



# CONNECT

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# FOREWORD

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The arrival of unaccompanied children from third countries into Europe is a lasting feature of migration flows. These children may not experience the same levels of protection and assistance in all EU countries and more efforts are needed to ensure that their rights under the United Nation's Convention on the Rights of the Child are respected. The Charter of Fundamental Rights of the European Union states that the child's best interest must be a primary consideration in all actions relating to children.

Unaccompanied children come from a diversity of backgrounds and situations. They may have been trafficked, they may be seeking asylum or they may be seeking to unite with family. Some are seeking out educational or economic opportunities, and some are arriving from situations of serious deprivation or war.

In Europe, children meet a wide range of actors that can play a crucial role in the child's life. They meet police and coast guards at the borders, they meet reception centre staff at the shelters, they might have a social worker or a guardian, and they might meet asylum case officers depending on whether they choose to seek asylum or not. These are just some of the important actors whose actions and decisions have the potential to affect the rest of the child's life.

Many new EU laws have been adopted recently, and they introduce significantly improved provisions concerning unaccompanied children. This took a lot of work and dedicated effort. Now we need to get to work on the proper application of these provisions in accordance with the rights of the child around Europe. Respect for these laws and rights needs to be embedded in the day to day work of front line workers. So now is the time to be very concrete and practical.

This report targets policymakers at the EU level as well as in the EU Member States, as well as actors engaging directly with children at different levels and in different capacities. We are all important in fulfilling the rights of the child and we need to connect, and cooperate, so as to respond to the needs of unaccompanied children, in our own countries as well as across borders in the EU and in the countries of origin.

Save the Children Sweden would like to thank the project partners and consultants for their invaluable work and also all other actors who have contributed to the project and ultimately in improving the situation for unaccompanied children in Europe.

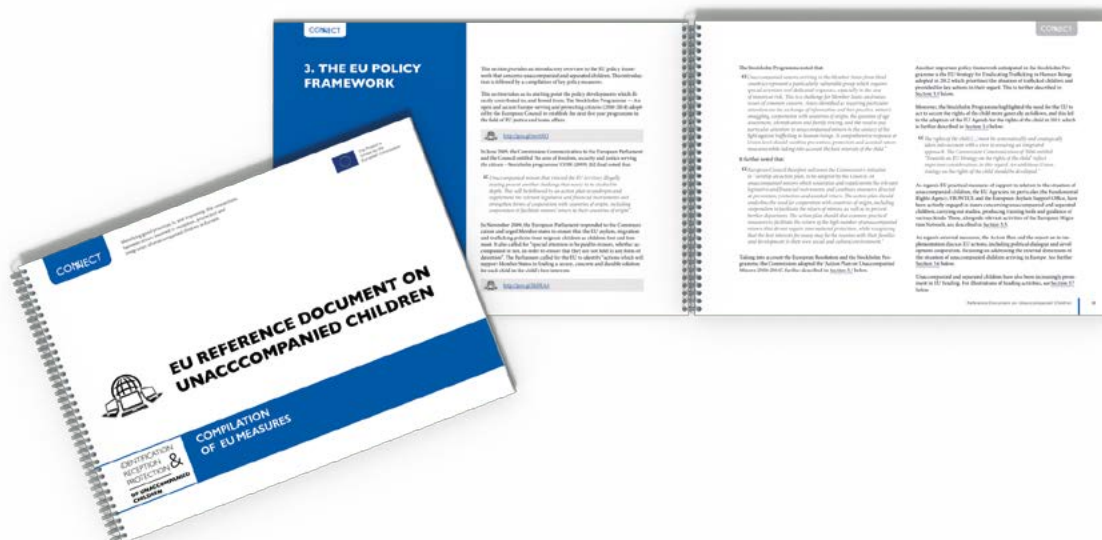
Warm Regards



Elisabeth Dahlin  
CEO, Save the Children Sweden

# REFERENCES

Full references to all EU legal and policy measures mentioned in the CONNECT Report can be found in the “Reference Document on Unaccompanied Children: a Compilation of Relevant EU Laws and Policies”.



# GLOSSARY OF TERMS

The term “child” is used throughout the report in line with the UN Convention on the Rights of the Child, with the following definition “For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”

The terms “unaccompanied children” and “separated children” are used throughout this report in line with the definition provided in General Comment No. 6 of the UN Committee on the Rights of the Child, on the treatment of unaccompanied and separated children outside their country of origin, as follows: “Unaccompanied children” (also called unaccompanied minors) are children, as defined in Article 1 of the Convention, who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so. “Separated children” are children, as defined in Article 1 of the Convention, who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.

The term “minor” is defined under various EU asylum instruments as “a third country national or stateless person below the age of 18 years old”.

The term “unaccompanied minor” is defined under various EU asylum instruments as “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.”

Other relevant definitions are contained in the table of EU obligations in the “Reference Document on Unaccompanied Children: a Compilation of Relevant EU Laws and Policies”.



# EXECUTIVE SUMMARY

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The CONNECT project concerns reception, protection and integration policies for unaccompanied children, with a focus on how actors work individually and together to respond to the rights of these children and fulfil EU law obligations in their regard. Through country mappings (in Italy, the Netherlands, Sweden and the United Kingdom) and the development of tools, the ultimate purpose of CONNECT is to contribute to concrete and practical measures that support actors better to address the needs and rights of these children.

## THE REFERENCE DOCUMENT ON UNACCOMPANIED CHILDREN

The CONNECT project takes place against a backdrop of significant legislative developments at EU level, with Member States faced with the task of reviewing how they organise and resource national actors to fulfil new legislative obligations. There is also increased recognition at EU level of the need to fulfil all children's rights and the benefits of reinforcing child protection systems to protect children in vulnerable situations, including unaccompanied children.

The Project developed, and draws from, a “Reference Document on Unaccompanied Children – a Compilation of Relevant EU Laws and Policies” which brings together in one place the key EU legal and policy measures on unaccompanied children. The document covers measures addressing all unaccompanied children of third country origin, whether they are seeking asylum, have been trafficked, are seeking to reunite with family members, or are in Europe for other reasons. It also sets out the international law which informs the application of EU measures and identifies directly relevant jurisprudence of the European Court of Justice and the European Court of Human Rights. It includes key EU practical measures, primarily the work of the EU agencies, such as studies, training and guidance.

## CONNECT TOOLS

During the CONNECT project five practical tools were developed through pilot projects in the four partner countries. These tools address specific aspects of the protection and reception of and targets actors on different levels. The pilots were based on areas of expertise of the partners and build on previous work and experience. The tools were developed through consultations and research in each of the partner countries. The work also benefitted from discussions at several project partner meetings, and input was also given by the Regional Advisory Panel members, to ensure transnational reach and relevance of the tools.

## KEY FINDINGS FROM THE MAPPINGS

The mapping took place in four countries in which there is considerable experience in addressing the situation of both asylum seeking and non-asylum seeking unaccompanied children and included countries of transit and destination (Italy, the Netherlands, Sweden and the UK).

It focused on the actors who have formal roles towards unaccompanied children, and how they work individually and together, to fulfil the obligations in EU law and the UN Convention on the Rights of the Child. The mapping identifies existing and emerging practices that could directly inspire improvements across the EU. They also highlight common challenges to which common EU resources might be brought to bear, for example, through further regional research, trans-European projects, interpretative guidance or common training.

## THE LEGAL, POLICY AND ADMINISTRATIVE FRAMEWORK

Three key features of the overall framework were highlighted as causing challenges for the organisation and fulfilment of the responsibilities of actors.

First, a range of different state responsibilities are typically implicated in addressing the situation of unaccompanied children, including child protection, immigration control and sometimes law enforcement. Where there has not been careful consideration of how these responsibilities interact, tensions can arise in terms of which actors do what and which obligations take priority. As an example, whereas in cases concerning the return of citizen children to family care, child protection actors – drawing on specific expertise and methods – play a leading role, it is often immigration officials, rather than child protection actors, who assess family reunification where unaccompanied children are involved.

Secondly, the fragmentation of law into different legislative instruments for different groups of children may cause gaps in responsibilities (such as access to lawyers) and in service provision (for example, different provisions on access to accommodation, material support, education and training) for some groups of children. Fragmented legislation may also mean that the same child is involved in several different procedures with different actors and there is limited connection between them. Different courts and tribunals may be making decisions on the basis of differing information about the same individual child. For example, one or more courts and tribunals may be treating him or her as a child and others as an adult. Some courts or tribunals may have additional information about a particular child which, if known to other courts and tribunals, would lead them to a fairer and more sustainable judgment.

Third, decentralisation of reception and services for unaccompanied children is a feature of the administrative framework in Sweden, Italy and the UK. Although decentralisation may have a positive effect by ensuring appropriate local action and fostering positive innovation, in some aspects, it may also have some negative effects. Frequently local authorities may exercise discretion to grant entitlements to different groups of children in significantly different ways. In addition, local authorities may have different methods of organising and resourcing responsibilities (for example, some municipalities in Sweden have training programmes for guardians and others have none.) Moreover, differences in local procedures can make cooperation between local authorities more challenging.

The mapping illustrates some existing and potential practices which help resolve these issues and the extent to which they are deployed, including national strategies or coordination mechanisms which can be used to ensure a more integrated approach to unaccompanied children. It also highlights examples of cooperation which bring actors with different mandates to engage more effectively with each other, including the UK's Trafficking Referral Mechanism.

## WHAT ACTORS ARE INVOLVED?

There are typically a wide range of actors involved in responding to the situation of unaccompanied children in each country, from border guards, law enforcement officials, social workers, reception centre staff, doctors, teachers, guardians, interpreters, lawyers, NGOs, immigration officials, decision makers and judges.

There tends to be a common overlap in the actors “centrally” engaged in the situation of children, i.e., involved in supervision of day to day care, providing information, assistance and support to the children, gathering information about their situation and assessing their situation from the perspective of protection needs. However, despite the broad overlap in the actors responsible for these issues, their roles, and the resources available to them, often substantially differ from country to country. There are also some significant differences around guardianship and representation. For example, in the Netherlands, unaccompanied children are appointed professional guardians, supported by a guardianship authority; in contrast, the Italian system frequently encounters practical difficulties in the appointment of volunteer guardians and mayors of municipalities are often appointed as guardians. In the UK, there is currently no system

of guardianship, although the question of guardians or other forms of representation is currently being examined, in particular for trafficked children.

Additionally, in some countries, actors with specialised roles are involved in carrying out specific activities, whereas they are not present in other countries. For example, in Italy, intercultural mediators who are of the same national or ethnic origin as the child are hired by local authorities to work with children and other actors to help bridge the gap between their home culture and the situation in Italy. Intercultural mediators can have a significant impact on the extent to which the child understands and engages with their surroundings and any procedures in which they are involved. As a further example, experts on child specific issues are more common in UK protection status proceedings than elsewhere.

Across the four countries, the extent to which actors have particular qualifications for working with this group of children is very varied. In interviews, some actors themselves have prioritised this issue, indicating that they do not feel sufficiently equipped to fulfil the role assigned to them. Where actors are not properly trained to address the situation of these children, they may not be able to engage with key aspects of their situation effectively. The mapping highlights some of the factors which can impede the involvement of skilled actors, including fluctuations in numbers of children, reliance on untrained and insufficiently supported volunteers in key roles and the involvement of generalists (for example, lawyers or decision makers) without knowledge of child specific issues.

However, across the countries, we see some emerging specialisation in key areas. This includes the establishment of specialised Child Units in Sweden to investigate asylum claims combined with training in interviewing children. It includes the recent establishment of a pool of lawyers dealing with trafficking cases in the Netherlands. The mapping also illustrates the ongoing development of specific tools to support actors in their work, such as the use by the Swedish asylum case handlers of specific questionnaires, increased emphasis on child specific country of origin information in the UK, the development of an on-line information tool (SIM) and expert research in the Netherlands to support a tool to identify children at risk of trafficking.

## **ARE ACTORS WORKING WELL TOGETHER AND ON WHAT?**

Within this often complex framework, the mapping has shown that better cooperation between actors is vital, both to improving responses to the situation of these children in line with their rights and in ensuring the best use of collective resources.

Cooperation can take a variety of different forms (formal or informal, temporary or permanent) and may take place at different levels (local, national, regional, transnational). Cooperation can have a variety of different purposes, including data exchange, training, operational issues including disappearances, individual case management and policy development. The goal and benefits of cooperation include streamlining activities around the child and achieving complementarity of roles, avoiding inefficiencies and duplications, and facilitating better engagement with children.

The mapping suggests that a number of factors need to be considered carefully when working on cooperation within a country. These include the multiplicity and diversity of actors involved, and their different degrees of autonomy. The existence of a complex division of tasks and responsibilities between actors can hinder cooperation. In contrast, clarity and transparency of roles can promote both formal and informal cooperation between actors. Other factors which promote cooperation include a national body focusing on the situation of the children, a common operational framework and dedicated tools. The mapping has also highlighted the importance of evaluating cooperation and adjusting mechanisms to improve cooperation models.

A number of different examples of cooperation are highlighted. These include the Multi-Agency Safeguarding Hub and the National Referral Mechanism for Trafficking in the UK and the inter-agency cooperation in relation to children arriving at sea in the Praesidium project in Italy. In Sweden notable cooperation included the Swedish Cooperation Group composed of the Swedish Migration Board, Nation-

al Board for Health and Social Affairs, the Swedish Association of Local and Regional Authorities and the National Board of Education. In the Netherlands, a further example of cooperation lies in the protocols between the Dutch guardianship authority (Nidos) and the Immigration and Naturalisation Service in the Netherlands.

## **DO ACTORS IN DIFFERENT COUNTRIES WORK WITH EACH OTHER?**

Children may be of concern to more than one country within the EU, for example, because a child is in one EU country but has a relative in another EU country. The mapping found examples of some cooperation, including projects focusing on specific issues, such as the Dublin III Regulation or countries cooperating around return projects. The mapping encountered only limited knowledge, and involvement, of national actors with actors from third countries. CONNECT partners believe the topic needs to be researched in detail and more systematically. Such research could explore more carefully, and potentially across a broader range of countries, the range of different forms of cross border cooperation, the aims they pursue and the actors involved. It could be useful to place this within an exploration of cooperation on cross border issues concerning children more generally, so as to learn from experience in other sectors.

## **PRIORITY AREAS:**

The way in which actors work in three priority issues, which are known to be particularly problematic, were also explored: including (a) responding to situations of extra-vulnerability, (b) preventing and responding to disappearances of children from care, and (c) how status protection procedures are informed about the circumstances of the child.

### **Extra-vulnerability**

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The mapping aimed to explore how actors identify and respond to the special needs of children. For this purpose, the mapping focused on how actors respond to extra-vulnerability, which term was used to refer to acute situations of vulnerability, including trauma, disability and trafficking. The partners anticipated that this focus would yield interesting examples of how actors are equipped and cooperate to provide tailored responses to the individual needs of children.

There are many different actors involved in identifying or responding to extra-vulnerability. The different steps in the process of engaging with children, and ongoing supervision of day to day care, present a wide range of opportunities to identify and respond to cases of extra-vulnerability and to identify suspicions of trafficking. However, a number of factors often combine to make this a difficult exercise, including a lack of prioritisation and coordination, lack of knowledge, training and specialised services and a lack of formal protocols on inter-agency cooperation on practical responses. The mapping shows some examples of how States seek to tackle the challenges by creating mechanisms to raise awareness of situations of extra-vulnerability, improving the skills of relevant actors and by making tailored services available and effective. This is also an area where regional resources have the potential to make a significant contribution. For example, the recent publication by the European Commission and the Fundamental Rights Agency “Guardianship for children deprived of parental care: A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking” should support States in reinforcing this element of their systems in line with the Anti-Trafficking Directive and recent recast asylum legislation.

### **Disappearances**

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The EU Action Plan on Unaccompanied Minors identifies disappearances as a priority issue to be addressed. The mapping looked at which actors are involved in reporting and responding to disappearances, including guardians, lawyers, reception centre employees and police, and how and to what extent they cooperate. The consequences of disappearances, including how disappearances affect the management of a child’s case were also considered. Prevention of disappearances was also explored.

The mapping reveals a diversity of practices across Europe on some complex and sensitive issues, but also several common dilemmas. Interviews with stakeholders underlined the need to reinforce actors' understandings of the situation of these children through training. It also underlined the need to equip actors better to work collectively through established clear roles, mandates and protocols/routines. Some national practices on inter-agency cooperation might be further developed and replicated elsewhere, including better screening and responses to children at risk. Preventing disappearances remains an important but sensitive objective for actors. The establishment of protected centres in the Netherlands with special services for children at risk is viewed from different perspectives by different stakeholders. Secure accommodation has not been favoured by the UK, which tends towards foster families with special training; however such families are not always available.

## Informing Protection Status Proceedings

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Effective and fair decision-making in protection procedures depends heavily on which actors are involved, and how, in informing protection status proceedings about the circumstances of the child. The mapping surveyed the actors involved in supporting children in proceedings or in gathering, providing or assessing information. It considered how they are qualified and resourced to act, and how, and to what extent, they co-operate. Again, in this area, we see the four countries face some common difficulties.

In-depth information on the specific circumstances of the child, including rehabilitation needs, health, physical and mental wellbeing, may not always be available, as it is not standard practice to involve specialists such as psychologists. Actors who are aware of the current state of welfare of the child (in terms of education, training, health, accommodation, development, social and family networks) are not always involved in providing information to the procedure, as this type of information may not always be viewed as directly relevant to status determination.

Noteworthy practices in some countries have been highlighted, including the specialised Child Units of the Migration Board in Sweden, with training in interviewing and specially developed questionnaires, the recent development of a pool of lawyers dealing with trafficking in the Netherlands, the commissioning of expert evidence of lawyers in England in the cases of children, the increasing development of child specific country of origin information in the UK, the protocol between the Family and Immigration Courts to share relevant information about the child, and the involvement of the Juvenile Court in Italy which includes judges who are particularly qualified on the subject of communication with children in judicial and juvenile law as well as two citizens specialised in social assistance, chosen from among scholars of biology, psychiatry, criminal anthropology, pedagogy and psychology.

## PROJECT RECOMMENDATIONS

The CONNECT project takes place at an important time in the implementation of new EU obligations on asylum, migration and trafficking across Europe. Drawing on the CONNECT mapping, tools and the Reference Document, the partners have set out a series of project recommendations for generating improvements in how actors work individually and together to fulfil these EU obligations towards unaccompanied children, in line with the UN Convention on the Rights of the Child and the Charter of Fundamental Rights. The Recommendations first set out key goals and then identify general measures to achieve them, before making recommendations on specific EU actions that could support their achievement. The partners hope that the recommendations will make a helpful contribution to the important ongoing work of EU policy makers, national governments and ministries, international governmental organisations, regional stakeholders, national actors and practitioners.

# I. INTRODUCTION

*Thousands of unaccompanied and separated children from third countries are currently present in the EU and every year there are substantial numbers of new arrivals. Although the origin and numbers of these children fluctuate from year to year, the arrival and presence of these children in the EU is a long term feature of asylum and migration flows into the EU.*



Unaccompanied and separated children in the EU find themselves in a variety of different situations. Some unaccompanied and separated children are seeking asylum or protection, because of a fear of persecution or a situation of violence, including armed conflict. Others have travelled to Europe to escape conditions of serious deprivation or human rights violations. Some unaccompanied and separated children are the victims of trafficking for sexual or other exploitation. Some children come to look for new opportunities or a better life. Unaccompanied and separated children also arrive to reunite with family members already present in Europe. Children may be in transit from one EU country to another and their circumstances may also change over time, for example, they may be looking for their family but they may also have been trafficked.

Figures from Eurostat show that last year (2013) there were 12 690 asylum applications by unaccompanied children across the 28 Member States. The children mostly came from Afghanistan, Somalia, Syria and Eritrea. The majority are being received by Sweden, Germany, the UK, Austria and Italy. However many of unaccompanied children do not apply for asylum and statistics do not provide the whole picture. Numbers of unaccompanied children reported by care facilities for children to the Italian Ministry of Labour and Social Affairs show that Italy alone received 7,824 non-asylum-seeking unaccompanied children in 2013. It is also clear that, more generally, there are many children who are not applying for asylum in Europe but who remain “underground” in Europe.

Regardless of their nationality or immigration status, these children have common rights under the UN Convention Rights of the Child to special protection and assistance. EU and national laws contain specific provisions in their regard.

The CONNECT project concerns reception, protection and integration policies for unaccompanied children. It is funded by the EU under a call for proposals for pilot projects on unaccompanied minors (2012), the funds for which had been allocated by the European Parliament. One of the activities of CONNECT is a mapping in four countries in the EU (the Netherlands, Italy, Sweden and the UK), focusing on the actors engaged in responding to unaccompanied children. It explores how they work, individually and in cooperation with each other, with a view to considering how best they can fulfil EU obligations concerning unaccompanied children, in line with the rights of the child. And at a moment of austerity across Europe, it is vital to explore how to maximise the use of existing resources and better operate collectively, whilst fulfilling obligations to children.

The importance of CONNECT’s focus on actors is that it enables common challenges and noteworthy practices at a practical and operational level to be shared across Member States. It is a particularly opportune time to look together at this issue.

As will be explored further in Section 2 below, Member States and stakeholders are currently concerned with the ongoing transposition and implementation of recent EU obligations on asylum, migration and trafficking. These EU provisions contain improved provisions for unaccompanied children and Member States need to address how actors are mandated and equipped, and how they can work together, in order properly to implement these EU provisions.

At EU level, there has also been considerable development of regional practical measures of support for actors, involving both the EU agencies, such as the Fundamental Rights Agency and the European Asylum Support Office, and other stakeholders.

And more generally, the increasing focus on child rights and strengthening child protection systems at international and EU level (including through the imminent publication of a Commission Communication on integrated child protection systems) provides further momentum for reinforcing modes of coordination and cooperation between actors.

The goal of CONNECT is to support all stakeholders in working towards improvements in how actors engage with the child in accordance with EU law, in full respect for child rights. The project delivers five practical outputs which are discussed as follows:

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- the Project developed the “**Reference Document on Unaccompanied Children: a Compilation of EU Laws and Policies**” which should serve as an important support for policy makers and practitioners alike; Section 2 below discusses the project aims in the context of this EU legal and policy setting;
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- the Project mapped how actors work, individually and in cooperation with each other, in four countries in the EU (the Netherlands, Italy, Sweden and the UK). **National reports** set out the findings in each country, identifying challenges and highlighting noteworthy practices. Drawing on these reports, Section 3.1 below overviews the national contexts;
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- In its **comparative analysis**, this report identifies common challenges across the four countries and national practices from one country that might inspire good practice across the region. See Section 3.2 below;
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- The Project developed five **practical tools** addressing key aspects of actors’ work together. Each tool has been developed by a national partner and the CONNECT tools aim to increase actors’ skills and stimulate cooperation between them. They were developed in a format which allowed them to be used by actors in other jurisdictions. They can be used individually or in a complementary way across a number of issues.
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- The mapping and the tools both inform the targeted **recommendations** for action and priority areas for further work, nationally and at European level. See Section 5 below.



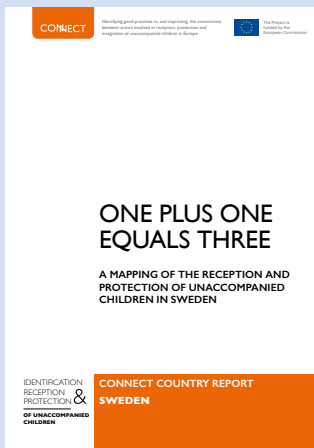
## NATIONAL REPORTS:



### WE ALL HAVE THE SAME GOAL

A Mapping of the Reception and Protection of Unaccompanied Children in the Netherlands

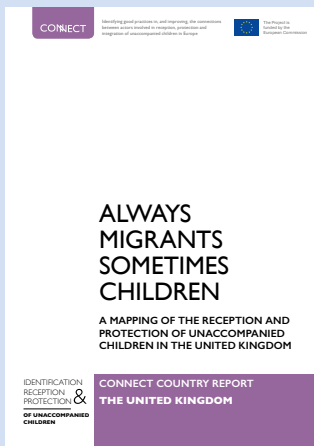
Available at: <http://goo.gl/gvGpLr>



### ONE PLUS ONE EQUALS THREE

A Mapping of the Reception and Protection of Unaccompanied Children in Sweden

Available at: <http://goo.gl/jwYTcX>



### ALWAYS MIGRANTS SOMETIMES CHILDREN

A Mapping of the Reception and Protection of Unaccompanied Children in the United Kingdom

Available at: <http://goo.gl/RtXgfi>



### THE RULES OF THE GAME

A Mapping of the Reception and Protection of Unaccompanied Children in Italy

Available at: <http://goo.gl/TSrFSW>

## 2. LEGAL AND POLICY SETTING

*In recent years, and in particular since the inclusion of unaccompanied children in EU priorities for action set out in the Stockholm Programme of December 2009, there has been considerable activity at EU level focusing on unaccompanied children.*

A complete overview of the EU legal and policy measures which have been put in place for unaccompanied children of third country origin is contained in the Reference Document on Unaccompanied Children: a Compilation of Relevant EU Laws and Policies. It refers to the relevant EU Treaty provisions, as well as the Charter of Fundamental Rights and the European Convention on Human Rights. It includes EU measures which address children in specific situations, including those seeking asylum, or children who have been trafficked, those seeking to reunite with family members, or in Europe for other reasons. It also covers key EU legal instruments which may affect the protection of the rights of these children when involved in investigations and proceedings, in particular, focusing on sexual abuse and victims' rights. It includes the main international law conventions and guidance which inform the application of EU measures concerning unaccompanied children, including Council of Europe and UN Conventions, chief amongst them the UN Convention on the Rights of the Child, as well as general comments from the Committee on the Rights of the Child on key issues such as the application of the best interests' principle. The Reference Document highlights the jurisprudence of the European Court of Justice and the European Court of Human Rights directly focussing on the situation of unaccompanied children of third country origin, including the recent landmark case in relation to the Dublin II Regulation.<sup>1</sup> It also highlights key EU policy measures, including the EU Action Plan on Unaccompanied Minors, as well as regional policy discussions, including discussions of the Commission Expert Group on unaccompanied children on key issues such as guardianship and family tracing. Finally, it reports on EU practical measures, including the work of the EU agencies, which are directly relevant to these children such as the recent age assessment manual from the European Asylum Support Office.

Across this dynamic legislative and policy landscape, we can distinguish some general features which are highly relevant to the objectives of the CONNECT project, namely that: (a) children's rights are increasingly prominent in EU asylum and migration policies; (b) there is growing recognition at EU level of the importance of child protection systems and (c) EU legislative provisions contain increasingly specific safeguards for children. These features all have an impact on the way in which actors do their work, as well as the resources they need to do so effectively. As discussed further below, the Project has been shaped by, and has sought to build on, these features.

However whilst the Project recognises the momentum which these EU measures bring, it also recognises the ongoing negative impact of austerity measures on actors and services throughout the sector. This is also addressed at EU level in the COMMISSION RECOMMENDATION of 20.2.2013 "Investing in children: breaking the cycle of disadvantage" C (2013) 778 final.

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<sup>1</sup> See MA, BT, DA v. Secretary of State for the Home Department, case C-648/11, 06 June 2013 (preliminary ruling).

## 2.1 CHILDREN'S RIGHTS ARE INCREASINGLY PROMINENT IN EU MEASURES CONCERNING UNACCOMPANIED CHILDREN

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The EU Action Plan on unaccompanied minors (2010-2014) placed “the standards established by the UN Convention on the Rights of the Child at the heart of any EU action concerning unaccompanied minors”. The EU Agenda on the Rights of the Child prioritised actions addressing the rights of children in vulnerable situations, referring specifically to guardians. The trio presidency programme issued on 17 June 2014 (doc. 10948/1/14 REV 1) by the three Member States who will succeed each other in the Council Presidencies (Italy, Latvia and Luxembourg) acknowledges that “the question of unaccompanied minors requires special attention by the EU, as it is a particularly sensitive issue. The three Presidencies will encourage the exchange of good practices and evaluate the possibility of outlining an appropriate common approach to protect vulnerable category including common identification methods also in connection with the special reception needs of minors”.

This explicit emphasis on the rights of migrant children as children is also evident at an international level. In September 2012, the UN Committee on the Rights of the Child hosted a general day of discussion on children in international migration and adopted a series of conclusions on the application of children's rights in this field. Moreover, in a Declaration adopted during the UN General Assembly High Level Dialogue on International Migration and Development held in October 2013, UN Member States committed to “protect the human rights of migrant children, given their vulnerability, particularly unaccompanied migrant children, and to provide for their health, education and psychosocial development, ensuring that the best interests of the child are a primary consideration in policies of integration, return and family reunification”.

### How this shaped the CONNECT project

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Regional and international acknowledgement of the right of migrant children to be treated as children first has clear practical consequences for how actors should be working with migrant children. It implies, at its most basic, that these actors should have knowledge of child rights and should actively contribute in their work to fulfilling them. All actors encountering these children, from border guards to lawyers, should take the best interests of the child as a primary consideration in all actions in their regard. They should seek to fulfil all the rights of the child, including their rights to development, family life and education. Migration control concerns must be addressed in a way that respects the children's rights.

The CONNECT mapping covered all unaccompanied children, rather than only particular groups of unaccompanied children. The Project takes a holistic approach, examining how the *overall situation* of the child is being addressed by actors as a child in need of special assistance and protection. It also explored, *inter alia*, the practical challenges for how actors work which can arise between natural tensions between migration control, law enforcement and child rights.

The Project Recommendations draw on General Comment No. 5 of the UN Committee on the Rights of the Child concerning general measures of implementation of the UN CRC. They outline a range of elements which should be in place to fulfil the rights of the children, including, for example, the adoption of national strategies on children and the existence of accountability mechanisms.

“The Reference Document on Unaccompanied Children: a Compilation of Relevant EU Laws and Policies” explicitly relates the specific obligations in EU law to the clusters of obligations of the UN Convention on the Rights of the child.

## 2.2 THE GROWING RECOGNITION OF THE IMPORTANCE OF INTEGRATED CHILD PROTECTION SYSTEMS INTERNATIONALLY AND AT EU LEVEL

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In 2011, the UN Committee on the Rights of the Child presented its General Comment No.13 on the right of the child to freedom from all forms of violence. General Comment No. 13 sets out a range of measures which should work together collectively to provide a protective environment for children. Prompted by the EU Anti-Trafficking Strategy, the European Commission is poised to adopt its guidelines on integrated child protection systems which it describes in its public consultation as “the way in which all actors, stakeholders and system components work together across sectors to form a protective and empowering environment for all children.” The consultation notes that “formal and informal structures, functions and capacities are assembled to prevent and respond to violence, abuse, neglect and exploitation of children” and that child protection systems generally comprise the following components: human resources, finance, laws and policies, governance, monitoring and data collection, as well as protection and response services and care management.

The Guidance is intended “a) To provide information on EU legislation and policies relevant to integrated child protection systems; b) To clarify where the EU can support national child protection systems; and c) To illustrate good practice on integrated child protection systems and to promote means of exchange of good practice in cross-border/transnational as well as national contexts.

In its annual EU Forum on Child Rights in both 2012 and 2013, the Commission has emphasised the need for child protection systems to help identify, assess the needs of, and respond to, migrant children.

### How this shaped the CONNECT project

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The circumstances of unaccompanied and separated children may make them vulnerable to violence and exploitation, either when en route to Europe or after arriving. *Taking a child protection systems approach* has direct implications for how actors should work individually and collectively to prevent and respond to risks to unaccompanied children. General Comment No 13 underlines the need for solid coordination mechanisms and national child protection strategies, enabling multiple actors from different sectors to work together to ensure effective and quality prevention, response and monitoring.

The CONNECT project looked at the issue of child protection in the day to day care of the child and the identification of durable solutions for the child, given the multiplicity and diversity of actors typically involved. One of the central goals of the CONNECT mapping was to examine the means of coordination between actors. Two of its priority areas involved examining the issue in the context of acute cases of vulnerability, such as prevention of trafficking or disappearances, where the failure of actors to coordinate may have very serious consequences for the child. Many of the Project Recommendations address the need to enhance national and cross border cooperation across the EU.

Several of the CONNECT tools were specifically developed to ensure transparency and clarity in the responsibilities of actors and better cooperation between them. The CONNECT tools also aim to ensure better understanding of the situation of unaccompanied children, in particular to support actors in identifying circumstances of particular vulnerability.

## 2.3 INCREASINGLY SPECIFIC EU SAFEGUARDS CONCERNING THE RECEPTION AND ASSISTANCE OF UNACCOMPANIED CHILDREN

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Recent EU legislation in the field of asylum and migration includes much more specific provisions for unaccompanied children than were included in the original EU asylum instruments, including:

- clearer information requirements for children (e.g. the Dublin III Regulation requires the use of a leaflet for unaccompanied children to explain the Dublin procedure and a common information leaflet has been developed),
- more detailed requirements concerning representation of children (e.g. recast asylum legislation contains enhanced provisions on representation for children with clearer provisions on the role of the representative in ensuring the best interests of the child, their qualifications and the fact that they should have no conflict of interests; the Anti-Trafficking Directive also contains provisions on guardianship),
- additional safeguards as regards age assessment and affording the benefit of the doubt (the recast asylum procedures directive, the Anti-Trafficking Directive),
- explicit obligations concerning the assessment of the best interests of the child (e.g. the recast asylum legislation, the Anti-Trafficking Directive, the Return Directive), and provisions concerning the factors which should be taken into consideration when assessing the best interests of a child (e.g. the recent recast asylum instruments),
- an increased focus on providing tailored assistance to vulnerable persons (e.g. trafficking directive, the recast asylum reception and procedure directives),
- improved procedures addressing child sensitive judicial proceedings (e.g. Anti-Trafficking Directive and sexual abuse directive),
- increased emphasis on child sensitive interviewing (e.g. recast asylum procedures directive)
- improved family reunification possibilities under Dublin III,
- availability of legal assistance to a child and its representative (e.g. recast asylum procedures directive),
- knowledge and training requirements for actors working with children (e.g. recast asylum legislation), and
- requirement to take the necessary measures to find durable solutions that are in the best interests of the child (the Anti-Trafficking Directive).

These provisions represent improvements, although at times they remain relatively general (e.g. requirements on the qualifications of guardians) or more limited than international law obligations (e.g. availability of legal assistance). This is a factor which Member States need to bear in mind when seeking to implement them fully in line with the Charter of Fundamental Rights and the UN Convention on the Rights of the Child as is required under EU law. At EU level, important work to ensure fulfilment of the rights of the child is undertaken both at a policy level (e.g. the EU Action Plan on unaccompanied children) and in terms of practical measures of support (e.g. the Handbook on guardianship, referred to above).

## How this shaped the CONNECT project

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*More specific safeguards in recent EU provisions* demand a clearer organisation of the responsibilities of actors, better support for their role and a removal of the obstacles to cooperation between them.

The Reference Document on Unaccompanied Children: a Compilation of Relevant EU Laws and Policies provides a tool for policymakers and practitioners alike better to identify the collective body of EU measures on unaccompanied children, and understand how their provisions concern the fulfilment of the rights of the child.

The CONNECT mapping identifies noteworthy practices that can contribute to implementation of the EU obligations. The CONNECT recommendations focus on how regional action provides an opportunity to boost the capacity and effectiveness of actors in the area.

The CONNECT tools can all be used to support the implementation of EU provisions, through their use in supporting representation, participation, reception and status determination.

### 3. CONNECT MAPPING: WHAT DID WE EXPLORE AND WHAT DID WE FIND?

*The CONNECT mapping took place in four countries in the EU, namely, the Netherlands, Italy, Sweden and the UK. These countries are all countries which currently, or traditionally, have received large numbers of unaccompanied children. They include countries of transit and destination, and countries between which children travel or are transferred.*



In each country, the CONNECT mapping surveyed the general legal, policy and administrative context which addresses how actors engage with the situation of unaccompanied and separated children. This includes considering what bodies of law are applicable, and what national strategies or coordination mechanisms are in place. The mapping also identified the actors typically involved, their qualifications and specialised tools, and how they cooperate with each other. Given the focus of the project on better implementation of EU legal obligations and child rights, the mapping focuses on those actors who have formal roles, particularly those with statutory responsibilities towards and professional relationships with unaccompanied migrant children, rather than informal actors who may also play an important role in the lives of these children.

It then reviewed how actors respond to three priority issues, namely, **A** identifying and responding to situations of extra-vulnerability, including trafficking or trauma, **B** preventing and responding to disappearances of children from care, and **C** properly informing status protection procedures. These issues are known to be particularly complex and their exploration provides useful illustrations of challenges and good practices for actors in their individual and collective work. These issues are also closely associated with the issues for which the CONNECT tools provide support.

## 3.1 METHODOLOGY

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The mapping in each country was based on a series of questionnaires which were developed by the Partners, reviewed by the Project's Advisory Panel and finalised during Project meetings which included the country researchers. The questionnaires took account of key EU obligations and were also informed by the UN General Comments No. 5 and 13. The mapping explored notable aspects of each jurisdiction through a desk study of existing literature and interviews with key stakeholders. After a first phase of research, initial findings were available to, and discussed by, Partners before a second phase of the mapping in which the research was completed.

This process did not aim to deliver a comprehensive evaluation of the situation in each of these countries, nor was it intended to focus on national shortcomings. Its goal was to find opportunities and practical means for improvements across the region, highlighting how better to equip actors and help their work together.

The limited timeframe for the mapping and its relatively general scope means that the findings are illustrative of the national situations, rather than providing a full analysis. It has not always been possible to capture the same information across countries to allow for complete comparisons. Consequently, the mapping focuses on identifying a range of practical factors and noteworthy practices which apply when seeking improvements in the way in which actors respond to the situation of the children. Moreover, the findings have also been examined by the Project Partners (as well as an advisory panel) who bring a varied and deep experience and expertise, from their diverse perspectives as governmental, NGO, IGO, national and local actors, as well as from practitioners, lawyers, guardians and reception centres. This has provided a rich opportunity to ensure that notable issues are identified and form the basis for a series of project recommendations. The recommendations also point to areas which would benefit from more in-depth research across a broader range of countries.

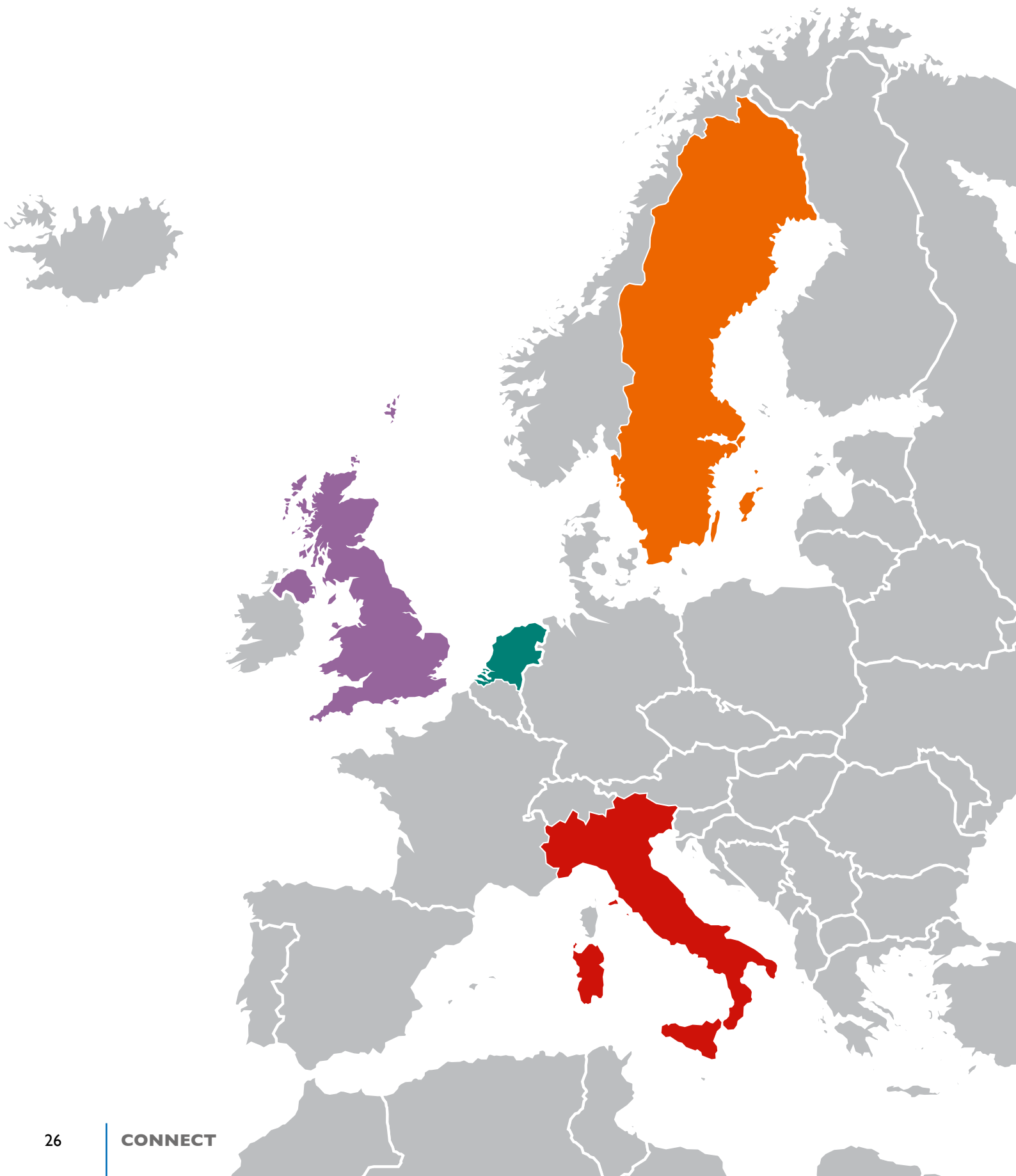
The research did not incorporate consultation with children. However the literature review did seek to examine what reports had addressed the views of children and, where possible, to identify how actors engage with children to get their views. The priority area of exploring information gathering processes reviews how actors engage with children to understand their circumstances. The CONNECT tools also seek in a variety of ways to contribute to the ability of actors to engage directly with children.

Section 3.1 describes the national contexts in the project countries, drawn from the national reports. It is followed in Section 3.2 by a comparative overview and analysis of the national mappings.

## 3.2 COUNTRY CONTEXTS

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The CONNECT project has four national reports on the mapping in each of the countries concerned. This section provides some broad indications of key features of the situation on unaccompanied children in each country.



# NATIONAL CONTEXT – ITALY

For many unaccompanied children, Italy is one of the first European countries they reach. In Italy, the number of unaccompanied migrant children is on the increase, being a transit country that most of the unaccompanied migrant children pass through on their way to other countries in Europe. The results from the mapping show that Italy is currently the biggest recipient of non-asylum-seeking unaccompanied children in Europe.

The definition of unaccompanied children is according to Italian law<sup>2</sup>: “someone who is not an asylum seeker or a community member that have been separated from both parents and other relatives and they are not accompanied by an adult who is legally or de facto responsible for them.”

## STATISTICS

Approximately 5,200 unaccompanied children arrived in Italy by sea and were registered in 2013. Most of the children arriving by sea were from Syria (1 224), Egypt (1 144), Somalia (820) and Eritrea (685). On 31 January 2014, 7 824 unaccompanied children were reported by care facilities for children to DG Immigration of the Ministry of Labour and Social Policies. Of these 1 872 were reported to be missing from care. The majority of unaccompanied children reported to be in care in Italy (6 150) are boys and they are mostly Egyptians (1 697), Bengali (1 026) and Albanians (915).

There is a difference between the number of Eritrean and Syrian unaccompanied children arriving by sea and those reported by children’s care facilities, which shows a concerning fact that they often disappear prior to inclusion in care. Similarly, so-called “children in transit” (mainly Afghans), disappeared while in transit in Italy, on the way to other European countries. In this case without coming into contact with institutions and consequently without being identified. According to the 2013 Eurostat data 805 unaccompanied children applied for asylum.

Italy has ratified the UN Convention on the Rights of the Child (Law 176/1991) and the European Convention on the Exercise of Children’s Rights (Strasbourg 25 January, 1996 - Law 2003), recognizing the child’s right to be heard and to express his or her views in procedures that concerns him or her. In order to implement the provisions contained therein, new rules have been introduced and existing provisions amended, aimed primarily at ensuring the technical legal assistance for the child. At the legislative level, it is an obligation to listen to the views of the child. In practice, however, this rule appears to be widely disregarded.

In the CRC’s “Concluding observations: Italy (31/10/2011 CRC/C/ITA/CO/3-4)” the CRC Committee expressed its concern about the situation for migrant children due to the massive and unexpected arrival of thousands of migrants and has, among other things, recommended that each child who attempts to enter Italy and who is under Italian jurisdiction, should be guaranteed the right to an individual case assessment and immediate access to asylum procedures and other procedures relevant to protection, both domestic and international, and to revise national laws.

<sup>2</sup> | part contained in legislation DPCM 535/1999.

## LAW AND POLICY IN ITALY

Italy has no consolidated law related to the protection of unaccompanied migrant children. As regards juvenile law, Article 330 and the subsequent, and Article 403 of the Civil Code are particularly relevant, relating to the protection of children who find themselves in a dangerous situation or in a state of abandonment, as well as the Law “Regulation on child adoption and custody” (Law 184/1983, amended by Law 149/2001) containing provisions for the protection of children who are temporarily deprived of an adequate family environment, whereas regarding immigration law the main reference text is the Legislative Decree no. 286/1998 - Consolidation Act on immigration (in particular, Art. 19 and 32).

Unaccompanied children cannot be expelled from Italian territory (Consolidation Act on Immigration, Article 19). Anyone who learns of or comes in contact with a child deprived of a family environment or endangered should immediately report them to the public prosecutor for juveniles and the Juvenile Court (Law 184/1983, Article 9, paragraph 1). All unaccompanied children have the right to stay in Italy and to be protected only due to the fact that they are children, regardless of their intention to seek international protection in accordance with the Geneva Convention of 1951. Unaccompanied migrant children cannot be detained. Furthermore, the Italian legislation provides that an unaccompanied child cannot be housed in centres with adult immigrants (Law Decree 25/2008, art. 26.6; Directive 7.12.2006, art. 2). At the time of writing, wide ranging changes are anticipated in regards of policy in Italy.

As a consequence of the responsibility, by national legislation, of regions and local authorities to provide accommodation, no centrally coordinated reception system exists, as well as no central database of care facilities for children is in place. Each municipality and actor decides on their own how to use the compensations from the Government to support unaccompanied children. Moreover, the responsibility for the reception of unaccompanied children is not necessarily delegated to the same departments or sections on the municipal level, which makes it difficult to achieve national coordination. Recently a case management tool (the SIM) is under development to improve the situation, and an inter-institutional coordination board on unaccompanied children is currently being established.

Law enforcement officers are the main actors that intercept unaccompanied children and carry out the identification and placement procedures. The Regions have the task of establishing minimum requirements of care facilities for children are, but in doing so they must still comply with the minimum requirements decided at national level (Law 328/2000, Art. 8). The municipality assists in finding a placement in care for children. Local Social Services have the duty to report to the Juvenile Court on the situation of unaccompanied children living in care facilities for children (L. 184/1983 art. 2). Social Services are responsible for creating individual educational plans based on each child’s needs and specific situation.

The Prefecture is a body that represents the national government at provincial level and thus acts as a territorial office of the government with the task of coordinating Immigration offices, regional and local authorities and activities related to procedures for first encounter and assistance. The law provides that if a child does not have an adult representative they should be appointed a guardian “as soon as possible” and, especially within 48 hours from the eventual registration of an asylum application, by the Jurisdictional Authority. However, in practice the time for appointment of a guardian varies from territory to territory and can take months.

## DATA ON EXTRA-VULNERABILITY

In relation to protection measures and procedures for victims of human trafficking, the law (Consolidation Act on immigration, Art. 18, par. 1) states that temporary permits of stay for humanitarian reasons may be issued to foreigners needing protection and assistance. Recently (31 July 2013), the Italian Parliament transposed into its national legal framework the Directive 2011/36/EU on preventing and combating human trafficking and to protect the victims. In recent years, the victims of trafficking assisted through existing programs come from Nigeria, Romania, Morocco, Egypt and China.

Furthermore, vulnerable children with special needs, such as children with disabilities or girls expecting a child, may receive health care and assistance in specialized centres but, unfortunately, in practice these shelters are not easily accessible/available for children.

## DATA ON DISAPPEARANCES

According to the data provided by the Ministry of Labour and Social Policies - Directorate-General for Immigration and integration policies, as of January 31, 2014 there were 1 872 children missing from care. This number equals 24% of the total number registered in care facilities. Most are boys, around 17 years old, and they move on from the border regions: Sicily (885), Calabria (249) and Puglia (210). Among the main countries of origin of untraceable, unaccompanied children are Somalia (403) and Afghanistan (391). From the comparison of the data on the number of unaccompanied children arriving by sea, it is clear that a significant number of Eritreans and Syrians have moved on even before they are taken in and/or reported by care facility for children.

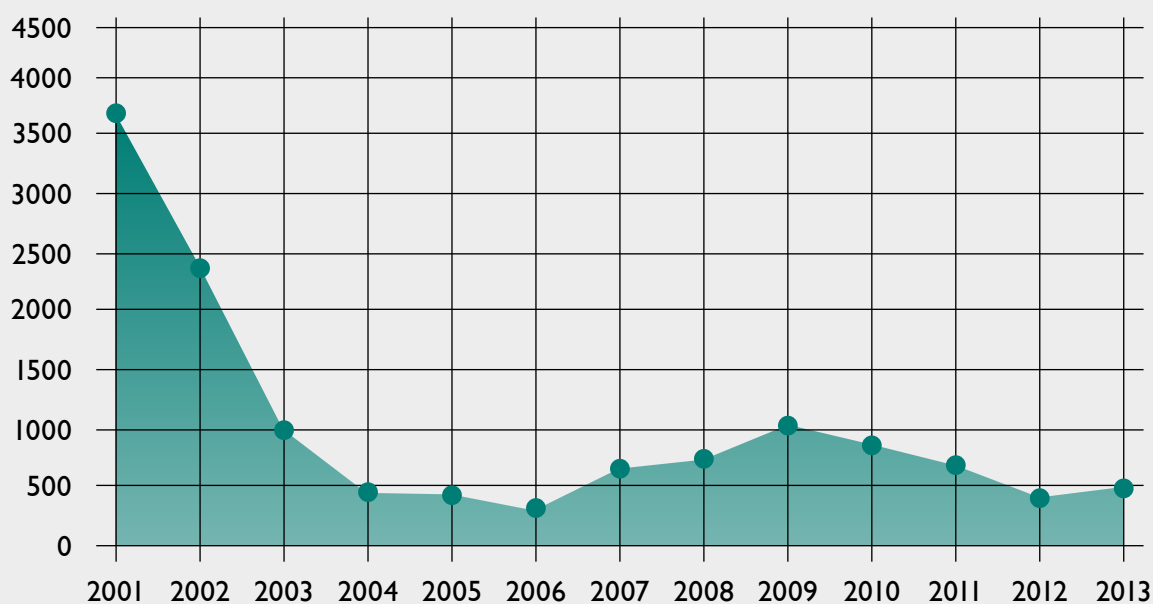
## NATIONAL CONTEXT – THE NETHERLANDS

In the Netherlands, most unaccompanied children who come into contact with formal institutions sooner or later apply for asylum. All unaccompanied children are appointed professional guardians.

## STATISTICS

Since organisations often use different definitions and/or are responsible for particular groups of people, providing exact statistics on the number of unaccompanied children is not easy. The Central Agency for the Reception of Asylum Seekers (COA) presents the number of newly arrived unaccompanied children amongst its population since 2001, providing a general picture:

**Number of newly arrived unaccompanied children at COA**



This shows that the Netherlands has received many unaccompanied children particularly in the early 2000s and, in comparison with other European countries, the number of unaccompanied children asylum

seekers was very high during this time. The recent trend of receiving 400-500 unaccompanied children asylum seekers per year is currently low compared to other countries taking part in the CONNECT project.<sup>3</sup> This sharp decline has been related to the introduction of a much stricter asylum policy for unaccompanied children.<sup>4</sup> The general downward international trend in asylum applications in the early 2000s and the decreased possibility of permanent status for all asylum seekers coming to the Netherlands could be identified as main reasons, but also age assessment procedures are of importance. In the early 2000s the Netherlands started using an age assessment procedure to identify and determine children, which is also perceived as having had a major influence on the downward trend. Detailed statistics about the recognition rates of unaccompanied children are not available.

In 2013, Nidos, the Dutch guardianship institution, registered approximately 675 new clients (around 500 asylum applicants). It is currently responsible for a total of approximately 2,000 children and young people, most of whom are over 15 years of age. The fact that Nidos registers more clients than the Central Agency for the Reception of Asylum Seekers (COA) can for the most part be explained because COA merely registers children who have applied for asylum, whereas Nidos also has clients who have not applied for asylum.

Where in the early 2000s, the Netherlands particularly welcomed Angolan and Chinese unaccompanied children, the more recent trend is that children come from Somalia, Afghanistan, Congo, Eritrea, Syria and Guinea, with the vast majority over 15 years of age. A very distinct group of 'de facto' unaccompanied children in the Netherlands consists of children dealt with by Nidos' Schiphol Team. For many reasons, dozens of children who are located at Schiphol, the international transit airport, may be in need of temporary protection and guardianship. This is, for example, the case when a so-called *bolletjesslikker*, a drugs smuggler who carries drugs inside their body, is arrested upon arrival while travelling with a child.

## LAW AND POLICY IN THE NETHERLANDS

In June 2013, the Netherlands implemented a new asylum policy for unaccompanied children. The Government felt the need to develop this new policy following a national debate about the position of Mauro, a well-integrated Angolan unaccompanied child asylum seeker who had resided in the Netherlands for years on the basis of the temporary residence permit. When he turned 18 and was threatened with deportation, this sparked a serious discussion in Parliament about the existing policy regarding unaccompanied children. One of the main goals of the newly developed asylum policy is to provide quicker clarity to unaccompanied children on whether a stay in the Netherlands is temporary or not. Procedures were shortened with the aim of reaching a quicker decision, so asylum-seeking children can know their outcome sooner.

As the special unaccompanied child residence permit no longer exists, this means that unaccompanied children whose applications are rejected basically become undocumented aliens. In practice, however, unaccompanied children who have not been granted refugee protection are still allowed to stay in the Netherlands until they are 18 years of age (and will not be deported before this time) as long as no adequate protection is available in their country of origin. In effect, not much has changed with the removal of the permit, although not having an accepted means of identification may lead to many practical difficulties in the lives of these children.

There is no official 'national strategy' for unaccompanied children, but many specific procedures have been developed and specialised programmes, units, and organisations exist. Currently, there are two major policy developments deserving specific attention in the context of this report. Firstly, in line with the Trafficking Directive, the Ministry of Security and Justice is working on a national referral mechanism to be implemented in 2014. A second major development concerns the restructuring of reception facilities for unaccompanied asylum seekers. Parliament has expressed the wish to host children in reception families, rather than in large-scale reception centres. At the time of writing, the new reception policy is still being discussed.

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<sup>3</sup> According to Eurostat 310 unaccompanied children applied for asylum in the Netherlands in 2013.

<sup>4</sup> See for instance Monnikhof and Tillaart, 2003



The Ministry of Security and Justice is in charge of asylum policy with responsibility for the procedures, reception, guardianship, and return. Separate agencies are responsible for the different tasks with the division of roles and responsibilities laid down in policy and legislation: Immigration and Naturalisation Service (IND) for procedures, Central Agency for the Reception of Asylum Seekers (COA) for reception, Repatriation and Departure Service (DT&V) for return and, as an independent foundation, Nidos for guardianship. Each of the different agencies is responsible both for their own tasks as well as their own professional development and trainings, but the Ministry co-ordinates the overall system through the policy framework. On case level, the co-ordination lies with Nidos as the legal guardian of an individual child.

## **DATA ON EXTRA-VULNERABILITY**

Referring to data collected by the organisation CoMensha, in a recent report, Defence for Children and UNICEF stated that, on average, 60 foreign child victims of human trafficking are identified and reported annually. Most of them are female and come from Nigeria, Guinea, Sierra Leone or China and are victims of commercial sexual exploitation. A limited number, particularly Afghans, are believed to be forced to act as thieves or are exploited as so-called 'dancing boys', providing sexual services to adult men. The National Rapporteur for Human Trafficking and Sexual Violence against Children suggests in a 2012 report that the actual number of trafficked children may even be higher since a number of agencies which regularly engage with possibly trafficked children (Youth Care Agency, Nidos, the Royal Netherlands Marechaussee (Kmar), the Labour Conditions Inspection (SZW), the Police) have not systematically registered possible victims with CoMensha.

One has to be extremely cautious in interpreting the figures. Rather than registering trends regarding the actual number of people trafficked, CoMensha seems to register trends in registration discipline and willingness. Moreover, by not providing a list of potential signs, but instead leaving it to the registering person to determine which aspects are deemed relevant, it measures highly subjective assumptions. It is all the more problematic that, in its reports, the agency often refers to numbers and characteristics of 'victims of human trafficking', while, in reality, it registers information on 'possible victims of human trafficking'. Also, it cannot be ruled out that people may be registered more than once

## **DATA ON DISAPPEARANCES**

Actors acknowledge that a significant number of disappearances are hard to prevent and are a direct consequence of the situation a 17 year old asylum-rejected child faces while waiting to turn 18. Since the late 1990s, disappearing unaccompanied children have caught the attention of Dutch media and policy makers. It particularly became a public issue between autumn 2004 and autumn 2005, when 125 Indian unaccompanied children disappeared from the large-scale reception centres for unaccompanied children. It was also revealed that approximately 140 Nigerian unaccompanied children had disappeared from the asylum seekers' centres between January 2006 and October 2007. The number of disappearances are estimated by the Dutch project partner Nidos to be between 100 and 200 per year during the last few years.

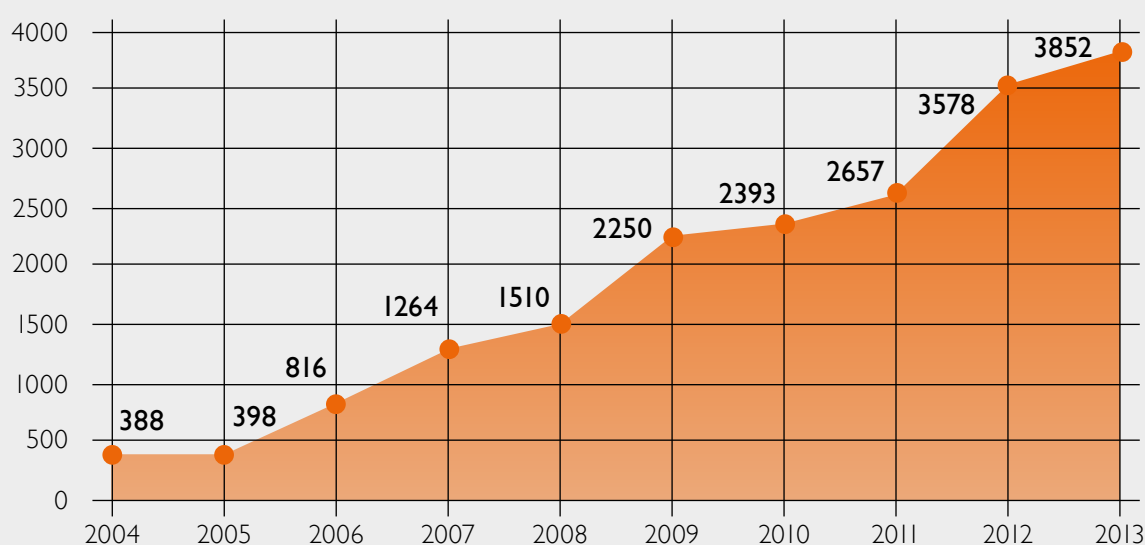
## NATIONAL CONTEXT – SWEDEN

Sweden is mainly a destination country for unaccompanied migrant children. According to Eurostat 12,690 asylum applicants were identified to be unaccompanied children in Europe in 2013.<sup>5</sup> About 30% of them applied for asylum in Sweden. These statistics show that a great number of unaccompanied children migrate to Europe to seek asylum and that many of them come to Sweden.

According to Swedish law<sup>6</sup> an unaccompanied child is defined to be a child with no parent, parents, or other custodial guardian in Sweden.

### STATISTICS

**Number of asylum applications from unaccompanied children 2004-2013**



Source: Swedish Migration Board

Sweden has experienced annual increases in the number of applications from unaccompanied children since 2007. In 2013 alone, Sweden received 54,259 applications among which 3,852 asylum applications concerned unaccompanied children. These statistics from 2013 make Sweden one of the largest receiving countries of asylum seekers in Europe, and more specifically, the largest recipient of unaccompanied children. According to the Swedish Migration Board, the government agency responsible for migration and asylum procedures, the prediction is that the number will continue to increase in the coming years.

The statistics from 2013 show that most of the unaccompanied children come from Afghanistan (32%) followed by Somalia (15%), Syria (9%), Eritrea (9%), and Morocco (8%). In other words, many of the children come from conflict areas and politically unstable regions. Moreover, disaggregated data show that almost 90% of these children were between 13 and 17, and only 17% of the applicants were female. These statistics are generally aligned with the data from previous years.

<sup>5</sup> The statistics from Eurostat refer to the number of applications in 28 European states submitted by unaccompanied children.

<sup>6</sup> Chapter 10, Section 3 of the Aliens Act (2005:716) and Chapter 18, Section 3 of the Act (2005:429) on Guardians for Unaccompanied Children.



Based on the Migration Board's statistics of examined asylum applications from 2013, 82% (1,995)<sup>7</sup> of the unaccompanied children were granted permanent residence permits by the Migration Board at the first instance in the asylum process, of these 21 % were granted a residence permit on refugee grounds and refugee status and some 54% were considered to have subsidiary protection needs, a status granted to those who are not considered refugees but who still cannot return to the country of origin.

Notably, 25% of the unaccompanied children granted permanent residence permits were granted these due to exceptionally distressing circumstances. This status is granted to those who are not considered to have protection needs and is based on an overall assessment of physical and psychological health, adaptation to the Swedish context, and the situation in the country of origin (Chapter 5, Section 6 of the Aliens Act (2005:716). A recent legislative amendment will change the asylum ground exceptionally distressing circumstances to particularly distressing circumstances for children as of 1 July 2014, which will result in a more generous assessment of children's asylum reasons.

In relation to the above statistics, it is worth mentioning that temporary residence permits are rarely granted. Moreover, according to the Migration Board's recent statistics, the average handling time for an asylum application in 2014 (January to July) was 131 days.

While the European Convention on Human Rights is formally recognised in Swedish law since 1995, the UN Convention on the Rights of the Child does not have such formal recognition, which has been criticised by many actors.<sup>7</sup> Currently, the UNCRC is under review to examine if it should be incorporated into Swedish law, with the results to be presented in spring 2015.

## LAW AND POLICY IN SWEDEN

The responsibility for all children residing in Sweden lies with the local Social Board. There are no explicit distinctions between different groups of children in this regard and this means that all children in principle should be supported when needed. Other legal instruments are however more fragmented when it comes to different groups of children. Asylum-seeking children's rights are widely recognised in law and policy, but when it comes to children without documents or legal permits, their entitlements and rights are less clear in practice.

In 2006 there was a transfer of responsibilities from the Migration Board to the municipalities in providing care, housing and support to unaccompanied children. The Migration Board, which is a national agency is responsible for handling the asylum cases and also reimburses the municipalities for providing housing to unaccompanied children.

The decision-making at local level involves 290 municipalities where the Social Services are responsible for the actual provision of social services. If the child has been granted a residence permit, support is provided by the Social Services until they turn 21. The fact that there is not one ministry responsible for all aspects relating to unaccompanied children could mean that certain issues are not addressed effectively if they fall between the different ministries' areas of work.

<sup>7</sup> This number does not include the unaccompanied children who fall under the Dublin II/III Regulation.

<sup>8</sup> To comply with the obligations enshrined in the UNCRC, Sweden adopted a transformation approach to harmonise the legislation with the UNCRC. This decision was based on an assessment, concluding that the legislation in general complied well with the UNCRC (Govt. Bill 1996/97:25, available at: <http://goo.gl/gwDEhn>, p. 244 and onwards).

Many of the unaccompanied children arrive in one of the bigger cities such as Stockholm or Malmö, among those that are called “reception municipalities”, and a clear majority of these children apply for asylum. In order to enforce their rights and entitlements under the Act (1994:137) on the Reception of Asylum Seekers and Others (such as immediate housing), an asylum application must be submitted to the Migration Board that handles all asylum cases.

The Migration Board, the agency responsible for the asylum process for unaccompanied children, has its own Child Policy (GDA 06/2011) that specifies the importance of adopting a child perspective in the assessment of the protection needs and search for a durable solution. It outlines the need for a child-sensitive approach that should be characterised by respect, knowledge of child rights and the child’s needs and development, and a work ethic that takes the child’s emotional well-being and circumstances into consideration. All unaccompanied children are entitled to a guardian who is not a professional but a person who is reimbursed for protecting the child’s rights in both legal and financial terms and for acting on behalf of the child’s best interests.

All unaccompanied children who claim to be under the age of 18 will be treated as such initially, given that age assessments are not conducted at the beginning of the asylum process. Once the asylum application has been registered, the Migration Board systematically sends a formal request to the Chief Guardian of the Municipality to appoint a guardian to an unaccompanied child. The Migration Board also appoints a public counsel (legal representation) to the child as soon as possible after the asylum registration.<sup>9</sup> The public counsel works on behalf of the child and this service is subsidised by the State.

## DATA ON EXTRA-VULNERABILITY

Statistics from a mapping conducted by the County Administrative Board of Stockholm in 2012<sup>10</sup> reveal that 166 children were registered as possible victims of trafficking in human beings between 2009 and 2011.<sup>11</sup> Sexual exploitation was among the reasons for exploitation as well as other reasons for trafficking, such as child labour, begging, and theft. Most of the suspected cases involved unaccompanied children. Only 12 children were accompanied by an adult being their parent or caregiver. The report also reveals that as many as nearly half of the children concerned had disappeared without the Social Services knowing where they had gone. Unaccompanied asylum-seeking children constituted 31 percent of the suspected cases, of which 17 were girls and 15 were boys.

## DATA ON DISAPPEARANCES

According to statistics from the Migration Board, 1,196 unaccompanied children were registered as having disappeared between 2007 and 2013. The main groups of children come from Somalia, Afghanistan, and Iraq. The number of children disappearing decreased in 2013 for all these countries, particularly Afghan children dropped steeply from 103 to 13.

Many of the interviewees explain that the drastic reductions are the result of the ruling in Case C-648/11 (MA, BT, DA vs. Secretary of State for the Home Department) from the European Court of Justice concerning the decision on transfers to another Member State in accordance with the Dublin II Regulation. Sweden has made a formal decision to comply with the ruling and now takes over responsibility to examine most of the cases that concern unaccompanied children.

<sup>9</sup> Public counsels are not appointed to unaccompanied children if it is confirmed that Sweden is not the responsible Member State to examine the asylum application under the Dublin III Regulation, <http://goo.gl/XnJ2mV>.

<sup>10</sup> <http://goo.gl/JnjkdV>

<sup>11</sup> The number is based on results from a survey conducted by the County Administrative Board of Stockholm. It had a response rate of 75% from all the municipalities and also included 14 other national government authorities and organisations. Important to note is the number is only based on suspicions – none of the survey interviewees knew for a fact that the child had been subject to trafficking in human beings.

# NATIONAL CONTEXT – THE UNITED KINGDOM

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Within the United Kingdom there are three separate legal jurisdictions, England and Wales, Scotland and Northern Ireland. They have their own legal court systems and police forces and Scottish law, in particular, is very different from the law practised in the other two jurisdictions. The Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly have their own devolved administrations which have responsibility through their own local departments for the provisions of education, health and local authority children's services. However, the UK parliament remains responsible for immigration control and immigration legislation applies throughout the United Kingdom.

Official migration statistics are provided on a quarterly and annual basis by the UK Government's Home Office and National Statistics Office. However, this data only captures the number of unaccompanied migrant children who apply for asylum and, therefore, do not reflect the true number of unaccompanied migrant children entering and remaining in the United Kingdom.

In 2002 there were 6,200 applications for asylum from unaccompanied migrant children and this made up 7.3% of all asylum applications. Numbers then decreased but remained at around 3,000 for some years before falling to the current level. This has had a significant impact on the services provided for these children. Most local authorities have now closed their asylum seeking children teams and, therefore, these children are no longer likely to be assigned a social worker with the level of experience and skills gained in these specialist teams. It also means that fewer foster carers will have had experience in providing for the specific needs of unaccompanied migrant children.

## STATISTICS

Statistics show that much fewer unaccompanied migrant children now apply for asylum in the United Kingdom. This is both in raw numbers and as a percentage of all asylum applications. There were 1,288 asylum applications from unaccompanied children in the year ending March 2014, an increase of 15% from the year ending March 2013. Overall there was a drop in decisions granted, from 77% of decisions in the year ending March 2013 to 67% in the year ending March 2014.<sup>12</sup>

In 2012 1,125 of the asylum applications were from unaccompanied migrant children. 83% of the applications were from boys and 17% from girls. The percentage of girls applying for asylum has fallen from a decade ago. In 2003 and 2004 33% of applications were from girls. Research at that time suggested that many of the girls may have been trafficked to the United Kingdom<sup>13</sup>. Since then the United Kingdom has introduced a National Referral Mechanism for victims of trafficking and this may account for some of this reduction. In the first half of 2012, just over two fifths of applications were accounted for boys from Afghanistan (22%) and boys from Albania (20%). Similarly in the first half of 2013, 13% of applicants were boys from Afghanistan and 35% were boys from Albania.

Various civil servants and police officers within the UK Home Office also collect data about the number of unaccompanied migrant children who are being trafficked into the United Kingdom. However, it is widely acknowledged by formal actors, NGOs and parliamentarians that these figures are a gross underestimate and only represent a snapshot of a much wider trade. In 2013 the UK Human Trafficking Centre, which is part of the Serious Crime Agency, published a report which found that of the 2,255 potential victims of human trafficking, which were identified in the United Kingdom in 2012, 24% (or 549) were children.

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<sup>12</sup> Paragraph 8.6 link: <http://goo.gl/abKdu7>

<sup>13</sup> *Seeking Asylum Alone: Unaccompanied and separated children and refugee protection in the UK*, Jacqueline Bhabha and Nadine Finch, Harvard University Committee on Human Rights Studies (November 2006).

In the year 2012, the UK received 1,125 asylum applications from unaccompanied children, making it the fifth top destination in Europe for such applications. Only a quarter of these applications were successful in obtaining refugee status, while the rest were either refused or given leave to remain until the age of 17½.

Where a child has been granted limited leave until the age of 17 ½ he or she can apply to extend that leave. Many young applicants are refused because they become 'aged out' upon turning 18 and can no longer rely on a risk of child specific forms of persecution.. Their refusal triggers a right of appeal before the immigration tribunal, however for the young person to have access to legal aid they must pass a merits test. If they are unsuccessful in their appeal they become Appeal Rights Exhausted (ARE) and any further presence in the UK becomes unlawful. The only way this status can change is if they are able to bring forth a fresh asylum or human rights claim.

Government statistics confirm that the Home Office does not remove most of the young people who can no longer stay legally in the UK.

The United Kingdom has signed and ratified the UN Convention on the Rights of the Child and its three Protocols on the involvement of children in armed conflict, the sale of children, child prostitution and child pornography and a communications procedure. It has not incorporated them into national law but in the case of *ZH (Tanzania) v Secretary of State of the Home Department* [2011] UKSC 4 the UK's Supreme Court recognised that Article 3 of the UNCRC was a binding obligation in international law. Furthermore, in the case of *Zoumbas v Secretary of State for the Home Department* [2013] UKSC 74, it was confirmed that the best interest of the child had to be viewed as a primary consideration, even if it was not a 'paramount' consideration.

However the National Assembly for Wales has taken a number of steps to incorporate the UNCRC into the areas of law which fall within its jurisdiction.<sup>14</sup> In 2011 it adopted the Rights of Children and Young People (Wales) Measure with unanimous cross-party support. This placed a duty on all Welsh ministers to have due regard to the substantive rights and obligations within the UN Convention on the Rights of the Child and its optional protocols. Section 2 of the Measure also requires ministers to publish a Children's Rights Scheme on a regular basis.

From May 2014, Welsh Ministers have been under enhanced obligations, and now have to have due regard to the UNCRC when exercising any of their ministerial functions. This means that they now have to consider children's rights when making spending decisions, creating policies, and changing the law.

## LAW AND POLICY IN THE UNITED KINGDOM

The Department of Education in England and its equivalent in Wales, Scotland and Northern Ireland has overall responsibility for policies relating to children, which are then implemented by individual local authorities. Unaccompanied children seeking asylum are placed with local authority who receive grants from the Home Office for taking care of them.

In the United Kingdom there are three main areas of legislation which have direct effect on the lives of unaccompanied migrant children. The first relates to legislation concerning child protection. The second is made up by the myriad immigration acts, regulations and rules, which direct the manner in which the Secretary of State for the Home Department and her caseworkers will consider any application for asylum or subsidiary protection from an unaccompanied migrant child. The third is the criminal law relating to unlawful entry, the use of forged documents and offences such as the cultivation of cannabis, street crime and human trafficking.

<sup>14</sup> This does not include the implementation of immigration law but does include child protection and other children's services and education.

Unaccompanied migrant children are in principle entitled to the same care and support from local authority children's services teams as any other child in the United Kingdom. Individual local authorities have a duty to accommodate and support unaccompanied migrant children under Section 20 of the Children Act 1989 and the equivalent legislation in Scotland and Northern Ireland on the same basis as any other children who are homeless and have no-one who is exercising parental responsibility for them. This duty initially arises when a child is geographically in a local authority's area but in some cases the child will subsequently be placed in the area of another local authority. This may be because it is necessary to share out this responsibility and ensure that local authorities in whose areas sea and airports are situated do not have to support a disproportionate number of unaccompanied migrant children. In other cases, it will be because there are no appropriate foster placements, children's homes or supported housing in one particular local authority area.

Most local authorities place unaccompanied migrant children who are under 16, who have special needs or who are particularly traumatised in foster care. Children over 16 are placed in supported housing. This will usually be in a house shared with other unaccompanied migrant children of the same age. A social worker or social work assistant will either call in once a day or may in some cases be resident there. Special provision for children who may have been trafficked is being developed but is still at a developmental stage.

## DATA ON EXTRA-VULNERABILITY

All professionals involved in tackling child trafficking accept that the extent of this phenomenon is unknown. This is partly because it results from organised international crime and, therefore, it is only when such crimes are detected and its victims are rescued that the true number of children involved can be quantified. In addition, by its very nature the "trade" depends on children being brought into the United Kingdom illegally without the knowledge of border and immigration officers or wider child protection systems. Therefore, current statistics are likely to be a gross under-estimation of the true number of victims. In particular, the statistics produced within the National Referral Mechanism system should be viewed with caution as it is known that many social workers do not refer children in their care into the NRM due to concerns about whether this is in the child's best interests. This is because it does not give trafficked children access to any further assistance and protection and exposes them to the potential trauma of an additional determination procedure.

The statistics included below do not reflect a comprehensive picture of the numbers of unaccompanied migrant children who are trafficked into the United Kingdom but do indicate the breadth of the variety of exploitation, which the children may experience, and the main countries from which they are likely to have been trafficked. On 28th January 2014, the National Crime Agency published its Human Trafficking: National Referral Mechanism Statistics for July – September 2013. These revealed that during this period 105 children were referred into the NRM because of concerns that they may be victims of child trafficking. 80 (or 76%) came from the 12 particular countries, which "produced" the highest number of child victims. 22 were from Vietnam, 10 from Albania, 5 from China, 5 from Ghana, 5 from Romania, 4 from Nigeria, 3 from Pakistan, 2 from Congo, 2 from Jamaica, 2 from Slovakia and 2 from Somalia. (There were also 18 from the UK itself.)

36 of these referrals related to sexual exploitation, 35 to labour exploitation, 13 to domestic servitude and 21 were unknown. 63 (or 60%) were girls and 42 (or 40%) were boys. There was also a discrepancy between the numbers identified in different parts of the UK and in this period only 8 children were identified in Wales<sup>15</sup>, 10 in Northern Ireland and 20 in Scotland<sup>16</sup>. This does not necessarily mean that the systems put in place by these devolved administrations are less robust, but may simply reflect the areas of operation by criminal gangs.

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<sup>15</sup> For more information on child trafficking in Wales see *Bordering on Concern: Child Trafficking in Wales* ECPAT UK (commissioned by the Office of the Children's Commissioner for Wales (2009) and *Knowing No Boundaries: Local Solutions to an International Crime: Trafficking of Women and Children in Wales*, Joyce Watson AM, Chair of Cross Party Working Group on Trafficking of Women and Children in Wales (2010).

<sup>16</sup> For more information see *Inquiry into Human Trafficking in Scotland*, Equality and Human Rights Commission, 26.11.2011.

## DATA ON DISAPPEARANCES

The limited data available suggests that patterns of disappearance often reflect the child's nationality and are heavily influenced by whether the child had initially been trafficked into the United Kingdom. Furthermore, as the care of unaccompanied migrant children is embedded in the United Kingdom's wider child protection system, the response to any disappearance both mirrors the fact that they are children in care and that at the same time they are children who are subject to immigration control. It is also part of a wider concern within the United Kingdom about the high percentage of children who go missing from care. Both the National Crime Agency and the Department of Education, which has ultimate responsibility for children in care, are collecting data. But the figures include both migrant and non-migrant children and the basis upon which a child is categorised as missing differs.

## 3.3 COMPARATIVE OVERVIEW – KEY FINDINGS

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Comparing how actors work in each of these four countries throws into stark relief some of the common challenges and shared dilemmas for actors in their day to day work. The comparison also allows us to identify which national practices may be interesting to other countries, precisely because they are not common. Section I below provides an analysis based on the general context in each country. In Section II, we focus on comparing what happens in relation to each of the priority areas.

## 3.4 THE GENERAL CONTEXT

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This section explores **A** the framework of law, policy and administration, **B** the actors involved and the degree of their qualification and specialisation and **C** the cooperation between actors.

### **A THE FRAMEWORK OF LAW, POLICY AND ADMINISTRATION**

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The mapping began by exploring how the general features of law, policy and administrative practice affect the way in which responsibilities are allocated to actors and how they can be carried out. For example, do gaps in responsibilities or challenges for actors stem from how the legal and administrative framework is structured? Are the roles and responsibilities of actors clear and transparent?

Typically there is a fairly wide set of laws and policies which address the situation of the full range of unaccompanied children across the four countries. These include specific asylum and trafficking laws, as well as more general legislation concerning child welfare or youth care. However, the mapping findings suggest that several features of the overall framework can cause challenges to the organisation of responsibilities of actors. These include: (i) tensions between the range of different State responsibilities as regards these children; (ii) the existence of fragmented legislation covering different groups of children, which can give rise to gaps in responsibilities for them and/or their entitlements, and the implication of children in several procedures and (iii) decentralisation of responsibilities with significant autonomy for local actors, leading to different entitlements for children and different procedures locally. Such challenges might be perceived to be an inevitable by-product of this legal and administrative framework; however the mapping provides (iv) illustrations of measures which can mitigate these problems, including national strategies and coordinating mechanisms, training and special tools for actors, and cooperation between actors.



## **(I) SYSTEMIC TENSIONS**

Unaccompanied children raise multiple responsibilities for Member States, which need to respond both to their reception and protection as unaccompanied children and their immigration status as unaccompanied children outside their country of origin. In some situations, law enforcement concerns will also play a role, for example, in the case of trafficking and children going missing.

These distinct responsibilities are often separately addressed in different laws and by different actors, i.e. some actors primarily deal with child protection, whilst others primarily address immigration or crime concerns.

Without careful consideration of how these several responsibilities interact, “systemic” tensions can arise between them, including lack of clarity in terms of which actors do what, which obligations will take priority and whether actors are in fact competing to achieve distinct aims. It is important to identify and acknowledge these issues where they occur, as practical steps can be taken to avoid or mitigate their effects.

### **Who does what?**

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Immigration actors in the context of immigration laws may be asked to carry out what are essentially child protection tasks but they may not be equipped with the right skills or tools, or means to cooperate with child protection actors. For example, immigration officials may be required by law to assess family reunification possibilities, without input from the child protection officials who would typically be involved if the case involved a citizen child. Case workers may assert that it is in the best interest of a child to be returned to the country in which his or her parents live without any assessment of the family being undertaken (“home study”) and when family tracing has yielded the geographical location of a family but no more information as to their circumstances.

### **Lack of clarity in priority of obligations**

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There may be a lack of clarity on what obligations take priority or how they are reconciled. An example of this is the situation arising in the UK, where UK Visas and Immigration provides local authorities with additional funding to support asylum seeking children. As a consequence of financial reporting requirements, UK Visas and Immigration is aware of the location of these children and this assists it to remove them when they become 18 if they are not been granted leave to remain. This occurs regardless of whether or not an assessment of the child’s best interests when entering adulthood has been completed. The demarcation between immigration control functions and child protection obligations is further blurred by the fact that UK Visas and Immigration relies on the expertise of local authority social workers where it has a doubt about the age of an individual who has claimed asylum.

Different actors may be viewed as competing to achieve their aims, in particular where the actors take polarised views of the situation of these children and the risks and options that exist for them. These competing perspectives tend to come to the fore in status protection proceedings. We also see that different mandates may lead to a polarisation of responses amongst actors. One example shows that actors responding to disappearances may be influenced by different presumptions about the underlying reasons for such disappearances or the steps that can be taken to follow up. The mapping shows that, while acknowledging the child protection concerns that a disappearance raises, some law enforcement actors in Italy and Sweden have expressed the view that no effective follow up can be taken on the assumption that a child has left voluntarily to pursue a migration project. In contrast, a guardianship authority in Sweden has noted that it periodically may seek to establish whether a child has reappeared at a later point or in another region of the country.

## (II) FRAGMENTED LEGISLATION

Different legal instruments frequently address different groups of children or the different issues which they confront. This fragmentation of the laws may affect which actors are involved in responding to different groups of children or different issues, what they can do and how they cooperate. Examples of how this affects the situation of children include gaps in responsibility and accountability, different provisions being made for different groups of children or the implication of a child in multiple distinct procedures with different actors.

### Gaps in responsibility and accountability:

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Distinct processes for different groups of children may mean that different actors are involved in their situation, despite their common needs for special assistance and protection. For example, a lawyer may be available to an asylum seeking child but less readily available to unaccompanied children in other situations. In the UK, there is no guardianship system and, therefore, no-one with the legal responsibility for instructing a lawyer on behalf of an unaccompanied child or ensuring that other actors provide appropriate services and support to the child.

### Different entitlements

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While there is specific asylum and trafficking legislation in Italy<sup>17</sup> and the UK, the general child protection law also establishes that all children receive protection as a child until 18, and the scope of a child's entitlement typically does not depend on them claiming specific protection status.

However, in the Netherlands and Sweden, there are laws and policies on the rights of asylum seeking children and trafficked children, but less clear rules on the entitlements of undocumented children who do not seek asylum or protection as trafficked children. This can lead to different entitlements in relation to financial support or the availability of educational and training opportunities. For example, in the Netherlands, the abolition of a special unaccompanied child residence permit means that unaccompanied children whose asylum applications are rejected basically become undocumented. In practice, however, unaccompanied children who have not been granted international protection are still allowed to stay in the Netherlands until they are 18 years of age (and will not be deported before this time) as long as no adequate protection is available in their country of origin. However, not having an accepted means of identification may lead to many practical difficulties in the lives of these children, including not being able to live independently by renting a room, getting a library card and not being able to identify oneself. Equally, in Sweden, although all children regardless of status are entitled to education and health care, and the social act states that social services are responsible for providing support to all children, this is not so clear in practice.

### Involvement in multiple procedures with different actors:

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Different instruments typically involve children in several distinct complex procedures, with different decision makers and sometime different actors involved.

For example, in the UK, a child may be involved in an age assessment procedure, with the protection claim being dealt with in a different forum, and a further procedure involving a trafficking investigation and prosecution. This clearly may affect the child's situation negatively in a variety of ways. Moreover, it

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<sup>17</sup> In Italy, at the time of writing, there is a bill before Parliament to reform the system of protection of unaccompanied foreign children (AC 1658). The application of the bill proposed would be a definite turn for the better in terms of reception and protection of unaccompanied foreign minors, and would, in particular: standardize the identification and age assessment; establish a national system of reception, with an adequate number of seats and standard quality guaranteed, activate a national database to govern the sending of minors arriving in Italy; ensure continuity to a national fund for the reception of unaccompanied children; support organic social integration and education for unaccompanied children; establish the role of the "volunteer tutors", properly selected and trained. This bill will be related to the new reception and protection system in which Ministry of Interior has now the leadership. This new system is already effective and it will affect all future reforms, Laws and effective practices related to reception of unaccompanied children.



also gives rise to inefficiencies, duplications and problems within the system unless, at minimum, a more streamlined case management can be put in place.

### **(III) DECENTRALISATION**

Decentralisation of reception and services for unaccompanied children is a feature in Sweden, Italy and the UK (in the latter case, it is worth noting that the UK is made up of four separate jurisdictions, England, Scotland, Wales and Northern Ireland). Decentralisation may lead to more appropriate local responses to issues and lead to positive innovations. However, in certain circumstances or aspects, it can create difficulties. Local authorities may exercise their discretion to grant entitlements in significantly different ways. For example, in Sweden, all unaccompanied children have a right to education and health care. However, undocumented children have an entitlement to accommodation and financial assistance, only if a municipality decides to grant it. At the time of writing, only Malmö municipality had granted such an entitlement formally (if found it is deemed necessary). Efforts to bridge significant differences may be important to avoid encouraging unnecessary movement of children within countries. In some instances there are limitations on the discretion of local authorities; for example, in the UK, all children are entitled to primary and secondary school whether or not they have leave to remain as Education Act states that any child in the area of a local authority must be in school.

The autonomy also may mean that local authorities may have different methods of organising and resourcing responsibilities (for example, with some municipalities in Sweden having training programmes for guardians and others having none.)

Moreover, differences in procedures and applications can make cooperation between authorities more challenging.

### **(IV) ILLUSTRATIONS OF POTENTIAL MITIGATING MEASURES**

Crucially there are concrete steps that can be taken to mitigate these problems. These include national strategies and coordinating mechanisms, training and special tools for actors, and cooperation between actors. This section contains illustrations of types of steps and examples from different country contexts.

#### **National strategies – limited use to date**

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A national strategy on unaccompanied children may have as its specific goal the establishment of a more systematic process for addressing both child protection and immigration responsibilities and to ensure a more integrated application of different instruments. At the time of writing, none of the four countries have a national strategy establishing general national responsibilities for reception and protection of unaccompanied children (although Italy had previously had one and is in the process of developing a new one). At EU level, we have the example of the EU Action Plan on unaccompanied children which takes an integrated perspective of different EU measures covering asylum seeking, trafficked and undocumented children. It allows for EU actors and stakeholders to look across the distinct instruments dealing with unaccompanied children and to identify cross cutting issues.

The mapping has pointed to the adoption of national child rights strategies/action plans which cover children in general, but these typically explicitly address the situation of unaccompanied children only to a very limited extent. For example, in Sweden, only trafficked children are specifically mentioned. To the contrary, in the UK, there are a number of safeguarding policies which relate to all children, and specifically include unaccompanied and trafficked children who are seen to need enhanced protection. The Welsh Government also maintains a dedicated UNCRC site on its staff intranet and all of its staff must apply a Child Rights Impact Assessment where a decision or scheme will affect children. The Children's Commissioner for Wales can also review how Welsh ministers exercise their functions.

## National coordinating agency

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Another possible route to coordinate better the different responsibilities and distinct processes is to provide one actor with a clear and active leading role in organising responses to the situation of unaccompanied children. A coordinating agency may prove useful to ensure responsibilities for unaccompanied children are clear and can be fulfilled, and to promote coordination between actors. Operational coordination may be particularly necessary when the numbers of unaccompanied children arriving fluctuate substantially from year to year, and/or where non-specialised actors are typically responding to their situation, alongside other ongoing responsibilities. In none of the countries mapped is there a central coordination agency with an active role, although there are some steps in that direction. At the time of writing, in Italy, there is an ongoing initiative to create an Inter-Institutional Coordinating Board for affairs related to non-asylum seeking unaccompanied children composed of representatives from the Ministry of Labour and Social Policies – General Directorate on Immigration and Integration policies, Ministry of the Interior – Public Security Department, the National Association of Municipalities, the Regional Department of Social Affairs and the Ministry of Justice.

It is important also to acknowledge that, in the case of a clear attribution of responsibilities, the involvement of specialised bodies dedicated to unaccompanied children, and centralised provision of services, there may be a sufficient balance in the system for it to operate smoothly, and not the same need for a coordinating agency. This is the perception of some stakeholders of the day to day case management in the Netherlands at the time of writing.

## Integrating service provision and creating links between different processes

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In some cases there is integrated service provision for all unaccompanied children or emerging efforts to create links between the different processes provided for in different instruments. This is the case in the Netherlands, where all unaccompanied children receive a professional guardian from the guardianship authority regardless of their status. In the UK, the courts have recently adopted protocols related to information sharing between the Family Court and the Immigration and Asylum Tribunal and criminal courts and the Family Court. We also see in the UK that responses to disappearances of unaccompanied children are increasingly co-ordinated by Multi-Agency Safeguarding Hubs or other wider child protection systems. Further information is contained in Sections B and C.

## Specialised skills and tools

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Section B below addresses the specialised qualifications, skills and tools that may be developed to support actors in their work. Through this specialisation, actors who are addressing the situation of these children (in particular) should be better placed to ensure that the rights of the child are respected. As one example, in Sweden, over the last ten years, there have been dedicated efforts to address how immigration processes have taken account of the best interests of the child, through child rights coordinators, dedicated units, training and specialised tools. These are steps in the right direction, although there is some criticism that they are not yet effective in ensuring a fuller consideration of the best interests. It is beyond the scope of this project to analyse their impact to date.

## Cooperation between actors

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Section C below addresses in some detail cooperation between actors with different mandates and it is clear that effective cooperation may substantially alleviate tensions between actors with different mandates and allow for smoother and appropriate responses to particular situations. Particularly noteworthy examples include the UK National Referral Mechanism in the field of trafficking. In the Netherlands, in recent years, there has been an increase in the cooperation mechanisms between the guardianship authority and the Immigration and Naturalisation service which have allowed for informal and sometimes formal conversations to ensure that actors' positions are more transparent and better explained to each other.

Solid accountability mechanisms, at both “system” level and on a case by case level, can serve to improve how actors fulfil their roles and how they work together. The mapping did not focus on accountability mechanisms and the bodies typically involved, which include professional bodies and often the Children’s Rights Commissioners. One recommendation from the report is for further research to examine how to re-inforce accountability mechanisms in the sector, in particular, children’s access to complaints procedures.

## **B ACTORS INVOLVED AND DEGREE OF QUALIFICATION AND SPECIALISATION**

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There are typically a wide range of actors involved in responding to the situation of unaccompanied children in each country, from border guards, law enforcement officials, social workers, reception centre staff, doctors, teachers, guardians, interpreters, lawyers, NGOs, immigration officials, decision makers and judges.

There is a common overlap in the actors “centrally” engaged in the situation of children, i.e., involved in supervision of day to day care, providing information, assistance and support to the children, gathering information about their situation and assessing their situation from the perspective of protection needs. However, despite the broad overlap in actors responsible for these issues, their roles and means often substantially differ from country to country. Additionally, in some countries, certain actors with specialised roles are involved in carrying out specific activities, whereas they are not present or as active in other countries.

The mapping also demonstrates considerable national differences in the extent to which actors are qualified and specialised and the tools which are available to them. It identifies factors which can impede a more skilled response to unaccompanied children as well as practices which can support specialisation.

### **(I) WHICH ACTORS ARE INVOLVED**

A uniform picture of the actors involved, and how they are involved, has not emerged. Indeed it is important to look at the combination of actors involved in different countries, as different actors tend to have different roles in the various national settings.

For example, in the Netherlands, professional guardians, which are supported by a guardianship authority, play a central role in managing the child’s situation. In particular, they work with other actors (including foster families and reception centres) to ensure adequate reception. They also liaise with lawyers to ensure the relevant asylum and migration procedures are engaged.

In the UK, where currently there are no guardians, social workers working for local authorities are responsible for the management of the child’s ongoing reception but typically are not engaged in the preparation or support of a child’s asylum application. Local authorities may signpost a child to a lawyer but do not instruct lawyer on the child’s behalf. If the child has claimed asylum he or she may also have been referred to the Refugee Council’s Panel of Advisers and it will have referred him or her to a lawyer. The absence of guardians has meant that the lawyers needed to take on a more active approach to the child’s case, although this approach is currently under threat as legal aid is no longer available for unaccompanied children, who have not applied for asylum. Therefore, their access to paid legal advice and representation depends on whether they are accommodated by a local authority who accepts that it is under a duty to pay for such advice and representation in the absence of free legal aid from central government.

In Italy, de facto, either reception centres staff or NGOs play a key role in assisting the child in terms of providing them information on the law and helping them engage with the different processes involved. Some reception centres have a lawyer on their staff to provide the children with general information.

In Sweden, children are largely hosted in reception centres (although a number are also placed in foster homes and in kinship foster homes), meaning that reception centre staff might play a more central role in assisting children in their daily lives; however reception centres do not always have access to the services which are necessary to do so effectively, for example legal information at the centres.

## Actors with specialised roles

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In some countries, actors with specialised roles are involved in responding to the situation of unaccompanied children.

For example, intercultural mediators are involved in cases in Italy. They are typically individuals who are of the same national or ethnic origin as the child and can help bridge between their home culture and the situation in Italy. Intercultural mediators can have a significant impact on the extent to which the child understands and engages with their surroundings and any procedures they are involved. Through various measures in Italy, the role of intercultural mediators has gradually, but progressively, evolved from a mechanism used in school into a stable tool for foreigners' social integration. The law requires that State, Regions and Local authorities should have specific agreements with legally registered associations in order for them to employ foreigners as intercultural mediators. The registered associations should be responsible to facilitate relationships between the Administrations and different ethnic, national, linguistic and religious groups. Currently there is no national association but there are local and regional associations. Italian law does not contain clear rules delineating and protecting such profession; however it does require specific trainings for mediators to be introduced and there are a variety of educational paths to becoming an intercultural mediator. Various courses have different subjects and organization, but all of them should provide lessons in the following areas: technical – vocational, legislative and institutional; linguistics; socio psycho-pedagogical and didactic; social-health; statistics and computer science.

In the Netherlands, there are contact persons on trafficking engaged in centres, with a view to ensuring early identification of trafficked persons. However, this practice is too recent to indicate what effect it will have.

## Involvement of certain specialised actors

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As will be seen further in Section 3.2.2 A below, despite the trauma which many of these children experience, psychologists do not seem to be routinely involved in identifying and responding to children's individual needs. There are some good practices, including in the Netherlands, where they appear to be systematically involved in the cases of children in protected centres. In Italy in Milan, protocols have been established with Neuropsychiatry Services which initiate services in support of the effort of community workers who work with extra vulnerable children and deal with the subsequent transfer of responsibility. In the UK unaccompanied migrant children are entitled to all services provided by the National Health Service and in areas, which have historically accommodated a significant number of unaccompanied migrant children, services which have been designed to meet their particular needs have been developed. However, in other areas and particularly in rural areas such services may not have been developed or delays for appointments may be excessive.

In the Netherlands, and Sweden, experts on child specific issues, and in particular as regards the situation in the country of origin, rarely appear to participate in the protection status proceedings, despite the very limited availability of country of origin reports with child specific information. However in the UK such experts are used on a very regular basis. In Italy, UNHCR informs the proceedings on country of origin information.

## (II) QUALIFICATIONS AND TRAINING

The extent to which actors have defined qualifications or specific skills to work with unaccompanied children is very varied across the four countries. In interviews during the mapping, actors themselves have sometimes prioritised this issue, indicating that they do not feel sufficiently equipped to fulfil the role assigned to them. Moreover, in the absence of qualifications and skills, actors have spoken of difficulties in engaging with children, identifying situations of extra-vulnerability and indeed job fatigue.

It is worth specifically considering some of the factors which may hinder qualifications and skills in the sector, including:

- **Reliance on volunteers or “semi-professionals”**, without sufficient training or support being made available, in particular as regards guardianship and representation, (for example in Italy and Sweden).
- **Involvement of generalists**, including lawyers without any specific experience in child rights or in asylum and migration issues; this sometimes arises from a failure to recognise the specific features of working with these children.
- **Decentralisation**: this can mean that local authorities struggle to supply adequate training to key workers; in contrast national agencies may have a better ability to resource training nationwide.
- **Instability in the sector** with rotation of staff can jeopardise the skill available.
- **Small or diminishing numbers of children**: in the UK this recently led to most local authorities closing their asylum seeking children teams, and children are no longer likely to be assigned a social worker with the level of experience and skills gained in these specialist teams.

These factors are present to varying degrees in the countries mapped. Being aware of these factors is very important as steps can be taken to mitigate them. It is not always simply a question of resource constraints, rather it can also be a question of policy (for example, legal aid policies) and organisation (for example, a failure to pool expertise or concentrate resources). It is also an area where regional practical measures of support clearly can be leveraged, through training and guidance, and ultimately potentially by pooling European expertise in key areas (such as child specific country of origin information or expertise on child specific forms of persecution).

Specialisation, where it does exist, roots in specific requirements as to professional qualifications, the availability of training and the development of specialised units for dealing with children. The mapping highlights some challenges and provides some noteworthy examples of specialisation on key issues in some countries.

Qualifications can arise from professional education and training in appropriate topics, including child care, knowledge of the special needs of this group of children, knowledge of both child rights and asylum and immigration procedures. Different actors need either general or more in-depth knowledge of these issues, depending on whether they are concerned with day to day care, or identifying extra-vulnerability, individual needs or trafficking, or whether they are providing assistance to a child on their protection needs/involved in decision making.

The availability of training on issues relating to unaccompanied children, and the actors involved, varies considerably from country to country. In some instances in some countries, training requirements are voluntary, rather than mandatory. Training programmes may not have sustainable funding and often are provided on a programmatic basis by NGOs. However successful training has been achieved through projects, including those funded by the EU.

Specialised units, dedicated to dealing with children, are a welcome development in some countries. It would be useful to consider further what factors might contribute to their efficacy. Apart from qualifications and regular training, it would be interesting to compare and contrast the composition and resources of such units, including whether they have a multidisciplinary approach and sufficient tools to support their decision-making.

## Highlights from the national situations

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A good practice in the field of qualifications is the case of guardians in the Netherlands, who are typically social workers who have completed additional courses and programmes related to taking custody of unaccompanied children with a different cultural background, as with most mentors in the reception centres. The Centre of Expertise on Human Trafficking and Migrant Smuggling (EMM) of the Dutch Police regularly provides awareness trainings for actors dealing with unaccompanied children. However, neither judges nor lawyers involved in cases of unaccompanied children are required to have special qualifications or training; although recently a pool of lawyers specialising in trafficking cases has been established.

In the UK, it is a criminal offence to offer immigration advice without proper registration, so a list of accredited immigration advisors, who are not lawyers, is maintained by the Office of the Immigration Services Commissioner (OISC). Three different levels of accreditation are recognised by the OISC, but there is no specialist test that must be passed to demonstrate child-specific competencies. The Law Society in England and Wales and the Law Society in Scotland run separate accreditation schemes for solicitors who will represent clients in immigration cases. Participation in these schemes is mandatory for solicitors who hold a legal aid contract, but only voluntary for solicitors who do not.

In the UK, the Joint Committee on Human Rights in 2013 recommended that “Government work with child welfare and safeguarding experts to develop a specific training programme to improve awareness and understanding of the UN CRC and its application to unaccompanied migrant children, particularly with respect to properly considering children’s best interests. Such a programme, delivered by external providers, should be rolled out first to staff in frontline immigration and asylum roles, and to those local authorities that deal regularly with unaccompanied migrant children. The programme should then be rolled out more widely as resources allow.”<sup>18</sup> However, the recommendation has not yet been implemented.

Nonetheless there is a range of training opportunities for actors, including lawyers, by a variety of professional bodies and NGOs in the UK. Training for lawyers working with unaccompanied migrant children has been provided by the Immigration Law Practitioners Association. The Law Society of Northern Ireland promotes a specialist understanding of child friendly justice, but does not run any compulsory accreditation schemes,

Also in the UK, where there are large migrant communities, many interpreters have developed high levels of professional competence through training and accreditation. However, the decision by the UK government to allocate an exclusive contract for interpretation services in courts and tribunals to only one company, which does not impose such rigorous standards, has been widely criticised by both service users and judges.

In Sweden, in general, there are no specific requirements for any actor to have qualifications or training in migration issues and/or asylum law. Guidelines from the National Board of Health and Welfare (SOSFS 2006:14) only state that staff at the Social Services who work with children should possess competence in child rights, but it is not a requirement. However there is specific guidance for social workers and other actors on how to work with unaccompanied children published by the National Board of Health and Welfare. There is also a training module for municipalities/guardians produced by all relevant actors, with the Swedish Association of Local and Regional Associations in the lead, to give a coherent picture of the assignment of a guardian and different actors’ roles. The specialised Child Units in the Migration Board are further described below.

In Italy, the mapping found that there is a lot of inconsistency with regard to the qualifications, skills and training of those involved in the system of protection of unaccompanied foreign children. In Italy, judges of the Juvenile Court are particularly qualified on the subject of communication with children in judicial and juvenile law. The Juvenile Court is a multidisciplinary body composed of two magistrates from the

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<sup>18</sup> <http://goo.gl/iPd5rY>



court and two citizens, and 2 citizen specialised in social assistance, chosen from among scholars of biology, psychiatry, criminal anthropology, pedagogy and psychology.

Among the members of the Territorial Commissions for the recognition of international protection only the representatives of UNHCR have special training on the subject of communication with children seeking international protection. Equally the social service officials filling out the asylum applications are not required to have a legal background/knowledge of reasons for protection status. Quality issues have been noted, for example, in the use of interpreters. Police Forces (Guard Coast, Finance Guard, Polfer, Polaria) attend courses on immigration law, but not on children's rights. From interviews held for this study it can be seen that they do not receive specific training on the best practices to use when questioning children to gather information. Lawyers who take on a case of an unaccompanied foreign child are not required to have specific training in this area.

However there are encouraging signs of more widespread recognition of the need for training. Most Italian regions have a law establishing the Ombudsman for children and adolescents, although not all of them have proceeded to appoint a person to fulfill this role. One of the main activities is the training of volunteer guardians (free assistance, volunteering) for unaccompanied children and to check their reception conditions.

### Specialised units

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In Sweden, the Migration Board, the agency responsible for the asylum process for unaccompanied children, has its own Child Policy (GDA 06/2011) that specifies the importance of adopting a child perspective in the assessment of the protection needs and search for a durable solution. It outlines the need for a child-sensitive approach that should be characterised by respect, knowledge of child rights and the child's needs and development, and a work ethic that takes the child's emotional well-being and circumstances into consideration. An asylum case that concerns unaccompanied children is handled by one of the five Child Units at the Migration Board. All case officers in these units are required to undergo mandatory training in child rights and appropriate methods to engage with children. However, the interviewed case officers have said that the course is extensive and adequate to perform the job, but the issue is that there is not always time to go to all of the training.

In the Netherlands, all procedures for unaccompanied children are dealt with in one office of the Immigration and Naturalisation Service, where specifically trained staff members conduct the interviews. Recently, a pool of lawyers with particular expertise in working with (trafficked) children has been established, however, the Courts have not appointed any specialised judges.

## (III) SPECIALISED TOOLS

Actors in this field may require the support of specialised tools to carry out their functions, including access to necessary information or specialist expertise. There are some noteworthy examples of useful tools in some countries, as well as some obvious needs for particular tools which have been highlighted by the actors in the mapping.

Some of the most notable tools identified in the mapping are as follows:

- **Tools for social workers:** Use of BBIC tool (Swedish acronym for Barnets Bästa i Centrum. Eng. the Child's Best in Focus) by almost all Swedish municipalities to systematically screen, document, and respond to the child's circumstances and needs. BBIC is based on the English system, 'Integrated Children's System'. BBIC aims to enhance the child's means of participation and strengthen the child perspective. It also aims to bring about a more coherent national case management practice. Currently, its use requires training and a licence provided by the National Board of Health and Welfare.
- **Immigration officials' use of questionnaires:** all case officers at the Swedish Migration Board use standardised questionnaires to gather relevant information to carry out a best interest assessment. The purpose of such analysis is to make the decision-making process more transparent in terms of

how the information about the child has been gathered, describing the circumstances, and analysing the consequences from a child's perspective. The considerations must be presented in the decision.

- **Protocols in judicial proceedings to promote information** sharing in the UK between the Family Court and the Immigration and Asylum Tribunal and criminal courts and the Family Court.
- **Common registration system for cases of children:** In order to strengthen the activity of data collection, facilitating communication and interaction among all involved Institutions, an on-line information system (SIM), aimed at the traceability of the reception pathway of unaccompanied migrant children since they enter the Italian territory, is currently under development in Italy. This system allows all the involved parties (Central Administrations, Police Headquarters, Regions, Municipalities, Communities, Tribunals, etc.) to access a shared database where each one of them, in line with their competences and ensuring data-protection, may enter, read and update the information on children. The System is currently being tested in seven geographical areas.
- The creation of an **international helpdesk for guardians on Dublin** cases by Nidos. The helpdesk is part of the European Refugee Fund-project "Dublin Support for Guardians". This project is being implemented by Nidos in cooperation with Caritas International and France Terre d'Asile, funded by the European Commission. Guardians and other relevant stakeholders in European countries are informed about the service, the steps in a Dublin-procedure (from the point of view of the guardian) in each Member State are made available and the practical implementation of the new Dublin regulation in member states will be monitored.
- Development of **child country notices** for countries of origin: (UNICEF project Netherlands); UNICEF National Committees in the Netherlands, Belgium and Sweden, are currently working on the development of child-specific country of origin reports (COI). These country reports (Child notices) describe the situation of children in countries of origin, including legal and practical information on education, health care, child protection, armed conflict, juvenile justice, trafficking. The reports aim to provide the necessary information to enable authorities to make a balanced assessment in the asylum procedure or in any other migration procedures considering the best interests of the child such as those designed to provide protection to trafficked children.
- **Child specific information in country of origin reports:** in the UK, an Independent Advisory Group on Country Information<sup>19</sup> (IAGCI) was established in March 2009 by the Independent Chief Inspector of Borders and Immigration. The IAGCI can make recommendations designed to improve the manner in which information for these reports is gathered, structured and used but such recommendations are not binding on the Secretary of State for the Home Department. In 2012, an IAGCI thematic report by Kohli, Mitchell and Connolly, *An analysis of the coverage of issues related to children in Country of Origin Reports produced by the Home Office*,<sup>20</sup> examined the extent to which country of origin information reflected the situation of children in countries of origin and whether these countries respected children's rights. See further, section on information gathering below.
- **Return monitoring instrument:** in the Netherlands, the Hit Foundation, in co-operation with a number of other actors including Nidos, initiated the pilot project, "Monitoring Mechanism for Returned Minors"<sup>21</sup> (MRM). This EU-funded research project aims to develop a monitoring instrument that contributes to a more sustainable and safer return for children.

The mapping also provides illustrations of tools that have more limited functionality than they might have. For example, in the UK, although there are case databases (e.g. between UK Home Office and Social Services; IT Central and Municipalities), these are often largely used to track finances, rather than being used to facilitate cooperation on case management between actors. Equally, in the Netherlands, although registers have been created to gather information on trafficking, there are in fact several competing registers. In addition there is a failure to channel information back down to frontline workers.

<sup>19</sup> <http://goo.gl/V6n7fH>

<sup>20</sup> <http://goo.gl/cLRNwF>

<sup>21</sup> <http://goo.gl/3qZYgl>



When addressing the need for tools, some recurring problems should be addressed. These include the frequent lack of sustainability of tools, where they depend on project based initiatives, and more generally, the degree of monitoring and evaluation of the use of such tools, without which it is not clear what works and how, and without which tools cannot be adapted and improved.

At European level, the Reference Document on Unaccompanied Children: a Compilation of Relevant EU Laws and Policies indicates a range of practical measures of support that have been developed to assist actors, including interviewing children modules (EASO); training manuals for border guards (FRONTEX) and most recently a manual on guardianship for children deprived of parental care (FRA). The EU has also funded regional projects which have developed specific tools for actors, including the DCI led Core Standards for Guardians and ECRE led Right to Justice Project producing guiding principles on quality legal assistance for unaccompanied children. Other regional projects mentioned within the mapping include PRUMA on family reunification (see Section on Disappearances below) and Praesidium on the management of mixed migrant flows arriving by sea to Italy. Moreover UNICEF and UNHCR are currently developing Guidance on best interests' determination in industrialised countries. Interviews with stakeholders, and feedback from the CONNECT project regional conference, suggest that there should be greater visibility of tools developed regionally by the EU agencies or through EU funding.

#### **(IV) HOW DO ACTORS ENGAGE WITH CHILDREN**

One of the most important elements of the actors' role is how they engage with children and the CONNECT tools emphasise the child's right to be heard. It is worth highlighting some of the features which emerged from the national experience encountered:

- **Children do not always have a clear understanding of actors' roles** which diminishes the engagement between them. In the Netherlands, stakeholders commented on the multiplicity of actors and information to which children are introduced in a short period, and indicated that they felt this could lead to real confusion on the part of the child.
- **Children do not always experience a stable engagement of actors**, for example, in the UK, a child might be engaged with a succession of rotating case workers.
- **Helping children engage collectively**: whilst there have been some initiatives to help children engage together in advocacy on behalf of their situation, several challenges remain to achieving this. For example, Foundation for Young Angolans in the Netherlands (JAN) was set up as a self-help organisation by, and for, Angolan unaccompanied children looking after their best interests. It proved quite effective in its lobbying, having meetings with the then Minister of Immigration and Integration. The NGO, SAMAH - Foundation for Unaccompanied Children Humanitas, assisted in setting up and facilitating JAN.
- **Ensuring feedback from children**: on an annual basis, Nidos systematically surveys its clients by means of the so-called Unaccompanied Minor Monitor (AMA Monitor). In co-operation with a university, it aims to measure the wellbeing and development of unaccompanied children in the Netherlands. The children are asked to reflect on their own position, functioning, health, and needs. Nidos uses the information from these surveys to improve its practice and policies. In 2008, Nidos, in co-operation with another university of applied sciences, also started organising 'World Cafés' on specific topics of interest. In informal group sessions, children and caregivers can express their wishes and expectations regarding themes such as 'living conditions' or 'return'. The guardianship institution also uses the information to improve its services.
- In Italy Save the Children designed and supported **a consultation process**, involving migrant children placed in centres of first reception and care facilities on the Southern Border. In Calabria, the consultation has influenced the decision of the president of the Juvenile Court of Catanzaro create a formal network involving the Juvenile Court, care facilities for children and the children. The network will guarantee that the children are heard and have access to the institutions which should support and protect them. The consultation has been conducted in the Praesidium Project, supported by the EU.

- **The Children's Houses** in Sweden can be considered a good practice in the field of responding to children who are victims of sexual abuse or violence that may have application in the field of supporting unaccompanied trafficked children, as the purpose of these centres is to prevent child victims being moved around between authorities performing their duties. In a report for Save the Children, Landberg (2012) commends the efforts made in relation to the Children's Houses, but criticises that the healthcare and Child and Adolescent Psychiatric Services are rarely systematically involved in the overall co-operation and co-ordination of support to the child.

## **COOPERATION BETWEEN ACTORS**

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Cooperation between actors, within this often complex framework, is often vital but difficult. The mapping surveyed local and national cooperation, border cooperation within the EU, and cooperation between EU Member States and third countries. There is a strong emphasis on enhancing cooperation throughout the CONNECT project, in its recommendations and tools. Partners and stakeholders noted that the benefits of cooperation include:

- better engagement with the individual circumstances of the child,
- streamlining activities around the child and achieving complementarity of roles,
- avoiding inefficiencies and duplications,
- reducing complexity in processes;
- reducing polarisation of perspectives;
- avoiding the situation that where actors operate in isolation, their actions may flow from assumptions, rather than the circumstances of the child being pieced together collectively by the different actors, with the result that the child's situation is not effectively addressed;
- facilitating specialisation;
- facilitating input from children; and
- contributing to sustainability of responses

Cooperation can take a variety of different forms (formal and informal). It can take place within the same body of actors or between different actors (for example, it may be interagency coordination or may simply be national coordination within professions (UK) or within civil society). Sometimes hybrid groups exist, for example, the Child Trafficking Information Forum (UK) brings together civil society and government to discuss a range of issues in relation to trafficked children. Cooperation may take place at different levels (local, national, regional, transnational).

Cooperation can have a variety of different purposes, including data exchange, training, operational issues including disappearances, individual case management and broader policy discussions.

We have already seen that the mapping has pointed to a number of factors that need to be considered carefully when working on cooperation within a country. These include the multiplicity and diversity of actors involved and their autonomy, which sometimes stems from decentralisation. The existence of a complex division of tasks and responsibilities between actors can hinder cooperation; in contrast, clarity and transparency of roles can promote both formal and informal cooperation between actors. Cooperation may be set up on a temporary basis, but will often be most effective if it is given a permanent form, given the long term phenomenon it addresses. Involving the right actors is important; in some instances, the mapping reflected stakeholder views that existing cooperation should be extended to include other actors. Logistical issues, including IT issues, can hamper cooperation. Data protection and confidentiality issues need to be considered very carefully in any cooperation on individual cases.

Factors which promote cooperation can include a strong lead agency (e.g. in the Netherlands, where Nidos plays a key role), a formal framework (e.g. the National Referral Mechanism in the UK for children who may be victims of trafficking); dedicated tools to facilitate cooperation, for example joint guidance to actors, protocols and joint training. The importance of evaluating cooperation, and making any necessary adjustments, should be recognised (e.g. the recent review of the UK referral mechanism is leading to its adaptation). It is useful to address why cooperation may fall into abeyance (e.g. the Dutch protocol for disappearances is no longer applied and it would be useful to understand why).

Examples of cooperation have been cited throughout the report and the list below serves to highlight some key examples:

- Protocol between Dutch guardianship authority Nidos and the Immigration and Naturalisation Service allowing for better exchange of information between them at case level;
- Regular “COBO” meetings between actors concerned with child trafficking and protected centres in the Netherlands;
- National cooperation between the Swedish Migration Board, National Board of Health and Social Affairs, SALAR (Swedish Association of Local and Regional Authorities) and the National Agency for Education which has resulted in joint projects and improvements;
- The National Referral Mechanism for trafficking in the UK;
- UK Local Safeguarding Children Boards and Multi-Agency Safeguarding Hubs;
- Inter-agency cooperation around first encounters in Italy – the Praesidium project;
- Anti-trafficking cooperation mechanism in Venice, Italy;
- Protocols for cooperation between case workers and health workers in Milan, Catania and Naples in Italy.
- The Territorial Councils for Immigration in Italy, chaired by the Prefects, are composed by authorities of the State, Regions, local authorities, employer and employee organizations, in close collaboration with Regions, Provinces and Municipalities.<sup>22</sup>

## Cross border cooperation

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The survey gathered much more limited information in relation to cross border cooperation within the EU. It is an area that would benefit from more focussed research. There is potentially a wide variety of types of topics on which such cooperation could take place, at different kinds of levels, and this needs to be mapped and explored more carefully.

Traditionally, cross border cooperation on issues surrounding the child took place between crime and immigration control actors, rather than child protection actors. This suggests that the child protection issues involved in the movement of a child between countries may have been insufficiently prioritised, with crime and migration management concerns being a central aim. This may be changing in more recent times. For example, the recent RACE Project on child trafficking for criminality saw police and NGOs working together transnationally. Equally, recent changes in the Dublin III Regulation have led to an increase in initiatives focussing on key issues for children, including Nidos led project providing an information desk on Dublin cases and the IOM led PRUMA project to enhance family reunification in Dublin cases. There is highly developed international co-operation in relation to child abduction (Hague Convention) and the enforcement of family court orders (Brussels IIR) but there is little recognition of the rights of unaccompanied or trafficked children within these systems.

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<sup>22</sup> Territorial Councils in Italy are key bodies for monitoring at the local level the presence of migrants on the territory. Initiatives taken aim to encourage and promote: the creation of an intense inter-institutional collaboration in order to promote social integration; extensive social partnership between the various stakeholders in the area to ensure analysis of the needs and difficulties of migrants; programming of social integration policies for immigrants and the provision of effective assistance and social integration for migrants.

The mapping also gathered very limited information on transnational cooperation between actors in the EU and actors in third countries. This tends to be relatively limited in focus, in the aims it pursues and the actors involved. These include the European Return Platform for Unaccompanied Minors, ERPRUM<sup>23</sup> project, for example, which explores family tracing and the establishment of centres to receive children on return. EU funding for the project has now ended.

## 3.5 PRIORITY AREAS: KEY FINDINGS

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### A EXTRA VULNERABILITY

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Typically unaccompanied children are identified as being in a vulnerable situation. Recent EU legislation in the case of the Anti-Trafficking Directive and the recast Asylum Reception Directive and the recast Asylum Procedures Directives have created explicit obligations to identify and respond to the special needs of vulnerable people and trafficked people. The partners sought to review how actors currently engage with children to identify their special needs and what services are available to respond. They decided to focus on how this occurs in situations of acute situations of vulnerability such as mental trauma, children with disabilities and abused to see what lessons could be drawn for screening needs more generally. The report uses the term “extra-vulnerability” in this sense. The mappings in the four countries have placed a particular focus on trafficking, given that specific obligations exist and distinct services for trafficking have been, or are under development.

Exploring extra-vulnerability from the perspectives of actors has underlined the need for specific skills, specialised services and cooperation between actors. This is an area which can be particularly resource intensive; it is imperative both to exchange and draw inspiration from good experience and practice across countries and to identify priority challenges that might be addressed most effectively at EU level.

One surprising perspective from the mapping has been the apparently limited awareness of actors and stakeholders on the national implementation of the special provisions concerning unaccompanied children in the Anti-Trafficking Directive, including guardianship, specific safeguards in investigations and proceedings and culminating in identifying durable solutions. In contrast, national provisions providing temporary residence permits for children while cooperating in investigations and prosecutions, in line with the 2004 Temporary Residence Directive, were referenced. In the UK there has been some early work on the implementation of the Anti-Trafficking Directive.<sup>24</sup> However, it appears, more generally, that further reflection is urgently needed on the implications of the 2011 Directive, and how best to implement key provisions, or to ensure that actors are aware of and fulfil these provisions in their work. Such reflection will also be relevant in the context of the ongoing implementation of the recent asylum recast instruments

### Background: Data on migrant children in situations of extra vulnerability

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In section 1 we noted the lack of quantitative data on unaccompanied children in some countries; it is worth emphasising that, generally, there is even more limited qualitative data available on their situation (for example, what psycho-social services they are receiving). Consequently, information on the extent to

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<sup>23</sup> <http://goo.gl/fvuklf>

<sup>24</sup> UK legislation has historically provided powers to prosecute traffickers in criminal legislation and relied on powers within the Children Act 1989 as a response to the needs of trafficked children. The Modern Slavery Bill which will apply to England and Wales and which is currently before the UK parliament, a private bill which is being presented to the Northern Ireland Assembly and a bill which will be considered in the future in the Scottish Assembly look at the issue holistically and contain provisions to prosecute traffickers and also assist and protect victims of trafficking.

which, and how, Member States are identifying and responding to extra vulnerability of children arriving is largely anecdotal.

The mapping provides some illustrative examples of how children may be experiencing extra vulnerability. For example, in Italy, in recent years, an increase of vulnerability related to mental health has been noted among beneficiaries of international protection or with asylum seekers returning to Italy, especially in the application of the Dublin Regulation. The manifestation of mental distress in a variety of ways results from a number of triggering factors, ranging from stress related to deprivation of human rights in the country of origin, uncertainty of the journey, obstacles encountered, abuses suffered, hardships and anxieties; not to mention physical violence, physical or sexual abuse, rape, and not least, torture. Because of these repeated and sometimes systematic traumatic experiences, psychological mental distress is one of the major problems that may occur long after the arrival in the destination country. More generally, as noted by a social worker in Sweden, special attention must be paid to certain aspects of the child's life when talking to the child, such as if there have been problems in the family or during the childhood as this may give rise to behavioural problems; the loss of parent/-s at an early age; poor networks; suspicions of drug abuse; if they have waited a long time for a decision regarding the asylum application. If it is possible to locate and identify parents and/or family in the country of origin, gathering information from them is important to get a complete overview on the child's mental health. As long as contact with the family, the network or parents, remains difficult for diverse reasons, including fear for a migrating child that he will simply be sent back to family if their location is known, vital information to assess the special needs of the child may not be available. Where good diagnostic instruments, such as a genogram (which is typically a pictorial display of family relationships and medical history) and an overview of the early childhood, are not used, this also will cause difficulties.

Child trafficking places children in an acute state of vulnerability. Identifying and responding to children as trafficked or at risk of trafficking is a vital task of all actors. The extent of the phenomenon of child trafficking in Europe is unknown. This is partly because it can result from organised international crime and, therefore, it is only when such crimes are detected and the victims rescued that the true number of children involved can be quantified. In addition, by its very nature the "trade" depends on children being brought into a country illegally without the knowledge of border and immigration officers or wider child protection systems. Current statistics are likely to be a gross under-estimation of the true number of victims.

### Identifying and responding to extra-vulnerability

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Across the four countries, there are a series of moments at which the individual circumstances of a child are identified, assessed and responded to, with a wide range of actors involved. These include at first encounter when establishing the identity and age of the child; they also include referring the child to social services, setting up a care and educational plan for the child, screenings by the health care services and when engaging the child in judicial or administrative proceedings. These different steps in the process, and particularly the ongoing supervision of day to day care by reception care staff or those supervising accommodation, present a wide range of opportunities to identify and respond to cases of extra-vulnerability and to identify suspicions of trafficking.

Some key interactions with the child tend to focus on a very specific purpose (e.g. concentrating on addressing immediate basic reception and assistance needs) and these processes may be relatively "shallow" (for example, they may be based on a brief once off meeting with the child, without involving specialised actors and engaging in more prolonged periods of observation). Moreover, even where a more general screening of individual needs is foreseen, a number of factors often combine to make this a difficult exercise. Furthermore, once a child is "within the system", it is important to conduct a study on the consequences of secondary traumatisation arising out of any difficulties in the reception system and more generally the lack of a clear perspective for the children. The survey into this area demonstrates the need for States to tackle these challenges, through the involvement of more specialised actors, better training, tools and inter-agency cooperation.



## **(I) NEED FOR SPECIALIST KNOWLEDGE AND SKILLS**

Some central actors (such as social workers, guardians and reception centre staff) repeatedly comment that they feel ill-equipped to identify extra vulnerability and that they are not qualified and do not receive training to engage properly with children (including how to recognise and respond to manifestations of trauma). Guidance for actors on understanding the particular culture and experiences of these children is often missing. More research is needed and training for psychologists/psychiatrists. More specialised staff with a special focus on the migration (ethno- psychiatry) should be involved. Developing more widespread understanding of the potential influence/role of the family in terms of their expectations of the child's journey to Europe will be useful in situations where the family has been part of the migratory project.

Engaging the child in the process in itself can often be a challenge; and actors may not be sufficiently trained to understand this. For example, actors may sometimes take the very fact that a child has managed to travel on their own and are keen to attend school as evidence that they are not traumatised. In Italy, the inability to read the signals and the motivations of a particular act has been noted, with in some cases the subsequent discovery that certain acts were the expression of a ritual tied to their culture and/or religion. In other instances, the difficulty arises when the child is unable to establish a relationship with the intermediary, and then closes themselves off in a feeling of isolation that expresses itself through acts of self-harm. Unaccompanied migrant children may also not articulate mental health symptoms they may be experiencing. This may be because in their countries of origin those suffering from mental ill-health are stigmatised or subjected to radical and harmful treatment. Or it may simply be because the child does not recognise his or her feelings as symptoms of mental ill health and may believe that he or she is suffering from a physical illness. This is particularly the case when depression or trauma is having physical effects such as exhaustion, insomnia or lack of appetite.

There are some recent developments in some jurisdictions which may lead to some improvements. For example, in Sweden, the first meeting with the Migration Board concerns the registration of the asylum application and the officials are required to pay attention to whether there are extra vulnerabilities to consider in decision making on allocations to an arrival municipality. Almost all children meet officials at the Child Unit who are trained in child rights and how to converse with children.

In the Netherlands, during the intake of children at the Central Reception location, Nidos guardians identify possible and/or potential victims and refer these to the protected reception, which is described further below. In each reception centre for asylum seekers, two 'contact persons human trafficking' are appointed. They have followed a two-day awareness training which is given by the Centre of Expertise on Human Trafficking and Migrant Smuggling (EMM) of the Dutch police. The contact persons know what steps to take in case indications of trafficking arise and are expected to make their colleagues more conscious about possible risks. Other employees, such as mentors at the centres, can opt to receive shorter awareness trainings, although the efficacy of shorter training has sometimes been questioned, given the challenges identification can present.

In the UK, in recent times, there have been increasing cases of children found in a situation of trafficking on the territory, including, for example, Vietnamese children working in cannabis farms. Litigation on these cases, including the involvement of the Children's Commissioner in the cases of the children, has ensured that law enforcement officials are increasingly conscious of the risk of trafficking, and the need for special assistance to the trafficked children, in situations such as these.

In the UK, a social worker must decide within 24 hours whether a child requires protection but usually has up to 45 days to complete a full assessment of the child's particular needs. But statutory guidance provides that, where a child may be a victim of trafficking, an assessment should be carried out immediately. The assessment should seek to establish relevant details about the child's background before he or she came to the United Kingdom, form an understanding of why he or she came and analysis the child's vulnerability to remaining under the influence of traffickers. The social worker should work in close co-operation with the UK Human Trafficking Centre and immigration staff familiar with patterns of trafficking in the United Kingdom. In addition, the social worker should consider whether the child needs to be in a safe place before any assessment is conducted. The guidance also requires social workers to share information with

the police, the UK Human Trafficking Centre and those undertaking any assessment under the National Referral Mechanism in order to ensure that the child is provided with maximum protection. However, the outcome of this guidance often depends on the level of training and experience of the individual social worker.

A report of OFSTED (Office for Standards in Education, Children's Services and Skills) on Missing Children identified one local authority which had established a specialist team, strengthened its risk assessment process and formed close contact with the police both within and outside its own local area. It noted that this local authority was better able to ensure that these children did not go missing and, if they did, the local authority had the information necessary to try to track and search for them. In other local authorities such processes were not in place.

## **(II) NEED FOR SPECIFIC TOOLS**

Some tools have been developed that may support actors in identifying and responding to extra-vulnerability.

Almost all Swedish municipalities use the system BBIC (Swedish acronym for Barnets Bästa i Centrum. Eng. the Child's Best in Focus) to document, investigate and follow up the child's circumstances and needs. One comment on the use of the tool from a staff member noted that training is needed for its use and that the risk of selective use should be avoided. The staff member also noted that it is important that the managers at the reception centres follow up on the use of the tool, making sure that employees use it and provides correct support and training in how to use it, to monitor and follow up on the child's needs. This mapping did not evaluate the effectiveness and utility of the tool.

In the case of trafficking, specific tools are needed both to raise awareness and collect data. Although across the four countries, efforts are clearly being made to raise awareness of trafficking and collect data on the issue, there are a number of practical difficulties that need to be addressed. For example, in the Netherlands, there are many different organizations registering such data. It is very unclear how registered data are used. It is impossible to come to a reliable estimation of the number of trafficked children. And, it is not clear to what extent data collection efforts help inform the content of indicators.

In Italy, a toll free anti-trafficking number was introduced by the Presidency of the Council of Ministers - Department for Equal Opportunities as a preliminary action within a system for victims of human trafficking. It is intended for victims of trafficking subjected to any form of exploitation and it can be used by police, judicial authorities, social and territorial services, professional labour associations and private citizens.

Save the Children Italy has developed and uses specific indicators for the identification of children victims of trafficking, listed and described in the protocol for the identification and support of child victims of trafficking and exploitation (sexual exploitation, exploitation in illegal activities, exploitation of forced begging, labour exploitation).

The UK is also part of a project funded by the European Commission's Prevention of and Fight against Crime Programme on Improving Co-ordination and Accountability Towards Romanian Unaccompanied Minors' Safety. Part of this project will develop tools and guides to assist identification of victims, which can be incorporated into the UK NRM and shared and aligned with local and national protection frameworks in Romania.

A further example of a transnational project is called Protection First, which began in late 2013 and is ongoing, involves Italy (Save the Children, CivicoZero and the Association On the Road Onlus Dedalus Cooperative Society), the Netherlands (Stichting Defence for Children International Nederland - ECPAT) and Romania (Salavati Copiii Organization - Save the Children). It is aimed at bettering the understanding on the issue of child trafficking and improving the identification of children at risk or victims of trafficking through conducting a study into the trafficking of children and the development of innovative identification tools of child victims or at risk of trafficking, as well as self-assessment tools for the children

themselves, which will be tested to ensure that they are aimed at increasing self-evaluation and improving the awareness of children about the mechanisms of trafficking and exploitation, as well as the ability to identify child victims and at risk.

### **(III) NEED FOR COOPERATION**

There are a range of examples of cooperation between actors in relation to trafficking and for a variety of purposes. As noted in the section on cooperation above (see Section 3.2.1C above), there are practices as regards exchange of information between actors involved in the Netherlands and Sweden, which contribute to awareness raising and collection of general information. Although identifying trafficked persons in most countries is seen as a collective responsibility for all actors, typically different actors handle the identification process in their own ways and with their own tools. However, the UK National Referral Mechanism described in some detail below provides a framework for inter-agency work in this regard. In Italy, the inter-agency cooperation at the sea borders through the Praesidium Project also provides a common operational framework. In Venice, there is also well established practice in relation to assistance to trafficked persons.

#### **Example of national referral mechanism**

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In order to comply with its obligations under the Council of Europe Convention on Action Against Trafficking in Human Beings the Government established a National Referral Mechanism. Children's services, the police, immigration and border officers and a number of NGOs are "first responders" who can refer children into the NRM. Where a child is a subject to immigration control they are referred to UK Visas and Immigration, which acts as a "competent authority" for the purposes of the NRM and reaches an initial decision as to whether there are reasonable grounds to believe that the child is a victim of human trafficking. If this is the case UK Visas and Immigration will grant the child temporary admission for a recovery and reflexion period of 45 days. In practice it will be longer as delay is common place in all decision making procedures in the Home Office. The competent authority will then decide on a balance of probabilities whether there is sufficient evidence to make a conclusive decision that the child is a victim.

The UK Government is now undertaking a review of the NRM which will be completed in October 2014. Stakeholders, including police, lawyers and other professional actors have expressed their view that, despite the establishment by UK Visas and Immigration of a "trafficking hub" of case workers to consider referrals under the NRM, evidence still indicates that case workers are confusing their obligations under the Anti-Trafficking Convention with their obligations under the Refugee Convention and that this has a very negative effect on their decision making capabilities. The Anti-Trafficking Monitoring Group, which is a coalition of NGOs working in the field, has contributed a paper to this review, which suggests that the NRM for unaccompanied children should be part of wider child protection systems such as the Multi-Agency Safeguarding Hubs and/or Local Safeguarding Children Boards, which have been established at a local authority level and bring together all relevant actors, such as the police, the probation service, children's services and education and health services. Some of these bodies have also invited NGOs to be part of their multi-agency decision making processes.

#### **Other inter-agency cooperation**

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The Netherlands is currently developing a referral mechanism. Currently, a so-called 'COBO-meeting' (Casuistic Consultation Protected Reception) is coordinated by Nidos every eight weeks and includes many different actors, including representatives of the police, the reception centres, the immigration and naturalisation board and the Legal Aid Board. These actors come together to discuss a broad range of issues concerning protected reception for trafficked children.

In Italy, if a child is intercepted at a sea crossing, they are immediately put in contact with the Border Police, as well as with operators (cultural mediators and legal advisors) from IOM, UNHCR, Red Cross, Save the Children (operating under the Praesidium Project) and those of other associations (first-arrival centres, social workers and psychologists). The operators of the Praesidium Project (especially IOM and



Save the Children) have a specific mandate and preparation/expertise in the identification of child victims of trafficking.

The Project “Local Communities Against Trafficking” of the City of Venice creates a regional system of referrals to help victims of trafficking and serious exploitation for the Veneto region, adopting a joint strategy relating to human rights and the work of multi-agency and multi-professional networks, with the support of cultural/linguistic mediation. The target group are children from the age of 16 to 18 and adult females, males and transsexuals who emerge in the Veneto territory from different areas of exploitation (sexual (indoor/street), forced labour, begging, the black economy), potential victims of crime 600, 601 and 603 bis of the Italian Penal Code. The Project is divided into two areas of intervention: emergency and primary assistance. The emergency activities are divided into contact units on the street aimed at prostitution and begging and contact units aimed at indoor prostitution. Interventions of first assistance offer a protected reception of human trafficking victims within a regional network consisting of 12 ‘vanishing point’ facilities and two primary assistance centres.

Sweden does not have a national referral mechanism for identifying victims of human trafficking that could formally systematize that the victims receive the appropriate protection and support. Instead, there is often inter-agency cooperation between the Migration Board, the Police and the Social Services, meaning that they cooperate on a case-by-case basis.

#### **(IV) NEED FOR SPECIALISED SERVICES**

The mapping has illustrated the need for specialised services to identify and respond to extra vulnerability, in terms of accommodation and access to medical services. It has shown that, where a child has been identified as being extra vulnerable, actors may face challenges ensuring the necessary services are in place to respond.

##### **Accommodation**

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A priority issue encountered is what type of facilities are suitable for children in situations of extra-vulnerability and whether they are available.

In Italy, from the interviews conducted, it appears that, in some areas (e.g. Verona, Rome, Turin), any request to assume responsibility of a child who has been identified as extra vulnerable becomes difficult. An immediate problem is to find suitable facilities to accommodate these children and health care services that are available to deal with this type of distress.

In Sweden, many unaccompanied asylum-seeking children stay at a reception centre where the staff are assigned to pay special attention to allotted children’s needs and welfare. One former staff at the reception centre mentioned that it is difficult to pay equal attention to all the children, where numbers are high. This staff member indicated that children who are introverted or quiet will risk “going under the radar” and not receive the attention or support that might be needed. However, now that all municipalities are obliged to receive unaccompanied asylum-seeking children, it is anticipated that the number of children will decrease in transit centres where many children used to stay. The reception centre staffs working in transit municipalities should then be in a position to pay more equal attention to the children.

In contrast, the mapping shows that, in the UK, the preference is to place vulnerable children in foster families, rather than residential homes. It is widely believed that residential care is not appropriate for traumatised children and acts as a beacon for those who wish to groom, exploit and traffic children.<sup>25</sup>

In the Netherlands, there is a current policy discussion over the question of deploying foster families in all cases. In Section 3.2.2 B below, the report also describes the use of secure accommodation in the Netherlands and Italy to respond to children at risk of trafficking.

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<sup>25</sup> See for example *On the safe side: Principles for the safe accommodation of child victims of trafficking*, ECPAT UK (2011).

Crucially, medical services may not be sufficiently available both to identify and respond to extra vulnerability, through both basic health services and more specialised, psycho-social support. For example, in the UK, social workers should refer to each “looked after child” for an initial health assessment which must take place within four weeks. This should consider his or her physical, developmental and emotional health and further assessments will also be scheduled on an annual basis. However, the unaccompanied migrant child may have to wait a long time before they receive appropriate psychiatric or psychological treatment. Local services are presently over-stretched and overwhelmed and are prioritising only the most urgent new cases. Moreover, few local services have the necessary experience and skills to offer an adequate service. Registering at their local doctor’s practice is usually not a problem for unaccompanied children and some local authorities, such as Kent County Council, also arrange for a doctor to hold particular surgeries for unaccompanied migrant children. However, accessing an interpreter is a common problem for unaccompanied migrant children attending appointments with local doctors or at hospital.

There are nonetheless some promising measures and the need for health care staff including doctors and nurses to have particular knowledge, skills, attitudes and training to address looked after children and young people has been recognised. In 1999, the Royal College of Paediatrics and Child Health published *The Health of Refugee Children – Guidelines for Paediatricians*. Equally, some specialist services have been developed within the National Health Service in response to local demand, including group and individual services offered to unaccompanied migrant children at the Tavistock Centre in London, which is part of the local health authority. There are also a number of privately run services, which depend on charitable grants and donations but which employ fully qualified medical staff.

In Sweden, all unaccompanied children are offered a health screening at the local health care facility. One interviewed reception staff member said that these screenings are not thorough enough, meaning that “invisible” disabilities such as dyslexia may not be further investigated – even though the child mentions it or if the health staff detect or suspect such disabilities. When the same staff member contacted the health care, she was told that such investigation takes a long time and that it cannot be done during the asylum process that may be shorter. However, all children who are identified as extra vulnerable and in need of a psychologist have access to care at the Child and Adolescent Psychiatric Services. In certain municipalities, there are also specialised units within these services that focus on psychological support to traumatized migrant children regardless of their status. Guardians have indicated that there is a long waiting list to get help from these services and that the child must be very ill to receive help.

In some areas of Italy (e.g. Milan, Catania, Naples), there are established protocols with Neuropsychiatry Services which initiate services in support of the effort of community workers who work with these children and deal with the subsequent transfer of responsibility. This is done through the combination of a team of personnel with a range of specialisations including administration of drugs, continuity in psychological/psychiatric treatment and participation of these individuals in inclusive activities. Those involved are usually community educators/operators, social workers, health workers, cultural mediators and Neuropsychiatry child services which consist of teams that use psychologists, psychiatrists and health educators.

In the Netherlands as is further described below, special services are available in protected centres.

## CONCLUSIONS ON EXTRA VULNERABILITY

Actors struggle to identify and respond to extra-vulnerability, although pockets of good practice can be found in each country. This is an area where policy makers and practitioners could benefit from a greater exchange of information, and from building on good practice where it exists.

## **B DISAPPEARANCES**

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The EU Action Plan identifies disappearances of unaccompanied children from care as a priority issue to be addressed. Key issues that arise in relation to disappearances concern: (i) how actors respond to disappearances; (ii) the consequences of disappearances on the child's situation and (iii) what steps can be taken by actors to prevent disappearances.

Children may disappear from care for a wide variety of reasons, including the fact that they are trafficked or exploited in some way, desire to move to another country, fear of transfers to another country under the Dublin rules, fear of being returned to a third country, desire to work, desire to unite with relatives or family members, and fear of the consequences of turning 18 in terms of residence status or support. Disappearances may occur at many different stages of a child's journey; Italian actors also report the experience of children trying to pass through the country un-intercepted by child protection and immigration actors, so as to avoid being fingerprinted and subsequently subjected to the Dublin process.

It is clear that, whatever the reasons for the disappearance, a child who is no longer in care may be at risk of exploitation, abuse, neglect or violence. Disappearances of unaccompanied children clearly raise child protection concerns, but responses are frequently complicated by the uncertainties generated by the child's migration status. The mapping has shown that the nature and extent of responses to disappearances will typically depend on whether the authorities believe that a child who has disappeared is the subject of a crime or faces a specific risk or whether they believe the child to be voluntarily absent. For this reason, follow up action can be limited and cooperation between child protection and migration actors can be difficult. Practice in the UK is markedly different, where the question tends to be addressed in line with general procedures for children missing from care.

A further interesting finding is that the consequences for case management may ultimately result in administrative inefficiencies in some jurisdictions, including where a child re-surfaces in another region, and is treated as a "new" child.

Preventing disappearances remains an important but sensitive objective for actors. The establishment of protected centres in the Netherlands with special services for children at risk is viewed from different perspectives by different stakeholders. Secure accommodation has not been favoured by the UK, which tends towards foster families with special training; however such families are not always available. Inter-agency cooperation in the UK also emphasises prevention measures in the form of closely engaging with children at risk from the first encounter.

### **(I) RESPONSES TO DISAPPEARANCES**

Typically a wide range of actors are involved in responding to disappearances of unaccompanied children across the four countries, but there may not be national guidelines or clear procedures on how to deal with the disappearance. Generally, there is an obligation to notify the disappearance of a child to the police or a central authority and in certain circumstances an investigation may be opened. In the UK, there are examples of good inter-agency cooperation and law enforcement practices. More generally, in some cases hotlines for missing children are available but they appear to be rarely used in the case of unaccompanied migrant children. In the Netherlands, actors are divided about the use of international alerts on these children. This section briefly surveys key features across countries.

## Guidelines and Protocols between actors

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In the Netherlands, in 2003, a protocol on how to deal with disappearing unaccompanied children was drafted by Immigration and Naturalisation Service. Most respondents know of the existence of this protocol, but acknowledge that it is outdated and that they do not consult it any more. Certain organizations mentioned in the protocol do not exist anymore, responsibilities have shifted and new insights have over time been developed.

In the UK, guidance by a variety of actors has been developed on how to respond to disappearances of unaccompanied children. For example, in its 2010 Guidance on the Management, Recording and Investigation of Missing Persons the National Police Improvement Agency advised police officers to consider whether a child is intentionally missing and seeking to avoid immigration processes or repatriation but at the same time to investigate whether there are any suspicious circumstances surrounding their disappearance which suggest that he or she is a victim of human trafficking. The Report clearly recognises that if a child goes missing from care this may be linked to serious crime such as trafficking. In addition it notes that some children may be unknowing victims of crime, exploitation and trafficking which raises the level of risk of further incidents in the future. In January 2014 the Department for Education also published Statutory Guidance on children who run away or go missing from care. This has a section on “Looked After Children” who may have been trafficked from abroad.

Inter-agency cooperation is also a significant feature of responses to disappearances in the UK. In the UK, Local Safeguarding Children Boards (LCSB) are established by local authorities to co-ordinate multi-agency safeguarding work. Each LCSB should have a trafficking co-ordinator. In addition boards such as the London Safeguarding Children Board have established their own procedures for Safeguarding Children Missing from Care and Home. These explicitly recognise that unaccompanied migrant children are due the same protection as any other children in care.

### “Chain of reactions”

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Even where there are no formal guidance, actors in all countries seem to have a shared view of what is expected in the case of disappearances.

Typically there is what has been described as “a chain of reactions”, where a series of steps are taken once a child has disappeared. This typically involves the social workers, guardians, reception centre, immigration authorities and police. It will typically include checking whereabouts, informing guardians, filing of a report with the Immigration Authorities and filing a report with the police. The police may carry out interviews and in the Netherlands will receive an extensive disappearance form. In Italy, the police office who receives the report will also send it to the Prefect for the involvement of the Special Commissioner for Missing Persons for related initiatives (to be undertaken with the assistance of the local authorities, the national corps of firefighters and civil protection system, voluntary organizations and other bodies that are active in the area). The Special Commissioner of the Government for Missing Persons has the function of ensuring the management of the complex phenomenon of missing persons and timeliness of the lines of action aimed at addressing the consequent problems of social alarm. However, the law establishing the procedure for searching for missing persons has only recently been adopted and often appears to be not known or applied in cases where unaccompanied children go missing.

### Use of hotlines or public alerts

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Across the countries, it would appear that local missing children hotlines are available for use, but rarely used in these cases, for a variety of reasons. In the Netherlands, the police, Jade (the organisation contracted to run the protected reception described below) and Nidos guardians in the past discussed the possibilities of sending out public alerts about missing UMAs. The most suitable system would be the international ‘Amber Alert’, which uses email and SMS to notify the general public about disappearing children. Neither Nidos nor Jade supported the idea on the basis that it may impact the child’s safety and privacy.

In Sweden, unaccompanied children who have disappeared are never the subject of a public alert either but are registered in a national database on missing people in general, in which they are kept listed for about three months.

In contrast, in the UK, there is a well-established UK Missing Persons Bureau to which any disappearances can be reported and to which the police will respond. The Home Office has also recently funded the NSPCC to set up a trafficking help line which can be accessed by victims, professionals and members of the public.

### Limitations on reporting and follow up

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In practice, there can be limitations to reporting and follow up.

In Italy, according to Save the Children's experience, not all the subjects mentioned are promptly informed of the disappearance of the child nor do the heads of care facility proceed to formalize the reported disappearance.

The mapping also makes it clear that stakeholders in several countries believe that law enforcements actors may make assumptions in cases where they believe a child has absented themselves and not pursue an investigation.

In Sweden, the Migration Board and the Social Services can share information with the Police if requested, but there is no systematic information sharing in place, meaning that there are no formal national procedures to gather information about the child's circumstances. An interviewed Police officer said that the general procedure is to ask the person who reports the child missing some questions to gather information about the child's name, age, nationality, name of a contact person and the contents of the conversations with the child before the disappearance. The Police ask the questions to assess whether the child might have been subject to a crime or if there is a risk of suicide. Consequently, opening investigations is highly dependent on whether the person who reports the child missing possesses relevant information about the child. The case is often forwarded to the Border Police if an unaccompanied asylum-seeking child is seen as disappearing in order not to comply with the return procedure. A Swedish law enforcement official pointed to the fact that more limited information is available on the situation of the child, when compared with the situation of a national child who has gone missing. Nonetheless other stakeholders suggest that a greater effort needs to be made to discuss with the situation with actors who have been engaged with the situation of the child, such as the guardian.

### Disappearances from protected centres

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In the Netherlands, disappearances of children from the protected centres (a handful each year in the last few years), described below, are typically treated more rigorously given the belief that these children are at risk of trafficking. The mentors start searching the surroundings of the reception centre - which are located in small villages - as soon as someone is missing. Also different is that mentors and/or guardians of disappeared pupils from the protected reception immediately inform the regional police and the district's human trafficking and prostitution team. Mentors make a file of each newly arrived pupil. It includes, amongst other information, the signals that once led to the referral in protected protection, a picture and specific other features. This content of this file is in case of disappearances directly shared with the police. Police invests more in the 'scene of disappearance': DNA is taken from toothbrushes, telephones which were taken in upon arrival in the protected reception are scanned for useful data. Guardians at times send around pictures to their nation-wide colleagues.

## Inter-agency cooperation

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The prevailing approach in the UK is that missing children are presumed to be at risk of abuse and exploitation.

Some local authorities have established a Multi-Agency Safeguarding Hub, which was staffed by professionals from a range of agencies including police, probation, fire, ambulance, health, education and social care who share information to ensure early identification of potential significant harm and with an emphasis on triggering interventions to support the child. The MASH has been described as a response to a wide range of safeguarding issues relating to any child who goes missing from care but also provides essential protection for unaccompanied migrant children who are at risk of going missing. The ACPO lead also noted that “the police response to trafficked/exploited children must be part of a multi-agency response with the emphasis being on partnership to safeguard the child effectively when it is first appreciated that the child is trafficked before the child goes missing”. A significant number of local authorities have established a MASH and are sharing relevant information with other actors in order to develop profiles which may assist them to locate missing children in the future. Police officers and lawyers in the UK, and the Department of Education, have also stressed the need to obtain information relating to a child who may have been trafficked as soon as possible if they are to be successfully protected from going missing. As these children are going missing before the local authority has the time to do a full assessment of their identity and needs, CEOP and ACPO have recommended that photos, passport numbers, nationality, fingerprints and DNA of children who may have been trafficked are taken immediately upon identification.

The London Borough of Hillingdon’s Service Manager for Safeguarding Children also told the APPG Inquiry into children who go missing from care that the number of unaccompanied migrant children which had gone missing from its care had reduced from 79 in 2007 to 8 in 2009 after it adopted a similar multi-agency approach. Its model operated at strategic, policy and operational levels and involved a partnership with law enforcement agencies.

## Drop in centres

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Although not established in response to disappearances, it is worth noting that in Italy there are a range of outreach activities engaged in by NGOs to assist children on the streets, who are not engaged yet with the protection system or who are transiting through Italy. For example, CivicoZero is a cooperative that operates a drop-in Day Center for foreign children in the area of Rome, conducting reception, support and referral activities, such as legal advice, health care, training and work orientation, recreational activities and workshops and outreach. A28 is an emergency Night Center for unaccompanied foreign children in transit (that is to say, not fingerprinted) run by the Cooperative CivicoZero.

## (II) CONSEQUENCES OF DISAPPEARANCES

Disappearances differ in terms of their consequences for actors in ways that are worth considering, in particular if a child subsequently “resurfaces” in another country or region. The mapping provided some national practices that merit reflection.

In Sweden, when a child disappears, actors’ roles and responsibilities do not appear to be consistently addressed because of decentralisation. One guardian said that his assignment was terminated within days after the child’s disappearance. Another guardian said that the Chief Guardian of the Municipality asked her to keep the assignment for another three months. It was then assumed that the child had left Sweden permanently, which is one of the criteria for terminating guardianship. Furthermore, due to the absence of a shared system among the Chief Guardian of the Municipalities, they themselves must informally make inquiries to ensure that the child has not turned up in another municipality. The Migration Board stated that the decision-making process is suspended when a child is registered as disappeared. The same applies to the process of tracing the child’s family conducted by the Migration Board.



In Italy, after an unaccompanied child has left a care facility for children, the Police Immigration Office shall suspend the procedure for the issuance of a residence permit; if the applicant was an unaccompanied child seeking asylum and a hearing had already been held, the Territorial Commission for international protection will still deliberate the decision, but the child is not informed about that. If a child is found in an Italian city other than that the one they disappeared from and a formal report of their disappearance had not been lodged, they are not recognized as a “missing child”. The whole procedure for their identification and reception is then begun from scratch, as if they had just arrived in the country. In these cases, it may happen that a child, already identified as such, is instead subjected to a medical examination to determine is or her age, with a possible different outcome, resulting in some cases in the application of immigration regulations for adults. In this case, if they are not an applicant for international protection, as adults they could receive a deportation order or be taken to a Centre for Identification and Expulsion. If the child has moved to another area, the procedure for the appointment of a guardian has to be re-initiated. This results in financial costs for the State, and also costs time, with the consequent risk to a child, who, if close to the age of 18, may lose the ability to continue to remain legally in Italy until the age of majority. The emerging Italian on line management tool (SIM) should improve this situation.

In the UK, police officers should conduct an initial ‘Safe and Well’ interview with a child who is found after being missing to check for any indications that he or she has suffered harm, where and with whom he or she had been and to give him or her an opportunity to disclose any offending by or against them. However, in 2013 its report on Missing Children, Ofsted cast doubt on whether these interviews were being carried out on a regular basis and whether, if they were, the necessary information was being shared with local authority children’s services.

### **(III) PREVENTION OF DISAPPEARANCES**

In recent years, a variety of practices have been developed with a view to preventing disappearances, largely linked to the situation of children who are suspected to be trafficked children or at risk of trafficking. The mapping explores (a) secure accommodation, and (b) ensuring support for children from guardians. The mapping also notes how (c) improvements to family reunification provisions, in particular in the Dublin III rules, as well as other provisions in the Dublin rules relating to transfers, have, and should continue, to diminish the risk of disappearances for other purposes.

#### **(a) Identification of children at risk and the provision of secure accommodation: a variety of approaches**

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Practices on secure accommodation include the protected centres in the Netherlands, the Italian approach of moving children to different locations and providing specialised services and emerging practice in the UK of placement with specialised foster families in different geographical areas. The mapping did not find significant practice in Sweden on this issue. To date, practices within countries are sometimes controversial, inconsistent or still under development. However, in each of these examples, we see the importance of involving specialised actors, special training being made available to key actors involved, dedicated tools being put in place, and cooperation facilitated. Processes for evaluation and reflection have also been key to improving practices, including through the active participation of IGOs and NGO in national debates.

#### **Dutch protected centres**

The protected centres in the Netherlands involve reception of children at risk in special, small scale protection centres from which they are only allowed to leave the premises with prior permission or a staff escort (in particular in the first two weeks after arrival). The children receive intensive coaching by specialised mentors, they go to a special school and have access to specialist psychiatric treatment by transcultural psychiatrists.

In 2010, an evaluation of the centres reached a number of conclusions, underlining the need for better risk profiles based on empirical data in order to identify children as at risk. Most importantly, the evaluation found that the placement and stay in protected reception should be qualified as a “deprivation of liberty”

which is currently without foundation in the law and noted the lack of judicial review and legal aid for the child. It suggested new law was needed to underpin the centres or practices need to be adapted.

Since the report, the process for referring children has been rendered more robust, in that all referrals are made by at least two, and sometimes even three, guardians. Members of the centre inform Nidos guardians every month as to whether the initial indication is correct or not. Nidos has also contracted an independent research organisation to develop a methodologically sound identification tool. There has been some continued controversy over the use of the centres, with criticisms from DCI and UNICEF. Those actors advocating for the use of these centres and active in their operation, characterise the conditions as strict supervision, rather than deprivation of liberty, and point to the reduction in numbers of children disappearing. One question is raised as to whether detailed guidelines and instructions should be created, for example, to describe in what instance a guardian or mentor is allowed to lock the door.

Other actors suggest that this type of restriction may lead to children avoiding the authorities. The topic has also been considered in other countries including in the UK, where it was discussed in an expert group convened by the All Party Parliamentary Group (“APPG”) for Runaway and Missing Children and Adults and the All Party Parliamentary Group for Looked After Children and Care Leavers. The consensus was that this could be counter-productive as traffickers often told child victims that they would be arrested and detained if they sought assistance from the police or a local authority social worker and consequently, if they were held in secure accommodation, this would tend to substantiate this assertion and discourage them from seeking assistance from other actors who may assist them. In addition, the experts agreed that there was no legal basis for placing them in such accommodation.

### Secure accommodation and specialised services

In Italy, when there are elements that point to the risk of trafficking, the child may be transferred to a secure facility (in a place other than the where they first arrived or were found, for protective measures), allowing for an assessment that requires a minimum time of three months, which then may be extended up to a maximum of six months. These centres protect the identity of the child from trafficking and they also provide special assistance (psychological, they realize a path to facilitate children’s integration).

These secure facilities guarantee time for the implementation of the psycho-social assessment process of the child. In this phase, the operator, with the support of a cultural-linguistic mediator, provides for assistance to the child in all procedures concerning law enforcement and judicial authorities; a thorough psychological evaluation of the child and the conditions for inclusion in an adequate facility; the combined designation, by the child and the personnel of immigration shelters, of an individual plan and the implementation of its objectives, through a programme agreement between those involved.

The assessment is carried out by a multi-professional team composed of a social worker, an educator, a community worker, a cultural linguistic mediator and a psychologist. During this period, the multi-professional team that works with the child organizes an individualized educational plan whose objectives are defined according to age, the initial migration project, the type of exploitation and the configuration of the criminal organization of which they were a victim, skills and personal resources.

This system, however, is not applied in a uniform manner throughout the country.

### Placement with foster families who have had specific training

In the UK, the London Safeguarding Trafficking Children Guidance issued by the London Safeguarding Children Board in 2011 states that a trafficked child should be placed out of borough if this is in their best interests, in order to ensure that it is more difficult for their trafficker to locate or contact him or her. A number of local authorities do place children outside of the area in which they were previously exploited or discovered as victims of child trafficking. However, they rarely have access to foster carers outside of the local authority’s own geographic area who are specifically trained to protect these children or have sufficient knowledge of their particular needs. In other cases, children under 16 will be placed with whichever foster carer has space to accommodate them and there is no requirement for the foster carer to have had



any training about caring for victims of child trafficking. Moreover, given the very limited provision of specialist accommodation, many trafficked children who are between 16 and 18 have been accommodated in provision such as B&Bs, hostels and supported lodgings which do not give them the level of supervision and specialist support needed to prevent them going missing from care.

Barnardos recently ran a pilot project, which was funded by the UK's Department of Education, within which they placed children at risk of sexual exploitation and trafficking in specialist foster care placements. The project was evaluated by the University of Bedfordshire and it found that these specialist placements did meet the needs of this group of children and did offer effective protection. Barnardos had extended the scheme using its own core funds and has started to train experienced foster carers to meet the particular needs of trafficked children.

## **(b) Guardians**

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In the Netherlands, guardians are involved in the situation of children and play a particular role in identifying children at risk through screening intakes at reception centres. In Italy, the delay in appointing a guardian (on average at least two months after the request) means they are not typically involved in the initial screening of the child. The UK does not provide guardians for unaccompanied migrant children. From August 30, 2014 the Home Office will be funding Barnardos to run a one year trial providing child trafficking advocates for child victims of trafficking. The trial will provide advocates to both migrant and British children who may be victims of trafficking but the advocates will not have the status of a legal guardian. NGOs are continuing to lobby for the establishment of a legal guardianship system as the Modern Slavery Bill is debated in the UK Parliament.

## **(c) Better family reunification (Italy)**

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In Italy, stakeholders point to the fact that most of the children (especially Eritreans and Afghans) disappear from care in Italy in order to find family members and relatives elsewhere in Europe and stress the need to promote family reunification under the recast Dublin III Regulation. One project to this end is PRUMA: To promote family reunification and the transfer of unaccompanied children seeking asylum within the European Union under the Dublin Regulation. The project, started in December 2013, will last 12 months and involves IOM, Save the Children, Praxis and CivicoZero. It will take place in Italy, Malta, Greece, France, the UK, Norway and Germany and its overall objective is the creation a solid and sustainable coordination operation for the development and implementation of standard operating procedures (SOPs) regarding family reunification of unaccompanied asylum seekers under the Dublin Regulation, in order to ensure that the needs of unaccompanied child asylum seekers (UMASs) are duly taken into account and that their rights are respected.

## **CONCLUSIONS ON DISAPPEARANCES**

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National practices on disappearances are diverse and have grown up, to a degree, on different national experiences. It is also clear that the issue of disappearances is also affected by policies concerning the possibilities of integration, temporary permits and the possibilities of achieving family reunification. Further exchange on national experiences at an EU level might contribute to improving prevention efforts. It may also be useful to consider more carefully the role of guardians in preventing and responding to disappearances, and how best law enforcement actors and guardians might work together in individual cases.

## **C INFORMING STATUS PROTECTION PROCEDURES**

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Recent EU laws and policy documents concerning unaccompanied children underline the obligation to take the best interests of the child as a primary consideration in all actions in their regard. Recent European jurisprudence from both the European Court of Justice and the European Court of Human Rights also point to the importance of the best interests in all decisions.<sup>26</sup> The recast asylum instruments identify the specific factors which should be taken into account when considering the best interests of the child. The Anti-Trafficking Directive requires Member States to take measures to identify durable solutions for unaccompanied children. To implement these obligations properly, the individual circumstances of each child need to be established.

This chapter focuses on which actors are involved in informing protection status proceedings about the circumstances of the child and how. It discusses what actors are involved in gathering, providing, or receiving information related to protection procedures, how they are qualified and resourced to act, and how, and to what extent, they co-operate. This includes how children are made aware of their protection rights and the right to participate in proceedings, including other actors providing information on their behalf.

It vividly illustrates the implications of which actors take on different roles and, the qualifications they have to do so. Cooperation between different actors may be sensitive because of confidentiality issues, the adversarial nature of some proceedings and, sometimes, because of polarized views of the child's circumstances. The mapping touched on child sensitive procedures, the availability of expert evidence and child specific information. It reflects on whether decisions typically reflect a full assessment of the circumstances of the child. It is evident that a range of regional measures of support could be helpful to actors, and that indeed some of which are already under development, including training modules by the European Asylum Support Office.

### **(I) BACKGROUND**

Before focusing on the actors involved and the tools available to them, it is important to take note of some key background factors, including (a) the type of procedures involved; (b) the nature of the information involved; (c) the child's duty to substantiate an asylum claim; and (d) the importance of engaging the child.

#### **(a) The types of procedure involved**

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In this area, protection procedures include procedures involving international protection (asylum, subsidiary protection), trafficking, and national protection statuses. In the Netherlands and Sweden, the mapping has seen a heavy focus on the asylum procedure in relation to which children's claims tend first to be examined. There are other grounds for protection in these countries but the starting point is typically the asylum procedure. In the absence of a more general procedure for establishing durable solutions for unaccompanied children, this flows from the fact that it allows first consideration to be given to what is generally the most sustainable type of protection, namely, refugee status. However it also reflects the fact that protection status based on the broader application of the rights of the child are frequently not fully considered at national level from the perspective of the UN CRC, the provision of asylum is just one of the many rights held by the child. The mapping has illustrated that it is important to consider in what ways this initial channelling of children through asylum procedures can influence the type of information gathered, how and by whom for the examination of other basis for protection. Even where the rejection of an asylum claim leads to an examination of status, this examination may not subsequently involve a full exploration of the child's circumstances.

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<sup>26</sup> See section on jurisprudence in the Reference Document on unaccompanied children – a compilation of EU laws and policies.

## (b) The nature of the information involved

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The ability of the decision maker to reach an appropriate and durable decision largely depends on whether sufficient information is collected, exchanged and provided. There is a wide range of information that may be pertinent to the assessment. The mapping illustrates that often very few sources of these information are made available to, or are sought out by, the decision maker. Clearly information gathering in asylum procedures is often challenging, when there is little documentary evidence available and a key source of the information is the asylum seeker themselves. These issues tend to be exacerbated in cases involving unaccompanied children as decision makers have unrealistic expectations about the ability of the child to understand events which have happened to him or her or the level of risk he or she may face if removed to a country of origin.

For example, in depth information on the specific circumstances of the child, including rehabilitation needs, health, physical and mental wellbeing, may not always be available, as it is not standard practice to involve specialists such as (child) psychologists. Information on family members can be sensitive and difficult to gather. Actors who are aware of the current state of welfare of the child (in terms of education, training, health, accommodation, development, social and family networks) are not always involved in providing information to the procedure, as this type of information may not always be viewed as directly relevant to status determination. Information from other proceedings e.g. youth justice and family courts, is not always shared with the decision maker. In no country, is there very developed practice of gathering information from third country actors or authorities, even where it may be relevant to a return decision.

## (c) The duty of substantiation

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The duty of the child to substantiate an asylum claim in some jurisdictions effectively leaves the child alone with the task of gathering relevant information, although the mapping shows some developing recognition of the need for a more proactive approach on the part of decision makers to gathering information on the child and a shared burden to substantiate.

In the Netherlands, typically, the child provides most of the information upon which the Immigration and Naturalisation Service (IND) bases its decision. In most cases, the IND decision makers do not actively seek out additional information.

In the UK, children are also under a duty “to submit to the Secretary of State as soon as possible all material factors needed to substantiate the asylum claim or establish that he is a person eligible for humanitarian protection or substantiate the human rights claim”. Nonetheless, the Home Office’s own instructions on *Processing an asylum application from a child* sets out instructions on obtaining additional information, emphasising the importance of multi-agency cooperation and the need to be “proactive in the pursuit and consideration of objective factors and information relating to the child’s claim” and the need to “consider evidence from a range of other sources such as information from other family members, accompanying adults or social workers” and “other agencies involved with the child which they are able to share and that may be relevant to the application”. However, lawyers reported that this rarely happens as caseworkers do not actively seek out further evidence.

In Sweden, the child bears a burden of proof to present all circumstances and reasons for international protection, but the Migration Board has also an obligation to gather information about the child in order to assess the case properly prior to a decision. The Migration Board is obliged to conduct a best interests’ assessment of the circumstances with a child perspective before making a decision or undertaking a measure that concerns children. However there is criticism that this analysis is not carried out to its fullest potential.

It is worth underlining that, where a child is claiming protection as the victim of trafficking, both the Anti-Trafficking Convention and the Anti-Trafficking Directive place the obligation to protect victims of trafficking on the State and not the victim.

#### **(d) The need to engage with the child**

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Given that the child is often a key source of information, it is clearly that the child is involved and participates to the extent possible in the process. We will see in section (ii) below that the practices of actors to achieve this are quite diverse. Actors involved in the preparation of the child for a protection proceeding will vary, depending in particular on the guardianship system and the availability of free legal representation for children. The length and type of the procedure (including who has the role of providing information) will often be an important factor affecting the way in which actors can prepare the child and the child's application. This point may benefit from further exploration and analysis in comparative research across national practices on this point.

A further practical point has been flagged as an issue for engaging with children in the Netherlands, namely, the issue of information overload for children. Asylum-seeking children in preparing for their asylum claim meet many different people who supply them with an abundance of information, and important aspects of the child's rights and the protection procedure may not be taken into account. Even before the Immigration and Naturalisation Service interview, many of the actors working with the children, with the best intentions, directly or indirectly often enquire about the child's past; in particular, when the child presents certain physical or psychological issues, they are repeatedly questioned about the possibly traumatic flight. Although respondents said that a number of children indicate that they consider it positive to tell their story several times, they also stated that many others complain that repeating these events is very demanding. It may also lead to confusion regarding when, and to whom, they actually make an official asylum request. A Nidos internal study confirms the risk of overloading the child with information from new actors in the three-week preparation period. Weeks after they had made their asylum request, Nidos asked dozens of children to name as many as possible of the organisations they had spoken to in preparation for the asylum application. They could only identify a few actors and had many difficulties in explaining the organisations' responsibilities and activities.

Solving the problem is far from easy. All unaccompanied children enter a new country with a very different culture. They must not only be informed about the legal procedure, but also be introduced to this new cultural physical environment and this takes time. One solution may be to allow the child more time to understand the information provided. A further option may be to better integrate the process of requesting and providing information to the child through further coordination between the different actors involved.

## **(II) ACTORS IN FOCUS**

The role of actors vary from providing information/advice/assistance to the child in the process, representing the child as a lawyer, gathering information on the child, acting as sources of information on the child, providing expertise on children's issues available (professional or independent expert), and deciding on status and reviewing decisions. The actors involved primarily include judges, decision makers, lawyers, guardians/representatives, NGOs and sometimes social workers. The involvement of interpreters may be vital to understanding the case of the child, but may suffer from important deficiencies, including as regards quality. Less typical is the involvement of carers, doctors, school teachers, health and development experts including child psychologists. In some countries, NGOs and children's advocates may play a significant role.

More generally, the qualifications of actors centrally involved vary considerably within the countries mapped, with differences in whether specialisations are required or training provided.

## NGOs: Provision of information

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NGOs may be among the first actors to engage with the children and often will specialize in the task of providing information and legal assistance to unaccompanied children.

For example, in Italy, on the occasion of arrivals by sea at southern borders (Sicily, Apulia and Calabria), Save the Children provides information and legal assistance to unaccompanied foreign children and monitoring procedures that affect them, including the establishing of age. A leaflet containing child-friendly information about their rights was created (in seven languages) and is distributed to unaccompanied children. In airports and seaports, however, the presence of NGOs with a mandate of to provide legal information is standard, but specific expertise and experience in the field of child rights and immigration is not required.

In the UK, Coram Children's Legal Centre's 2013 report, *Navigating the System*, also identified child advocacy organisations like New Londoners, whose Young Refugees' and Migrants' Rights Project covers a number of London boroughs providing services to children aged between 13-19 subject to immigration control. They will often coordinate communication between different agencies and support solicitors by providing information about the young person". The Refugee Council's Children's Panel Advice Service has operated since 1994 and is the only national service of its kind. Advisers work directly with separated children seeking asylum, helping them through the asylum system and ensuring that they are protected. The team also offers advice and information to carers and other professionals working with children and young people.

In the Netherlands, given that government fees for professional immigration lawyers have recently been reduced, with less time spent on providing their services the child may be more dependent on legal advice given by volunteers from the Dutch Refugee Council.

## Guardians and lawyers

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Guardians may play an important role in assisting the child gather information and connect with other actors involved. This is the case in particular in the Netherlands and Sweden. In the Netherlands, on a practical level, the lawyer and sometimes the guardian assist the child in obtaining relevant information from abroad. Guardians regularly provide access to the Internet and Skype, which may enable the child to request contacts in the country of origin to send relevant documents. In case the child wants to obtain a birth certificate from the country of origin, guardians inform the lawyer or the Dutch Council for Refugees (VWN) who may find assistance via NGOs or churches. Often, the child gets help via their own networks.

As noted above, in the absence of guardians in the UK, the child's lawyer tends to play a pivotal role in the information gathering process with other actors, such as social workers, foster carers, the police, judges and UK Visas and Immigration expecting him or her to provide relevant information about the child and his or her application for status. Therefore, the quality of the unaccompanied child's lawyer may become a very important factor influencing whether the child is granted status. There is no national organisation which provides or appoints lawyers for unaccompanied children to assist them to apply for protection or appeal against any refusal to grant them protection but there is a well-established system of lawyers in private practice who provide legal advice and representation to unaccompanied migrant children. Many of them belong to and are trained by the Immigration Law Practitioners Association. In practice when an unaccompanied child is in the care of a local authority the child will usually be assisted by his or her social worker to find an appropriate local lawyer. In some cases the social worker will ask the Refugee Council's Children's Panel to provide the name of a lawyer.

The lawyer's first task will be to build up the necessary relationship of trust with the child so that he or she can assist the child to provide as much information as he or she can about his or her history of persecution or exploitation and any risks he or she may face if returned to his or her country of origin. It is necessary for lawyers to factor in much more time to interview an unaccompanied migrant child so that the first

meeting with the child is devoted to explaining the application process to the child and building the necessary trust to maximise disclosure by the child. It may also be necessary to use child appropriate procedures such as visual aids and a mixture of open ended or closed questions. His or her tasks will include helping the child to complete the Home Office pro forma Statement of Evidence Form the child will have been provided with at his or her screening interview and collecting further country and expert evidence necessary to support the child's application. The lawyer will also have to attend the child's substantive asylum interview either in person or through a more junior employee of his or her firm. In addition, the lawyer will also have to assist the child to obtain any information which may be relevant to the protection application. This may include assisting the child to obtain records held by other official actors using a 'subject access request', which may take up to three months to be disclosed.

In the Netherlands, a pool of lawyers with particular expertise in working with (trafficked) children has recently been established.

## Interpreters

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In the UK, the UNHCR UK's sixth QI report emphasised the importance of the quality of the interpreters provided by the Home Office for asylum interviews and said that this was "pivotal to eliciting information on the facts of an asylum applicant's claim" and went on to recommend specialist training for interpreters. The Home Office has a contract with one private provider and there are currently a great many concerns about the quality of some of its interpreters.

In Sweden, many interviewees have also raised the issue of interpreters. They have noticed that the Migration Board does not always use licensed interpreters and have had experiences where the translation is inaccurate. The risk of documenting the child's words inaccurately is problematic as it could lead to a negative credibility finding and a rejection of the claim in first instance or at the appeal stage.

## Case workers and decision makers

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In the Netherlands, all procedures for unaccompanied children are dealt with in one Immigration and Naturalisation Service (IND) office in Den Bosch where staff members with specific training in dealing with underage asylum seekers carry out the interviews. A limited number of interviewers are trained to specifically deal with applicants under 12 years of age.

In Sweden, officials at the Child Unit are mandatorily trained in child rights and how to talk to children, which by many interviewees is identified as good practice because they are responsible for the decision-making. Another good practice is that a child who has turned 18 during the asylum process is no longer referred to another unit and case officer; the officer at the Child Unit continues to examine the case.

The Migration Board engages with the child through a three stage process focusing on the asylum procedure. The first meeting concerns filing the application/registering the wish of the child to seek asylum, at which case workers ask some basic information during this meeting, and do some screening for special needs. The second meeting is with the reception unit and there the child typically provides information on their past in terms of work and education and special reception needs; the child also then gets general explanatory information about Sweden and the reception conditions as well as the asylum process. The third meeting is the asylum interview which the guardian, public counsel, two officials from the Migration Board and the child attend. Some stakeholders have raised concerns about the screening process sometimes raising issues that have a bearing on the asylum claim before a child has representation, with only 48 hours provided to the child and counsel to confirm the claim. Equally others feel that the child is not given enough information on child specific forms of persecution in order to be able better to formulate their claims.

Caseworkers in the UK Visas and Immigration department are not required to hold any formal professional or vocational qualifications, but are required to complete an internal 'Asylum Foundation Training' programme, which includes modules on working with interpreters, an interview simulation, understanding refugee law and assessing credibility. A caseworker must have successfully completed additional training



on children before he or she can be allocated an application made by a child. The content of this training programme is not in the public domain. However, there are continuing concerns about whether the training being received by caseworkers is adequate and effective.<sup>27</sup>

In the UK, new Immigration Judges undergo two initial residential training courses and a shadowing period with other judges and are provided with Bench Books through the Judicial College. The Tribunals' judiciary also set up and deliver their own in-house training annually, which is supplemented with ad hoc seminars. Immigration Judges are also expected to maintain their own professional knowledge and development through reading Presidential practice directions and internal legal bulletins, external journals and other resources.

In the Netherlands and Sweden, the Courts have no judges specialised in children's issues.

In Italy, the Judges of the Juvenile Court are particularly qualified on the subject of communication with children in judicial and juvenile law, despite not having received or periodically guaranteed a specific training with respect to the legislation on the protection and safeguarding of unaccompanied children.

### **(III) COOPERATION BETWEEN ACTORS**

The mapping has in other sections highlighted cooperation procedures which have a bearing on the preparation and hearing of a child's case.

A direct example is the agreement between the Dutch Immigration and Naturalisation Service and the Dutch guardianship authority enabling both organisations to communicate more openly. The agreement includes some formal and procedural arrangements. Nidos, for example, now has the opportunity to issue a motivated request to extend the three-week Rest and Preparation Period which is granted to children between the asylum application and the asylum interview. Perhaps more important is that since the agreement, IND interviewers and Nidos guardians in preparing for an asylum hearing briefly contact each other to exchange any relevant information. The guardian may also inform the interviewer that a child expects to receive certain important documents and may request adjournment of the interview.

The Protocol involving exchange of information between different courts in the UK is a recent example of cooperation to ensure a full picture of the child's circumstances is available to decision-making. There is scope further to explore in what ways actors can cooperate to enhance information gathering. Clearly confidentiality obligations would need to be carefully observed.

### **(IV) CHILD SENSITIVE PROCEDURES**

Child sensitive procedures are important safeguards in the information gathering and assessment process. These procedures frequently rely to a great extent on the manner in which actors can assist the child (from providing information to the child and, as has already been surveyed, to supporting them in making a claim), and the manner in which other case workers and decision makers engage with the child. Practices in this area might best be described as developing. The new safeguards in the EU asylum legislation emphasise the need for trained officials. The Anti-Trafficking Directive makes obliges Member States to put in place further child sensitive procedures, which actors will be required to respect. The mapping did not examine the area in depth but did yield some interesting practices that are worth noting here.

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<sup>27</sup> For example, UNHCR UK's 6<sup>th</sup> Quality Initiative report (<http://goo.gl/nk63EL>) on Home Office decision-making in children's cases noted the need for neutral and non-biased presentation of key refugee law concepts and the need for continued improvements to training on credibility assessments. It also said that improvements should include more thorough explanations of how to make a decision using techniques that incorporated a child's individual characteristics, such as age and maturity, into the assessment. It added that it should also include more explanation and a practical application of refugee law concepts where child-specific considerations needed to be taken into account".

In the UK, Netherlands and Sweden, caseworkers are trained to interview unaccompanied children. However reviews of interview practice have suggested some deficits need attention.

In the UK, there is widespread concern about the manner in which immigration officers do use the initial screening interview in order to obtain information about the child's substantive claim for protection even though he or she may not have been fully informed about the legal options available to him or her before that interview and may also not be legally represented at that stage.

In addition, in its Quality Initiative work with the Home Office, UNHCR (UK) carried out an examination of decision-making in unaccompanied children's cases. UNHCR's 6th QI 2009 report found that "The mixed ability amongst case owners to question a child appropriately and effectively at interview suggests a need for more thorough training and guidance". Equally, the Independent Chief Inspector of Borders and Immigration also expressed concerns about "examples of behaviour by interviewers, which did not, from the transcript, appear child-friendly" and delays to interviews which kept children waiting for long periods in interview facilities which were not always appropriate.

Some good practice was noted by the Chief Inspector of Borders and Immigration, where a child was interviewed over two half days in their legal representative's office, which they said made the process comfortable. The report went on to note that an increasing number of interviews in Glasgow are being held at non-Home Office locations. A further positive development was the report from an experienced lawyer in London that in a number of cases she had been able to persuade caseworkers to accept a written statement she had taken from an unaccompanied child instead of requiring them to attend for a substantive interview. This is viewed as a positive development as the child is being interviewed by an adult who he or she already trusts and in a situation with which she is familiar. It also protects traumatised children from over-zealous cross-examination about events about which they provide no further information. In some cases, UK Visas and Immigration caseworkers may also be prepared to rely on an "achieving best evidence" interview conducted by a police officer and a social worker in child protection or criminal proceedings. These interviews are most likely to be used in child trafficking cases where criminal proceedings are being brought against adults involved in their trafficking. The basis of the practice is that it is potentially abusive to require a child to repeat traumatic experiences if the same information is available from other reliable sources. In some cases the child's experience of trafficking will found the basis of a successful application for asylum and this is an example of developing multi-agency practices.

In Sweden, during the interview, all case officers at the Migration Board use standardized questionnaires to ensure and encourage the child perspective and coherent practice in the asylum process. To gather as much information as possible is of importance to do a best interests' assessment.

In Sweden, during interviews, notes on the computer are no longer taken during the asylum investigation that could otherwise be a distracting element for the child. Instead, the interviews are recorded which is highly commended by many interviewees. These measures are part of a working methodology that aims to facilitate the gathering of information. The questioning takes place in a child-friendly environment (i.e. not in the questioning room that typically only has two chairs and a table).

In a report from the European Migration Network (2013b), reference is made to special centres for investigations involving children in Sweden – the Children's Houses. The purpose of these centres is to avoid that child victims are shuffled around between authorities that perform their duties. In a report for Save the Children, Landberg (2012) commends the efforts made in relation to the Children's Houses, but criticizes that the health care and the Child and Adolescent Psychiatric Services are rarely systematically involved in the cooperation and coordination of the support to the child.



## Procedures in courts

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In Swedish courts, it has been observed that few children are being heard and that the procedures are not child sensitive.

The UK mapping illustrates a case management process on appeal. Immigration judges give directions about any special measures that need to be put in place for the child as a vulnerable witness. There is specific guidance for the judge on the approach to take to unaccompanied children. This includes the fact that a responsible adult should be present and questioning should be child-appropriate. Judges are required to consider the necessity of expert evidence in children's cases: "including evidence regarding the health and development of the child, e.g. a paediatrician, child psychologist, or specialist relating to the particular history of the child".

The Immigration Judge will also be obliged to take into account any country guidance cases which have been decided by the Upper Tribunal (Immigration and Asylum Chamber).

In criminal courts in the UK a child or other vulnerable witness can give his or her evidence in chief from behind a screen or even in another building altogether with his or her evidence being recorded. The Home Office is also currently running a pilot project in three Crown Courts in which children and other vulnerable witnesses are also providing answers to any cross examination at locations outside the court which are then recorded on video or DVD.

In the Family Court, children have guardians ad litem who see the children outside court and then report on their views at the hearing. Judges can also meet children in his or her private chambers in some limited circumstances in order to explore their views.

## **(V) CHILD SPECIFIC EXPERTISE AND EVIDENCE**

Across the four countries, experience in relation to the availability of expert evidence and child specific country of origin information is very varied.

### Availability of expert evidence

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In the Netherlands, experts are rarely involved in the asylum procedure at first instance. Equally, in the UK, caseworkers from UK Visas and Immigration will not commission their own medical or other expert evidence where there is part of a child's case which requires additional explanation. However, a specialist children's lawyer may seek to instruct an expert, such as consultant doctors or specialist NGOs or academics, who could be asked to comment on impact of trauma as an explanation of inconsistencies in evidence or country specific persecution in a particular country or origin. Expert reports can be presented as evidence to support children's claims at the initial application and at the appeal stage, where experts can also be called upon as witnesses. In addition, a lawyer may seek a report from an independent social worker about the effect of not being granted protection on the child's development, educational and welfare needs. Independent expert reports are within the scope of legal aid, but it is becoming much harder to obtain funding for these from the Legal Aid Agency. There is case law in UK courts which requires judges to give weight to expert evidence from credible and accredited experts.

### Use of child specific country of origin information

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The use of child specific country of origin information is highly relevant as such information can help support the child's accounts or provide information where it is difficult for the child to provide information. The use can therefore contribute to a more comprehensive examination of the consequences of return from a child's perspective. It is also imperative in the assessment on inner flight alternatives. Of the jurisdictions surveyed, it appears that UK decision makers make the most use of child specific country of origin information.

Dutch decision makers consult ‘Official Reports’ (Ambtsberichten) of the Ministry of Foreign Affairs for country information. These reports are drafted by Embassy Staff in the respective countries and contain information about the social, economic, and security situation. Decision makers also use these official reports to assess aspects related to the best interests of the child. A number of non-state actors critique the current reports, because the child-specific information in these reports is often limited to the risks of being recruited as a child soldier or being subjected to genital mutilation.

In Sweden, the Migration Board is also obligated to consult child-specific and relevant country of origin information (COI). One lawyer, however, shared that the Migration Board rarely uses child-specific COI; if COI is consulted, the references often address the general situation such as access to food and water rather than actual security risks. Her experiences are also that the use of COI is more common in negative decisions on whether the fear of persecution is well-founded in the asylum application. A case officer at the Child Unit admitted that it is not always apparent that they have considered COI before making a decision, but highlighted that they do consult COI in general. The information is then often found through their own COI database (Lifos) that is public and accessible for all actors, and that contains all types of information; not just about children although more child-specific information could be added. That the use is not always apparent is a noteworthy aspect because the considerations should be presented in the decision to outline what impact it had on the decision-making process. Knowing the sources of COI is also necessary in order to address them in the potential appeal process.

In the UK, the Secretary of State for the Home Department is required to provide reliable and up-to-date information from various sources on the general situation in countries of origin and transit. This information is published in Country of Origin Information Reports and Operational Guidance Notes. However, these documents are based on desk research and rely heavily on information provided by the US State Department and international human rights organisations. The researchers do not undertake further research in relation to issues raised in a particular case. This was confirmed by a lawyer who has specialised in representing unaccompanied migrant children for ten years. She said that case workers had never obtained their own expert evidence in any case in which she had conducted. Another lawyer recalled only one incidence when a caseworker had even suggested that expert evidence may be useful.

An Independent Advisory Group on Country Information (IAGCI) was established in March 2009 by the Independent Chief Inspector of Borders and Immigration. In 2012 an IAGCI thematic report by Kohli, Mitchell and Connolly, *An analysis of the coverage of issues related to children in Country of Origin Reports produced by the Home Office*, examined the extent to which country of origin information reflected the situation of children in countries of origin and whether these countries respected children’s rights. In particular, the report recommended that Country of Origin Information Reports on children should follow a template based on the issues raised in the UN Committee on the Rights of the Child’s Periodic Reports and the rights contained in the UNCRC. It also highlighted the potential for such an approach to “provide a fuller understanding of risk and protective factors that contribute to a balanced understanding of the contexts from which children are claiming asylum”. It noted “considerable improvement in relation to the instructions” given to the researchers which “recommend authors use UNICEF data sources and the UNCRC as scaffolding around which the rest of the [children’s] section can grow”. However, lawyers reported that they still find that the quality of the reports varies and UK Visas and Immigration caseworkers are selective about which parts of reports they rely upon.

## **(VI) CONSIDERATION OF THE CIRCUMSTANCES OF THE CHILD IN DECISION MAKING**

The mapping touched on whether decisions typically reflect a full assessment of the circumstances of the child.

In Sweden, there has been a long term commitment to decision makers in explicitly examining the best interests of the child in assessments. The purpose of the child impact analysis is to make the decision-making more transparent in terms of how the information about the child has been gathered, describe the

circumstances and analyse the consequences from a child's perspective. The results must then be presented in the decision. However, the checklist for best interests assessment is, in many interviewees' opinion, not yet used to its fullest potential in practice, in that to date the Migration Board seldom considers all circumstances of the child. (As an example, one public counsel mentioned that the Migration Board seldom fully considers future risks of abuse in the family even when the child has brought it up as a concern.) It was noted that the decisions state reasons that have been brought up by the child, but do not always present how the impact analysis was conducted or how the information about the child's circumstances have had an impact on the decision-making process.

In the Netherlands, the decision maker has been criticised for the frequent paucity of reasoning on this issue. Stakeholders question whether the Dutch Immigration and Naturalisation Service adequately demonstrates that takes the best interests of the child into account when making an asylum decision. Defence for Children and UNICEF recently suggested the Minister of Justice should include a paragraph in each decision explicitly showing how the interests of the child have been assessed and how these have been weighed against other interests.

In the UK, an experienced lawyer noted that decision letters drafted by case workers still did not give proper weight to country or expert evidence submitted on behalf of children. Instead they were usually standard refusal letters which failed to engage with the evidence submitted to support the child's application. Another lawyer noted that caseworkers also often fail to give any consideration to child specific country evidence submitted on behalf of an unaccompanied child and just relied on their own Country of Origin Information Reports and Operational Guidance Notes. A third said that proper weight was not given to expert medical evidence submitted in support of unaccompanied children's applications and that the only time that caseworkers did rely on expert evidence was when it was evidence from children's services about a child's age.

## CONCLUSIONS ON INFORMING STATUS PROTECTION PROCEDURES

Common challenges to informing and deciding on a claim include how skilled and knowledgeable the actors involved in the process are in engaging with the child, gathering and assessing information, addressing child related grounds for persecution or the situation related to children in the country of origin. Practical measures of support at EU level should help contribute to improving the actors' skills, knowledge and tools.

## 4. CONNECT TOOLS

*A wide range of actors and issues are involved in responding to the situation of unaccompanied children arriving in Europe. Key issues addressed by these actors include recognition as a child and access to reception services, legal representation and guardianship, the participation of children in procedures, access to education and health services. Other important issues are disappearances from centres, how to determine the best interest of the child and identification of possible child victims of trafficking. The CONNECT project aims to support actors in their work with practical tools that help fulfil the rights of children.*

During the CONNECT project five practical tools were developed through pilot projects in the four partner countries. These tools address specific aspects of reception and targets actors on different levels. The pilots were based on areas of expertise of the partners and builds on previous work and experience. The tools were developed through consultations and research in each of the partner countries. The work also benefitted from discussions at several project partner meetings and in the process input was also given by the Regional Advisory Panel members to ensure transnational reach and relevance of the tools.

These tools can be used separately or together as a toolkit:

### **Who's Responsible?**

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A Tool to Strengthen Cooperation between Actors Involved in the Protection System for Unaccompanied Migrant Children (Italy)

### **Local Cooperation for Unaccompanied Children**

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A Tool to Assess and Improve Reception Conditions (Sweden)

### **Standards to Ensure that Unaccompanied Migrant Children are Able to Fully Participate**

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A Tool to Assist Actors in Legal and Judicial Proceedings (The UK)

### **The Right to be Heard and Participation of Unaccompanied Children**

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A Tool to Support the Collection of Children's Views on Protection and Reception Services (The NL)

### **Working with the Unaccompanied Child**

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A Tool for Guardians and Other Actors Working for the Best Interest of the Child (The NL)

## 4.1 THE TOOL DEVELOPMENT PROCESS

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The first step in the process was to produce a guidance for developing the tools. The guidance was intended to establish a common understanding of the development of the tools as project deliverables and to guide the examination of the work at key stages of the project. A key goal of the guidance was to ensure relevance of the tools in other national contexts, either because (a) they could be directly used in other countries, (b) the processes by which they were developed could be replicated to create a similar tool in other countries, or (c) the use of the tools in one country provided an insight for other countries that could be relevant to their examination of a child's circumstances.

The tool guidance contained of tool criteria that was to guide each partner in the development of the tools. These criteria was generated at a project partner workshop and then compiled and processed by the Project Coordinator.

The criteria for tool development:

### **A The tools should be based on a child rights perspective and relevant EU obligations**

The tools should clearly relate to obligations in the CRC and/or relevant EU law or policy. For this purpose, using the Reference Document produced within the project, they can be related to specific measures in EU law or policy.

### **B The tools should be directed towards strengthening the capacity of actors to engage in the situation of children and should, to the extent possible, support better inter-agency work**

The tool should be designed with the specific actors who will use the tools in mind. The tool could be used by different actors and for different purposes but this should be clearly specified.

### **C The tools should be relevant**

The tools should build on actual needs and protection gaps. Relevance should be specified in both the national context in which it is developed and also for other countries in Europe.

### **D The tools should be practical and effective**

The tools should be clear and easy to understand in terms of use and purpose. They should be short and simple. The tool should contain a clear process for its use and success indicators.

The tools should have a user-friendly design. It is desirable to have tools that as much as possible can be used in the daily work of actors. The tools should have a clever format and make use of visual aids such as flow charts, checklists etc.

### **E The tools should be aspirational**

The tools should not only capture current practices, but also be inspiring in the sense that they can be used to create change and good practice. They should build on principle and legitimacy.

### **F The tools should be transferable**

The tools should also be relevant to other contexts than the one it was developed in, as much as it is possible. They should be relevant to other member states and have transnational reach.

It is preferable that the tools overlap with other projects and other tools and connect to ongoing work.

⑥ **The tools should be consistent with the other tools and project deliverables; it should be possible to present them collectively**

The tools should as much as possible have a common structure/design/layout and structure as other tools and project deliverables.

⑦ **The tools should be sustainable**

The tools should be relevant over time and have a shelf life beyond the project. They should as much as possible connect to outside projects and actors.

## **4.2 CHALLENGES FOR ACTORS THAT THE TOOLS AIM TO ADDRESS**

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Given that **Italy** is a country where practices and services available to unaccompanied children often depends on the region or municipality involved, due to the decentralized reception system, the Italian pilot project aimed at improving reception practices in Italy by creating a common framework/flowchart for actors involved in the protection and reception of unaccompanied children. The results of the mapping conducted through a workshop with stakeholders showed the responsibilities of actors in regards to specific issues and stages such as first encounter, first assistance, first reception, temporary care, asylum procedures, protection of victims of trafficking and disappearances.

In making the tool transferable to other country contexts it was discussed and decided at a project partners' meeting that the tool would be a guidance on how to conduct a similar process of mapping and establishing roles and responsibilities of actors involved. The mappings in the project countries involved has shown that there is often overlap in terms of actors and responsibilities. In systems of high decentralization of services, such as Sweden or Italy, the complexity of actors and their responsibilities can be more extensive than in centralized systems where there is a higher degree of coordination between actors.

During the regional project conference in Brussels it was discussed that the Italian tool could be particularly relevant in countries where the protection systems are not fully developed but the tool can also be relevant in countries such as Sweden, where responsibilities between actors are not always clear, when it comes to specific issues, and where reception is also delegated to the municipalities and local differences exists. At the same conference it was also discussed whether the tool aims at producing a picture of the situation as it is in practice or an ideal model of the system. Participants felt that this is something the user should be aware of and that it may be a good idea to create a view of the actual practices in place and then the aspirational model.

Decentralization of reception practices poses challenges to actors, but also opportunities for social innovation at the local level, which has often been the case in the UK for example. In Sweden reception services were decentralized in 2006 and many municipalities have developed methodologies and practices supporting a child rights based reception and integration of unaccompanied children. However decentralization entails challenges when it comes to cooperation between actors, as it is often informal in its character, and it may also entail different levels of quality in reception, depending on the experience and capacity of the local authorities in the municipality.

The **Swedish** tool aims at addressing differences in reception services by promoting monitoring and continuous improvement by responsible actors at the local level through four different practical steps namely: cooperation, mapping, creating an action plan and evaluation and follow-up. The Swedish tool can be used in other systems where there are local authorities and actors responsible for reception conditions and integration. However it was discussed at the regional project conference that Member States have different actors with different responsibilities and resources. However the Swedish tool, taking a rights-based and



an issue-based approach, can still be relevant in a system with other actors involved. For countries with a centralized reception system the tool may be used to identify areas of improvement at national level.

Challenges that were discussed by European stakeholders at the conference in relation to the Swedish tool was how to involve the local community and how to encourage local authorities and politicians that it is aspirational to work with this group of children. Participants from Denmark expressed the relevance of such a tool and also Save the Children Italy stated that the tool could be used in Italian regions potentially by the regional children's ombudsman.

Many different actors are involved in different procedures relating to the unaccompanied child even though these systems are more or less complex. In the UK it is often the case that children are involved in several different procedures in different jurisdictions at the same time. An unaccompanied child may have to engage with a wide range of legal procedures, courts and tribunals after his or her arrival in a country of destination. These may include a criminal court, if he or she is a victim of human trafficking, sexual abuse or labour exploitation. In the alternative, he or she may have been wrongly charged with a criminal offence connected with his or her entry into the country or his or her exploitation as a victim of human trafficking. He or she may also have to take legal action in order to dispute an assertion that he or she is over 18, if he or she has been placed in unsuitable accommodation or has not been recognized as victims of human trafficking. Or he or she may be a party to family proceedings because child protection concerns have arisen about his or her previous treatment by a parent or relative. At the same time, he or she may have been refused asylum or other international protection and be appealing against that decision. Some unaccompanied children may also be seeking compensation from the relevant court or tribunal for false imprisonment, assault or exploitation as a victim of human trafficking.

The UK tool includes 16 standards, which can be applied as a whole or individually to a country. The research which underpins the production of the standards, in the UK tool, suggests that there are common tasks in many legal and judicial proceedings and that there is currently unnecessary duplication by a number of different actors and also failures of communication between different actors working with the same unaccompanied child. It also indicates that this has an adverse effect on outcomes for both the unaccompanied child and the Member State itself. It is often possible to tackle some of these shortcomings by sharing information and establishing common procedures. In some circumstances, the ultimate remedy would be to develop a children's court which would be responsible for all legal and judicial proceedings involving an individual unaccompanied child. Such a court would build on the standards suggested in the tool and would have a duty to ensure that the different procedures ultimately lead to the identification of a durable solution for the child.

The standards and the tool can also be used as the foundation for advocacy work in different contexts. It gives inspiration to the policy maker, but also to the practitioner in the performance of his or her responsibilities. It gives an example of an integrated model, but also of noteworthy practices existing in relation to different issues. The tool is therefore useful both to the practitioner, but also to any actor in a Member State that wants to advocate for more child friendly procedures or for a children's court.

The right to be heard, article 12, is one of the guiding principles of the UN CRC. The right of the child to be heard is an individual right, but also a collective right for groups of children. In practice, this means that the individual child has a right to be heard in all matters affecting them, but also that States and other actors have a responsibility to listen to groups of children and their experiences, for example, when planning services such as reception for unaccompanied children. However, participation is rather the exception than the rule in European systems for unaccompanied children. This is, firstly, the result of the responsibility for the target group often being decentralised to various agencies throughout the country, so structured feedback collection is not carried out by one, single responsible actor. A second reason is the fact that the target group itself is not easily approachable because of language difficulties, cultural barriers and frequent movements. Therefore, the collection of feedback is more difficult than for other groups of children, for instance, in regular youth care. At the same time, it is very important for those people working with the children to involve them properly and gain insight into their circumstances, wellbeing, need for support, current situation, and future plans. Firstly, because it enables them to work on the relationship with the

child and make an effective support plan and, secondly, it provides them with recommendations for general improvements in the care being given to the children.

Nidos, in the **Netherlands**, have in their participation tool gathered different methods and examples of hearing children and collecting feedback from them in order to inspire and support countries and actors to listen to children. The examples included builds on previous work and use of the organization, but also some international examples are included. The participation tool did not raise many questions at the regional project conference, but was welcomed as it seemed very useful to the participants as they did not have a lot of experience with organizing client participation.

Working as a guardian or a social worker with the individual child can sometimes be challenging and give rise to ethical dilemmas. Assessing and promoting the best interest of the child in different situations and in finding a durable solution is not always an easy task. Therefore Nidos have developed a guidance for the actor working close to the individual child, as a guardian, or a social worker, in order to support the actor in working with this particular target group. The guidance is based on the working methodologies of guardians in Nidos in the Netherlands. The guidance discusses specific features of working with unaccompanied children such as how to involve and interact with family members and how to respond to cultural differences.

At the regional project conference participants were very interested in the guidance and how it deals with cultural differences like extended family culture, empowerment (starting with the strength of the child and his or her network) and cross border networking (also when return is the issue or when there are concerns). People recognized that family expectations burden the children enormously. This is especially the case when they don't succeed in getting a permission to stay, to achieve family reunification, making a career or sending money home. Nidos also explained their current experience with cross border networking, based on the method of 'family group conferences' used in youth protection in New Zealand (and UK and the Netherlands). Where they contact the family as soon as possible to explain what the real opportunities are for the child. Children are often relieved when the family expectations are adjusted in this manner. Nidos tries to involve the family, where ever they are in the world, also by creating an alternative perspective or when there are concerns about the child. Participants found it interesting to hear how they work on this given that this can be a particular challenge for actors working with the child.

## 4.3 DESCRIPTION OF THE TOOLS

In this section the tools are described separately.

### WHO IS RESPONSIBLE? A TOOL TO STRENGTHEN COOPERATION BETWEEN ACTORS INVOLVED IN THE PROTECTION OF UNACCOMPANIED MIGRANT CHILDREN (ITALY)

#### THE RIGHTS OF THE CHILD

This tool is based on the UN Convention on the Rights of the Child in its whole, being a holistic and integrated document, but the following articles are of particular relevance:

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**Art. 2:** “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind [...]”

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**Art. 3:** “In all actions concerning children [...] the best interests of the child shall be a primary consideration.”

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**Art. 4:** “States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention [...]”

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**Art. 6:** “States Parties shall ensure to the maximum extent possible the survival and development of the child.”

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**Art. 12:** “States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child [...]”

#### THE TOOL ALSO TAKES INTO ACCOUNT THE RELEVANT EU PROVISIONS AND IN PARTICULAR:

- Recast Dublin regulation EU 604/2013
- Recast Reception Conditions Directive 2013/33/EU
- Recast Asylum Procedures Directive 2013/32/EU
- Recast Qualification Directive 2011/95/EU
- Family Reunification Directive 2003/86/EC
- Anti-trafficking directive 2011/36/EU

#### PURPOSE OF THE TOOL

The tool is meant to offer a clear image of the reception procedures in accordance with the applicable regulations. Thanks to an in-depth study and the use of matrices, the tool shines light on legislative gaps and the issues linked to the application of certain normative principles.

In detail, the tool devises a mapping of the regulatory system for the protection of unaccompanied migrant children through matrices. These matrices are to be completed by consulting the reference table of EU legislation developed as part of the CONNECT project. By filling the matrices it is possible to have a practical extrapolation of the activities and stakeholders as provided by law, therefore obtaining a picture of the reception system for unaccompanied migrant children that makes it possible to identify the legislative gaps and the issues linked to the application of normative principles. Once these have been identified, relevant authorities can be engaged in an exchange of views and information.

Such exchange is likely to deliver solutions and amendments to the applicable regulations while adequate interpretations of the relevant legislation can be discussed and analyzed to create a homogeneous system, in accordance with the applicable regulations and aiming at an efficient reception of unaccompanied migrant children.

## **WHO IS IT FOR?**

This tool can be used by actors involved in the protection system for unaccompanied children at both European and national level. This includes institutional bodies such as ministries, regions, provinces and municipalities, as well as police officers and social workers who come into direct contact with unaccompanied migrant children. It can also be used as an advocacy tool to highlight areas of improvement and to mobilize actors around improving the quality and effectiveness of responses towards unaccompanied children.

## **DESCRIPTION OF THE TOOL**

The tool give guidance on how to map the key activities concerning the protection of unaccompanied migrant children and consequently deepening the knowledge of the roles and the practices of each actor.

The tools is meant to be used at a national level by filling the matrices and tables with national reception provisions of EU law. By doing national flow charts actors can improve and strengthening the national reception system in place.

The practical guide (toolkit) contains 7 sections/modules with guidelines for the identification of roles and responsibilities of the actors in the:

- ❶ first encounter
- ❷ first assistance
- ❸ first reception
- ❹ temporary care
- ❺ disappearance
- ❻ asylum procedure
- ❼ procedures for protection for victims of trafficking and exploitation

This practical guide (toolkit) has been designed as a self-study tool and reference resource. The sections/modules are organized broadly in line with the stages of the child protection process for unaccompanied migrant children and can be used in sequence in order to provide a comprehensive guide on how to design a flow chart of the child protection system for unaccompanied migrant children which guarantees their best interest. Alternatively the modules can be used individually as a reference resource on each topic.

## HOW THE TOOL WAS DEVELOPED

The tool was developed by producing tables based on the relevant EU legislative provisions. By mapping and listing the individual activities concerning the reception and protection of unaccompanied migrant children and by linking them to the relevant actors a flowchart highlighting the current practices and gaps is generated.

In order to develop the tool, Save the Children Italy organized a workshop engaging the relevant authorities. In that occasion a flow chart was drafted after having created tables of the relevant actors and of the different phases of the reception and protection system. The actors taking part in the workshop were then added to a mailing list to favor the exchange of information and the creation of new drafts.

## COOPERATION FOR UNACCOMPANIED CHILDREN: A TOOL TO ASSESS AND IMPROVE RECEPTION CONDITIONS (SWEDEN)

### THE RIGHTS OF THE CHILD

This tool is based on the UN Convention on the Rights of the Child in its whole, being a holistic and integrated document, but Article 4 is of particular relevance: “States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. [...]”.

The implications of Article 4 is described in the UN CRC General Comment no 5 (2003): “General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)”. In this comment the need for cooperation between actors, evaluation and assessment of children’s situation, the need for action plans on the realization of the rights of the child and for these to be evaluated is stressed.

### RELEVANT EU OBLIGATIONS

According to Article 28 of the recast Reception Directive. “Member States shall, with due respect to their constitutional structure, put in place relevant mechanisms in order to ensure that appropriate guidance, monitoring and control of the level of reception conditions are established”.

### THE PURPOSE OF THE TOOL

The tool is meant to function as a guidance and inspiration to assess and improve local reception conditions through a series of practical steps including a workshop with the purpose of collectively creating an action plan. By promoting collective assessment and actions the tool also aims at strengthening inter-agency cooperation between actors.

### WHO IS IT FOR?

This tool can be used by policy makers and decision-makers as well as coordinating actors at both national and local level. Even though it is mainly designed for a decentralized system it can be used by actors with an overall responsibility in a country, such as a ministry, or the local Child protection services or other relevant local actors. It can be used as an advocacy tool to highlight areas of improvement and to mobilize actors around improving the quality and effectiveness of responses towards unaccompanied children.

## WHY THE TOOL WAS DEVELOPED

In Sweden the reception of unaccompanied children is provided by the municipalities. That is also the case in countries such as Denmark, The United Kingdom and France. Different aspects of reception can be placed on different levels (national-regional- local) in different systems. However the need for cooperation around children and between actors involved is essential in offering an integrated and effective response to the needs of children in care.

Since 2006, when the organization of reception was shifted and decentralized from the Swedish Migration Board to the local Social services a number of projects and reports on how to improve and develop the reception system have been produced. Guidelines and educational materials have been produced to help actors within their specialized fields. A common feature of the materials produced is the need for cooperation between actors. Cooperation takes place in several municipalities on a case by case basis as well as on a structural level to different degrees. Networks involving different actors locally and regionally (within the counties) are emerging. Given that reception services are mainly organized at the local level there are variations in experience, expertise, level of coordination and cooperation existing in and between municipalities. This tool is meant to support a continuous recurring monitoring, development and cooperation process involving (local) stakeholders.

## DESCRIPTION OF THE TOOL

The tool contains a process for collective assessment of reception conditions including guidance and practical steps for improving reception conditions. The process consists of 4 main recurring steps:

- ❶ Cooperation
- ❷ Mapping
- ❸ Creating an action plan
- ❹ Evaluation

Improved coordination and **cooperation** is continuously highlighted by stakeholders as a key issue to be invested in to ensure their rights are holistically safeguarded throughout the reception period and beyond.

The **mapping** stage suggested in this tool has clear implications for assessing quality within specific sectors as well, by assessing gaps and including remedial work in an **action plan**.

Regardless of the initial scale ambition, **evaluations** will be key in assessing the nature of the work, the actors involved and how lessons learnt are transferred into actual outcomes for unaccompanied children.

In the assessment a section covering reception conditions standards based on the UN CRC is provided. This is an interactive section with work sheets, where you will be able to assess and reflect on issues related to: the appointment of guardian or adviser and legal representative, accommodation and the right to reasonable living standards, health and welfare, education and leisure.

## HOW THE TOOL WAS DEVELOPED

The tool has been discussed with stakeholders at different occasions. It was discussed at a stakeholders' meeting in Gothenburg in January 2014. These were some of the criteria that was developed by actors involved in providing reception services: a) the tool should work in different local contexts where various preconditions exist, b) it should be concrete and help clarifying responsibilities, c) it should highlight planning as an important aspect of reception d) it should aid in evaluation of reception practices and e) not be too detailed.

The actors was asked to create a SWOT-analysis of the local reception system and as strengths was mentioned: the availability of decision-makers, the flexibility of local organization, a more prominent child rights perspective by child protection actors, that a holistic perspective is more easily achieved when reception is organized locally. Some of the weakness mentioned was: budget and municipal resources, lack of planning and coordination, lack of awareness of responsibilities and unclear guidelines for accommodation and care. To these actors involved the local authorities had a clear possibility to coordinate and promote cooperation between actors and that sectors could/should work more closely together. Some of the challenges mentioned was inefficiency, the education not working as it should, inequalities in reception due to different resources and preconditions in the municipalities and a lack of capacity in new reception municipalities.

In Brussels in June 2014 during the workshop on the tool between 30 and 40 local, national and regional stakeholders and actors from a wide range of European countries (Norway, Malta, Denmark, France, Belgium, Greece, Austria, Finland, Sweden, the UK, Portugal, and the Netherlands) participated. Issues and challenges that were discussed in relation to reception and cooperation was the willingness and openness of local authorities in taking a main responsibility for reception and coordination, how to deal with the general opinion and the public and local politicians in the willingness of receiving refugees, advantages and disadvantages of having a centralized versus a decentralized reception system, resources of the municipalities, issues related to hiring private service providers, children being moved between municipalities, national standards, quality assurance of services, “forced” or “obligatory” reception in municipalities, support to children when they reach 18.

At a stakeholders’ meeting in Stockholm in May 2014 Sweden was described as being in a constant build up phase of reception due to the increase of asylum seeking unaccompanied children over the years. There is resources involved in reception that many different actors are interested in. Municipalities are therefore in need of better knowledge and expertise in procurement procedures to ensure the quality of services delivered by private actors. An advantage and primary perspective that led to the decentralization of the reception of unaccompanied children was the normalization principle. Unaccompanied children are children first and foremost and should therefore be cared by the same actors and authorities responsible for children in general, which is in Sweden the local Social services. Consulted social workers also stated the need to improve the relevant training offered by municipalities given that this is something that varies between municipalities. At this meeting the need for cooperation and for it to be further developed at the local level was confirmed.

### **In a workshop with unaccompanied youth in Gothenburg on reception services the following tips were given to municipalities:**

- Train staff in sociology and in what it means to come as an unaccompanied child and young person. Important is staff that listens
- Make sure that staff and other actors are positive, listen and give hope about the future
- Offer activities at the center
- Help the children to integrate to society and to get to know the city where they live
- Give unaccompanied children the same rights as other children
- Teach the young people about the country and how the system works
- Cooperate with sports associations and clubs
- Mixed schools and mixed classes
- The best interest of the child before migration policy
- Provide financial support



## **STANDARDS TO ENSURE THAT UNACCOMPANIED MIGRANT CHILDREN ARE ABLE TO FULLY PARTICIPATE - A TOOL TO ASSIST ACTORS IN LEGAL AND JUDICIAL PROCEEDINGS (THE UK)**

### **THE RIGHTS OF THE CHILD**

The standards are based on an analysis of the rights owed to unaccompanied migrant children by the UN Convention on the Rights of the Child and the UN Committee on the Rights of the Child's General Comments. They were further refined by reference to developing guidance in relevant EU directives and the EU Charter on Fundamental Rights. Reference to some of these provisions is made in relation to each particular suggested standard.

The standards are also informed by the fact that the UN CRC recognizes that children may be at risk from a wide range of different forms of persecution, exploitation and ill-treatment. For example, articles 9, 11, 19, 22, 33, 34, 35 and 37 oblige States to protect children from abuse and neglect

by their own parents, physical or mental violence, injury, abuse or neglect, economic exploitation, the illicit use of drugs and the use of children in the production and trafficking of drugs, sexual exploitation and abuse, child trafficking, torture or other cruel, inhuman or degrading treatment or punishment. Unaccompanied migrant children may have suffered from a number of these forms of persecution, exploitation and ill-treatment in the past and may still be at risk of further persecution and exploitation now and in the future.

These obligations are underpinned by three more general articles. Article 6 requires a State to protect a child's inherent right to life, survival and development. This has particular relevance to unaccompanied migrant children, who may be re-traumatised by legal or judicial proceedings which do not address their needs and rights. In addition, article 20 states that a child who has been deprived of his or her family environment shall be provided with special protection and assistance. This may include special assistance within any legal or judicial proceedings. Most crucially Article 12.2 of the UN CRC says that a child shall be provided with the opportunity to be heard in any judicial and administrative proceedings.

### **PURPOSE OF THE TOOL**

The standards are designed to alert different actors in legal and judicial proceedings to relevant obligations which arise from the UN CRC and EU law and to ensure that unaccompanied migrant children benefit from the rights which derive from these legal instruments. They also provide practical suggestions as to how these actors can work together collectively to meet these obligations. When doing so they build on current good practice in various courts and tribunals.

### **WHO IS IT FOR?**

These standards apply to all actors working with unaccompanied migrant children in legal and judicial proceedings. Certain standards will be of more relevance to particular actors but it is important that each actor is aware of the standards to be applied to the work of other actors as child protection responsibilities are shared by all actors working with unaccompanied migrant children.

## WHY THE TOOL WAS DEVELOPED

The research which underpins the production of these standards suggests that there are common tasks in many legal and judicial proceedings and that there is currently unnecessary duplication by a number of different actors and also failures of communication between different actors working with the same unaccompanied migrant child. It also indicates that this has an adverse effect on outcomes for both the unaccompanied migrant child and the Member State itself. It is often possible to tackle some of these shortcomings by sharing information and establishing common procedures. In some circumstances, the ultimate remedy would be to develop a children's court which would be responsible for all legal and judicial proceedings involving an individual unaccompanied migrant children. Such a court would build on the standards suggested below and would have a duty to ensure that the different procedures ultimately lead to the identification of a durable solution for the child.

An unaccompanied migrant child may have to engage with a wide range of legal procedures, courts and tribunals after his or her arrival in a country of destination. These may include a criminal court, if he or she is a victim of human trafficking, sexual abuse or labour exploitation. In the alternative, he or she may have been wrongly charged with a criminal offence connected with his or her entry into the country or his or her exploitation as a victim of human trafficking. He or she may also have to take legal action in order to dispute an assertion that he or she is over 18, if he or she has been placed in unsuitable accommodation or has not been recognized as victims of human trafficking. Or he or she may be a party to family proceedings because child protection concerns have arisen about his or her previous treatment by a parent or relative. At the same time, he or she may have been refused asylum or other international protection and be appealing against that decision. Some unaccompanied migrant children may also be seeking compensation from the relevant court or tribunal for false imprisonment, assault or exploitation as a victim of human trafficking.

## DESCRIPTION OF THE TOOL

The standards are designed to assist the different actors to work more successfully together, to prevent duplication in legal and judicial proceedings and to build on current good practice in various courts and tribunals with experience of hearing cases involving unaccompanied migrant children. In addition, they aim to alert the actors to the obligations which particularly arise from the UN CRC and EU law and to ensure that unaccompanied migrant children can successfully rely on these rights and obligations. They largely refer to current UK practices and seek to provide illustrations of possible useful guidance, tools and reference material. Actors in other jurisdictions may be able to combine these illustrations with useful national practices and references. These standards should also be read with the CONNECT Reference Document, which summarises relevant EU law, policy and practical measures of support.

The first group of standards suggests how certain actors, whose roles are primarily guided by child protection concerns, should work with unaccompanied migrant children and other actors. It is premised on the fact that Member States should provide these children with an independent legal guardian, a lawyer, a social worker, an interpreter and, if appropriate, a cultural mediator. It is acknowledged that some States do not yet provide unaccompanied migrant children with this support and assistance and in these cases these standards should be viewed as aspirational.

## HOW THE TOOL WAS DEVELOPED

After a period of desk research, these standards have been further refined following consultation with actors in England & Wales, Scotland and Northern Ireland, which are the separate judicial jurisdictions which exist within the United Kingdom. We have also had some discussions with lawyers, non-governmental organisations and policy makers in other EU States. This consultation took place in both individual interviews and at conferences and seminars in which the researcher was involved. They also draw on the findings of a judicial colloquium which took place in Barcelona on 8th July 2011.

## THE RIGHT TO BE HEARD AND PARTICIPATION OF UNACCOMPANIED CHILDREN - A TOOL TO SUPPORT THE COLLECTION OF CHILDREN'S VIEWS ON PROTECTION AND RECEPTION SERVICES (THE NETHERLANDS)

### THE RIGHTS OF THE CHILD

Article 12 of the UN Convention on the Rights of the Child:

- ❶ States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
- ❷ For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

The implications of article 12 is also described in detail in general comments by the Child Rights Committee:

- ➡ CRC GENERAL COMMENT No. 12 (2009) “The right of the child to be heard
- ➡ CRC GENERAL COMMENT No. 5 (2003) “General measures of implementation of the Convention on the Rights of the Child (Arts. 4, 42 and 44, para. 6)”

### PURPOSE OF THE TOOL

In the Netherlands, the insights gained by collecting children's views on protection and reception services are used by the guardians to improve the care given to the target group. Over the past few years, this has resulted in better insight into what the children think about the daily care and support they receive from their guardians.

### WHO IS IT FOR?

The different instruments described can be used by guardians, social workers, daily caretakers or any other professionals working with unaccompanied children.

### WHY THE TOOL WAS DEVELOPED

As working with unaccompanied children means working in a dynamic arena (the target group having specific characteristics; numbers and backgrounds of those arriving being uncertain; partners having different goals, tasks and policies on both national and European level), it is a challenge to fulfil legal obligations in an effective way and support the unaccompanied children concerned to ensure their best possible development and independence. The interests of the child being of the utmost importance in this context, it is important to gain insight into the children's wishes and needs concerning the care being provided to them and the realisation of their rights in society in general.

Taking into account the dynamic environment mentioned above, specifically the characteristics of the target group, the experience is that existing forms of client participation used in the youth care system do not work in the case of unaccompanied children. For this reason, a set of methods has been developed by Nidos (the Dutch guardianship institution responsible for unaccompanied children in the Netherlands), that can be used for receiving feedback from unaccompanied children. They enable organisations working with these children to measure to what extent the development goals that are being pursued (for example, being self-supporting at 18 in a methodology for guardianship) are being met. Do the children and young

people become sufficiently independent? How about their wellbeing? Are they satisfied with the quality of their life and the support being offered to them? Will they be able to manage their own affairs/life once they turn 18 and build up their life without notable help from adults, in the host country or in their country of origin? These are questions that are being addressed in the tool.

In the Netherlands, the insights gained are used by the guardians on a regular basis (yearly) to improve the care given to the target group. Over the past few years, this has resulted in better insight into what the children think about the daily care and support they receive from their guardians.

### Data collection, analysis and development of indicators

“The Committee emphasises that, in many cases, only children themselves are in a position to indicate whether their rights are being fully recognised and realised. Interviewing children and using children as researchers (with appropriate safeguards) is likely to be an important way of finding out, for example, to what extent their civil rights, including the crucial right set out in Article 12, to have their views heard and given due consideration, are respected within the family, in schools and so on.”

Source: GENERAL COMMENT No. 5 (2003) General measures of implementation of the Convention on the Rights of the Child (Arts. 4, 42 and 44, para. 6).

Important learnings from collecting feedback from children has are that, for instance, it has become clear that the children experienced problems in getting support from too many different guardians, which resulted in a lack of confidence. Integrating this insight in internal policy, the number of guardians that children receive has decreased considerably over the last few years. Another example is the fact that the children stressed their preference for reception in small-scale reception services such as foster care and small living units. Moreover, the combination with other types of feedback showed children living in small-scale or family settings were doing considerably better. The benefits of these forms of reception have been confirmed over and over, which has resulted in a different way of thinking about reception of unaccompanied children in the Netherlands.

## DESCRIPTION OF THE TOOL

Since 2009, academic research through semi-structured interviews supplemented by international questionnaires on wellbeing, students interviewing children as semi-peers, group discussion methodologies such as the World Café, evaluation sheets and cultural sensitivity interview training for guardians have been used in the Netherlands. All of the instruments are being used on an annual basis and have gradually been developed, expanded and refined. Their outcomes are incorporated into policy changes aimed at increasing opportunities for the target group and achieving their best interests.

To make all of the instruments and insights gained/lessons learnt from collecting feedback from unaccompanied children in the Netherlands transferrable, they are included and described in this tool. The most important features described in the tool are: the processes for each instrument, their purpose and potential users, lessons learned through their use, their (return on) investments/resources and the conclusions that can be drawn from the feedback on all of the instruments together. In this way, they can be replicated, adapted, or used as inspiration in other countries.

The different ways to engage, previously discussed, have been developed to suit the clients and the professionals working with them. They are still being improved, with the results aiming to make them easily applicable for both children and professionals, and also increase the number of children

using them. The instruments provide helpful indications of how unaccompanied children develop, if they are satisfied with the quality of their reception experience and the care being offered, and if there are indications to implement changes in policy.

The main advantages of the instruments used are that they:

- offer very practical feedback
- are useful for those working with the clients on a daily basis
- are useful for changing policy

## WORKING WITH THE UNACCOMPANIED CHILD - A TOOL FOR GUARDIANS AND OTHER ACTORS WORKING FOR THE BEST INTEREST OF THE CHILD (THE NETHERLANDS)

### THE RIGHTS OF THE CHILD

Article 3 of the UN Convention on the Rights of the Child

- ❶ 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.
- ❷ 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.
- ❸ 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 CRC, 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):

**“The best interests of the child: a right, a principle and a rule of procedure** - Article 3, paragraph 1, of the Convention on the Rights of the Child gives the child the right to have his or her best interests assessed and taken into account as a primary consideration in all actions or decisions that concern him or her, both in the public and private sphere. Moreover, it expresses one of the fundamental values of the Convention. The Committee on the Rights of the Child (the Committee) has identified article 3, paragraph 1, as one of the four general principles of the Convention for interpreting and implementing all the rights of the child,<sup>28</sup> and applies it as a dynamic concept that requires an assessment appropriate to the specific context.”

### PURPOSE OF THE TOOL

Nidos, as a specialized national guardianship organization, has acted as a mandated guardian for unaccompanied children for many years. During those years insights were gained and methodologies developed. The tool provides insight in the knowledge gathered during those years on guiding unaccompanied children. It is both an explanation to why working with this specific target group is specialized work, as a practical source of information for all who work with unaccompanied children, from policy makers to social workers.

<sup>28</sup> The Committee's general comment No. 5 (2003) on the general measures of implementation of the Convention on the Rights of the Child, para. 12; and No. 12 (2009) on the right of the child to be heard, para. 2.

## WHO IS IT FOR?

This document presents a cross-cutting view on the current state of affairs and serves as a transfer of knowledge from one specialist to another. It can also serve as a stimulating and learning document to less specialized actors who do have responsibility for or work with unaccompanied children.

The reception, support, and regulation of legal custody is organized differently in each country, but the target group is the same and many aspects of guidance are also the same. Therefore, this tool is generally applicable to all who work with the target group: governments and NGO's can assess whether their services are adequately skilled, have adequate knowledge of the target group and are covering all aspects of the work described. Guardians, social workers and reception staff can use the tool to reflect on their own work. Furthermore, the document could serve as a first step towards a practical European approach on the subject.

## WHY THE TOOL WAS DEVELOPED

In each of the European Member States, the protection and guardianship of unaccompanied children is arranged differently. Nidos has, in its cooperation with many partners all over the European Union and a.o. through the projects ENGI (European Refugee Fund 2008) and ENGI: GIP (European Refugee Fund 2010), become increasingly aware of the importance of specialization when working with unaccompanied children. On the other hand, other European Member States have been interested in developing knowledge of the working methods and experiences of legal custody or guardianship gained through Nidos engaging with this target group over the years.

The issues of guardianship and representation of unaccompanied children have also received increased attention on the macro level, for example in the recently adopted European Directives in the field of asylum and, for example, in the recent publication on guardianship systems from the Fundamental Rights Agency. Representation or guardianship of unaccompanied children is also very important as a safeguard for children to exercise their rights under the UN Convention on the Rights of the Child; for example the interpretation and implementation of article 3 of the CRC on the best interest of the child has attracted increased attention the past few years – a subject to which specialized careers and representatives are needed.

## DESCRIPTION OF THE TOOL

The care of Nidos focuses specifically on unaccompanied migrant children: asylum seekers and children staying in the Netherlands without having applied for asylum and for whom return to the country of origin is a likely option. Nidos' basic principle is that priority is given to the interest of the children. These are children who had to leave their familiar environment due to extraordinary circumstances to subsequently develop further into independent adults in a social and cultural environment that was entirely new to them. The cultural disorientation, the little knowledge of and integration in that new environment, together with their position according to the law concerning aliens, make them vulnerable and requires education and guidance based on respect, safety and protection..

In the tool it is described what is specific in the guidance of unaccompanied children and what differences exist with children who grew up in the Netherlands from the earliest years of life. A historical outline of the developments at Nidos in the field of methodology development and the tension that sometimes exists between governmental policy, on the one part, and the specific elements of working with unaccompanied children, on the other part, is given. The specific elements of the guidance of unaccompanied children based on the experience and knowledge gathered at Nidos in the past few decades are presented. This relates to the specific aspects of guidance and practical methodical approaches and can be used for the guidance of unaccompanied children by a wide target group, mentors, social workers or guardians. Finally, the specific aspects that require further development and deepening are discussed.





## 5. RECOMMENDATIONS

*Drawing on the mapping findings, the CONNECT tools and the Reference Document on Unaccompanied Children: a Compilation of Relevant EU Laws and Policies, the CONNECT project offers recommendations to support practical and concrete improvements in how actors work, individually and collectively, to fulfil the obligations of EU law and meet the obligations contained in the UN CRC.*

## 5.1 KEY FEATURES OF THE RECOMMENDATIONS

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### **BOTTOM UP APPROACH - FOCUS ON SKILLS, BETTER TOOLS AND ENHANCED COOPERATION**

The recommendations take a “bottom-up” approach to implementation of EU obligations, drawing on the perspectives of actors and based on a comparison of operational practice across countries. They seek to maximise the use of resources, through building on good practices, while recognising the challenges of working in a dynamic sector. In particular, they emphasise the need for specialised skills, practical tools and inter-agency cooperation. They are not a full set of recommendations for action in the field of unaccompanied children, rather they are specifically focussed on those actions which will support actors in their work.

### **TRANSNATIONAL EXCHANGE - LEVERAGING REGIONAL RESOURCES**

CONNECT recognises the reality of limited resources and the mapping has evinced the negative impact of austerity measures for adequate funding of key services. However, with a stronger common framework of EU measures now in place, States now have the opportunity to learn and benefit from each other’s practical experiences. Good practice in one country might be adapted or inspire new practice in other countries. Moreover, a common EU framework also provides the opportunity better to leverage regional resources; the recommendations consider what common challenges around which the EU’s resources might be concentrated. This can include, for example, the need to better equip actors to identify children in extra vulnerable situations, with an EU response including better data collection and regional support for training.

### **IMPORTANCE OF ENGAGEMENT WITH CHILDREN**

The partners emphasise the necessity, benefits and efficiencies of engaging with the child more fully to better understand and respond to his or her individual circumstances. Austerity measures appear sometimes to have led to false economies in this regard. In particular, failure to invest in engaging with the situation of the child may ultimately cause many administrative inefficiencies, alongside the harm done to the child. As an example, this will be apparent where a child does not have proper legal representation at an early stage of the process, which may mean that key aspects of a child’s case are initially ignored, and the child and the State may spend a long time, potentially years, entangled in administrative and legal procedures. The Recommendations emphasise measures which can support adequate representation, improved guardianship, consultation and accountability.

Section I below sets out the goals for better organising and supporting the work of actors engaging with unaccompanied children, drawing on the comparative overview of the mappings. Section II recommends action which will help achieve these goals generally. Section III recommends specific measures at EU level to achieve these goals.

## 5.2 RECOMMENDATIONS

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### WHAT IS NEEDED TO BETTER ORGANISE AND SUPPORT THE WORK OF ACTORS WORKING WITH UNACCOMPANIED CHILDREN?

The findings in the mappings have emphasised that the following goals are key to improving how actors individually and collectively seek to fulfil the rights of unaccompanied children:

- A. Actors should have appropriate and coherent roles when engaging in the range of State responsibilities concerning unaccompanied children, including immigration, child protection and law enforcement actors. Their roles and responsibilities should be organised so that they fulfil the rights of all unaccompanied children, including children in the most marginalised situations, such as children at borders or on the streets.**
- B. Actors should be properly equipped to fulfil their roles: States should invest in necessary support and specialisation through qualifications, training and tools. Sufficient budget should be allocated for this purpose.**
- C. Effective cooperation between actors at national, regional and local level should be established through clearly defined goals and processes, supported by the right tools and resources.**
- D. Cross border cooperation within the EU and international cooperation between the EU and with third countries should be further developed and improved by national actors, in particular through the involvement of child protection actors on issues such as family tracing and assessment and identifying durable solutions.**

### WHAT GENERAL ACTIONS ARE NEEDED TO ACHIEVE THESE GOALS?

When recommending measures to achieve these goals, this report draws on both General Comment No 5 of the UN Committee on the Rights of the Child on general measures of implementation of the UN CRC and General Comment No 13 of the UN Committee on the Rights of the Child on the protection of children against violence. These emphasise a wide range of concrete measures, including data collection and analysis, legislative and policy reform, establishment of co-ordination mechanisms, development of national action plans/ strategy, proper budgetary allocations, the involvement of national human rights institutions and ombudsmen, ensuring monitoring and evaluation, engagement with civil society as a partner, supporting child participation and awareness raising/training/capacity building.

- A. Actors should have appropriate and coherent roles when engaging in the range of State responsibilities concerning unaccompanied children, including immigration, child protection and law enforcement actors. Their roles and responsibilities should be organised so that they fulfil the rights of all unaccompanied children, including children in the most marginalised situations, such as children at borders or on the streets.**

The report illustrates that tensions can arise between the administration of different State responsibilities in terms of which actors are involved in specific tasks and which obligations take priority. The report also showed examples of different groups of children having different entitlements, including as regards their rights to access key health and educational services, guardianship or lawyers. This arises from a range of factors, including fragmented legislation, decentralisation of responsibilities, and a focus of resources on particular groups of children.

In order to ensure the rights of all unaccompanied children are fulfilled and to ensure appropriate and coherent obligations and roles for all actors, key recommendations include:

- Establish a clear and comprehensive framework of responsibilities for actors working with unaccompanied children, taking into account each step of the child's pathway, from crossing the border to the identification of durable solution. The definition of the respective roles and responsibilities of actors should be set out in the relevant legislation. See CONNECT Tool: Who's Responsible? A Tool to Strengthen Cooperation between Actors Involved in the Protection System for Unaccompanied Migrant Children (Italy).
- Incorporate explicit child rights obligations into migration and crime control obligations so as to ensure that the obligations arising from the UN CRC and the European Charter of Fundamental Rights are clear to all actors, including migration control and law enforcement actors.
- Where different legal instruments apply to different groups of unaccompanied children, ensure that they are all interpreted and applied in a way that fully respects the rights of all unaccompanied children.
- Adopt a national policy framework which provides guidance on common entitlements of all unaccompanied children.
- Promote national strategies, coordinating agencies or other coordinating mechanisms, which contribute to closing gaps in responsibilities for different groups of children (for example, through the provision of guardians to all unaccompanied children).
- Ensure that decentralisation of responsibilities or service provision within a country is premised on: (i) the same entitlements for all groups of children across the country; and (ii) availability of common resources, such as training modules and guidance for actors, to ensure consistency and quality of service provision and (iii) adequate financial resources being made available for local reception services.
- Involve properly qualified actors when child protection concerns are raised in immigration decisions. As an example, child protection actors need to be involved in assessing whether family reunification is in an unaccompanied child's best interests.
- Jointly train immigration, law enforcement and child protection actors on child rights and asylum and immigration obligations, so as to promote common understanding and responses to the situation of the child and State obligations in their regard.
- Streamline procedures around children, including through better case management and coordination between actors involved in different procedures. See CONNECT Tool: Standards to Ensure that Unaccompanied Migrant Children are Able to Fully Participate- A Tool to Assist Actors in Legal and Judicial Proceedings (the UK).
- Review whether different procedures should be integrated to ensure the situation of all unaccompanied children are considered in a comprehensive way (also examining whether integrating procedures might have the potential to save costs).
- Establish a multidisciplinary process for the case of each child to identify a durable solution which is in their best interests in line with General Comment No 14 on the best interests of the child.
- Fund projects which reach out to the most marginalised, including drop-in centres for children living on the street. Ensure funding for necessary long term or permanent structures.
- Develop standard operating procedures regulating the first encounter with a child migrant.

**B. Actors should be properly equipped actors to fulfil their roles: States should invest in necessary support and specialisation through qualifications, training and tools. Sufficient budget should be allocated for this purpose.**

The report illustrates the need to expand good practices in relation to ensuring actors are properly equipped to carry out their roles. Key recommendations are to:

- Establish requirements that actors dealing with unaccompanied children are properly qualified and trained to do so, in line with their roles.
- Where new legislation and policy is being adopted, foster broad stakeholder consultations on the role of actors, and/or cooperation between them, in fulfilling their obligations to children; an example lies in how UK stakeholders helped shape the discussion on the role of guardians or advocates for trafficked children in the UK.
- Support innovative roles in responding to the situation of children. This might include the engagement of cultural mediators; the involvement of psychologists in screening for special needs and the involvement of experts on child specific issues in status protection proceedings.
- Develop more focused pools of knowledge and skills to ensure administrative efficiency and targeted responses which better fulfil the rights of children. For example, this might include developing pools of specialised expertise in key areas, such as expertise in identifying extra vulnerability and assessing durable solutions. See CONNECT Tool: Working with the Unaccompanied Child - A Tool for Guardians and Other Actors Working for the Best Interest of the Child (the NL).
- Ensure sustainability by drawing on regional measures of support for such specialisation such as training curricula (for example, EASO training module for interviewing children) or regional guidance such as the guidance of the European Commission and the Fundamental Rights Agency on Guardianship for children deprived of parental care – A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking.
- Prioritise the development and dissemination of tools (and accompanying training for their use) that will better equip actors to fulfil their responsibilities, e.g. specialised questionnaires for children inspired by those used by the Swedish Migration Board Children's Unit, child-specific country of origin Notices (UNICEF Netherlands project) and the inclusion of child specific information in country of origin information reports.
- Explore how to combine good practices with new technologies in a way that can enhance resources for actors, for example, through better case management systems or provision of information on-line.
- Help actors support better child participation throughout the process in both individual cases and by supporting group consultations. See CONNECT tool: The Right to be Heard and Participation of Unaccompanied Children- A Tool to Support the Collection of Children's Views on Protection and Reception Services (The NL).
- Help actors draw on the Council of Europe Life Project Tool better to engage children in their future. <http://goo.gl/CD4gDO>
- Ensure periodic and thorough monitoring and evaluation of how actors fulfil their roles; e.g. review of the functioning of UK National Referral Mechanism in trafficking recognised the need for an adjustment in the roles of actors within the NRM and the development of effective and authentic multi-agency working practices.
- Establish stronger accountability mechanisms for actors and complaint procedures for children.
- Ensure proper monitoring, evaluation and follow up systems in place and to collect the views on services from children themselves. See CONNECT tool: The Right to be Heard and Participation of Unaccompanied Children - A Tool to Support the Collection of Children's Views on Protection and Reception Services (The NL) and CONNECT tool: Local Cooperation for Unaccompanied Children- A Tool to Assess and Improve Reception Conditions (Sweden).

**C. Effective cooperation between actors at national, regional and local level should be established through clearly defined goals and processes, supported by the right tools and resources.**

The report illustrates that building and sustaining effective inter-agency cooperation nationally is a common challenge across countries, although there are a number of good national practices which can be adapted to other countries. Key measures to enhance inter-agency cooperation include:

- Focus inter-agency cooperation on targeted goals:
  - Gathering and combining data and information to improve knowledge on the situation of these children, also with a view to developing qualitative and not just quantitative information on the situation of children, such as information on what types of special services are received by children; improved and more detailed quantitative data is also clearly a need, for example as regards trafficking cases;
  - The exchange of information on individual cases where it is in the best interests of the child and with due regard for confidentiality, with a view to: (i) ensuring actors have as full a picture as possible of the child and (ii) reducing the risk of polarised responses to children's situations; where possible this should start as early in the procedure as possible and continue throughout the procedure;
  - To ensure multi-disciplinary responses to the situation of children where appropriate, e.g. by combining the skills of child protection actors and immigration officials e.g. in assessing the possibility of family reunification;
  - To provide integrated service provision to allow better engagement with children, e.g. inspired by the so-called children's house approach in Sweden to information, assistance and child-centred interviewing;
  - Ensure all actors share information on particular child protection concerns, when it is in the best interests of the child including sharing specific patterns, forms and risks of trafficking between the range of actors which encounter unaccompanied children;
  - Establish practical cooperation mechanisms between actors with different mandates, including to share information on the circumstances of a child, with a view to ensuring a full picture of the child's situation for the purposes of responding to their reception needs and identifying a durable solution.
- Formalise responsibilities to cooperate in law or binding guidance/instructions.
- Establish formal and permanent agreements to address long standing issues – for example, through Memoranda of Understandings or joint policies/procedures on how to respond and co-operate in circumstances which involve a number of actors directly and simultaneously, such as trafficking and disappearances, through mechanisms such as the UK Multi Agency Safeguarding Hubs.
- Consult on, and ensure, the involvement of all appropriate actors and assign appropriate roles within the cooperation (e.g. include police and civil society in trafficking referral mechanisms).
- Establish joint training of different actors, including inter alia law enforcement, case workers, guardians, lawyers and decision makers, to ensure common understandings of key issues; this can include improving knowledge on identification of vulnerability, general and specific risks and cultural factors.
- Support cooperation through development and use of common tools, such as common databases that can be used to share information which underpin better responses for children, having due regard to confidentiality (e.g. development of Italian SIM system).
- Periodically evaluate and, as necessary, adjust cooperation mechanisms.
- Address factors which will promote better cooperation, including child-focused co-location of services where necessary and multi-annual budgetary commitments to support cooperation.

**D. Cross border cooperation within the EU and international cooperation between the EU Member States and with third countries should be further developed and improved by national actors, in particular through the involvement of child protection actors on issues such as family tracing and assessment and identifying durable solutions.**

The mappings yielded limited information on cross border cooperation within the EU and international cooperation between EU Member States and third countries, although strands of some developing practices were noted, including cooperation amongst guardianship authorities. Broad recommendations include:

- Involve appropriate child protection actors in cross border cooperation within the EU, such as Social Services guardians in Dublin III cases concerning potential transfers of unaccompanied children to third countries.
- Support child protection actors in restoring family contact between unaccompanied children and family members and relatives within the EU where this is in the best interests of the child.
- Share child specific data between national contact points across borders on trafficking, including patterns of trafficking, forms of exploitation, for example cannabis farming in the UK.
- Further develop the child specific country of origin information that is available to decision makers in the EU through the involvement of child protection actors in the EU and countries of origin.
- Develop means of involving child protection actors in information exchange between EU and third countries concerning different family matters where they are in the best interests of the child, including tracing family, establishing family links, restoring family links, exploring family reunification.
- Enhance means of exploring return options for children where it may be in their best interests, including through establishing support of child protection actors in the countries of return, and tailored reintegration assistance.
- Further develop mechanisms to monitor the circumstances of the child post return, with the involvement of child protection actors.

## **FOCUS ON THE PRIORITY AREAS: SUMMARY OF KEY RELEVANT RECOMMENDATIONS**

The exploration of the priority areas has starkly illustrated the need for increased efforts to involve better equipped actors in the situation of unaccompanied children and significantly to enhance cooperation between them. Noteworthy practice has been identified in the comparative overview. Some highlights of necessary action include:

### **Identifying and responding to extra-vulnerability**

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- Ensure the involvement of actors who are qualified and specifically trained to identify circumstances of extra vulnerability.
- Specific tools, such as indicators of trafficking which are regularly updated on the basis of fresh data, should be made available to support actors in this role.
- Enhance inter-agency cooperation on individual case level to ensure an overall picture of the child's situation, so as to identify and respond to special needs of the child.
- Develop National Referral Mechanisms for trafficking.
- Make specialised services to respond to the needs of children more broadly available.



- Develop accommodation and care arrangements that are tailored to the needs of children who are extra vulnerable. Recruit and train suitable foster families in order to ensure more widespread availability and appropriate care arrangements.
- Ensure that distribution system set up to send a child to a particular region takes proper account of the child's best interests (currently many systems are quite mechanical and send people around only on the basis of reception capacities).

## Disappearances

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- Establish protocols for multi-agency responses to disappearances.
- Increase the knowledge of law enforcement officials on the situation of unaccompanied children through training.
- Ensure better engagement with children to prevent disappearances, including through stronger guardianship.
- Properly reflect and adapt rules which address the consequences of disappearances so as to avoid a child's file essentially being closed post disappearance, with the negative effects that might imply in the event that the child is encountered in another region or another EU country.
- Focus further efforts on preventions of disappearances.

## Information gathering

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- Ensure better support for children in gathering information that may be relevant to protection proceedings.
- Involve a broader range of actors who can give relevant information on the circumstances of the child. Introduce mandatory training and qualifications for decision makers.
- Ensure access to lawyers. Develop specialised pools of lawyers.
- Enhance cooperation between actors to ensure procedures are child sensitive and to increase the opportunities to gather necessary information. Increase the use of child specific expertise and child specific country of origin information.
- Further develop child sensitive interviewing guidance and conditions. Provide guidance to decision makers on assessment of best interests and require fully reasoned decisions to be documented and made available to the child concerned and his/her guardian.

## RECOMMENDED EU ACTIONS

The EU has a number of different ways to pursue these objectives and support the work of actors in fulfilling EU obligations, in line with the UN Convention on the Rights of the Child and the Charter of Fundamental Rights. These include:

- A. Renew the EU policy framework which takes an integrated approach to the application of the provisions on unaccompanied children across the different EU instruments and places child rights at the heart of all actions in their regard.**
- B. Vigorously pursue proper application of the improved EU asylum and trafficking.**
- C. Further develop and improve cross border cooperation within the EU to address child rights and child protection issues that may arise due to Dublin III, family tracing and reunification, information gathering for identification of a durable solution or exchange of information on trafficking cases.**
- D. In its relations with third countries, develop transnational mechanisms which focus on child protection concerns, including through cooperation between child protection actors on matters of common concern, such as restoring family contacts and exploring return and reintegration where it is in the best interests of the child.**

## SPECIFIC ACTIONS UNDER EACH OF THESE OPTIONS ARE AS FOLLOWS:

- A. Renew the EU policy framework in order to ensure an integrated approach to the application of the provisions on unaccompanied children across the different EU instruments and to continue to place child rights at the heart of all actions in their regard.**
  - The EU Action Plan on Unaccompanied Minors comes to an end during 2014. The Commission should consider and consult with stakeholders on what EU actions are necessary to take forward, in a coordinated way, important activities which supports proper application of EU obligations towards unaccompanied children, in line with fundamental rights. The first Action Plan served as an important catalyst for progress in the field.
  - Ensure visibility and better understanding and application of the collective body of instruments and policy which address the situation of unaccompanied children.
  - Promote the use by national policy makers and practitioners of the Reference Document on unaccompanied children: a compilation of relevant EU laws and policies and provide for its periodic updating.
  - The upcoming EU Communication on Child Protection Systems, triggered by the EU Strategy Against Trafficking in Human Beings, should provide guidance on how child protection systems can best identify, assess and meet the needs and rights of unaccompanied children, and what support EU action can provide in that regard.
  - Ensure ongoing exchange of quantitative, disaggregated and qualitative data of the situation of unaccompanied children in Europe, including the types of service available to them and the different outcomes for children as durable solutions.

- The EU Agenda on the Rights of the Child comes to an end during 2014. The Commission should put in place a new and ambitious child rights agenda or strategy on the rights of the child. Measures in the broader field of EU child rights can contribute to, and inspire, action relating to unaccompanied children, including initiatives to bolster child rights training for judicial and other practitioners and to promote the right of the child to be heard in judicial proceedings. Such an agenda can also support better inter-service cooperation and awareness of child rights within the Commission.

- Ensure coherence between internal and external EU policies that affect unaccompanied children, in particular through the active promotion of the child rights and child protection dimension of migration.

**B. Vigorously pursue proper application of the improved provisions for unaccompanied children in EU asylum and trafficking law, through:**

- Fostering better implementation through contact committee exchanges and EASO experts groups focusing on the key safeguards for unaccompanied children. As examples, this might include a focus on the provision of information to, and representation of, unaccompanied children. They might include exchange of practice on issues such as the means for identifying family members and relatives under the Dublin III Regulation and bilateral arrangements for assessing family reunification possibilities as is currently occurring within EASO.

- Careful review of the transposition/application of EU obligations and pursuing any necessary practical measures of support or amendments to the law. For example, the upcoming EU report examining the transposition of the EU anti-trafficking directive should examine carefully how the principles concerning children are implemented, including how the best interests' principle is operationalised in the work of actors and whether and how Member States are taking measures to find durable solutions. It should examine the extent to which additional provisions are needed on non-criminalisation of trafficked children. Following the recent evaluation of the transposition of the Return Directive, a Return Handbook will be developed; it should include more emphasis on child protection and child rights, including recommendations as to the role of child protection actors in assessing family reunification or other return possibilities.

- Engaging in infringement procedures where Member States fail properly to fulfil their obligations to unaccompanied children.

- Continued development of practical measures of support in the field. EU actors have already developed a portfolio of useful practical measures of support and this should be built on. Practical measures of support may include the development of guidance, training tools, practical tools and research and studies. In this field, it might include tools concerning trafficking indicators, a regional inventory of sources of child specific country of origin information for lawyers; guidance on questionnaires for use by case workers in interviewing children, guidance on the role of cultural mediators and other innovative actors.

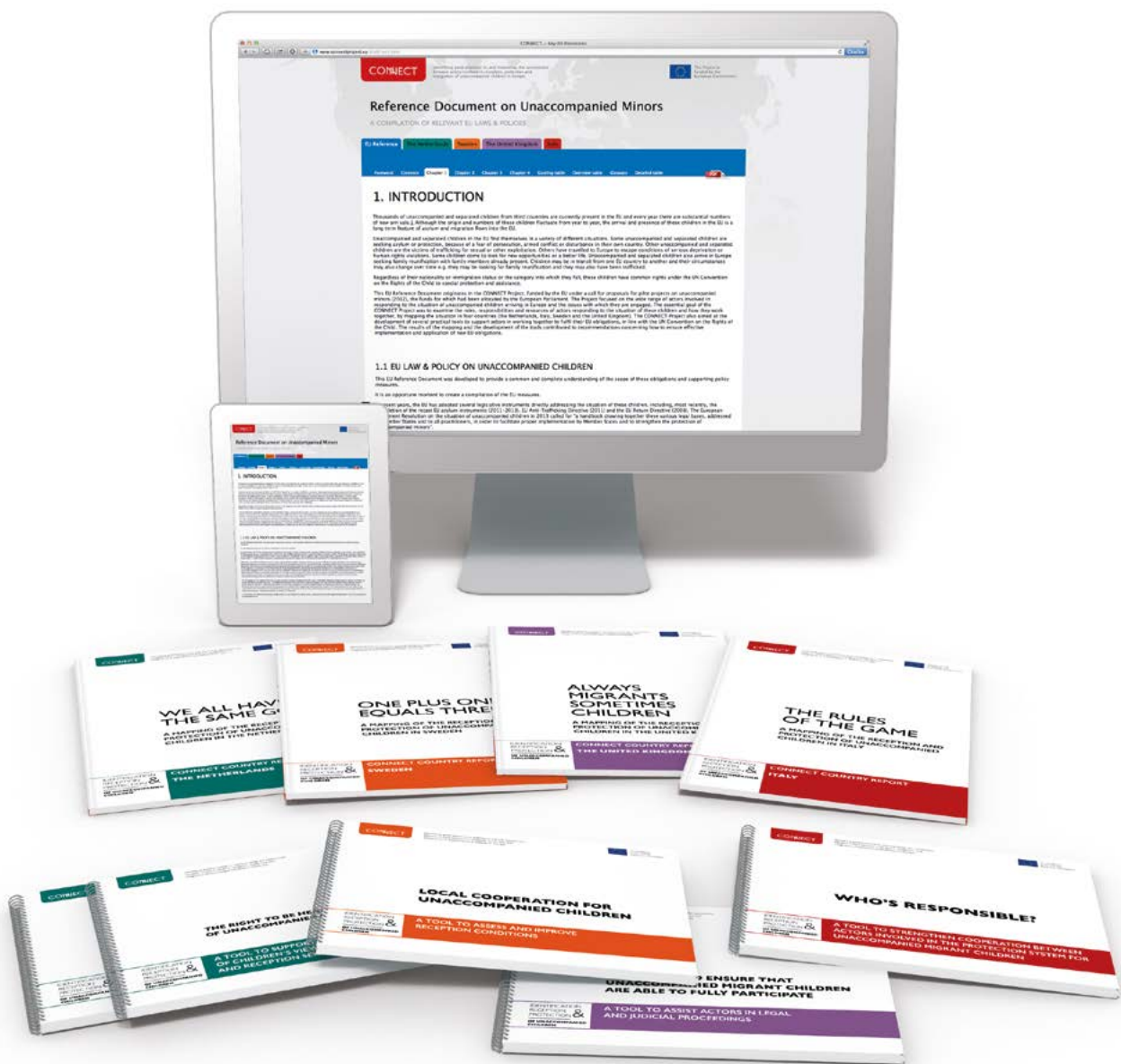
- Continue to focus attention on stimulating the further development of the role of guardians and representatives, by having permanent attention for their position in national systems and by capacity-building and training.

- Focused research and studies where more information and reflection is needed, including exploring (1) the means of, and factors affecting, cross-border cooperation on issues of child protection concern; (2) ways in which actors can create safe environments for children at risk of trafficking; (3) the provision of services to address extra-vulnerability, (4) how actors engage with the situation of undocumented migrant children that do not apply for asylum or for any kind of residence permit; (5) how actors can foster opportunities for children to integrate/ or return in a way that is consistent with their best interests.

- Consider the creation of pools of experts by EASO on child specific issues which can contribute to protection procedures at a national level.

- Consult on objectives for EU funding at regional and national level, through Member States in relation to projects that provide tools for actors to better perform their roles; this might include projects which formulate joint and multidisciplinary training; funding activities focusing on improving the ways in which information is gathered and assessed; further funding on monitoring of returns and how the best interests of the child is fulfilled on return.
  - Maintain an on-line platform to provide a full picture of EU and regional measures which are relevant to unaccompanied children; ensure that the information on it is accessible to policy makers and practitioners alike; ensure it is clear which tools are useful to particular actors or activities.
- C. Further develop cross border cooperation within the EU better to address child rights and child protection issues relating to children of concern to more than one country, either because of Dublin III, family reunification issues, gathering information about the child, exchange of information on trafficking.**
- As referenced above, engage in research/study to explore the means of, and factors affecting, cross-border cooperation on issues of child protection concern, including the purpose of cooperation, the means of cooperation, the actors involved, success factors, obstacles to cooperation. Examine experience in other sectors that might provide good practices.
  - Ensure any EU model on transnational referral mechanisms in trafficking sufficiently focus on how to address child protection concerns, and incorporate child protection safeguards.
  - Reflect on whether the EU should support the creation of a European centre of expertise on guardianship unaccompanied children.
  - Consider EU support for a European network of multi-disciplinary actors working on the situation of the children for the purposes of identifying priority actions for future EU action and exchange of national practices, and stimulation of regional projects.
  - Further explore the best use of transnational missing children alerts in the case of unaccompanied children who have disappeared.
  - Consider what cross border cooperation can better facilitate family reunification within the EU, where this is in the best interests of the child.
- D. In its relations with third countries, develop transnational mechanisms which focus on child protection concerns:**
- Including through cooperation between child protection actors on matters of common concern, such as restoring family contacts, family studies, establishing child specific country of origin information, capacity building and exploring return and reintegration where it is in the best interests of the child;
  - Promote EU support for the development and strengthening of child protection systems in third countries as provided for under the EU action plan on unaccompanied minors.
  - Deploy development cooperation funding to reinforce child protection systems in third countries from which children migrating to the EU originate or through which they transit.





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