

Summary list of key EU legislative instruments relevant to child protection

Key legislative instruments for Member States' policies and measures aimed at promoting and developing an integrated child protection approach	
The Victims' Rights Directive (2012/29/EU)	<p>Establishes minimum standards on the rights, support and protection of victims of crime. Ensures that persons who have fallen victim of crime are recognised, treated with respect and receive proper protection, support and access to justice. Also requires that the MS ensure appropriate training on victims' needs for officials who are likely to come into contact with victims and encourage cooperation between MS and coordination of national services of their actions on victims' rights.</p> <p>Includes extensive provisions for children. Stipulates that the child-victim's best interest is a primary consideration in application of the Directive and prescribes a child-sensitive approach (Article 1). Provides the right to specific protection and individual assessment measures for child victims (Article 22(4)). Includes further Article 2 definition of a child, Article 10 on right to be heard, Article 21 on privacy, Article 23 on special measures (adapted premises, trained professionals, etc.), Article 24 on child victims, Article 26 on cooperation and coordination of services, and note Article 28 on provision of data and statistics.)</p> <p>See also Recital 14 on best interests of the child and right to be heard, Recital 17 on children of victims of gender-based violence, Recital 19 on rights of child victims, Recital 38, Recital 42 on right to be heard, Recital 54 on privacy, Recital 57 on secondary or repeat victimisation, Recital 60 on child's guardian or representative, Recital 66 on rights of the child, Recital 69 on more far-reaching provisions on victims of trafficking or victims of child sexual abuse, sexual exploitation or child pornography taking precedence.</p>
Directive on Trafficking in Human Beings (2011/36/EU)	<p>Directive takes a victim centred approach, including a gender perspective, to cover actions in different areas such as criminal law provisions, prosecution of offenders, victims' support and victims' rights in criminal</p>

	<p>proceedings, prevention and monitoring of the implementation.</p> <p>Provides the right for child victims to assistance, support and protection. See particularly provisions with regard to definition of children (Articles 2 (offences) and 4 (penalties), Articles 13 and 14 on the child's right to be heard, support and assistance to child victims and presumption of childhood, durable solutions, Article 15 on protection of child victims during criminal proceedings, Article 16 on unaccompanied child victims, Article 18 on prevention.</p>
<p>Directive on Child Sexual Abuse and Exploitation (2011/93/EU)</p>	<p>Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of sexual abuse and sexual exploitation of children, child pornography and solicitation of children for sexual purposes. It also introduces provisions to strengthen the prevention of those crimes and the protection of the victims thereof.</p> <p>Introduces provisions to strengthen the prevention of abuse and exploitation offences and the protection, support and assistance of child victims. The directive, amongst other things, prescribes the criminalisation of a wide range of situations of sexual abuse and exploitation (20 offences), of which 9 are new; covering new phenomena like child grooming, webcam abuse, or web viewing child pornography. It also increases levels of penalties ranging 1 – 10 years, and introduces new aggravating circumstances, including vulnerable children, abuse by family members, gang rape, or recidivism. It includes provisions on extensive victim assistance and support measures as well as obligations for MS to ensure prompt removal of webpages in their territories. It also provides for the possibility of MS to block access to webpages.</p>
<p>Brussels IIa Regulation (2201/2003/EC)</p>	<p>The Regulation concerns judicial cooperation in matrimonial matters and parental responsibility. Determinates in cross-border situations the responsible court for spouses who want to divorce, separate or annul their marriage. In relations between children and their parents, whether they are married or not, the Regulation determines the responsible court to settle parental</p>

	<p>responsibility disputes including custody and visiting rights, primarily aiming at the protection of the best interests of the child. In cases of cross-border parental child abduction the Regulation makes available a procedure to return the child to the place of his or her habitual residence. The Regulation prevents parallel proceedings before the courts of different EU countries and aims at ensuring the free circulation of judgments, authentic instruments or agreements, based on the mutual trust among EU countries</p> <p>Contains several provisions on the best interests of the child (Articles 12, 15 and 23) and several provisions on the child's right to be heard (Articles 11, 23, 41, 42). Provides for specific jurisdictional and procedural rules in cases of wrongful removal or retention of a child taking into account the possibility of the need for protection after the child's return.</p>
<p>Directive on the European Protection Order (2011/99/EU)</p>	<p>This directive ensures mutual recognition among Member States of decisions concerning protection measures for victims of crime.</p> <p>On children, see particularly recital 15 and Article 7 on child subjects of a European protection order (needs of particularly vulnerable victims such as children)).</p>
<p>Regulation on mutual recognition of protection measures in civil matters (2013/606/EU)</p>	<p>Ensures mutual recognition among Member States of decisions concerning protection measures in civil matters. Protection measures governing the relationship between children and their parents are excluded from its scope of application and fall under the Brussels IIa Regulation.</p>
<p>Reception Conditions Directive (23/33/EU)</p>	<p>The Directive establishes common standards of conditions of living of asylum applications. It ensures that applicants have access to housing, food, health care and employment, as well as medical and psychological care.</p> <p>Sets standards for detention conditions of (unaccompanied) children and requires examination of alternatives to detention, making detention of children seeking asylum an exceptional measure and last resort. The Directive also foresees access to education and leisure provides rules on the protection of physical and mental health; requires Member States to take into account age-specific concerns and to ensure adequate living standards for children as well</p>

	<p>as access to rehabilitation services; provides rules for the placement and family tracing of unaccompanied children elements for best interest assessments and the appointment of an independent representative / guardian where the child is unaccompanied to safeguard his or her best interests. See in particular Recitals 9, 18, 22; Article 2 Definitions, Article 14 Schooling and education of minors, Provisions for vulnerable persons Article 21 General principles and Article 23 on Minors.</p>
<p>Asylum Procedures Directive (2013/32/EU)</p>	<p>Establishes common standards of safeguards and guarantees to access a fair and efficient asylum procedure. It creates a coherent system, which ensures that asylum decisions are made more efficiently and more fairly and that all Member States examine applications according to common high quality standards, providing for prioritisation of claims lodged by children, safeguards for (medical) age assessment procedures, ensures children in families can apply for asylum in their own right.</p> <p>Includes special guarantees for minor and unaccompanied minor asylum seekers. See in particular Recital 33; Article 2 Definitions, Article 15(e) on interviews with children and Article 24 on guarantees for unaccompanied minors.</p>
<p>Return Directive (2008/115/EU)</p>	<p>Sets common standards and procedures for returning third-country nationals staying illegally on their territories, with certain exceptions.</p> <p>In all cases, Member States must respect the principle of non-refoulement and take into consideration the best interests of children (Article 5), family life and the health of the person concerned. Article 10 contains specific provisions relating to the return of unaccompanied children including adequate care arrangements.</p> <p>See also Articles 14 on safeguards pending return and Article 17 on the detention of minors. Article 17 prescribes, amongst other things, that unaccompanied children and families with children shall only be detained as a measure of last resort and for the shortest appropriate period of time, and that families detained pending removal shall be provided with separate accommodation guaranteeing</p>

		adequate privacy. Moreover, children in detention shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age, and shall have, depending on the length of their stay, access to education. The best interests of the child shall be a primary consideration in the context of the detention of minors pending removal.
Dublin (604/2013/EU) ¹	Regulation	<p>The Dublin Regulation establishes the Member State responsible for the examination of the asylum application. The criteria for establishing responsibility run, in hierarchical order, from family considerations, to recent possession of visa or residence permit in a Member State, to whether the applicant has entered EU irregularly, or regularly and contains special provisions relating to unaccompanied children and family tracing and family reunification or reunification with other relatives.</p> <p>The recast emphasizes the best interests of the child, expands the possibilities of reuniting children with siblings and other relatives, and provides for a mechanism for tracing family members on EU territory – see in particular Recitals 13, 16, 24 and 35, Article 2 (Definitions), Article 6 (Guarantees for minors), Article 8 (Minors), Article 16 (Dependent persons).</p> <p>In follow-up to the <i>MA and Others v Secretary of State for the Home Department</i> case before the Court of Justice, the Commission has proposed an amendment to Article 8(4), which is currently under negotiation.² The Commission is proposing to clarify which Member State is responsible for examining applications made by unaccompanied children. As a matter of principle, the child applicant for international protection found in such a situation will have his/her case examined by the Member State where he/she has lodged an application and where he/she is present. The child will then remain on the territory of that Member State during the application examination process, unless this is not in his/her</p>

¹ A reference document developed by the CONNECT project www.connectproject.eu gives a comprehensive overview of all EU legislative and policy documents on unaccompanied children, with many different access points, including a table highlighting key provisions starting at page 49:

http://www.connectproject.eu/PDF/CONNECT-EU_Reference.pdf

² See Press Release 26 June 2014: http://europa.eu/rapid/press-release_IP-14-723_en.htm.

	best interests.
Council Directive Right to Family Reunification (2003/86/EC)	The Directive aims to establish common rules of law relating to the right to family reunification. The intention is to enable family members of third-country nationals residing lawfully on the territory of the European Union (EU) to join them in the Member State in which they are residing. The objective is to protect the family unit and to facilitate the integration of nationals of non-member countries. Includes specific provisions for unaccompanied children.
Commission proposal for a Directive on Special Safeguards for Children in Criminal Proceedings (COM(2013)822 final)	As part of the “procedural rights package” adopted on 27 November 2014 the Commission proposed a Directive on children suspected or accused in criminal proceedings. It contains, amongst others, provisions on the information of children and holders of parental responsibility, and promotes that in all actions the child’s best interest is ensured. Importantly, it provides for a mandatory access to a lawyer and the right to an individual assessment to identify children’s specific needs and specific treatment, also in the situation of deprivation of liberty where the child for instance has the right to separate detention from adults.