarantees and safeguards must always be ensured and applied as part of the asylum procedure for children. Procedural guarantees are obligations for the authorities and rights for the children.

### *Applying for international protection:*

Many of the safeguards specific to the asylum procedure can already be applied at the making of the application, from which moment the child is considered an applicant.

<sup>96</sup> Age assessment is the process by which the authorities seek to estimate the chronological age, or range of age, of a person in order to establish whether an individual is a child or an adult. Further information available at EASO, *Practical guide on age assessment*, 2018.

## Age assessment

When the age is unknown and there are substantiated doubts concerning the age, authorities may need to assess the age of the person to determine whether the person is an adult or a child. In application of the benefit of the doubt, the applicant should be considered and treated as a child until they are found to be an adult.

The age assessment process<sup>97</sup> must be conducted using a holistic and multidisciplinary approach that ensures that all the necessary safeguards and principles explored are in place and the rights of the applicant are protected. Since no single method currently available can determine the exact age of a person, a combination of methods assessing not only the physical development but also the maturity and the psychological development of the applicant can reduce the range of age in question.

► No method involving nudity or the examination, observation or measurement of genitalia or intimate parts should be used for age assessment purposes.

Once the child applicant is found to be unaccompanied by the parents or any responsible adult, a guardian/representative should be immediately nominated and the child should be informed early on about the family-tracing process. Being informed and understanding the process and its purpose would further help the child to provide the information needed to initiate family tracing.

## Family Tracing

The purpose of family tracing is to find information regarding the whereabouts of the unaccompanied child's family members or former caregivers.

The information gathered may enable relevant stakeholders to identify the child's individual needs and depending on these needs, to elaborate and provide adequate and personalised protection and care, as well as to determine the best interests of the child based on their individual circumstances.

Once it is confirmed that tracing is in the best interests of the child, the family-tracing process should be initiated without undue delay and prioritised while respecting the procedural safeguards. However, a period of reflection and rest for the child is advisable.

► In the event of successful family tracing, and provided it is in the child's best interests, this may lead to re-establishing family relations. Ultimately, it may lead to reunification of the child with the family assessment purposes.

Once the family is found or if the child appears accompanied by adults who claim to be their family members or relatives, authorities need to authenticate the existence of the family relationship between the child and the alleged family member. The capacity and willingness of the family member to take care of the child and act in their best interests needs to be assessed.

## Prioritisation

The asylum procedures for children should be treated with high priority. Prioritise means to act first, not to act fast.

► Prioritising a file implies taking the necessary decisions related to the file as soon as possible.

This is compatible with putting the procedure on hold where this would be most fitting in the circumstances (child at risk or victim of THB, child in need of therapy to help them to open up, representation or interpretation is not available, etc.). This is fitting provided that the assessment and the decision to

<sup>97</sup> Further guidance can be found in the EASO, *Practical guide on age assessment*, 2018.

suspend the procedure are made in a swift manner. If this is the case, the child and the guardian should be immediately informed about the duration and the reasons of the suspension. It should be ensured that children in need of international protection are not kept waiting without compelling circumstances that justify this decision. The decision to suspend the procedure should be regularly reassessed.

## Vulnerability assessment and identification of special needs

Identifying the special procedural needs of children is also an obligation under the APD (recast) as well as conducting vulnerability assessments — as per the Reception Conditions Directive (recast). This can entail engaging all actors such as child protection actors or service providers.

► Ongoing BIAs should take into account the fact that the capacities or special needs of the child will evolve over time and measures taken can be revised or adjusted accordingly, as opposed to making definitive or irreversible decisions.

Throughout the asylum procedures, children have to be protected from all forms of violence, abuse, neglect and exploitation. Asylum officials have to take into consideration and be alert to possible indicators of vulnerabilities and risks, including absconding, in order to ensure the safety of the child throughout the asylum procedures. This could include, inter alia, questions about the child's experiences back home, during travel or in the camp, health aspects, and the relationship with their accompanying family and/or caretaker.

Information on the well-being of the child, and any protection or safety concerns should be collected. Collecting such information and giving due weight to it can contribute to ensuring the protection of the child, for example to prevent the child from falling into the hands or establishing contact with persons who have abused, harmed or trafficked the child.

The issues referred to in these recommendations may affect reception conditions and reception/accommodation standards<sup>98</sup>.

## Representation

According to the FRA<sup>99</sup>, the use of the terms guardian, representative, and legal representative, is inconsistent throughout the EU, and national terminologies also vary. Therefore, the reference to identify these figures should be on the functions of the appointed person more than the term assigned. The role of the representative in the asylum procedure, as foreseen in the EU asylum *acquis*, requires a person who is aware of the national asylum procedure and can help the child navigate through it. Crucial tasks in the asylum procedure (such as providing reliable information to the child, preparing the child for the personal interview, giving consent on the child's behalf, identifying the special needs of the child and acting in the child's best interests) are entrusted to the guardian/representative.

► In light of these obligations, authorities should ensure those appointed are free from conflict of interest and that they are capable of effectively fulfilling this role with independence, expertise, and dedication.

Consequently, professionals (in a broad sense, including volunteers or staff who have received appropriate training) are the best equipped to perform this role, as opposed to related international protection applicants, who have to deal with the uncertainty of their own legal status.

In order to enable the guardian/representative to perform some of these tasks, they should be fully informed of the procedures and provide consent where in line with the best interests of the child. They should be present in any interview conducted with the child, as the guardian's presence is part of the guarantees that the child's rights are respected during the interview. However, in the cases of children

<sup>98</sup> See EASO, *Guidance on reception conditions for unaccompanied children: operational standards and indicators*, December 2018.

<sup>99</sup> See FRA, *Report on Guardianship systems for children deprived of parental care in the European Union*, October 2015.



with parents or separated children, where the guardian/representative is another applicant who may have their own difficulties navigating the system or may limit or influence the narration of the child, the best interests of the child could necessitate that they are not present during the interview.

## Information provision

In order to avoid language barriers and communication problems, information shall be provided in a language that the child understands. To avoid overburdening children with extensive information at the reception intake, the provision of information may take place in a time- or phase-specific manner, in line with the individual needs of the child and according to their capacity. Safeguards should be in place to ensure that the child can express their views, wishes and opinions, ask questions and make an informed decision to participate in the process.

The guardian has a key role to ensure that the child has been adequately informed and understands the procedures and the possible outcome of these procedures.

► Children should be informed about the asylum procedures and their understanding should be checked, including their understanding of the consequences for their life.

## Child-friendly interview<sup>100</sup>

The child's best interests should be taken into account when deciding whether and how to interview the child during the asylum procedure. An individual assessment should consider not only the capacity of the child to form their own views and ability to communicate (i.e. where not practicable due to the type of disability, etc.), but also their recovery from traumatic experiences and the impact of the interview on their mental health. The individual assessment should also consider the availability of information obtained from previous interviews and other sources. They may not need to have a personal interview for international protection if their parents' account sufficiently ensures their status and no indications of individual grounds have risen.

► Once the personal interview is considered beneficial for the child, it should be adapted to their special needs.

It is recommended the length of the interview and the breaks are adapted to the child's attention and that the responsible officer and interpreter are as informal and empathetic as possible. If possible, the child should be asked whether they have a preference as to the gender of the official and the interpreter. Depending on the background of the child, it might be that they choose someone from the opposite sex, e.g. a boy who is a survivor of sexual abuse by a man may wish to have a female official and interpreter present.

Information should be given in a straightforward and clear way. Understanding needs to be checked, as some children might not dare to ask questions due to age, cultural background or psychological state. When conducting a personal interview with child applicants it is vital that the interviewer obtains information about the general situation of children in the country of origin. The position of children in society can be different depending on the child's region or country of origin. In some cultures, the social position of an individual increases based on age and children have very limited rights or legal protection granted.

## Right to be heard

The right to be heard applies to all children capable of forming their own views regardless of their age. Hearing the child's views should not be limited to a specific age since the understanding and capacity of the child to form and express their views is not always linked to their chronological age.

<sup>100</sup> For further training on how to conduct a personal interview with children for children, you can register for the EASO Training Curriculum module on Interviewing Children.



► All children have the right to express their views and authorities shall give those views due weight as per their age and maturity.

As a result, the maturity of children needs to be assessed individually by a child psychologist or social workers experienced in working with children. This assessment will be informative when it comes to adapting the language for the provision of information to unaccompanied children and for verifying their understanding. Additionally, in order to empower children to express their views, procedures need to be adapted.

## Decision-making process

When assessing the substance of the international protection application, due attention needs to be given to the heightened risk factors to which children are exposed and child-specific forms of persecution or serious harm (for example, underage recruitment in armed forces, child trafficking, sexual exploitation and/or infringements of specific rights of the child, and harmful traditional practices).

In the preparation phase, the case officer should consult and obtain detailed knowledge about child-specific COI.

Where possible, the responsible officer should actively seek to obtain information from relevant sources in order to assess appropriately the child's best interests in the asylum procedure. With due consideration paid to data protection and confidentiality, and in line with the safety and protection of the child, those knowledgeable of the child's situation should be contacted (such as persons of trust, guardian/representative, current caretaker, social workers at the reception centre, teacher, etc.).

Not only when interviewing but also when assessing the evidence or the account given by the child, the case officer should be mindful of the way children communicate. Children are not able to explain things in the same way as adults. This limitation is particularly evident when we take into account the impact that age and potential trauma and/or psychological conditions have on the memory and the capacity to give complete and coherent information and thus on the credibility assessment during the examination. Consequently, authorities should assume the larger extent of the burden of proof in cases of children and particularly unaccompanied or vulnerable children. Additionally, when substantiating the application of a child, the benefit of the doubt shall be applied as broadly as possible, particularly in the case of unaccompanied children who are less likely to have documentary evidence.

► Once the decision is made, authorities need to ensure that the child is provided with a written, reasoned asylum decision (explaining, *inter alia*, how the best interests of the child were taken as a primary consideration), explained orally in an age-appropriate manner and in a language the child can understand.

In the event of a negative decision, information on possible alternative legal pathways (e.g. authorisation for regular stay or residence due to their age and/or vulnerability) should be given to the child and the guardian, or at least they should be referred to information provision services.

When some of the abovementioned safeguards are not in place, the examination of the application for international protection might have to be put on hold. This should be weighed depending on the nature of the missing safeguard(s).

## National referral mechanism

For asylum-seeking children, the involvement of child protection services in referral mechanisms is currently limited and should be reinforced and ensured. All relevant stakeholders at central and local level should meet at regular intervals in case there is no information sharing system in place. It should always be clear which authority is responsible for appointing a guardian/representative or giving access to the most suitable procedures for the child, in order to avoid protection gaps due to different authorities believing others are responsible for certain aspects of the child's case.

► Ensure child protection authorities are involved and that identified concerns (including abuse, trauma, violence, special needs/vulnerability, medical problems, etc.) have been collected, documented, and communicated with other responsible national authorities protecting the rights of the child.

When risks or vulnerabilities have been identified, special procedural guarantees to meet their needs should be in place. Additionally, the child should be referred for support and/or further assessment within the asylum authority, or to another service provider or authority, such as the reception or child protection authority, to ensure the child's safety and well-being. This referral may be for professional consultation or legal counselling. An example is the referral of child victims of trafficking to appropriate referral mechanisms, ensuring the communication of international protection and anti-trafficking systems.

For those children with special needs, referral for assistance should take place as required, for example for medical or psychological care and support or material assistance, i.e. for children with disabilities. No conclusions regarding the health diagnosis of the child or accompanying applicants should be included, unless a medical report is attached.

It is considered good practice to extend the assistance beyond 18 years of age to grant a transition period for gradually acquiring full autonomy, especially in cases of unaccompanied children or children in need of treatment to guarantee a full recovery.

## Qualified staff

Asylum officials engaging with children should be qualified, experienced in working with children and appropriately trained. The officials dealing directly with the child should be trained on the use of child-friendly interview techniques. EU+ States should appoint qualified and specially trained staff to deal with children's cases and provide continuous capacity building to their staff. The interpreters should also be trained on and familiar with interpreting for children.

► Decisions on a child's application for international protection must be taken by a competent authority fully versed in all legal instruments relating to children's rights, trafficking and other relevant protection matters.

In addition to training, it is important that the attitude of the officer and the interpreter allows the child to feel at ease. The competent officer and interpreter should be as informal, proactive and empathetic as possible.

## **Getting in touch with the EU**

### **In person**

All over the European Union there are hundreds of Europe Direct information centres. You can find the address of the centre nearest you at: <http://europa.eu/contact>

### **On the phone or by email**

Europe Direct is a service that answers your questions about the European Union. You can contact this service:

- by freephone: 00 800 6 7 8 9 10 11 (certain operators may charge for these calls),
- at the following standard number: +32 22999696 or
- by email via: <http://europa.eu/contact>

## **Finding information about the EU**

### **Online**

Information about the European Union in all the official languages of the EU is available on the Europa website at: <http://europa.eu>

### **EU publications**

You can download or order free and priced EU publications from EU Bookshop at: <http://publications.europa.eu/eu-bookshop>. Multiple copies of free publications may be obtained by contacting Europe Direct or your local information centre (see <http://europa.eu/contact>).

### **EU law and related documents**

For access to legal information from the EU, including all EU law since 1951 in all the official language versions, go to EUR-Lex at: <http://eur-lex.europa.eu>

### **Open data from the EU**

The EU Open Data Portal (<http://data.europa.eu/euodp>) provides access to datasets from the EU. Data can be downloaded and reused for free, both for commercial and non-commercial purposes.



Publications Office  
of the European Union