





GUIDANCE ON EXPLORING TRANSNATIONAL CHILD PROTECTION CASES IN EUROPE



About

This publication has been developed in the context of the EU-co-funded project Promise Soteria. Child Circle is the principal author of the Guidance and its Accompanying Tool and is grateful for the contributions from the Council of Baltic Sea States and the Advisory Group to the Soteria project.

The project seeks to reinforce inclusive and resilient child protection systems, including in crisis contexts; enhance the operational capacity of national systems to address transnational child protection cases; and advance the role of Barnahus as an integral component within comprehensive child protection frameworks.

Promise Soteria is co-funded by the European Union. It is led by Council of the Baltic Sea States/<u>CBSS Children at Risk</u> in partnership with <u>Child Circle</u> & <u>Marie Cederschiöld Högskola</u>.

Citation

For bibliographic purposes, this document should be cited as: Guidance on Exploring Transnational Child Protection Cases in Europe © Child Circle and the Council of the Baltic Sea States (2025)

Published by

Child Circle and the Council of the Baltic Sea States (CBSS) Wollmar Yxkullsgatan 23 118 50 Stockholm Sweden

www.cbbs.org

All rights reserved. Information included in this publication, or extracts thereof, may be reproduced without prior consent, provided that the complete reference of the publication is cited as specified in the citation instructions. This excludes images and graphic elements not owned by Child Circle or the CBSS, which are identified as such.

CONTENTS

Term	of acronyms ns used in the Guidance oduction to transnational child protection	5
1. Keeping children's rights at the heart of proceedings		
1.1 1.2	What children's rights are at stake in child protection cases? Which international and European law and policy play a role	. 18
	in these cases?	24
	ansnational child protection cases: actors & steps	
in۱	olved	41
2.1	Snapshot of the actors involved	42
2.2	Snapshot of the steps involved	44
3. Sp	otlight on specific transnational child protection	
cas	ses	58
3.1	Unaccompanied children from third countries within the EEA,	
	who may be seeking asylum or other status	60
3.2	Criminal justice cases in another jurisdiction where children	
	are victims and/or witnesses, and accused or suspects	74
3.3	Children in civil law cases concerning parental responsibility,	
	child abduction and child protection	94
3.4	Trafficked children	106
3.5	Emergency displacements - Children from Ukraine	118
3.6	Missing children within the EEA	
4. Re	flections & Guiding Principles	137
	ex: International and EU legal and policy landscape for	
trans	snational child protection cases.	149

LIST OF ACRONYMS

EEA European Economic Area

EMN European Migration Network

EU European Union

EUAA European Union Asylum Agency

FRA European Union Fundamental Rights Agency
MACRC Minimum Age of Criminal Responsibility

NRM National Referral Mechanism for trafficking cases

Schengen Information System

TRM Transnational Referral Mechanism for trafficking cases

VAC Violence Against Children

UNCRC UN Convention on the Rights of the Child

TERMS USED IN THE GUIDANCE

Barnahus: Icelandic for "a house for children", it is recognised as a leading child-friendly, multidisciplinary and interagency model responding to child victims and witnesses of violence. The purpose of Barnahus is to offer each child a coordinated and effective response and to prevent retraumatisation during investigation and court proceedings. The Barnahus offers a one-stop-shop approach, embracing cooperation between relevant authorities and agencies such as police, social services, child protection, physical and mental health services and prosecutor in one child-friendly premise¹.

Best interests assessment: consists in evaluating and balancing all the elements necessary to make a decision in a specif c situation for a specif c individual child or group of children. It is carried out by the decision-maker and his or her staf – if possible a multidisciplinary team – and requires the participation of the child (UN Committee on the Rights of the Child General Comment No 14).

Best interests determination: describes the formal process with strict procedural safeguards designed to determine the child's best interests on the basis of the best-interests assessment (UN Committee on the Rights of the Child General Comment No 14).

Best interests procedure (BIP): is a term used in this guidance to describe the procedure that ensures that decisions and actions aimed at addressing protection risks and needs for children are in their best interests. It includes steps appropriate to the particular decision and situation of the child, and may involve a best interests assessment, or, where more formal safeguards are needed, will also involve a best interests determination.

Central Authority: agency or organization that is designated to play a key facilitating role in the implementation and operation of an international treaty.

¹ CBSS and Child Circle, Barnahus Quality Standards, Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence, 2017.

Child: person under the age of 18 years (Article 1, UN Convention on the Rights of the Child)

Child-friendly justice: refers to "justice systems which guarantee the respect and the ef ective implementation of all children's rights at the highest attainable level. It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity".²

Child protection: refers to "prevention and response to violence, abuse, neglect and exploitation of children in all contexts. This includes reaching children who are especially vulnerable to these threats, such as those living without family care, on the streets or in situations of conflict or natural disasters".³

Child Protection System: "The set of laws, policies, regulations and services needed across all social sectors – especially social welfare, education, health, security and justice – to support prevention and response to protection-related risks. These systems are part of social protection and extend beyond it [...]. Responsibilities are often spread across government agencies, with services delivered by local authorities, non-State providers, and community groups, making coordination between sectors and levels, including routine referral systems, a necessary component of effective child protection systems".⁴

Children in migration: is a broad term which in this context covers children who are migrating to another country and may be considered, inter alia, migrants in regular or irregular situations, asylum seekers, refugees, stateless persons and/or victims of trafficking, persons seeking educational or economic opportunities and persons seeking family reunification.

² CoE Guidelines on Child-friendly Justice, 2010.

³ UNICEF definition, available at https://data.unicef.org/topic/child-protection/overview.

⁴ UNICEF Child Protection Strategy of 2008.

Child-sensitive: an approach that takes into consideration the child's right to protection, their individual needs and views in accordance with the age and maturity of the child.

Children without parental care: all children not in the overnight care of at least one of their parents, for whatever reason and under whatever circumstances (UN Guidelines for the Alternative Care of Children). This includes children deprived of parental care on account of their being abandoned, their parents being deprived of parental rights on account of severe child abuse and neglect or being unable to care for their children due to difficult circumstances in their lives, including illness and imprisonment.

Deprivation of liberty: Refers to any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority, (United Nations Rules for the Protection of Juveniles Deprived of their Liberty, para. 11b)

Durable solutions or comprehensive sustainable solutions: durable solutions are comprehensive and sustainable solutions, based on an individual assessment of the best interests of the child. A durable solution in the case of an unaccompanied child could be return and reintegration into the country of origin or the country of return, integration into the host society, granting of international protection status or granting of other status in accordance with national law of the Member States. "In the case of unaccompanied or separated children, including children separated from their parents due to the enforcement of immigration laws, such as the parents' detention, efforts to find sustainable, rights-based solutions for them should be initiated and implemented without delay, including the possibility of family reunification. If the child has family in the country of destination, the country of origin or a third country, child protection and welfare authorities in countries of transit or destination should contact family members as soon as possible. The decision as to whether a child should be reunited with his or her family in the country of origin, transit and/or destination should be based on a robust assessment in which the child's best interests are upheld as a primary consideration and family reunification is taken into consideration, and which includes a sustainable reintegration plan where the child is

guaranteed to participate in the process." 5

Exploitation under the EU Trafficking Directive: The Trafficking Directive does not define 'exploitation', instead providing an open-ended list of examples that includes sexual exploitation forced labour, forced begging, the exploitation of criminal activities.

Exploitation under the EU Sexual Abuse and Exploitation Directive:

a child is a victim of sexual exploitation when s/he is recruited, coerced or forced to participate in pornographic performances or in prostitution activities, or s/he is threatened for such purposes. A child may be coerced into a situation of sexual exploitation through physical force or threats. However, s/he may also be persuaded to engage in such sexual activity because of more complex and nuanced factors, either human or situational, including a power imbalance between the victim and the perpetrator.⁶

Guardian: is an independent person who safeguards the child's best interests and general well-being, and to this effect complements the limited legal capacity of the child, when necessary, in the same way that parents do.⁷

Integrated child protection system: a system that bases its work on the rights and obligations enshrined in the UNCRC. It aims to ensure that all essential actors and systems education, health, welfare, justice, civil society, community and family – work together to prevent abuse, exploitation, neglect and other forms of violence against children. It also aims to protect and assist children in these situations.⁸

⁵ Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return.

⁶ Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, Paragraph D.3. Adopted by the Interagency Working Group in Luxembourg, 28 January 2016, ECPAT International_Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (unicef. org)_____

⁷ FRA, Guardianship for children deprived of parental care: A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking, 2015.

⁸ FRA, Mapping child protection systems in the EU – Update 2023.

Minimum Age of Criminal Responsibility (MACR): The minimum age below which the law determines that children do not have the capacity to infringe the criminal law.⁹

Missing children: includes any situation where a child's whereabouts are unknown to the parent/legal guardian/responsible authorities for the care of the child. This may include children who run away from home or are pushed out of home, or from the institution where they have been placed.¹⁰

National Referral Mechanism: are mechanisms aimed at identifying, protecting and assisting victims of trafficking in human beings, through referral, and involving relevant public authorities and civil society. The OSCE refers to an NRM as "a co-operative, national framework through which governments fulfil their obligations to protect and promote the human rights of victims of trafficking, coordinating their efforts in a strategic partnership with civil society organizations, survivor leaders and the private sector".¹¹

Stateless person: is a person who is not considered to be a national by any State under the operation of its law (1954 Convention relating to the Status of Stateless Persons).

Subsidiary protection: is granted when someone cannot be returned to their country of origin or habitual residence because they face a real risk of serious harm. Serious harm means (i) the death penalty or execution; (ii) torture or inhuman or degrading treatment or punishment; (iii) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in a situation of international or internal armed conflict (EU Qualification Directive – 2011/95/EU).

Temporary Protection: a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of

⁹ UNCRC General Comment 24 on children's rights in the child justice system (2019).

¹⁰ Missing Children Europe definition.

¹¹ OSCE 2022 Practical Handbook on National referral mechanisms: joining efforts to protect the rights of trafficked persons.

origin, immediate and temporary protection to such persons, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection. (EU Temporary Protection Directive 2001/55/EC).

Trafficking: In the EU Anti-Trafficking Directive (2011/36/EU), trafficking is defined as 'the recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation' (art.2).

Transnational Referral Mechanism: are the mechanisms and systems designed for the comprehensive assistance and transnational support and protection of trafficked persons. Transnational referral mechanisms link the full process of referral from initial identification, through return and assistance between countries of transit, destination and origin and involve cooperation between different government institutions and non-governmental actors. They may involve one or all the steps in the process. TRMs can be set up both multi-laterally between several states as well as bi-laterally.¹²

Violence against children (VAC): "violence" is understood to mean "all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse" as listed in paragraph 1 of Article 19 of the UNCRC. The term "violence" has been chosen here to represent all forms of harm to children as listed in paragraph 1 of Article 19 (General Comment No 13 of the UN Committee on the Rights of the children).

Unaccompanied children: in this context, refers to children outside their country of origin or habitual residence who have been separated

¹² Important Guidance is contained in ICMPD, Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU (2010).

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. (UN Committee on the Rights of the Child, General Comment No 6).

Unaccompanied minor: is a defined legal term used in EU legislation on the Common European Asylum System to refer to a child 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 [child] who is left unaccompanied after he or she has entered the territory of the Member States. (EU Qualification Directive – 2011/95/EU).

Separated children: in this context refers to children outside their country of origin or residence who have been separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. (UN CRC Committee on the Rights of the Child General Comment No 6).

Victim: refers to "(i) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence, and (ii) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death" (definition from the Directive 2012/29/EU on Victims' Rights).

INTRODUCTION TO TRANSNATIONAL CHILD PROTECTION

Child protection concerns arise when a child is suffering, or at risk of suffering, from violence, abuse, neglect or exploitation.

A variety of administrative and justice proceedings may be concerned with child protection issues. These include both public law cases concerning the relationship between the State and children, such as asylum and migration cases and criminal law cases. They also include private law cases about the personal lives and private arrangements for children, including parental responsibility, care and custodial responsibilities and alternative care. They may concern measures needed if children's own actions might put them at risk of violence, abuse, neglect or exploitation, for example, if they run away from care.

Such cases have a transnational aspect when more than one country is relevant to measures to be taken on the protection of the child. This is clearly the case where the child is outside their country of origin or habitual residence, and information from or about the country of origin or habitual residence is needed to assess protection measures for them. It also arises where a child in one country is affected by criminal proceedings in another country and they may need to be interviewed, and receive access to information, support and assistance, as well as services for victims. Parental abductions of children from one country to another are also cases which typically may need to be resolved through the cooperation between countries.

Transnational child protection is an increasingly important subject, with the growing mobility of persons and children within Europe, as well as the rise in movement of people into Europe. This also arises from an increase in online activities which take place in essentially a borderless space, with people across different countries involved in grooming, abuse or exploitation of children online.

Importantly, cross border cooperation between authorities and actors working with children in administrative and justice proceedings provides a critical opportunity to ensure that a broad picture of the child's situation, as well of the circumstances in different countries relevant to their care and protection, can be obtained. Only cross border cooperation can ensure that certain outcomes for children will be achieved. For example, in the case of children in migration, international family tracing may be a vital step to restoring family links. Equally, when criminal proceedings involving the child are being conducted in another country, the child should be able to access protection as a victim in the country in which they reside.

The Guidance aims to help State child protection and justice systems, including policymakers and professionals and NGOs working with children (including lawyers and guardians), explore how children's rights in transnational child protection cases can be upheld.

It takes the UN Convention on the Rights of the Child as its starting point on the rights of children involved. It focuses on transnational child protection cases which are shaped by the EU legal and policy landscape, while also identifying the important role of the HCCH Conventions, the Council of Europe's Child Friendly Justice guidelines and other relevant international law instruments. Recent recast of EU laws and key EU policy documents play an increasingly important role in certain transnational child protection procedures, as does the growing work of EU agencies such as Europol, Eurojust and the EU Asylum Agency (EUAA). The Accompanying Tool to the Guidance serves as reference material to key laws, policies, EU agencies, databases and European networks involved, as well as guidance and resources in the field.

The Guidance identifies actors involved in transnational child protection cases and points to three key steps that should be undertaken in administrative and justice proceedings:

- (1) identify the transnational elements of a child protection case,
- (2) consider transnational actions that might be triggered and
- (3) ensure safeguards for children in transnational cases are fulfilled.

The Guidance surveys how these key steps apply to cases with which EU law is particularly concerned. These include children in asylum and migration proceedings, children involved in criminal proceedings as victims of crime, or as suspects and accused and children involved in parental abductions and other cross border family and child welfare situations. The Guidance also considers issues that might arise in cases affected by additional specific measures such as EU anti-trafficking measures, temporary protection and EU transnational databases which may be deployed where children go missing from one country.

The Guidance highlights some of the specific steps needed in these cases (with examples of the relevant EU and international obligations concerned) as well as pointing the reader to additional resources and practices which assist policy makers and practitioners in fulfilling the rights of children in these cases.

Exploring the transnational aspects of these cases should be of interest to child protection and justice services, and professionals involved in administrative and justice proceedings. Where their work concerns a wide range of child protection cases, they may primarily be familiar with domestic, rather than cross border, aspects of these cases. Where they are specialised actors who are primarily involved only in certain proceedings (such as immigration proceedings), the Guidance should help them get an overview of the interplay of different relevant laws and proceedings and better consider their collective effect. For example, an immigration lawyer may be acting for a child seeking asylum in one country, while the child is also involved in a criminal case but may have been trafficked and may need the special protection that trafficking instruments provide. A child who has run away from their home country, with authorities seeking to locate and return them, may in fact have been sexually exploited or groomed online by a predator in another country, and should be given access to protection services as a victim. When actors can identify and understand the range of procedures in which a child may be involved, they can better take account of the overall situation of the child and ensure the decisions they take are informed by their best interests.

WHAT THE GUIDANCE SHOWS

The overview of cases reveals both the considerable difficulties in fulfilling the rights of children in transnational cases and the significant promise of transnational action for protecting children from violence.

In child protection justice and administrative cases generally, providing children with the necessary safeguards requires clear legal obligations and procedures. It involves considerable commitment by bodies involved and collaboration between them, given the range of actors involved. It also requires specialised knowledge of key professionals working with children and adapted procedures, which in turn relies on investment in expertise and child-friendly settings. It can be time-consuming to undertake the investigation into the child's individual circumstances needed. It may require specific protocols to coordinate several different proceedings.

In transnational cases, all of these challenges are aggravated. Certain legal obligations, national processes and the actors involved may differ between countries. Cross-border cooperation procedures may need further development and additional capacity/channels for cooperation should be available. Timeliness becomes even more of an issue. Language and cultural differences need to be navigated. A common and pressing challenge is that professionals involved may not have the means to ensure children properly participate in transnational proceedings nor to obtain sufficient information to examine their best interests. While the legal obligation to hear children in proceedings concerning them is increasingly well recognised in relevant laws, the necessary procedures and specialised competence to inform, support and assist children and hear their views in transnational cases may be lacking. Equally, where States do not use similar frameworks to address the best interests of the child, this can hinder their ability to cooperate on, and together implement, actions to review and respond to their situation.

However, the Guidance also shows that there are also clear opportunities to build on the growing framework of international and European law and guidance and cooperate across borders on these cases. EU policy

documents, including the EU Strategy on the Rights of the Child and the Commission Recommendations on strengthening integrated child protection systems, strongly encourage and support States to do so.

This Guidance provides food for thought to assist regional, national and local stakeholders and professionals as they explore how to improve outcomes for children. It reflects on actions that should be taken to equip national child protection and justice systems to fulfil the rights of children in these transnational cases. This includes improving the procedures, tools and skills needed to achieve better outcomes for children in transnational cases, regardless of the nationality or their habitual residence, or the types of proceedings involved. It promotes the better mobilization of expertise and specialised resources recently developed at international and European level to fulfil children's rights.

Building trust between these actors across borders is essential to improve transnational cooperation. The Guidance concludes by pointing to common guiding principles that allow authorities and professionals to respond and protect children from violence in administrative and justice proceedings. It underlines the importance of an integrated child protection system approach, where the child is at the centre, and a comprehensive, multidisciplinary case management approach is applied to their situation, including where actors and authorities from two different countries are involved.

In summary, this guidance aims to:

- → Raise awareness of children's rights in transnational child protection cases and the opportunities better to fulfil them; provide a reference on EU and international laws and policies which shape these procedures
- → Point to key steps and the issues that arise and practical resources which can assist in improving procedures
- → Consider particular points that might arise in different cases
- → Provide reflection points and guiding principles to underpin better transnational cooperation

Chapter 1

KEEPING CHILDREN'S RIGHTS AT THE HEART OF PROCEEDINGS

At all times, children's rights should be central to proceedings concerning them. A solid knowledge of children's rights must be the starting point of all actions in this field, including when dealing with transnational child protection cases.

1.1 WHAT CHILDREN'S RIGHTS ARE AT STAKE IN CHILD PROTECTION CASES?

The United Nations Convention on the Rights of the Child (UNCRC) establishes a broad set of rights for all persons under 18 years of age. The UN Reporting Guidance¹³ clusters UNCRC rights into nine broad groups: general measures of implementation of the CRC; general principles; def nition of the child; civil rights and freedoms; violence against children; disability, basic health and welfare; family environment and alternative care; educa- tion, leisure and cultural activities, and special protection measures.

The rights in the UNCRC are indivisible and interdependent. A series of General Comments from the UN Committee on the Rights of the Child provides detailed guidance on how these rights should be fulf lled. See Annex 1.

The UNCRC applies to all children within the jurisdiction of a state (Article 2). This includes children who are not habitually resident within the State, including those within the borders of a state and those who come under the state's jurisdiction while attempting to enter the country's territory, for instance at airports. ¹⁴ Consequently, the rights under the Convention apply to all children, regardless of their nationality or migration status and include actions relating to children from other countries or children in other countries who are covered by national proceedings. To ensure the application of the UNCRC in all circumstances and for all children,

¹³ UNCRC Reporting Guidelines are available at https://www.ohchr.org/en/treaty-bodies/crc/reporting-guidelines.

¹⁴ General Comment No 6 (2005) of the UN Committee on the Rights of the Child "Treatment of unaccompanied and separated children outside their country of origin, para 12

regardless of their status, the Convention encourages and recognizes the importance of international cooperation (preamble, and Art.45).

The UNCRC clusters of rights



The UN Committee on the Rights of the Child encourages States to take a child rights-based approach, which furthers the realization of the rights of all children, rather than taking an approach which focuses on the child as the subject of welfare concern. The UN CRC General Comment No 13 on "the right of the child to freedom from all forms of violence" underlines that a children's rights-based approach concerns developing both the capacity of duty bearers to meet their obligations to respect, protect and fulfil rights and the capacity of rights holders to claim their rights. In cases involving violence against children, the UNCRC has emphasised the common responsibility of all actors to prevent and respond to violence against children.

GENERAL PRINCIPLES

The UNCRC sets out four general principles which should be fulf lled in all actions.

Non-discrimination (Article 2): States shall respect and ensure the rights of each child within their jurisdiction, without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.



This can be particularly important in transnational child protection cases regarding children with irregular immigration status, where States should ensure they fulfil the rights of the child to protection, and not focus primarily on their migration status.

The **best interests of the child** (Article 3): The CRC establishes obligations in both the public and the private spheres, including on courts of law, administrative authorities and legislative bodies to ensure that the best interests of the child are assessed and taken as a primary consideration in all actions af ecting children. The purpose of assessing and determining the best interests of the child is to ensure the full and ef ective enjoyment of the rights recognised in the Convention, and the holistic development of the child. When States cooperate with each other on cases af ecting child protection, the best interests of the child should be at the centre of their cooperation.





Right to life, survival and development (Article 6): All children have the right to be protected in their integrity and their development should not be jeopardised. Children in need of protection, regardless of the nature of the proceeding in which they are involved, need to have both immediate access to medical care, shelter, nutrition and any other

appropriate support and assistance, alongside access to services to ensure their long-term needs. It should involve active measures to find durable solutions for them when required, working across jurisdictions where the child's best interests so require.



Right to participation (Article 12): Every child who is capable of forming his or her own views has 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 their age and maturity. Participation is an essential element to protecting children and may require specific resources, adapted processes and coordination between different national actors in transnational child protection cases.

PROTECTION RIGHTS

The UNCRC contains several provisions that are particularly relevant to child protection and transnational cases. These provisions include the right to protection against violence, special protection measures for children in vulnerable circumstances and provisions relevant to family and alternative care. An overview of these provisions is contained in Annex 1.



Rights to protection from violence Children should be protected from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse. They should have the right to access appropriate protective measures, from prevention, to identification, referral, investigation, treatment and follow-up (Article19).



Special protection measures The UNCRC and its Optional Protocols and General Comments also contain provisions relating to special protection measures. They concern:

- **(a)** Children outside their country of origin seeking refugee protection (Article 22), unaccompanied asylum-seeking children, internally displaced children, migrant children and children affected by migration;
- **(b)** Children belonging to a minority or an indigenous group (Article 30);
- (c) Children in street situations (General Comment 21 (2017));
- (d) Children victims of exploitation and abuse:
- (i) Economic exploitation, including child labour (Article 32)
- (ii) Use of children in the illicit production and trafficking of narcotic drugs and psychotropic substances (Article 33);
- (iii) Sexual exploitation and sexual abuse (Article 34);
- (iv) Sale, trafficking and abduction (Article 35);
- (v) Other forms of exploitation (Article 36);
- (e) Children alleged as, accused of or recognized as having infringed criminal law (Article 37 and 40; General Comment 24 (2019))
- **(f) Child victims:** Children who have been exposed to acts of violence, exploitation or abuse have a right to be recognised as victims of crime, to access assistance for recovery and rehabilitation, and to access justice with due procedural safeguards (Article 39)
- **(g) Children in armed conflicts** (Article 38)



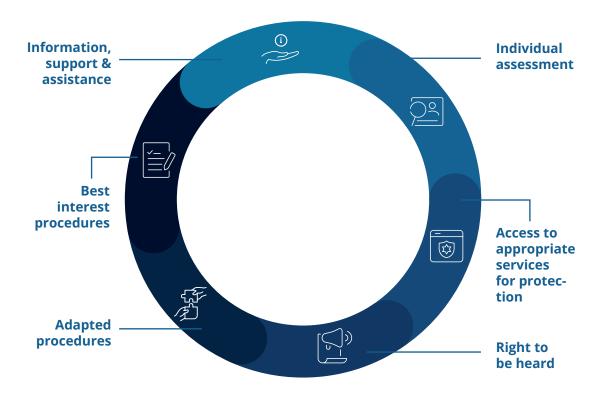
Family environment and alternative care measures

These concern assistance and protection to children deprived of parental care; family reunification provisions; arrangements made for children in alternative care, parental abduction cases, as well as children with imprisoned parents (Articles 5, 9–11, 18, paras. 1 and 2, 20, 21, 25 and 27, para. 4).

KEY SAFEGUARDS DURING JUSTICE PROCEEDINGS

When a child is involved in an administrative or justice proceeding concerning their protection, key procedural safeguards should be in place to ensure that the States guarantee the rights of the child before, during and after proceedings.

Implementing these safeguards is crucial both in domestic child protection cases and in transnational cases. The challenges and opportunities that come with implementing these safeguards in transnational cases are explored further in the chapters below.



1.2 WHICH INTERNATIONAL AND EUROPEAN LAW AND POLICY PLAY A ROLE IN THESE CASES?

International and EU law plays a central role in transnational child protection cases, with policy commitments and practical measures of support providing resources for their implementation in line with the rights of the child. Whereas there may also exist bilateral arrangements between two States, this guidance focuses on international and, in particular, EU law and policy, as a common framework for countries across the EEA.

In some jurisdictions, individuals can rely on UN and Council of Europe conventions directly in national courts, as they are viewed as directly incorporated into national law. In other jurisdictions, this will occur only if a national act ensures that an international convention has domestic effect. EU law has primacy over any conflicting national law and EU law provides for oversight by the Commission (which plays a direct role in monitoring and pursuing States for infringement). EU law vests authority in the Court of Justice of the European Union to provide definitive rulings on interpretation and decision making in certain cases. The European Court of Human Rights provides rulings on the interpretation of the European Convention on Human Rights, put in place by the Council of Europe. The application of UN Conventions may be supported by the work of UN Committees, such as the UN Committee on the Rights of the Child. The latter provides authoritative guidance on the application of the UN Convention on the Rights of the Child in General Comments. The Optional Protocol 3 to the UNCRC also provides for rulings from the Committee on the Rights of the Child on complaints made to them. Annex 1 provides reference to this wide range of international and EU laws and relevant jurisprudence.

A snapshot of key international and European legal framework in child protection cases:

Childrens rights: UN Convention on the Rights of the Child European Convention of Human Rights EU Charter of Fundamental Rights

Asylum & migration

UN Convention on Refugee Rights, 1951

UN Convention on Migrant Workers' Rights, 1990

EU Asylum & Migration Instruments

Temporary Protection

EU Temporary Protection Directive, 2001

Criminal justice

Child Procedural Safeguards Directive, 2016

Victims' Rights Directive, 2012

Child Sexual Abuse Directive, 2011

Directive on violence against women and domestic violence, 2024

Lanzarote Convention, 2007

Trafficking

Anti-Trafficking Directive, 2024

Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, 55/25, 2000

COE Anti-Trafficking Convention on Action against Trafficking in Human Beings, 2005

Family law/civial law

Brussels IIb Regulation, 2019

HCCH 1996 Child Protection

HCCH 1980 Child Abduction

Missing children

HCCH 1996 Child Protection

HCCH 1980 Child Abduction

Brussels IIb Regulation

Regulations for a strengthened Schengen Information System (SIS), 2018

THE WAYS IN WHICH THE LAW PLAYS A ROLE

International and EU law shapes transnational child protection proceedings in several different ways.



Establish common obligations for States as regards fulfilling children's rights



Determine which State should exercise jurisdiction over a particular case and which law applies to the case



Ensure that States will recognize certain legal arrangements made in other countries



Ensure that States will enforce judgments from other countries



Provide for cooperation from one State to another inparticular proceedings



Provide for cross border procedures



Establish international databases



Provide clear roles for international agencies

Each role at a glance:



Establish common obligations for States as regards fulfilling children's rights. Where States have the same obligations towards children under the same international instrument, this provides a solid basis for mutual trust and cooperation between them in transnational proceedings.

Example in the spotlight – common obligations to child victims of trafficking

The EU Anti-Trafficking Directive provides a common definition of trafficking, including trafficking of children, for EU Member States and provides common obligations to assist and support child victims.



Determine which State should exercise jurisdiction over a particular case and which law applies to the case. International laws establish rules to avoid conflicts of national laws in specific situations. Under these rules, where a child is present in one country, another State may

have jurisdiction to deal with a particular dimension of their situation. Equally, certain issues concerning the situation of a child who is not habitually resident in a State may be dealt with by proceedings in the State in which they are present. In some situations, a court may have jurisdiction to deal with a case but may need to apply the law of another State.



Ensure that States recognise certain legal arrangements made in other countries. This can be a crucial issue for children in transnational cases. For example, it will assist States in recognising parental responsibility arrangements made under the law of the country of origin.



Ensure that States will enforce judgments from other countries. This can prove a crucial step in child protection proceedings to provide a child with certainty and stability in relation to care and custodial arrangements put in place for their safety.



Provide for cooperation between States in some proceedings. Some international conventions provide that State actors should cooperate with each other during proceedings involving a child. Such cooperation may be vital to getting information about the child and their family, for

the assessment of the child's situation and for making decisions relevant to protecting them.

Example in the spotlight - Brussels IIb Regulation and the HCCH Conventions

The rules settling cross border matters on parental responsibility and child protection are set out in the Brussels IIb Regulation¹⁵ the HCCH 1996 Child Protection Convention and HCCH 1980 Child Abduction Convention. They provide legal frameworks which allow national authorities and courts to avoid conflicts in proceedings in cases with cross-border implications, recognise and enforce each other's decisions, and cooperate in certain matters. These instruments collectively concern matrimonial matters and matters of parental responsibility, including international child abduction and measures for the protection of children.

¹⁵ Council Regulation (EU) 2019/1111 - Brussels IIb Regulation - replaces the Regulation (EU) 2201/2003 - Brussels Ila Regulation, which, however, continues to apply to proceedings instituted before Regulation (EU) 2019/1111 comes into application on 1 August 2022. The Brussels IIb Regulation is the cornerstone of EU judicial cooperation in matrimonial matters and matters of parental responsibility. It applies in all EU countries except Denmark.

These instruments do not have as their objective to harmonise the underlying civil family and child welfare laws applicable to these cases. Instead, their provisions concern which country has the power to take decisions (jurisdiction), how countries should recognise decisions and the authenticity of documents from another country, and enforce such decisions, as well as how authorities should cooperate on matters of parental responsibility. They have substantially the same application, however the HCCH 1996 Child Protection Convention additionally contains rules relating to choice of law in any proceedings. In general terms, the Brussels IIb Regulation applies in the EU where the child concerned is habitually resident in an EU country, to cases with cross-border implications (see its Recitals 2 and 3). Proceedings including only persons habitually resident in one Member State will not normally fall under the scope of the Regulation. Where the child is habitually resident in a country outside the EU, which is covered by the HCCH 1996 Child Protection Convention, the latter applies in the EU and in States which are signatories to the 1996 Convention.



Establish cross-border procedures, whereby States will cooperate in decision-making and implementing decisions. Cross border procedures (under which States work together to determine or implement decisions) are particularly relevant to international protection cases under EU

asylum instruments, as States have a duty of solidarity to each other.

Example in the spotlight: EU Asylum and Migration Management Regulation

States may need to consider together the best interests of a child in cases where a child is relocated from one country to

another during international protection proceedings under the EU Asylum and Migration Management Regulation. Article 23 (4) provides that "In assessing the best interests of the child, Member States shall closely cooperate with each other..." Article 23 (5) provides that "Before transferring an unaccompanied minor, the transferring Member State shall notify the Member State responsible or the Member State of relocation, which shall confirm that all appropriate measures referred to in Articles 16 and 27 of Directive (EU) 2024/1346 and Article 23 of Regulation (EU) 2024/1348 will be taken without delay, including the appointment of a representative in the Member State responsible or the Member State of relocation. Any decision to transfer an unaccompanied minor shall be preceded by an individual assessment of the best interests of the child..."



Establish international databases of particular interest in Europe are the EU rules establishing international databases and regulating their use. These may contain information relevant to certain children in need of protection, potentially including information on their identity, that of

their families, whether they have been reported to be missing, whether they have a criminal record, or whether they have applied for international protection.

Example in the spotlight – international databases containing information on criminal records and immigration matters

In the situation of children in migration, relevant EU databases include the Schengen Information System (SIS) and Eurodac databases, as well as the Temporary Protection database set up to identify beneficiaries of temporary protection fleeing Ukraine.



Provide roles for international agencies. International and EU laws establish the roles and responsibilities of international and EU agencies. Of note is the growing role for EU agencies in child protection cases with a transnational dimension, ensuring coordinated efforts across

borders and offering technical assistance, tools and support to member states.

Example in the spotlight - the EUAA

For example, the EU Agency for Asylum (EUAA), has been established to contribute to ensuring the efficient and uniform application of Union law on asylum in the Member States. The EUAA aims to help and support EU countries, including through regional training, guidance, country of origin information, operational support and monitoring.

A snapshot of international and EU policy and practical measures

Children's Rights and Protection:

EU Strategy on the Rights of the Child, 2021
Commission Recommendations on strengthening integrated child protection systems, 2024
CoE Strategy on the Rights of the Child (2022–2027)

Asylum & migration

Communication from the Commission to the European Parliament and the Council on the protection of children in migration, 2017

CoE Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe (2021-2025)

Temporary Protection

EU Solidarity with Ukraine: 10-Point Plan, 2022

Children's Rights and Protection instruments

Trafficking instruments

Criminal justice instruments

Criminal justice

CoE Child Friendly Justice Guidelines, 2010

EU Strategy on Victims' Rights (2020–2025)

EU Child Sexual Abuse Strategy (2020-2025)

Trafficking

EU Strategy on Combatting Trafficking in Human Beings (2021–2025)

Family law/ civial law

Children's Rights and Protection instruments

Missing children

Children's Rights and Protection instruments

Trafficking instruments

Criminal justice instruments

Annex 1 provides references to this wide range of international and EU policy documents.

The role of policy and practical resources

International and EU policy and practical resources provide important support to authorities and actors in transnational child protection cases. They can be relied on by authorities and practitioners to help fulfil safeguards for children in several different ways.

They include the following:



International policy commitments



International guidance



Standard operating procedures



Handbooks



Checklists and templates



Training modules

Each measure at a glance

Illustrative examples are noted below of the range of measures that emanate from UN agencies, Council of Europe, the Hague Conference and the EU, including the EU agencies. Key resources for different types of transnational cases are further described in Chapter 3 and in the Accompanying Tool.

Several significant international and regional processes are underway which will lead to additional practical measures of support. These include the EU's work on implementing the 2024 EU Asylum and Migration Pact reform and the work of the Council of Europe in child rights and child friendly justice, including its Consultation Group on the Children of Ukraine. In chapter 4, the Guidance encourages authorities to mobilise these resources and points to other areas where policy and practical measures of support would prove valuable.



International policy commitments: these prioritise and dedicate resources to key issues.

Spotlight on key examples – child friendly justice and integrated child protection systems

Child friendly justice

In transnational child protection cases, applying the Council of Europe (CoE) Child-Friendly Justice Guidelines (2010) is of key importance. These guidelines provide a comprehensive framework to ensure that justice systems are adapted to the needs and rights of children. They are built on the principles enshrined in international instruments like the CRC, and they emphasise that justice should be accessible, age-appropriate, and respectful of the child's rights and dignity. They refer to key procedural

safeguards which should be undertaken to ensure that these procedures are child-friendly and that children are informed, supported and assisted during administrative and judicial proceedings involving them, including cross-border ones. The Guidelines note in particular that **in the case of cross-border civil law and family disputes**, "depending on maturity and understanding, the child should be provided with professional information relating to access to justice in the various jurisdictions and the implications of the proceedings on his or her life. Children face particular challenges where there is a history of family conflict and/or abuse".

Broadly speaking, key features of child friendly justice identified by the Guidelines include having a multidisciplinary inter-agency and child centred approach. This requires cooperation among professionals (e.g., lawyers, social workers, police, immigration officials) to assess and address a child's legal, psychological, social, and cognitive needs comprehensively. It also requires the adaptation of procedures to ensure that they are appropriate for children. This approach helps ensure that children's rights are respected and their best interests are central throughout any legal process.

The Council of Europe has established a new Committee of Experts on access to child-friendly justice through multidisciplinary and interagency services (ENF-JUS) which will establish a Recommendation on multidisciplinary and interagency services for child-friendly justice, including operational guidelines by end of 2026.

The EU Strategy on the rights of the child 2021 also identif es child friend justice as a key priority. The Strategy aligns with the CoE guidelines by emphasising the need for child-friendly justice in both domestic and cross-border cases. **For transnational cases specifically**, the Strategy refers inter alia to the Brussels

Ila Regulation (with its 2019 Recast) and to the closer judicial cooperation which is key to protect the rights of children and ensure their access to justice in cases concerning parental responsibility and child abductions.

The Strategy also addresses challenges for children in migration and refers to the Pact on Migration and Asylum which calls for strengthened safeguards for migrant children, including unaccompanied minors.

Finally, at the time of writing, the UN Committee on the Rights of the Child is drafting a General Comment on Children's Rights to Access to Justice and Effective Remedies.

Child protection

The European Commission issued a Recommendation on developing and strengthening integrated child protection systems in the best interests of the child in 2024.

UNICEF describes Child Protection System as "the set of laws, policies, regulations and services needed across all social sectors – especially social welfare, education, health, security and justice – to support prevention and response to protection-related risks. These systems are part of social protection and extend beyond it [...]. Responsibilities are often spread across government agencies, with services delivered by local authorities, non-State providers, and community groups, making coordination between sectors and levels, including routine referral systems, a necessary component of effective child protection systems".

The European Commission recommends that authorities "put children at the centre of integrated child protection systems by adapting protection systems to children's needs and including children when taking decisions that impact them" and "establish comprehensive and coordinated support actions in cases of

violence against children, from prevention and early identification to reporting and cross-sectorial support." It specifically emphasises opportuni-ties to enhance cooperation in child-protection cases with cross border implications. It notes that this includes "through the assistance of Central Authorities of the relevant Member states designated under the Council Regulation (EU) 2019/1111, such as by stepping up prevention efforts, by sharing good practices among the Member States, specifically in the context of the European Judicial Network in civil and commercial matters [...]". Importantly it also notes that cross border cooperation should be enhanced "... by facilitating and strengthening transnational cooperation between the actors supporting children." The European Judicial Network (EJN-Civil) provides various information about the legal framework in family law matters on the e-justice portal. ¹⁶ In addition a Practice Guide on the application of the Brussels IIb Regulation can be found there.17

The Council of Europe also issued a Recommendation CM/ Rec(2009)10 of the Committee of Ministers to member states on integrated national strategies for the protection of children from violence. The Recommendation includes provisions on international cooperation, noting inter alia that "Member states should afford each other the widest measure of mutual assistance in proceedings on offences involving violence against children, such as child abductions, trafficking in children, sexual exploitation and sexual abuse of children." These recommendations encourage States to work together to improve the ways in which children's rights are fulfilled in transnational cases.

¹⁶ https://e-justice.europa.eu/home_en

¹⁷ https://op.europa.eu/en/publication-detail/-/publication/ff34bda5-ea90-11ed-a05c-01aa75e-d71a1



International guidance: these support proper implementation of laws and procedures for those involved in both policy and practice.

Spotlight on a key example – protecting child victims of violence

General Comment No 13 of the UN Committee on the Rights of the Child on protection of children from violence provides extensive guidance on action needed to prevent and respond to violence against children.

International guidance exists also in relation to particular groups of children, such as the guidance developed by the EU Fundamental Rights Agency concerning "Children deprived of parental care found in an EU Member State Other than their own: A guide to enhance child protection focusing on victims of trafficking".



Standard Operating Procedures: these set out different steps and responsibilities of actors in relation to specific procedures.

Spotlight on a key example - relocation

An example of standard operating procedures is the SOPS to be developed for considering and implementing relocation

procedures between EU countries where children have applied for international protection in a country under migratory pressure. These include vulnerability assessments to determine any risks to the child.



Handbooks: these handbooks typically provide guidance to professionals concerned in establishing or operating under particular procedures.

Spotlight on a key example - guardianship

A leading example in this context is the FRA Handbook to reinforce guardianship systems for children deprived of parental care.



Checklists and templates: these assist authorities and professionals concerned in undertaking particular steps.

Spotlight on a key example – family reunification

The EU Asylum and Migration Management Regulation, for

example, requires a template to be used for family tracing processes. This is under development by the EUAA.



Training modules: these have been developed at regional level by EUAA and FRA, as well as the Council of Europe, and other regional projects.

Spotlight on a key example - child friendly justice training

The Council of Europe HELP department includes training on child friendly justice.

The Barnahus Network has also hosted several training webinars on aspects of practice concerning child victims, including as regards the procedural safeguards that should be in place. See further www.barnahus.eu.

Chapter 2

TRANSNATIONAL CHILD PROTECTION CASES: ACTORS AND STEPS INVOLVED

A wide range of authorities and other actors may be involved in transnational child protection cases; they need to cooperate domestically and across borders to protect children.

2.1 SNAPSHOT OF THE ACTORS INVOLVED

Protecting children involved in transnational cases requires the involvement of many different people, agencies and bodies, each with distinct roles and responsibilities.



Under international law, all states must ensure that children are protected, but the way each State organises their child protection systems varies. Professionals working in different countries must be able to see and understand each other's roles, ensuring they can collaborate effectively.

From the moment a child comes into contact with authorities — whether at a border, through law enforcement, or within a social services framework — multiple actors must step in to identify children at risk and screen their situation, refer them to services for assessment of their needs, provide care and necessary services, and make decisions in their best interests.

Parents, guardians, and caretakers may be involved, but so too are border guards, law enforcement, child protection services, social workers, and health professionals, including mental health experts. Migration authorities and trafficking specialists play a key role in identifying risks in the cases of children on the move, while interpreters, cultural mediators, and child psychologists can help ensure the child's voice is heard. Legal professionals, such as lawyers, prosecutors, and judges, must ensure that decisions comply with national and international obligations.

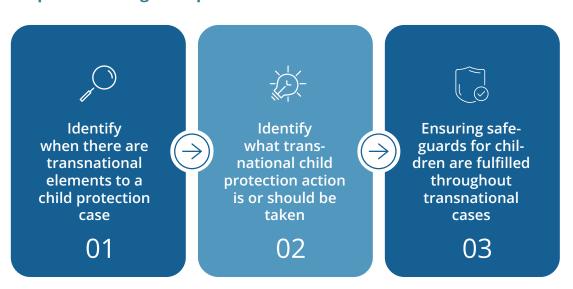
Meanwhile, central and consular authorities, cross-border mediators, and specialist organisations provide additional expertise to help navigate complex legal and administrative systems. European agencies and networks, such as those focused on missing children or guardianship, offer operational support to help states meet their responsibilities.

2.2 SNAPSHOT OF THE STEPS INVOLVED

To work effectively across borders, these actors need to be aware of when a case has a transnational element, what processes may trigger a need for transnational action and how they can fulfil the rights of children in these cases.

National child protection systems should consider carefully how to ensure actors undertake three key steps to ensure that every child receives the protection and care they are entitled to, regardless of where they come from or where they reside.

Steps in ensuring child protection in transnational cases



STEP 1: IDENTIFY WHEN THERE ARE TRANSNATIONAL ELEMENTS TO A CHILD PROTECTION CASE

The starting point of any transnational child protection case is to identify when a child's situation has a transnational dimension, in the sense that actors or procedures in other countries may have a role in the case. Chapter 3 explores the transnational elements of different types of cases.

Sometimes the transnational child protection elements of a case are clear to an authority or actor concerned with the child. This is the case, for example, where a child who is habitually resident in one country is encountered in another country without proper documentation or unaccompanied.

Sometimes the transnational aspect is less clear. For example, where a family with children move legally to another country, authorities in the country of residence may be unaware of child protection proceedings that have arisen in the country from which they have arrived. Equally in cases where a child is a victim of a crime in another country, action by national authorities in the country where the child is located to provide them with support and assistance will rely on them being informed about criminal proceedings in another country. It is important for victims to know that they can report crimes abroad and receive support in their countries of residence.

Sometimes transnational elements of a child's situation initially may be overlooked. For example, where a child is encountered in conflict with the law, the authorities may initiate criminal proceedings against them and focus largely on the offence committed. The broader situation of the child may not be examined at that stage. However, this information may be necessary for the purposes of both the criminal investigation and the child's protection. For example, if the children come from another country, they may be in the hands of traffickers who encountered them in their country of origin and who exploited them in criminal situations. An example arises from the case of a child from Vietnam who was prosecuted for tending to a cannabis farm in the UK. It became clear, only on appeal from their conviction, that they had been trafficked into the UK from Vietnam to be exploited.

Summary checklist of key questions when considering whether a child protection concern has a transnational element:

√ Is the child a national of another country or have they a connection with another country (e.g. presence of family member in another country)?

- √ Does the child's family need to be traced in another country?
- √ Has the family and/or child recently resided in another country?
- √ Does the child wish to move to another country?
- √ Does the transfer of the child to another country need to be considered?
- √ Has the child been the victim of a crime which took place in another country or is the perpetrator in another country?
- $\sqrt{}$ Is the child a suspect or accused of a crime in another country?
- √ Is the child involved in family law or child welfare proceedings in another country which might affect their protection?
- √ Is a missing child suspected of having gone to another country, independently or under the influence of another party?

STEP 2: IDENTIFY WHAT TRANSNATIONAL CHILD PROTECTION ACTION IS INVOLVED OR SHOULD BE INVOLVED OR INITIATED

As a second step, it is necessary to identify what transnational child protection action is involved or should be initiated and which national authority(ies) or actors in different countries may be involved. Where authorities and professionals supporting children are familiar with the appropriate procedures and the channels to cooperate with authorities in another country, they will be able to act. However, where they are unaware of specific procedures or possible channels to get more information, they may be limited in their inquiries about the child. Once contact between authorities and actors in different countries is initiated, difficulties may arise because of different languages and different cultures. A key concern may be to find practical modalities for data sharing between authorities and actors across borders, where this is necessary to protect the child, whilst complying with data processing laws and in respect for the child's private life. The timeliness of procedures may become a real

concern as transnational procedures in criminal justice and immigration procedures may be administratively complex and lengthy, including as regards evidence gathering in cross border cases.

Chapter 3 identifies transnational actions that may be needed in different types of cases.

Sometimes the transnational actions involved are very clear. Where during screening at a border crossing, a child is in the company of an adult who is not a family member, it will be important to consider very carefully who has parental responsibility for the child and what care and custodial arrangements may have been made for them. This may depend on seeking information or verifying documents from their country of origin.

Where a child is seeking international protection, family tracing processes may need to be initiated, where it is safe and in their best interests to do so.

Equally, where a child victim is involved in a criminal proceeding in a country other than where they live, authorities from both countries will need to establish where and how the child is interviewed during the criminal proceedings.

When a child's situation involves a series of different steps, it is important to identify which national authorities and laws should be applied to each one. For example, a child arriving from another country may be under the care of an accompanying adult. The role and responsibility of the accompanying adult may need to be determined by the law of the country of origin and should be recognised by the host country. At the same time, urgent provisional measures by the host authorities may be needed to protect the child from risk. A more long-term decision on their future may require measures in their country of origin. The need for clarification of responsibilities and careful transnational case management in these cases has been seen in cases involving children from Ukraine who have fled to neighbouring countries.

As noted above, in some cases, the transnational elements of the child's situation may not be identified or examined at the outset, and ultimately any transnational cooperation around the situation of the child may be narrow in scope. For example, in the case of a foreign child who has been a suspect or victim of a crime, cooperation with authorities in their country of origin about their situation may occur primarily when considering a transfer of a child back to their country of origin or habitually residence. Without a proper and timely enquiry into the child's and their family's circumstances, cooperation pre return may not properly consider any risks posed by traffickers, should they be returned.

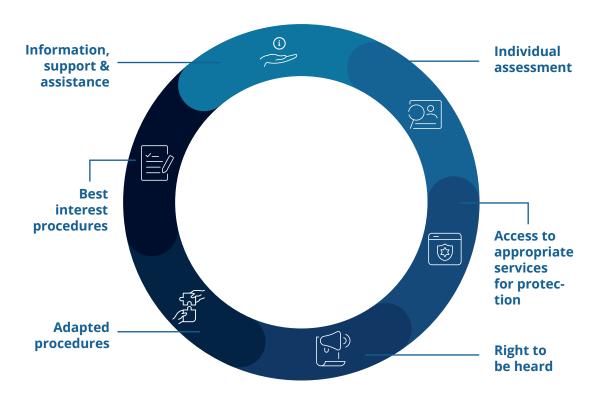
Summary checklist of key transnational actions that might be involved

- ✓ Asylum/migration: does the child need a residence permit or do they have international protection rights which should be addressed? Does the return of a child to another country need to be considered?
- ✓ Criminal case with a child as a victim: how should evidence be obtained either from a child located in another country or about their circumstances in another country? How is their access to victim support services assured?
- ✓ Criminal case with a child as a suspect: should information on the circumstances of a child suspect or accused be sought from another country? Should the transfer of a child suspect or accused be requested from another country?
- ✓ Transfer of criminal cases to another jurisdiction: what does this involve for a child victim or accused?
- ✓ Family and child welfare law: Should information relevant to the family be sought from another country, where a child protection issue is at stake? Should authorities forward a letter of concern to another country to which a family has moved, where a child protection is at risk?
- ✓ Trafficking investigation: has a child been trafficked across borders? Are they separated from their families and communities?
- ✓ Children who receive temporary protection in another country: who takes decisions and how do authorities cooperate on child protection risks?
- ✓ Missing children alerts: should an international missing children alert be issued? What assistance should be provided to locate a child believed to have gone missing across borders?

STEP 3: ENSURE SAFEGUARDS FOR CHILDREN ARE FULFILLED THROUGHOUT TRANSNATIONAL CASES

This step is at the heart of this Guidance. Having identified that a case has a transnational aspect and what transnational child protection actions may be involved, authorities and actors need to fulfil the rights of children during their actions.

The core procedural safeguards for children, as they make their way through child protection and justice procedures, are examined in this section, identifying specific issues to be considered in transnational child protection cases. Chapter 3 focuses on specific points that might arise in different cases.



In transnational child protection cases, specific issues to be considered include:



Information, support & assistance

- Children have a right to be fully informed about proceedings in which they are involved, in a language which they understand
- Children should receive legal assistance where necessary
- Children should be appointed a guardian, where this is necessary

Information

- Information on the transnational actions should be readily available, including, for example:
- o information on family tracing processes,
- o information on any possibility that a child may be transferred to another country
- o information on whether/how a court or an authority in another country wishes to interview them
- o information on how to report a crime in another jurisdiction or access compensation
- o information on how to access their rights as victims, in the event that there is a proceeding in another country
- o information on a possibility that criminal proceedings in which they are involved as a witness or suspect or accused may be transferred to another country and their opportunity to express their views.
- Information should be available in print form or video, in the language and age-appropriate format, that children can reasonably understand.

Support and assistance

- In the case of transnational parental disputes or in cases where children may have a conflict of interest with their parents, children should have guardians ad litem appointed to them to ensure their voices are heard.
- Where children are deprived of parental care, including unaccompanied or separated children coming from third countries,

they should have guardians to inform, support and assist them in all procedures involving them, to ensure their bests interests are fulfilled and to liaise with other actors.

- Children should be also entitled to legal assistance, alongside the support of a guardian, to provide legal information, counselling and representation.
- Guardians and legal advisers should be knowledgeable about the international and EU laws that may apply to the situation of the child, and in particular what transnational procedures are relevant.
- In situations where the child's protection needs may be affected by several proceedings, the involvement of the same guardian and/or legal assistance provider for the child in all the relevant procedures involved may be important.
- Guardians and legal advisors should receive or be able to access information related to proceedings in other countries involving the children.
- As necessary, guardians and legal advisors in one country should be facilitated to liaise with their peers in another country.
- Depending on their circumstances, interpreters should be involved.
 Transnational child protection cases may require specially trained interpreters, who are familiar with the rights and issues concerning children, as well as the appropriate terminology involved and the context of the proceedings.
- To ensure effective communication with children and between children and the actors that support them, it may be necessary to involve cultural mediators, whose role is to bridge between the child and actors offering them assistance, by facilitating mutual understanding and bridge the cultural differences between the two.



Ensuring individual assessments of the child's circumstances

To take proper account of their situation, children's circumstances should be individually and comprehensively assessed. This assessment should provide a

holistic view of their situation and should feed into the ongoing best interests assessment that should inform all actions in their regard.

In transnational child protection cases, specific issues to be considered include:

- Authorities and actors will need to identify what information may be necessary to seek abroad, to assess the situation of the child and inform the actions taken.
- This can relate to the identity of the child, or the location of their families, medical history, home circumstances in their country of origin, information on services available to them (such as educational, medical, leisure, integration support services), or procedures concerning them in different jurisdictions.
- Specific authorities and professionals in other countries may need to be contacted to provide information or advice on the situation, or procedures, relevant to the child in that country.
- For example, in the case of unaccompanied children, guardians in the
 host country may need to access guardianship organisations in other
 countries, to obtain information on the conditions in place to support
 and assist such children. Actors may need to be in contact with social
 services in another country to gather information about a child or
 their family, or the services available to them in another country.
- Central Authorities may be the key channel for requests for information in certain kinds of cases. Consular authorities will be helpful in other cases. Authorities may need to seek information from international or EU agencies, or from national focal points on key issues such as trafficking.
- A significant issue to be addressed is the specific modalities on how and for what purposes different actors in different countries may need to exchange information collected in relation to the child for the individual assessment of the child's situation.



Ensuring that children access their rights to services necessary for their protection during proceedings

This may involve, for example, putting in place child safeguarding measures, such as orders relating to su-

pervision of contact in certain family situations; ensuring access to medical services when needed as a result of the violence, neglect, abuse and

exploitation; and ensuring access to therapeutic services, to respond to trauma and serve their psychological needs.

In transnational child protection cases, specific issues to be considered include:

- Protection measures put in place in one country should be respected and enforced in other countries, including supervised contact arrangements.
- Children may need to have access to services necessary for their protection from risk during proceedings. This will include special measures to avoid contact with perpetrators of crime, such as traffickers. This might involve access to their rights as victims in the country in which they are located, when criminal proceedings are in another country. It is important to ensure that information is available on victim's rights services for children and to consider whether there are any obstacles to such access.
- In cases with a transnational aspect NGOs providing services to victims should be familiar with the procedures and channels for necessary cooperation with services in other countries.



Hearing the child

- A child who is capable of forming his or her own views should have the right to express those views freely in all matters affecting the child, with the views of the child

being given due weight in accordance with the age and maturity of the child.

- A child should have access to timely appeals against decisions and access to complaint mechanisms about agencies, bodies, guardians etc.

Children's views on measures being in put in place in their regard may be critical to good decision-making and safe outcomes for children, including where a child is in a jurisdiction other than the one in which the decision is taken.

Specific issues to be considered include:

- Ensuring that the child can be heard will require coordination between actors supporting the child and the decision-making procedures. It will also demand proper access to language support and careful coordination between the authorities in both countries.
- The reasons and effects of any decision on the child should be explained to them, including as to why it differs from their wishes.
- Children will need access to effective remedies against decisions in other jurisdictions, as well as against decisions to transfer them to other countries.
- There should also exist the ability to complain about procedures or actors in other countries, supported by child friendly information and complaint mechanisms.



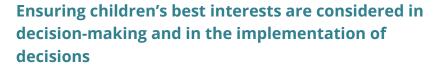
Ensuring the procedures are adapted for children

This may involve for example ensuring child friendly reporting mechanisms and adapted interview procedures such as limiting the number of interviews

undertaken with a child. It will involve ensuring child friendly settings are in place for processes such as screening, assessments and interviews. It should involve medical examinations only as necessary and use of video-recorded testimony or video links to court proceedings.

In transnational child protection cases, specific issues to be considered include:

Authorities and actors in different countries should agree and plan how cross border procedures are adapted for children. For example, if a child located in one jurisdiction needs to be examined by law enforcement officials from another jurisdiction, the two authorities should work together to assess how this can best be achieved in a way that fulfils their rights. This could include agreeing on access conditions and procedures to be used by court agencies in national child friendly settings. Equally, courts may need to consider how to use video-recorded testimony or video links provided in other countries.



Ensuring a formal best interests procedure is in place which takes a multi-disciplinary, inter-agency approach and considers the whole of their situation. The assessment of the best interests forms part of a reasoned decision. As needed, Member States will need to cooperate to ensure that the best interests of the child is considered in measures implementing decisions.

In transnational child protection cases, specific issues to be considered include:

- The whole of the child's circumstances should be assessed, and all of their rights and needs should be comprehensively addressed, including through access to services. Children may have a wide range of needs for protection and care. It is important to consider and plan, to address both the child's short-term and longer-term needs and their needs for longer term assistance, social inclusion and durable solutions.
- Achieving a multidisciplinary, child-centred approach can already be challenging in domestic cases; it is even more difficult in transnational cases. The starting point for a multidisciplinary approach in transnational cases is understanding the roles and responsibilities of actors in other countries and having the channels and tools to work with them together to fulfil these safeguards across the process.
- In best interest procedures, it will frequently be essential to involve actors from other countries, depending on the type of case involved and the issues at stake. For example, where a child may be transferred between countries, this might include confirming transfer of care and custodial arrangements, and that the child have access to particular services in another country, before a transfer decision is taken.
- Moreover, in some cases, a child may be involved in several legal or administrative proceedings. There will be a need to create connections between a series of different proceedings involving them so that they are managed in a child centred way. For example, a child whose migration status needs to be addressed may also be involved in a

trafficking investigation.

- Best interests procedures should not end with the decision-making process; it should also be ensured that decisions are implemented in a way that fulfils the rights of the child. Depending on the case, this may include close planning and cooperation between authorities and actors in different countries.
- It is critical for the child that key practical details of their situation are addressed when implementing the decision. As an example, this can include the provision of documentation on education undertaken in a host country to facilitate the ongoing education of the child in a country to which they are being transferred.
- Particular attention should be paid to continuity and stability of the support and assistance to children. As an example, this includes the ability of a child to access support to therapeutic services in one country following the closure of criminal proceedings in another country.

Summary checklist for fulfilling procedural safeguards in transnational child protection cases

- ✓ Has the child been informed in a language and way that they can understand of the transnational elements of their case?
- ✓ Does the child need and have a guardian appointed to them? Are guardians familiar with the implications of cases and steps which should be taken?
- √ Has the child received legal assistance on transnational procedures involved?
- √ Are interpreters and/or cultural mediators needed?
- ✓ What information is needed for the individual assessment of the child, from whom and how to get them? Are there existing channels of communication and cooperation between the two countries' authorities involved?
- √ What information about the child can be accessed from international databases?
- ✓ How are the child's views heard and considered by actors in different countries?
- ✓ Are the best interests of the child considered in a holistic way when taking a decision for them?

- ✓ What are the procedures in place to ensure collaboration between different actors on considering the best interests of the child where necessary?
- \checkmark Is the child properly informed of the reasons and effects of a decision?
- ✓ Does the child have access to a remedy and/or complaint in the country in which they are located or in the country in which proceedings took place? Where can they seek reparation if their rights and safeguards have not been protected during the proceeding in a transnational case? Is the child informed in a language and way that they can understand about the existence of such remedies and/or complaint mechanisms and the way they work?
- \checkmark Are the best interests of the child considered (and planned for) when implementing decisions when this involves actions in more than one country?
- ✓ Is it clear who is responsible for that? Who (what actor/authority) must follow-up and ensure that the implementation of the decisions taken for the child is child centred?

Chapter 3

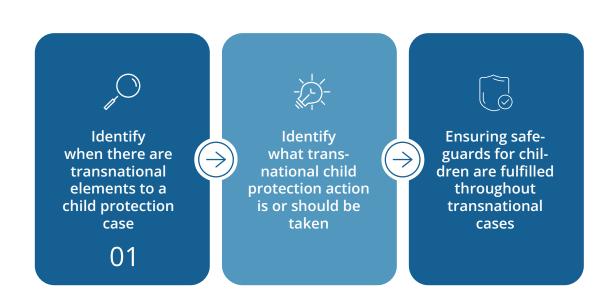
SPOTLIGHT ON SPECIFIC TRANSNATIONAL CHILD PROTECTION CASES

Different types of transnational child protection cases are significantly shaped by EU law and policy, alongside international laws. They include cases covered by the EU asylum and migration laws (children in migration), EU criminal justice instruments (child victims, suspects or accused in criminal proceedings) and the EU Brussels IIb Regulation (dealing with parental responsibility, child abduction and child protection cases).

There are also transnational child protection cases which may be covered, alongside these broad bodies of EU law, by specific EU measures, such as the EU Anti-Trafficking Directive, the EU Temporary Protection Directive (applied recently in relation to children arriving from Ukraine) or SIS alert measures (covering missing children).

This chapter explores some specific and additional considerations to how each of the steps proposed in Chapter 2 applies in these cases. It highlights key relevant EU and international laws involved, some of which have been recently adopted or reformed.

It points the reader in the direction of relevant international and European resources which assist policy makers and practitioners in fulfilling the rights of children in these cases.



3.1 UNACCOMPANIED CHILDREN FROM THIRD COUNTRIES WHO MAY BE SEEKING ASYLUM OR OTHER STATUS WITHIN THE EEA



1. IDENTIFYING TRANSNATIONAL ELEMENTS OF CASES INVOLVING UNACCOMPANIED CHILDREN FROM THIRD COUNTRIES

Children in migration, whether travelling with their parents, unaccompanied or separated, arrive in Europe for a variety of reasons. They may seek access to international protection. Within Europe, there is also an observed trend of unaccompanied and separated children who are not seeking international protection, who migrate for very diverse reasons, including family reunif cation, education or economic opportunities. This includes children who may be moving from country to country within Europe and living outside of any formal reception or care system with limited or no access to services.

At the end of 2023, it was estimated that 117.3 million persons were forcibly displaced worldwide, out of which about 40% or an estimated 47 million were children. Within Europe, the exact numbers of children on the move are not easily available.

In 2023, 254.900 first-time asylum applicants registered in EU countries were children, representing 24.3% of the total number of first-time asylum applications. Among those children, 17% were unaccompanied children, corresponding to 4.1% of the total number of first-time asylum applicants.

The transnational dimension of addressing the protection of these children is evident, given that they are outside their country of origin or

habitual residence, and since they may move or be moved between countries.

This section in particular explores the situation of unaccompanied or separated children outside their country of origin or habitual residence, as they may be at extra risk of violence, abuse, neglect or exploitation and in need of comprehensive sustainable solutions. Some of the processes discussed in this section will also apply when protecting children within families.

2. IDENTIFYING WHAT TRANSNATIONAL CHILD PROTECTION ACTION IS OR SHOULD BE INVOLVED

Transnational child protection action may be triggered at key moments including, including:

- Identification and screening: identifying the child and undertaking vulnerability assessments, with referral to proper reception and support;
- **Family tracing processes:** tracing family members in other countries and restoring family contact, where it is in the best interests of the child:
- Transfer of children between EEA countries in international protection cases: deciding on and implementing the transfer between
 Member States of a child seeking international protection in certain
 circumstances, depending on the best interests of the child;
- **Status determination procedures:** deciding on the status of the child under international protection, trafficking or national law provisions;
- **Finding comprehensive and sustainable solutions**, which should be informed by robust best interests assessments. They may lead to transfers to another country depending on the best interests of the child.

Deciding on appropriate child protection measures for children in migration may depend on gaining information from, and cooperating with, other countries with which a child may have a connection (for example, a country of origin or habitual residence, a country in which they have been present, as well as a country in which a family member, sibling or relative resides). It will depend on having access to effective channels and processes for relevant information, as well as access to international resources (such as country of origin information notices) and international databases.

Important note!

Where a child is seeking international protection from their country of origin, any transnational requests to authorities or organisations in the country of origin will be inappropriate where they pose a danger to the child or their families.

Points to consider in these processes

Identification and screening: steps at first encounter

National authorities in an EEA State may encounter children when they seek to enter the country at land, sea or air borders. They may also encounter third country national children living in an irregular situation in Europe. These children may be living on the streets. They may be involved in petty crime. Some children may be in the hands of traffickers or at risk of trafficking.

One of the first steps involved in identifying children who may be seeking asylum or who have migrated irregularly will involve capturing and recording biometric data, such as fingerprints and, post the 2024 reform of the Common European Asylum System, facial images. Biometric data will be stored in the Eurodac database which may be consulted by relevant authorities in EU Member States for specific purposes.

Authorities should establish the identity of individuals and determine whether an individual is a child, where they do not have official

documents. Authorities should also establish the relationship of the child to any persons with whom they are or appear to be travelling. This may involve seeking information or documentation from other countries, such as verifying a document showing that the adult is a family member or which purports to assign parental responsibility for a child to another accompanying adult.

Age assessment procedures are critical elements of the identif cation procedure, as there is much at stake for the individual involved. A guardian should be appointed to all persons who are presumed to be unaccompanied children, including for the purposes of any age assessment process. Where there is a doubt as to the age of a child, it may be necessary to attempt to obtain documentation or other circumstantial evidence from another country concerning the age of the child, to make a determination or assessment as to the age of the child. Where there is a doubt as to the age of the child, international law provides for the beneft of the doubt to be accorded to the individual and for them to beneft from the safeguards and reception conditions provided to children.¹⁸

The EUAA Practical Guide on Age Assessment [under revision, 2025] provides that "... authorities must first examine any existing evidence, including statements and relevant indications, before deciding whether it is necessary to undertake further assessment. Therefore, authorities are compelled to take a proactive approach to gathering and analysing all the existing evidence at their disposal. This includes not only the person's documents but also information from other family members who may have information and proof of age of the person (e.g. an older sibling with documentation proving his or her age), other databases, etc. This information should be gathered under the condition that the applicant or his or her family are not put at risk."

Under the EU Screening Regulation, an unaccompanied child who is assessed to be a threat to public security may exceptionally be channelled into the border procedures and potentially be subject to detention. Such a security concern may be assessed, inter alia, based on

¹⁸ This provision is set out in international guidance and set out in various laws. For example, Article 10.3 of the Council of Europe Convention on Action against Trafficking in Human Beings states: "When the age of the victim is uncertain and there are reasons to believe that the victim is a child, he or she shall be presumed to be a child and shall be accorded special protection measures pending verification of his/her age."

information contained in relevant EU databases, in particular Eurodac and ECRIS. State actors should be cautious in their assessment of security risks, given that these databases may capture incidents that in fact reveal a need for protection from violence, abuse, neglect of exploitation of these children and do not give rise to a public security concern on the part of the child (for example, where children are being exploited in criminal activities). Authorities should seek additional information concerning the child's situation from relevant actors in other countries, including for example former guardians in other countries.



See Accompanying Tool, for further information on <u>Eurodac</u>, <u>ECRIS</u> and the <u>EUAA Practical Guide on Age Assessment</u>.

Family tracing procedures

Where a child is travelling alone or separated from an adult who has primary responsibility for them, States are under an obligation under international law to trace family members. They should do this for the purpose of restoring family links and to ensure family reunification where this is in the best interests of the child. Trying to locate family members in other countries may involve seeking assistance from international organisations such as the International Red Cross. It may involve interrogating databases in other countries, or using online platforms set up to allow persons register as searching for family members.

Once family members are located in another country, a best interests assessment should inform whether it is in the child's best interest to restore contact with the family member. A further step may involve transferring the child to another country in which family members reside unless it is not in their best interest. Where other relatives are involved, under EU law, authorities must assess their circumstances to ensure that they can take care of the child. Furthermore, when a child has been granted international protection, the child may seek the reunification of family members with them in the host country.

Currently, family tracing and family reunification/unity procedures are often underutilised or started too late and can sometimes take many months to be implemented. Concerted efforts should be made to speed

up family reunification procedures, prioritising unaccompanied and separated children.



See Accompanying Tool, for further information on <u>EUAA Family Tracing</u> <u>Guidance</u>, currently under revision.

Transfers of children seeking international protection between EEA countries

In some cases, the question of transfers of unaccompanied children within the EEA may be raised. This may occur when a country experiences significant pressure in receiving asylum seekers and a relocation process to another country is triggered. In some cases, families with children may be transferred under such relocation processes to another country. In cases where a child is seeking international protection, the question may arise as to whether the case should be heard in another EEA country other than the country in which the child is located. As noted above, this could occur if it becomes apparent that they have family members or relatives in another country. It could also arise if children travelled independently from a country where they first applied for international protection. National authorities should then examine whether it is in their best interests to return to that country of first application or whether the child's case should be heard in the country in which they are present.

Where children are transferred across borders within the European Union, close cooperation between the authorities responsible for the child's wellbeing in each Member State is essential and Member States should make full use of existing cooperation channels, for example through Central Authorities provided for in the Brussels IIb Regulation (see 3.3 below).

Cooperation between States under EU Asylum and Migration Management Regulation (Regulation 2024/1351).

Article 23 (4) provides that "In assessing the best interests of the child,

Member States shall closely cooperate with each other..." Article 23 (5) provides that "Before transferring an unaccompanied minor, the transferring Member State shall notify the Member State responsible or the Member State of relocation, which shall confirm that all appropriate measures referred to in Articles 16 and 27 of Directive (EU) 2024/1346 and Article 23 of Regulation (EU) 2024/1348 will be taken without delay, including the appointment of a representative in the Member State responsible or the Member State of relocation. Any decision to transfer an unaccompanied minor shall be preceded by an individual assessment of the best interests of the child..."

Conducting status determination procedures

Children in migration will need access to the right procedures to address their status, whether this be international protection procedures or other forms of national humanitarian protection or residence procedures. They may be the subject of procedures concerning their return to a country of origin or habitual residence, where this is determined to be in their best interests.

Information on both the specific circumstances of the child (in the host country and as regards relevant circumstances in the country of return) will need to be examined carefully. General information on relevant circumstances, including the availability of services for children such as education and medical services, as well as child protection services, in relation to a country of return may be available from regional resources such as Country of Origin information produced by EUAA, UNHCR or others.



See Accompanying Tool for further information on country of origin information, including the <u>methodology</u> developed by UNICEF for compiling Child Notices, intended to assist decision makers by providing child specific country of origin information analysis.

Finding comprehensive and sustainable solutions for unaccompanied children

Ultimately States must find comprehensive and sustainable solutions for children, which can provide them with a stable life. Depending on the

child's situation, their protection needs, and in line with EU and national laws, this might involve local integration in the country in which the child is present, it may involve transfer to another country, for example for family reunification purposes or it may involve return to the country of origin or habitual residence of the child. Any decision on this issue depends on a best interests procedure informed by as complete a picture as possible of the child's situation and the situation in any other countries involved. It will typically involve a home study of any person to whom care and custodial responsibilities might be transferred. Implementing the decision should rely on joint preparation by authorities in different countries of the transfer of care and custodial responsibilities and tailored integration support.



See Accompanying tool on relevant resources relating to best interests procedures, including Joint General Comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the General Principles Regarding the Human Rights.

The HCCH 1996 Child Protection Convention may prove a useful instrument for the decision making and cooperation on transfer of care and custodial measures for a child, as well as any necessary protection measures, between signatory States.



See Accompanying tool for further information, including the <u>Application</u> of the 1996 Child Protection Convention to Unaccompanied and Separated Children. This document deals with the application of the *Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children in cross-border situations involving children who are unaccompanied or separated.*

3. FULFILLING THE SAFEGUARDS FOR CHILDREN – COMPLEMENTARY POINTS

This section provides reflections and resources as regards fulfilling the safeguards described in chapter 2 as they apply in relation to unaccompanied children in migration.

Information, support & assistance

See Chapter 2

Information

Information should be provided to children on procedures with a transnational dimension, including family tracing, possible transfers between States and the need to receive information on their circumstances in relevant countries.

The Asylum and Migration Management Regulation provides that the EUAA shall, in close cooperation with the responsible national authorities, draw common information material, as well as specific information for unaccompanied minors and vulnerable applicants, where necessary for applicants with specific reception or procedural needs,That common information material shall also include information regarding the application of Regulation (EU) 2024/1358 and, in particular, the purpose for which the data of an applicant may be processed within Eurodac. The common information material shall be drawn up in such a manner as to enable Member States to complete it with additional Member State-specific information. It also provides that where the applicant is a minor, the information referred to in Article 19 shall be provided in a child-friendly manner by appropriately trained staff and in the presence of the applicant's representative (Article 20).

The Regulation indicates that right to information includes information on any assistance that the Member State can offer regarding the tracing of family members or relatives as well as information on national, international or other relevant organisations that are able to facilitate the identification and tracing of family members (Article 19).



Support and assistance

• Guardians will be effective safeguards if they are properly trained and resourced to assist children in transnational procedures, for example, to be able to support an unaccompanied child in obtaining relevant information from family members or relatives in other countries for the different procedures. Where a child has moved or is moving between countries, guardians should also be facilitated in contacts with former or future guardians of the child in another country. Cross border contacts between guardians and guardianship organisations in different EEA States should be further supported, including through the work of the European Guardianship Network.



See Accompanying Tool on guardianship resources including on the <u>European Guardianship Network (EGN)</u>. The EGN is a network of guardianship authorities and agencies, (local) authorities and international and non-governmental organisations, that aims to promote guardianship and improve guardianship services for unaccompanied and separated children in the EU Member States by exchanging good practices, expertise and other relevant information and sharing ideas and cooperation on common challenges, including in cross border work.

 Children and guardians need access to legal assistance and support services that can assist in cross border cases. As noted in chapter 2, in situations where the child's protection needs may be affected by several proceedings, the Involvement of the same guardian and/or legal assistance provider for the child in all the relevant procedures involved may be important. In cross border cases, guardians and legal advisors in one country should be facilitated to liaise with their peers in another country.



For further reflections and good practice on legal assistance in cross border transfers of unaccompanied children, see Accompanying Tool on the report Stepping Stones to Safety – Child Circle KIND.

Interpreters

Relevant EU instruments provides for interpreters to be involved, see for example the Asylum and Migration Management Regulation which notes "Where necessary, an interpreter who is able to ensure appropriate communication between the applicant and

the person conducting the personal interview shall be provided. The presence of a cultural mediator may be provided during the personal interview." (Article 22 (4).)



Read more in the Accompanying Tool and <u>Practical Guide on Interpretation in the Asylum Procedure | European Union Agency for Asylum.</u>

Cultural mediators

The European Migration Network (EMN) describes cultural mediators, in the migration context, as a professional who facilitates the communication (including interpretation) between people speaking different languages and coming from different cultural backgrounds.



Read more in the Accompanying Tool on training for cultural mediators.



See Chapter 2

When encountering an unaccompanied child, authorities should engage in an immediate vulnerability assessment

to determine what measures may be needed to protect the child from risk of harm or address any violence that they have endured. Depending on the child's situation, this may depend on obtaining information from another country, where possible, for example, on the child's medical history, on violence or harm that they have suffered. The vulnerability assessment forms an important first part of the best interests procedure which should inform all actions in relation to the child.

For individual assessments, see Guidance on Reception on Unaccompanied Minors: <u>Vulnerability of unaccompanied children | European Union Agency for Asylum.</u>



Access to appropriate services for protection See Chapter 2

Unaccompanied children should access the sevices they need for protection.



For further information see the <u>Commission Communication</u> on the protection of children in migration. See also <u>EUAA Guidance on reception conditions</u> for unaccompanied children, 2018, noted in the Accompanying Tool.

Right to be heard

See Chapter 2

The right of children to be heard is well recognized in the EU Asylum and Migration instruments and is emphasised in the EUAA's Practical Guide on the best interests of the child in asylum procedures.



- The need for adapted procedures is well recognized in EU Asylum and Migration instruments, including the
- fact that Interviews of unaccompanied and, where applicable, accompanied minors in relation to procedures such as transfers between countries "shall be conducted by a person who has the necessary knowledge of the rights and special needs of minors, in a child-sensitive and context-appropriate manner, taking into consideration the age and maturity of the minor, in the presence of the representative and, where applicable, the minor's legal adviser". Article 22(4) of the Asylum and Migration Management Regulation).
- The EUAA Practical Guide (under revision) emphasises that the child has a right to express their views and opinions, either personally or via a guardian/ representative. The child must be interviewed/heard as part of assessing the BIC, if feasible and recommendable in their individual circumstances (i.e. children with disabilities, children unable to communicate). The child's best interests should be taken into account when deciding whether and how to interview the child during the asylum procedure.

It notes specifically:

- a. Any interviews should always be conducted in a safe, confidential, comfortable and child-friendly environment at appropriate locations that help to build trust with the child.
- b. The length of any interview, avoiding repeat interviews, and the possibility of omitting interviews, when in line with the BIC and circumstances of each child, should be considered.

- c. The child should feel at ease. The competent officer and interpreter should be as informal as possible.
- d. Information should be given in a straightforward and clear way. Understanding needs to be checked.
- e. If possible, the child could be asked whether they desire that the official and the interpreter be male or female. Depending on the background of the child, e.g. a boy who is a survivor of sexual abuse by a man, it might be that they choose someone from the opposite sex.
- f. Expert interviewers should be sought to use alternative interview methods and provide counselling where needed i.e. trauma, post-traumatic stress disorder (PTSD).
- g. The officials and interpreters are bound by confidentiality, the concept and rules of which should also be explained to the child.
- h. The child and guardian should be informed of the purpose of any interview and who will have access to the interview transcript.

Best interests procedures

See Chapter 2

The importance of a robust best interests procedure concerning decisions relating to unaccompanied children in migration is emphasised by European Court of Justice (Case C-441/19, TQ case) which dealt with the application of the Return Directive and which notes that:

"... only by carrying out a general and in-depth assessment of the situation of the unaccompanied minor in question is it possible to determine the 'best interests of the child' and to issue a decision which complies with the requirements under Directive 2008/115." (See point 46 of the TQ judgment of the ECJ.)



See Accompanying Tool and in particular, the <u>EUAA Practical guide on the best interests</u> of the child in asylum procedures on the Best Interests of the Child (under revision); as well as the <u>Guidance to respect children's rights in return policies and practices: Focus on the EU legal framework</u>, by UNICEF, OCHCR, IOM, Save the Children, ECRE, PICUM, Child Circle.

Key relevant laws

EU legal instruments for child protection in asylum and migration

Eurodac Regulation, 2024

Screening Regulation, 2024

Reception Directive, 2024

Asylum and Migration Management Regulation, 2024

Asylum Procedures Regulation, 2024

Asylum Qualifications Regulation, 2024

Return Directive, 2008

3.2 CRIMINAL JUSTICE CASES IN ANOTHER JURISDICTION WHERE CHILDREN ARE VICTIMS AND/OR WITNESSES, AND ACCUSED OR SUSPECTS

1. IDENTIFYING TRANSNATIONAL ELE-MENTS OF CRIMINAL CASES INVOLVING CHILDREN

In criminal cases, whether a child is a victim or a suspect/accused, any risks or protection needs should be addressed during the procedure and/or after it, including through access to necessary support and services.

Child victims may be at risk of secondary and repeat victimisation, and of intimidation and of retaliation including the risk of physical emotional or psychological harm. They may need access to therapeutic services to address the harm suffered.

A child who is a suspect or accused of a crime may themselves have experienced abuse, violence, neglect or exploitation. Authorities should assess their needs for special measures, during the criminal proceedings, the extent of their criminal responsibility and the appropriateness of a particular penalty or educative measures.

EU laws, in particular, the Victims' Rights Directive and the Child Procedural Safeguards Directive, oblige States to consider the child's need for protection during proceedings, whether they are victims or suspects and accused. Of note, all victims are entitled to the rights outlined in the Victims Rights Directive, regardless of their legal residency status. This ensures that anyone, regardless of where they come from (thus including undocumented migrants, tourists, and whoever finds themselves in a country that is not their own) has access to information, legal aid, compensation, victim support services, and all the rights enshrined in the Victims' Rights Directive. The Child Procedural Safeguards Directive also

provides that Member States should respect and guarantee the rights set out within it without any discrimination, based on any ground.

Criminal cases involving children which have a transnational dimension may trigger the need for cooperation between stakeholders in different countries on special measures for these child protection needs.

Sometimes a transnational dimension arises where the child has been a victim of a crime in another country, or where the perpetrator is in another country, as may happen in some cases where the crime takes place online. A transnational aspect to a child victim's situation may arise where the child is victim of trafficking, and they find themselves outside their country of origin or habitual residence (see also section 3.4 on child trafficking). A child may become a victim of crime when visiting another country. Equally where criminal proceedings are transferred to another country a transnational dimension automatically arises, and the child victim should continue to have access to appropriate assistance and support in their own country.

The case of a child who is a suspect or accused in a criminal case will take on a transnational aspect where the child from another country is being investigated/tried in the host country. Equally, transnational cases arise where the child suspect/accused might be investigated by a foreign jurisdiction, or where there may be a request to transfer a criminal case involving a child to another country. In some cases, a child who is suspect or accused of a crime may also be involved in a proceeding to determine their migration status (see section 3.1 on children in migration).

In all these instances, it is of paramount importance to identify quickly that a case has a transnational dimension. The first contact with the child – victims, suspects or accused – be it the police, prosecution or child protection professionals, depending on the jurisdiction – should be able to collect enough information from the child to understand if they come from abroad and their general circumstances. In cases where a child is located in a jurisdiction other than the one in which the criminal proceedings are taking place, it is important to ensure that information on the proceedings is available to authorities in the country where the child is present so that their protection rights are fulfilled by local services.



2. IDENTIFYING WHAT TRANSNATIONAL CHILD PROTECTION ACTION MIGHT BE, OR SHOULD BE, INVOLVED

Child victims

Transnational child protection actions concerning a child victim may be triggered when:

- Reporting a crime
- Requesting or providing information on the child
- Giving an opinion in the transfer of criminal proceeding from one country to another
- Taking evidence and hearing the views of a child during the criminal proceedings and in relation to any child protection measures needed
- Seeking compensation in another jurisdiction
- Applying a European Protection Order

Points to consider in these processes

Reporting a crime

When they are outside their country of origin or habitual residence, information needs to be available and understood by child victims on how and to whom to report the crime, usually thanks to the support and care of their parents or legal guardians. Reporting of a crime is crucial, as delays in the initiation of proceedings can lead to ongoing abuse and can result in the lack of immediate protective measures.

There are provisions for children to report crime which took place in another country to the authorities in the country in which they reside. Victims have the right to file a complaint in their country of residence "if they are unable to do so in the Member State where the criminal offence was committed or, in the event of a serious offence, as determined by national law of that Member State, if they do not wish to do so". (Article. 17 of the Victims' Rights Directive.) In such cases, the authorities receiving the complaint must promptly forward it to the relevant authorities in the country where the offence was committed, ensuring that the case is properly handled.

Recital 51 of the Victims Rights Directive notes that "If the victim has left the territory of the Member State where the criminal offence was committed, that Member State should no longer be obliged to provide assistance, support and protection except for what is directly related to any criminal proceedings it is conducting regarding the criminal offence concerned, such as special protection measures during court proceedings. The Member State of the victim's residence should provide assistance, support and protection required for the victim's need to recover."

In a situation where a victim of a crime is resident in a Member State other than that where the criminal offence was committed – and thus other than where the proceeding is taking place – the Victims' Rights Directive aims to ensure that they face minimal obstacles in accessing justice (Article.17) and provides that the authority with whom they have their first contact provides them with information on how to access their rights.

Requesting or providing information on the child, during the criminal proceedings and in relation to any child protection measures needed

Authorities in countries may need to request or provide information to authorities in other countries about the child victim and/or their family for the purposes of the criminal proceedings and in relation to any child protection measures needed. (See individual assessments in step 3 below.)

Taking evidence or hearing the views of the child

Authorities in different countries may also need to cooperate in relation to taking evidence from a child or hearing the views of a child. (See adapted procedures in step 3 below).

Giving an opinion on the transfer of a criminal case

There are cases in which it may not be immediately clear which Member State has or will exercise jurisdiction to initiate and investigate the crime, especially if it involves cybercrimes (such as online sexual abuse) or trafficking, which crosses multiple borders and may involve victims or offenders from and in different countries.

The authorities in one country may consider that the proceeding should be transferred to or from their country to ensure a more efficient administration of justice, either because the suspect, the evidence, the victims and/or the impact of the crime are in the country other than another country in which proceedings started. Regulation (EU) 2024/3011 on the transfer of proceedings in criminal matters establishes a clear process for transferring criminal proceedings between EU Member States when these circumstances occur. It provides that, when considering whether to request the transfer of a criminal proceeding, a country should take into account if one or more victims are nationals of or residents in the State where the proceeding is requested to be transferred, and "due account shall be taken of child victims and other vulnerable groups" (Article. 5). Articles 6 and 7 provide that before a request for transfer of criminal proceedings is issued, the requesting authority shall, in accordance with the applicable national law, give due consideration to the legitimate interests of the suspect or accused person, and to the legitimate interest of the victim, including restorative justice considerations. Throughout this process of decision-making on a transfer, both the suspect and the victim need to be kept informed and have the right to express their views, and they may challenge the decision to transfer the case.

Seeking compensation

Child victims of a crime in a country where they do not reside may find barriers in accessing compensation and restorative justice services. Both these entitlements are provided in the Victims' Directive, where "The right to a decision on compensation from the offender and the relevant applicable procedure should also apply to victims resident in a Member State other than the Member State where the criminal offence was committed" (recital 49), and the right to decision on compensation from the offender in the course of criminal proceedings is provided for all victims at Article 16. The Victims' Directive covers a wide range of rights for all victims of crime and emphasises the victim's right to seek compensation directly from the perpetrator as part of criminal proceedings. Furthermore, Directive 2004/80/EC on compensation for crime victims – which focuses specifically on the right of victims of violent intentional crimes – requires all EU countries to have a national compensation scheme for victims of violent intentional crimes and encourages members states to establish specific mechanisms to ensure that any victim, from any country, can

claim compensation in their country of residence even if the crime occurred in another country.

Together with the right to seek compensation, the Victims' Directive explicitly encourages the use of restorative justice, providing that "[...] such measures shall ensure that victims who choose to participate in restorative justice processes have access to safe and competent restorative justice services" (Article 12).

The realisation in practice of these provisions on compensation and on restorative justice may encounter multiple linguistic, cultural, and practical barriers. Some jurisdictions offer access to restorative justice responses, including for children, but this is not yet uniformly offered across EU countries.

Applying a European Protection Order

Victims of violence or harassment can receive legal protection from national authorities, such as restraining orders, to prevent further harm from an offender. If a victim has been granted such a protection order in one EU Member State and later moves or travels to another, they may need that protection to continue. To address this, the EU has established a system that ensures protection orders are recognized across its Member States in the European Protection Order.¹⁹ A European protection order (EPO) means a decision, taken by a judicial or equivalent authority of a Member State in relation to a protection measure, on the basis of which a judicial or equivalent authority of another Member State takes any appropriate measure or measures under its own national law with a view to continuing the protection of the protected person. A 'protection measure' means a decision in criminal matters adopted in the issuing State in accordance with its national law and procedures by which one or more of the prohibitions or restrictions referred to in Article 5 are imposed on a person causing danger in order to protect a person against a criminal act which may endanger their life, physical or psychological integrity, dignity, personal liberty or sexual integrity.

¹⁹ Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order.

In the procedures for the issuing and recognition of a European protection order, competent authorities should give appropriate consideration to the needs of victims, including particularly vulnerable persons, such as children.

Since different countries have different legal systems, the EU created two separate legal mechanisms to cover the most common types of protective measures. These orders typically prohibit an offender from making contact with the victim, approaching them, or entering certain places. When a protection order is issued under criminal law, the victim can request an EPO under Directive 2011/99/EU. For protection orders based on civil law – such as those issued by family courts – a victim can rely on Regulation (EU) No. 606/2013 on mutual recognition of protection measures in civil matters, which enables civil protection orders to be recognised in another EU country without additional legal steps.

Children who are accused or suspected of a crime

Actions around transnational child protection concerning a child suspect or accused may be triggered when:

- Requesting or providing information on the child,
- Taking evidence and hearing the views of a child, during the criminal proceedings and in relation to any child protection measures needed
- Applying the European Arrest Warrant to a child
- Giving an opinion in the transfer of criminal proceeding from one country to another country
- Sentencing & possible transfer between countries post sentencing

Points to consider in these processes

Requesting or providing information on the child

Authorities in countries may need to request or provide information to authorities in other countries on the situation of the child suspect or accused for the purposes of the criminal proceedings and in relation to any child protection measures needed (See individual assessments in step 3 below).

Taking evidence and hearing the views of a child, during the criminal proceedings and in relation to any child protection measures needed

Authorities may also need to cooperate in relation to taking evidence from a child or hearing the views of a child (See adapted procedures in step 3 below).

Applying the European Arrest Warrant to a child

The European Arrest warrant (EAW), established under the Framework Decision on the EAW²⁰, is a legal order from one EU country requesting another EU country to arrest and hand over a person (accused or convicted for a crime). This can be done either to conduct the trial or to execute a sentence they have already received. The EAW can be applied also to children as long as they are above the age of criminal responsibility in the State executing the EAW. One of the mandatory grounds for refusal to execute an EAW is if the individual concerned is below the age of criminal responsibility in the executing Member State (Article 3, Framework Decision 2002/584/JHA). This means that if a person has not reached the legal age at which they can be held criminally liable in the country being asked to surrender them, the authorities in that country must refuse the request."21 The age of criminal responsibility varies significantly across EU Member States, leading to differences in how EAW requests involving children are handled. While the Framework Decision mandates refusal in such cases, it does not provide detailed procedures for handling EAW involving children, and national laws govern the procedures for issuing an EAW.

Beyond the mandatory and optional grounds for refusing to surrender the requested person contained in the EAW framework decision, the CJEU has clarified that, in principle, Member States are not allowed to invoke other reasons for not executing an EAW. Nevertheless, the CJEU has ruled

²⁰ Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.

²¹ The application of the EAW to children has been addressed by the Court of Justice of the European Union (CJEU). In its case law, the CJEU has emphasised that the execution of an EAW involving a child must consider the age of criminal responsibility in the executing Member State, without additional assessments of the individual's personal circumstances: "The executing authorities simply need to verify the minimum age requirement for being held criminally responsible in the executing State for the acts on which the EAW is based. Any additional conditions relating to an assessment of the individual cannot be considered." 2018, CJEU Sets Conditions for Surrender of Minors: https://eucrim.eu/news/cjeu-sets-conditions-surrender-minors/.

that, exceptionally, the execution of an EAW should not proceed if fundamental rights issues, such as freedom from inhuman or degrading treatment and right to a fair trial, are at stake.²² According to FRA's research, besides the grounds for refusal listed in the EAW framework decision, some states refer to additional factors in their laws, such as for example "in Finland, humanitarian concerns (e.g. the individual situation of a requested person, including their health and age) are a relevant factor; and the age of the requested person (whether or not they are a minor) is to be taken into account in Luxembourg and Malta"²³.

The application of the EAW with children is included in the Child Procedural Safeguards Directive.²⁴ This means that children who are subjected to the EAW are entitled to all rights and protection provided in it, and all the safeguards presented in this Guidance.

Transfer of a criminal case to another jurisdiction

The safeguards and protection for child suspects or accused of a crime might need specific attention in the case where a criminal proceeding is transferred from one country to another. As noted above, the Regulation on Transfer of Criminal Proceedings (2024) provides a framework for transferring cases and leaves a certain discretion to the assessment, case by case, of the possibility to transfer a case – including when there is a child suspect or accused involved. A request for transfer of criminal proceedings may only be issued where the requesting authority deems that the objective of an efficient and proper administration of justice, including proportionality, would be better served by conducting the relevant criminal proceedings in another Member State (Article 5.). The Regulation specifically highlights the need to consider vulnerable suspects. It should be carefully examined, in the case of children, whether there is a conflict

^{22 2024,} FRA, European Arrest Warrant proceedings: Room for improvement to guarantee rights in practice, p. 25.

The EAW framework decision includes lists of mandatory and optional grounds on which the executing judicial authority should or may refuse to surrender the requested person (Articles 3 and 4). The CJEU has clarified that, in principle, Member States are not allowed to invoke other reasons for not executing an EAW, and a potential violation of the fundamental rights of the requested person is not listed as a ground for refusal to execute an EAW. Nevertheless, the CJEU has ruled that, exceptionally, the execution of an EAW should not proceed if fundamental rights issues, such as freedom from inhuman or degrading treatment and right to a fair trial, are at stake", 2024, FRA, European Arrest Warrant proceedings: Room for improvement to guarantee rights in practice, p. 25.

²⁴ Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

between the "efficient and proper administration of justice" and their bests interests. Throughout this process of decision-making on a transfer, both the suspect and the victim need to be kept informed and have the right to express their views, and they may challenge the decision to transfer the case. The Regulation emphasises however as well that its provisions do not affect procedural rights as enshrined in the Child Procedural Safeguards Directive, where the best interest of the child is a core principle to consider in all decisions that affect the child.

Sentencing & possible transfer between countries post sentencing

If the child is found guilty and convicted, the court should ensure that sentencing takes into account the child's age, level of maturity, and best interests, as mandated by international standards, regardless of the country where the sentencing happens (CRC article 40 and General Comment No. 24 (2019) on children's rights in the child justice system). The sentencing might thus be informed by the individual assessment of the child circumstances, and protection measures should be taken into consideration and addressed when a decision is made.

Under EU law, persons convicted of crimes may also be subjected to be transferred between countries, if it serves the purpose of facilitating the social rehabilitation of the sentenced person. There are also occurs with the consent of the sentenced person. There are also situations where the request for a transfer may be done without their consent, including where it is to the Member State of nationality in which the sentenced person lives. In all cases, the sentenced person shall be given an opportunity to express their opinion orally or in writing, Where the country making the transfer considers it necessary in view of the sentenced person's age or physical or mental condition, their legal representative shall be given an opportunity to state an opinion.

According to FRA's research findings, some States have put in place additional specific safeguards. For example, in Belgium and Spain, laws

The Council Framework Decision 2008/909/JHA on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty. Other related acts include the Framework Decision on probation and alternative sanctions (Council Framework Decision 2008/947/JHA), and the Framework Decision on the European Supervision Order (ESO) (Council Framework Decision 2009/829/JHA).

implementing the Framework Decisions provide for mandatory legal representation for children and people with mental disorders. In others, like Croatia and France, legal guardians must be present, or in Italy, children cannot be transferred at all.²⁶

In the specific cases of children, it will be important to consider how rehabilitation addresses their protection needs by providing individualised programmes of care, environments safe from violence, psychological support, education, and legal safeguards, in compliance with international standards on the administration of child justice.

The sentencing practices for children who are convicted of a crime is very diverse across countries. Some jurisdictions in the EU may emphasise rehabilitation, while others focus on punitive measures. Some countries may lack child-specific rehabilitation programs, which makes transferring the child back to their home country for rehabilitation may be made more complicated. Children can be subjected to cross-border transfer processes with which professionals are not often acquainted, and it may be difficult to ascertain if the transfer is in the best interest of the child or may create protection risks for the child.

^{26 2016,} FRA, Criminal detention and alternatives: fundamental rights aspects in EU cross-border transfers, p.72.

3. FULFILLING THE SAFEGUARDS FOR CHILDREN – COMPLEMENTARY POINTS

This section provides reflections and resources as regards fulfilling the safeguards described in chapter 2 as they apply in relation to children in criminal procedures on during these transnational actions.



Information, support & assistanceSee Chapter 2

- When a child finds themselves involved in a criminal proceeding – either as a victim, suspect or accused of a crime – their right to be appropriately informed, in a language they can understand, and their rights to be supported and assisted are provided by the two core Directives (2012/29 and 2016/800).
- Victims who do not speak or understand the language of the country
 where the offence occurred shall be given the appropriate means and
 the linguistic support necessary to go through the process. Throughout the proceeding, competent authorities shall provide the victims
 with the necessary interpretation services during interviews and questioning, and translation of all key documents and decisions should be
 provided to the victims who speak a language different from the one
 in which the proceeding is held (Article 7, Victims Rights Directive).

Right to receive information from the first contact with a competent authority – Article 4 Victims' Directive

- 1. Member States shall ensure that victims are offered the following information, without unnecessary delay, from their first contact with a competent authority in order to enable them to access the rights set out in this Directive:
- a) the type of support they can obtain and from whom, including, where relevant, basic information about access to medical support, any specialist support, including psychological support, and alternative accommodation;
- b) the procedures for making complaints with regard to a criminal offence and their role in connection with such procedures;
- c) how and under what conditions they can obtain protection, including

protection measures;

- d) how and under what conditions they can access legal advice, legal aid and any other sort of advice;
- e) how and under what conditions they can access compensation;
- f) how and under what conditions they are entitled to interpretation and translation;
- g) if they are resident in a Member State other than that where the criminal offence was committed, any special measures, procedures or arrangements, which are available to protect their interests in the Member State where the first contact with the competent authority is made;
- h) the available procedures for making complaints where their rights are not respected by the competent authority operating within the context of criminal proceedings;
- i) the contact details for communications about their case;
- j) the available restorative justice services;
- k) how and under what conditions expenses incurred as a result of their participation in the criminal proceedings can be reimbursed.
- 2. The extent or detail of information referred to in paragraph 1 may vary depending on the specific needs and personal circumstances of the victim and the type or nature of the crime. Additional details may also be provided at later stages depending on the needs of the victim and the relevance, at each stage of proceedings, of such details.
- The EU "Roadmap for strengthening the procedural rights of suspected or accused persons in criminal proceedings"²⁷ addressed the series of Directives providing safeguards to suspects and accused, and collectively they ensure that children who are suspects or accused persons shall see their right to be appropriately informed, to be assisted by a lawyer, to understand and to be able to communicate in a language they understand, fully respected throughout the

²⁷ Apart from the Child Procedural Safeguards Directive, the Roadmap focuses on four other Directives concern the right to translation and interpretation (2010/64/EU), the right to information on rights and information about the charges (2012/13/EU), the right to legal assistance and the right to communicate with relatives, employers and consular authorities (2013/48/EU), and specific safeguards for the presumption of innocence (2016/343).

criminal proceeding, and including when they are requested persons in an EAW or their proceeding is transferred in a country other than their own.

Individual assessment

See Chapter 2

Both Directives, on procedural safeguards for children who are suspect or accused person in criminal proceeding, and on victims' rights, give prominence to the right to an individual assessment as it leads the way for the enjoyment of all other rights (Victims Rights Directive, Article 22, Child Procedural Safeguards Directive, Article 7). For child victims in cross-border cases, Member States shall minimise any challenges faced when the victim is resident in another Member State, and "the competent authority to which the victim makes a complaint should transmit it without delay to the competent authority of the Member State in which the criminal of ence was committed, if the competence to institute the proceedings has not been exercised by the Member State in which the complaint was made" (Article 17, Victims Rights Directive). These provisions would ensure a prompt and smooth cooperation be- tween countries, to initiate the proceeding without undue delays. Individ- ual assessments should ideally be multidisciplinary in their nature. ²⁸This means that social workers, child protection services, child welfare and health professionals, including doctors and psychologists, as well as law enforcement professionals, prosecutors and defence lawyers, might be involved in criminal cases for the child's individual assessment and to as- sess their best interests. In cross-border cases, they should be equipped to be involved in seeking and sharing between States the information that are necessary to assess the circumstances of the child and identify appropriate measures for protection, assistance and support.



See the Accompanying Tool and note that for inspiration on individual assessments the "FOCUS Standards": a set of 10 quality standards were created for the development and application of individual assessment processes. These were created in the context of the EU-funded project "FOCUS: Working together for children in criminal proceedings", a two-year project implemented

Article 7(7) Directive 2016/800: "Individual assessments shall be carried out with the close involvement of the child. They shall be carried out by qualified personnel, following, as far as possible, a multidisciplinary approach and involving, where appropriate, the holder of parental responsibility, or another appropriate adult as referred to in Articles 5 and 15, and/or a specialised professional."

by Terre des Hommes in cooperation with partners in Bulgaria, Greece, Romania, Serbia and The Netherlands.



Access to appropriate services for protection See Chapter 2

- Specifically with regard to cross-border cooperation and exchange of information between authorities from
- different Member States, "Member States shall take appropriate action to facilitate cooperation between Member States to improve the access of victims to the rights set out in this Directive and under national law. Such cooperation shall be aimed at least at: (a) the exchange of best practices; (b) consultation in individual cases; and (c) assistance to European networks directly relevant to victims' rights. (Article 26, Victims Rights)
- When the criminal proceeding which involves the child as a victim takes place in a country different from the one they are originally from, it is important that the child protection system where they find themselves is informed of the transnational dimension of the case and continues ensuring all appropriate safeguards, providing adequate health care and access to support services.
- Wherever the crime was committed in the EU a victim should be able to get in contact with the national victims' support organisation, who can support in finding the victims' support organisation and services in another country. The number 116 006 for helplines for victim support is also available in some countries (Austria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Ireland, Latvia, the Netherlands, Portugal, and Sweden). It provides information on the nearest victim support service, including specialised services, like support centres for migrant victims or for tourists. The 116 006 helpline supports crime victims by providing information about their rights and how to exercise them, offering emotional assistance, and directing them to relevant support organizations. As a central point of contact, it offers guidance on local police procedures, the criminal justice system, options for compensation and insurance, and other available victim support services.²⁹

²⁹ Victim Support Europe, "Help for victims" section of the website – Info for cross-border victims at https://victim-support.eu/help-for-victims/info-on-specific-types-of-victims/cross-border-victims/#:~:text=If%20 you%20wish%20to%20speak,you%20wish%20to%20do%20so.

• As the laws provides, in transnational cases, "states should ensure that, where relevant for the safety of the victim, the competent authorities inform victims of the possibility to apply for emergency barring orders, restraining orders or protection orders and of the possibility to seek cross-border recognition of protection orders pursuant to Directive 2011/99/EU". 30 Child victims need to be provided with the appropriate information about this right, and need to be ensured their safety and protection across borders, with the support of their legal guardians, and/or legal representatives in the proceeding.

Right to be heard

See Chapter 2

- Authorities in the country where the offence took place must also take steps to facilitate the victim's participation, including taking their statement immediately after they file a complaint (Article.17).
- Where a child victim residing in their own country participates in a criminal investigation or prosecution taking place in another country, transnational action may be needed to ensure that the child can be interviewed in their own country this is also anticipated in the Victims' Rights Directive (Article 17 provides for allowing remote testimony through video or telephone conferencing whenever possible). The child may also need to be advised on their status in the criminal proceeding of another country and whether that will impact any protection measures that can be put in place for them, their access to services or compensation claims for they might make.
- Child suspects and accused of a crime, who find themselves in a country other than the one they reside in, might as well find difficult to communicate effectively with the authorities, especially in a foreign language or unfamiliar cultural context. This could lead to misunderstandings, inability to express and to understand key information. The roadmap for strengthening the procedural rights of suspected and accused persons in criminal proceeding examined earlier under the right to information and assistance provides that competent

³⁰ Amendment of EU Directive on combating violence against women and domestic violence, approved in 2024.

authorities shall guarantee translation and interpretation services, as well as access to legal assistance and representation throughout the proceeding. All these rights are paramount to ensure the meaningful participation of the child in the decisions that matter for them.

Ensuring children's understanding of the criminal proceeding they
are involved to, and meaningful participation are essential for their
protection, as that reduces the risk of harm and unfair treatment.
The right to legal assistance safeguards can help them navigate the
process effectively, protecting them from procedural violations and
ensuring fair treatment, as well as ensuring their protection needs
are met.

Adapted procedures

See Chapter 2

- Criminal proceedings can be complex and intimidating, making it difficult for a child to understand what is happening, and to feel supported and confident enough to speak up. This inherent characteristic of the criminal proceeding is exacerbated when a transnational dimension adds to the picture. While EU laws, such as Directive 2016/800/EU and Directive 2012/29/EU, stress the importance of child-friendly communication, in practice many children may not always be given the proper space, time, or support to express their views, due to the lack of time, the lack of specialisation from professionals, language and cultural barriers.
- Child protection professionals, lawyers and legal guardians should closely coordinate with the authorities in the country where the criminal proceeding is taking place, to ensure that the child is interviewed in full compliance with their rights and need for protection.
- Victims residing in a residing in an EU State other than where the crime occurred should face minimal obstacles in legal proceedings, and authorities should cooperate to take necessary measures to facilitate their participation. Victims should be able to provide a statement immediately after filing a complaint, and where possible, authorities should use video or telephone conferencing to conduct interviews with those residing abroad (Article 17, Victims' Rights Directive).
- The European Investigation Order (EIO) is an instrument that can be used in cross-border cases involving children. The EIO, established by

Directive 2014/41/EU, is a judicial decision issued in one EU country to have investigative measures to gather or use evidence in criminal matters carried out in another EU country. Ensuring that the EIO is applied in a child friendly way requires coordinated efforts, standardised procedures, and respect for the principles outlined in EU child protection frameworks.

 Children may also be invited to travel to another country to testify or attend proceedings, which can be stressful and disruptive. Recording evidence and video-recorded testimonies can help alleviate this. However, not all Member States may have the technology or legal infrastructure to accommodate such measures.

Good practice model in terms of adapted procedures for child victims:

The <u>Barnahus</u> is an inter-agency and child-centred approach to child victims of violence, under one roof. For the purposes of the criminal proceedings, the Barnahus ensures that children are interviewed by specialised professionals with due process safeguards for the defence, providing recorded testimony for use in court proceedings. Some Barnahus also contain facilities which allow on-site forensic medical examination. For the purposes of the child protection proceedings, health and needs assessments of the child are typically undertaken at the Barnahus and therapeutic services will either be directly available on site or made available by immediate referral to other services. These steps in the two proceedings are intertwined in the Barnahus model and managed together. In some countries, Barnahus are used mainly in cases involving violence against children (often cases of sexual violence). See the Accompanying tool to learn about the Barnahus Network and find their resources.



More information on the Barnahus, and the standards underpinning practice in the Barnahus, can be found at www.barnahus.eu



See Chapter 2

When a child is involved in a criminal case, whether as a victim, suspect, or accused, the obligation to ensure that their best interest is considered in all decisions that affect them and regardless to where the child is resident, is a key obligation enshrined in both the

Best interests of the child in criminal proceedings

Directive 2012/29/EU and Directive 2016/800/EU.

For child victims - Directive 2012/29/EU

Recital 14: "In applying this Directive, children's best interests must be a primary consideration, in accordance with the Charter of Fundamental Rights of the European Union and the United

Nations Convention on the Rights of the Child adopted on 20 November 1989. Child victims should be considered and treated as the full bearers of rights set out in this Directive and should be entitled to exercise those rights in a manner that takes into account their capacity to form their own views."

Article 1(2): "Member States shall ensure that in the application of this Directive, where the victim is a child, the child's best interests shall be a primary consideration and shall be assessed on an individual basis. A child-sensitive approach, taking due account of the child's age, maturity, views, needs and concerns, shall prevail. The child and the holder of parental responsibility or other legal representative, if any, shall be informed of any measures or rights specifically focused on the child."

For child suspected or accused – Directive 2016/800/EU

Recital 8: "Where children are suspects or accused persons in criminal proceedings or are subject to European arrest warrant proceedings pursuant to Council Framework Decision 2002/584/JHA (6) (requested persons), Member States should ensure that the child's best interests are always a primary consideration, in accordance with Article 24(2) of the Charter of Fundamental Rights of the European Union (the Charter)."

Throughout the Directive, the best interests of the child is referred to and needs to be taken into account when applying the other procedural safeguards provided in the Directive and when to derogate to such safeguards (including to legal assistance (Article 6), to individual assessment (Article 7), to have the holder of parental responsibility informed (Article 5) and to be accompanied by them (Article 15), to audio-visual recording of questioning (Article 9), and to specific protection when deprived of liberty (Article 12).

Key relevant laws

EU legal instruments for the protection of child victims

Victims Rights
Directive, 2012

Child Sexual Abuse Directive, 2011

Directive on violence against women, 2024

Regulation on the transfer of criminal proceedings, 2024

Directive on the EIO in criminal matters, 2014

Directive on the EPO, 2011

EU legal instruments for the protection of child suspects and accused in a criminal proceeding

Child Procedural
Safeguards Directive,
2016

Directive on the right to information in criminal proceedings, 2012 Directive on the right of access to a lawyer, 2013

Directive on the EIO in criminal matters, 2014

Directive on the right to interpretation and translation in criminal proceedings, 2010

Regulation on the transfer of criminal proceedings, 2024

3.3 CHILDREN IN CIVIL LAW CASES CONCERNING PARENTAL RESPONSIBILITY, CHILD ABDUCTION AND CHILD PROTECTION



1. IDENTIFYING TRANSNATIONAL ELEMENTS OF CHILDREN IN PARENTAL RESPONSIBILITY, CHILD ABDUCTION AND CHILD PROTECTION CASES

Increased mobility within the EEA and the rising number of international couples and families is resulting in an increasing number of cross-border family disputes and child welfare cases, which often affect children's protection.

For example, a child may become party to a transnational child pro-tection case where they are born to parents with dif erent or multiple nationalities and one parent abducts the child to a country other than the one of their habitual residence. Data from Missing Children Europe shows that over 1100 of international child abductions are reported each year. Another example of a transnational child protection case relates to children who have gone missing from one country and are believed to be in another country (see section 3.6 on missing children below). Transnation- al child protection cases may arise where supervised access measures by a parent to child have been put in place by one country and the child has now moved to another country. Equally, provisional child protection decisions may need to be taken in relation to children who are present in a State other than the one in which they are habitually resident. Cases may also relate to questions concerning placement of children in care arrangements in another country; for example, where a child is placed with a grandparent. Transnational child protection cases may also arise in less obvious situations, such as where families have moved from one country to another, and the parents may be perpetrators of violence towards children and sometimes may indeed have moved precisely to avoid child protection interventions in the first country.

2. IDENTIFYING WHAT TRANSNATIONAL CHILD PROTECTION ACTION IS OR SHOULD BE INVOLVED

Transnational child protection action may be triggered by several different processes in civil family law and child welfare cases, including, in particular:

- Exchange of information on the situation of a child who has been abducted or locating a child who may have gone missing
- Supervision of visitation rights where this has been provided for in a family law case in another country
- Adopting protection measures for a child at risk where they have moved to another country, in particular a child who is exposed to serious danger
- Placements in foster or residential care in another country

Points to consider in these processes

National measures in the fields of family, child welfare and child protection law govern how States respond to these situations, alongside international conventions, in particular, the UN Convention on the Rights of the Child, the European Convention on Human Rights and the Charter of Fundamental Rights. The Brussels IIb Regulation, HCCH 1980 Child Abduction Convention and HCCH 1996 Child Protection Convention (as noted in chapter 2) provide frameworks for States to avoid conflicts in decisions relating to children in matters of parental responsibility and child abduction.

These instruments do not aim to harmonise the substance of national laws relating to child protection or determine the type of measures that should be put in place. Importantly, they address questions of jurisdiction, recognition of measures and enforcement of decisions and cooperation and in the case of HCCH Conventions, choice of law. The Brussels IIb Regulation also obliges courts of the Member States, when exercising jurisdiction in parental responsibility matters or when deciding on applications for return under the 1980 HCCH Child Abduction Convention, to

provide the child who is capable of forming his or her own views with a genuine and effective opportunity to express those views, in accordance with national law and procedure.

Parental responsibility matters include:

- rights of custody and rights of access
- guardianship and curatorship and the like
- designation and functions of a person or body having charge of the person or property of a child or who represents or assists the child
- the placement of a child in institutional or foster care,
- measures for protection of a child in relation to the administration, conservation, or disposal of the property of a child.

The relationship between the instruments

In matters of child abduction, the Brussels IIb Regulation upholds the application of the 1980 HCCH Child Abduction Convention to cases of wrongful removal or retention of a child between EU Member State by complementing and clarifying some of its rules. They are described in the Practice Guide as an "interlinked set of rules that aim to strengthen the child's prompt return to the Member State of his or her habitual residence"³¹. In matters of parental responsibility, in general terms the rules of the Brussels IIb Regulation prevails over those of the 1996 HCCH Child Protection Convention where the child is habitually resident in the territory of a Member State at the moment the court is seised. The 1996 HCCH Child Protection Convention applies where the child has his or her habitual residence in a State Party which is not an EU Member State.

³¹ https://op.europa.eu/en/publication-detail/-/publication/ff34bda5-ea90-11ed-a05c-01aa75ed71a1



Extensive resources are available in relation to these instruments and are presented in the Accompanying Tool. In particular:

- Practice Guide for the application of the Brussels IIb Regulation
- Practical Handbook on the Operation of the 1996 Child Protection
 Convention
- Practitioners' Tool: Cross-Border Recognition and Enforcement of Agreements Reached in the Course of Family Matters Involving Children
- HCCH | Child Abduction Section and HCCH | Child Protection Section
- E-Justice Portal of the European Union

Key provisions in the instruments

In broad terms, the Brussels IIb Regulation and HCCH 1996 Child Protection Convention are substantially similar. In terms of **jurisdiction**, they provide that certain decisions should generally be taken by the authorities of country of the State where the child is habitually resident; other decisions (for example on provisional protection measures may also be taken by the authorities of countries where the child is present). The rules also allow for courts/authorities in countries to request to take jurisdiction or transfer jurisdiction in particular circumstances. As noted in the Practice Guide to Brussels IIb, "All grounds of jurisdiction of the Regulation are shaped in the light of the best interests of the child and should be applied in accordance with them. Any reference to the best interests of the child must be interpreted in light of Article 24 of the Charter of Fundamental Rights of the European Union ('the Charter') and the United Nations Convention on the Rights of the Child as implemented by national law and procedure."

These instruments also contain rules relating to the **recognition** by Member States of measures taken by the authorities in other countries, as well as the modalities of **enforcement** of decisions. For example, when enforcing another State's decision which may have consequences for the protection of a child, such as the enforcement of supervised access of a parent to a child, the Regulation gives courts the power to make the necessary practical arrangements for organising the exercise of access

rights, whilst respecting the essential elements of the decision. This might relate to how to ensure the participation of a child protection authority or a psychologist in the supervised access.

Importantly the Brussels IIb Regulation and HCCH 1996 Child Protection Convention provide for **cooperation** measures in relation to parental responsibility which allow Central Authorities and courts to communicate and seek information into the circumstances of children and/or their families across borders.

Central Authorities for matters of parental responsibility should be designated in each State. They should assist courts and competent authorities, and in certain cases also assist holders of parental responsibility, in cross-border procedures and cooperate both in general matters and in specific cases.

Member State authorities of a country in which the child is habitually resident may alert the authorities of another country to which a child has moved of the need to consider taking measures to protect the child. Indeed, in any cases where the child is exposed to a *serious danger*, the authorities of a State where measures for the protection of the child have been taken or are under consideration *shall* inform the authorities of that State about the danger involved and the measures taken or under consideration, if they are informed that the child's residence has changed to, or that the child is present in another State.

Central Authorities may also be asked to provide assistance in discovering the whereabouts of a child where it appears that the child may be present within the territory of the requested Member State where that information is necessary for carrying out an application or request under these instruments.

Central Authorities may also collect and exchange information relevant in procedures in matters of parental responsibility and facilitate communication between courts, competent authorities and other bodies involved, in particular as regards implementation of decisions on parental responsibility in another Member State. They may also be asked to provide such information and assistance as is needed by courts and competent

authorities to address requests for placement of child in another member state.

Requests to another country in matters relating to child protection and parental responsibility should typically be made via the Central Authorities of each county, although on occasion the welfare agencies may contact each other directly. Some countries may seek assistance from the International Social Services or other organisations should they need a home study conducted in another country. Courts may also communicate directly.

In place of judicial procedures, cross border mediation is also encouraged as a means to expedite cases. In its 2022 resolution³², the European Parliament stressed that "cross-border family mediation has the potential to facilitate agreements between parents that serve to uphold the best interests of the child, reducing the emotional and financial burden and legal complexity inherent in judicial proceedings". Central Authorities may facilitate agreement between holders of parental responsibility through mediation or other means of alternative dispute resolution and facilitate cross-border cooperation to this end. In certain cases, this can be support by mediation networks, such as within the Missing Children Europe Network or the MIKK network. Within the European Parliament, the Child Rights Coordinator also encourages and facilitates such mediation. However, it is important to exclude mediation in situations where it might not properly address a serious risk to the child, for example, in a case where abuse and domestic violence have been reported against a parent residing in the State.



3. FULFILLING THE SAFEGUARDS FOR CHILDREN – COMPLEMENTARY POINTS

This section provides reflections and resources as regards fulfilling the safeguards described in chapter 2 as they apply in relation to children in cross border

P9_TA(2022)0104 Protection of the rights of the child in civil, administrative and family law proceedings European Parliament resolution of 5 April 2022 on the protection of the rights of the child in civil, administrative and family law proceedings (2021/2060(INI))

family law and child welfare cases during these transnational actions. The Brussels IIb Regulation and HCCH Conventions contain provisions relevant to whether these safeguards have been fulfilled. How these safeguards are fulfilled largely fall within the scope of national laws and the application of the UN Convention on the Rights of the Child. The extent to which provision is made for children to be supported and assisted varies between States. For example, national laws and the application of the UN Convention on the Rights of the Child will govern what guardianship provisions are made for children, and what legal assistance is available to them, including in relation to transnational procedures involving them.



The Brussels IIb Regulation does provide that Central Authorities should provide information and assistance to holders of parental responsibility seeking the recognition and enforcement of decisions in their territory, in particular concerning rights of access and the return of the child, including, where necessary, information about how to obtain legal aid. Factsheets about the national law of the different Member States of the European Union can be found on the e-justice Portal.³³ There are also factsheets offered about the legal framework of legal aid within the different national systems.³⁴

Individual assessment See Chapter 2

The way and the extent to which States will engage in individual assessments of the situation of children vary, depending on national measures. Importantly Brussels IIb and equivalent provisions of the HCCH 1980 Child Abduction Convention and HCCH 1996 Child Protection Convention) provide that upon a request made with supporting reasons, the Central Authority of the Member State where the child is or was habitually resident or present, directly or through courts,

^{33 &}lt;u>https://e-justice.europa.eu/topics/family-matters-inheritance/parental-responsibility-child-custo-dy-and-contact-rights_en.</u>

 $^{34 \}qquad https://e-justice.europa.eu/topics/family-matters-inheritance/parental-responsibility-child-custo-dy-and-contact-rights_en.$

competent authorities or other bodies: (a) shall, where available provide, or draw up and provide a report on: (i) the situation of the child; (ii) any ongoing procedures in matters of parental responsibility for the child; or (iii) decisions taken in matters of parental responsibility for the child; and (b) shall provide any other information relevant in procedures in matters of parental responsibility in the requesting Member State, in particular about the situation of a parent, a relative or other person who may be suitable to care for the child, if the situation of the child so requires.



Access to appropriate services for protection See Chapter 2

- The services available to children who need protection in family law and child protection situations are estab-
- lished under national measures and the application of the UN Convention on the Rights of the Child. Importantly the Brussels IIb Regulation and HCCH 1996 Child Protection Convention ensure that States where a child is located have jurisdiction to put protective measures in place. It notes that Central Authorities may also request the court or competent authority of its Member State to consider the need to take measures for the protection of the person or property of the child.
- Where a court of one Member State considers refusing the return of a child to another State solely on the basis of Article 13(1)(b) of the 1980 HCCH Child Abduction Convention, it shall assess whether appropriate measures of protection have been put in place in the Member State of the habitual residence of the child prior the abduction or might be taken there to protect the child from the grave risk referred to in this provision.³⁵



Right to be heard

See Chapter 2

 As noted above, the Brussels IIb Regulation introduces uniform rules obliging the courts of the Member States,

when exercising jurisdiction in parental responsibility matters or when

³⁵ See page 102 of the practice guide on Brussels IIb for further information on "adequate arrangements" in case of Art. 27 (3); https://op.europa.eu/en/publication-detail/-/publication/ff34bda5-ea90-11ed-a05c-01aa75e-d71a1.

deciding on applications for return under the 1980 HCCH Child Abduction Convention, to provide the child who is capable of forming his or her own views with the opportunity to express their view during the procedure in line with national law and procedure (see Article 21(1), Article 26 and Recital 39). The Regulation does not modify the applicable national law and procedures on the question of how to establish the capability of the child to form his or her own views (see Recital 39). Moreover, courts in the Member States develop their own techniques and strategies to hear a child. Where the court decides to hear the child, it is required to give due weight to the views of the child in accordance with his or her age and maturity, in particular when assessing the best interests of the child (see Article 21(2) and Recital 39).

Thus, as noted in the Practice Guide, the Regulation harmonises three aspects of the hearing of the child: 1) the obligation of the court to assess the capability of the child to form his or her own views; 2) the provision of a genuine and effective opportunity for the child to express those views 3) the obligation to give due weight to them in accordance with the child's age and maturity.³⁶

The <u>Practice Guide</u> emphasises that the assessment of whether a child is capable of forming his or her own views should not be conditioned formalistically on the age or maturity of the child (see Article 21(1)). It also emphasises that the fact that the child is very young or in a vulnerable situation (e.g. has a disability, belongs to a minority group, is a migrant, etc.) does not deprive him or her of the right to express his or her views. In order to do this assessment, the Guide notes that courts in the Member States develop their own techniques and strategies, with some courts making the assessment directly; others commissioning special experts, such as psychologists, who then report back to the court. Whichever technique is deployed, it is a matter for the court itself to decide whether the child is capable of forming his or her own views. In doing so, the court is not allowed to presume that the child is incapable of expressing his or her own views.

The Guide highlights that the court must provide this child with a genuine and effective opportunity to express those views, as noted under adapted procedures above.

When a child is heard, it may serve different purposes depending on the type and objective of the procedure. As the Guide notes, in a proceeding concerning custody rights, the objective is usually to assist in finding the most suitable

³⁶ See page 100 and 156ff. of the practice guide on Brussels Ilb, https://op.europa.eu/en/publication-detail/-/publication/ff34bda5-ea90-11ed-a05c-01aa75ed71a1.

environment in which the child should reside. In a case of child abduction, the purpose is often to ascertain if the child objects to the return, the nature of and reason(s) for the child's objections, and to determine whether, and if so in what way, the child may be protected from a grave risk.

Once the child exercises his or her right to express his or her views, the court shall give due weight to these views in accordance with his or her age and maturity, in particular when assessing the best interests of the child. The Practice Guide provides further explanation, including any exceptions.³⁷

The Practice Guide points out that the right of the child to express his or her views is also recognised by the Council of Europe. The ECtHR considers the right of the child to be heard as incorporated in Article 6 and Article 8 of the ECHR. In addition, the guidelines of the Council of Europe on child-friendly justice acknowledge that the right to access to justice and to a fair trial, including the right to be heard, equally apply to children while taking into account their capacity to form their own views. In the capacity to form their own views.



See Chapter 2

National measures and the application of the UN Convention on the Rights of the Child determine the extent

to which procedures are adapted to the needs of children. The Practice Guide to Brussels IIb refers to Member States taking all means available under national law and any specific instruments of international judicial cooperation to ensure an effective opportunity for the child to be heard. This includes, when appropriate, the Taking of Evidence Regulation (EU) 2020/1783, or to consider holding a hearing through videoconference or by means of any other communication technology. The questions of 'who' will hear the child (a judge or an expert), 'how' (directly or through a representative) and 'where' (in the court room or in another place) are regulated by the national law.

• Whether the hearing of the child is carried out by a judge, an expert, psychologist, social worker or other official, it is of the essence that that person receives adequate training, for instance on how best to

³⁷ See page 158 of the Practice Guide on Brussels IIb; https://op.europa.eu/en/publication-detail/-/publication/ff34bda5-ea90-11ed-a05c-01aa75ed71a1.

³⁸ See, for example NTS and Others v Georgia, ECtHR Application no 71776/12, Judgment 2 February 2016, Iglesias Casarubios and Cantalapiedra Iglesias v Spain, ECtHR Application no. 23298/12, Judgment 11 October 2016

³⁹ Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, adopted by the Committee of Ministers of the Council of Europe on 17 November 2010 and explanatory memorandum, https://rm.coe.int/16804b2cf3.

communicate with children.⁴⁰ The Practice Guide notes that "[W]hoever hears the views needs to be aware of the risk that parents seek to influence and put pressure on the child. When carried out properly, and with appropriate discretion, the hearing may enable the child to express his or her own wishes."

Best interests procedures

See Chapter 2

The best interests of the child are explicitly recognized and repeated in a wide range of provisions in Brussels

IIb Regulation and the HCCH 1980 and 1996 Conventions, and the best interests must be considered by authorities throughout their application of the rules on jurisdiction, recognition, enforcement, and conperation.

of the rules on jurisdiction, recognition, enforcement, and cooperation. Importantly the provisions of cooperation in relation to exchange of information and the right of the child to be heard supports authorities in undertaking best interests procedures. Giving due weight to the view of the child as required under Article 21 (2) of Brussels IIb Regulation marks a key element to identify the best interest of the child on a case-by-case basis. It is essential to let the child participate in the whole process and to individualize the assessment. In any case, the obligation of the court to give due weight to the child's views does not mean that the court is bound by the wishes of the child when deciding on the subject matter, as decisions need to be taken according to the best interests of the child.

⁴⁰ See para 36 of UN Committee on the Rights of the Child (CRC), General comment No. 12 (2009): The right of the child to be heard, 20 July 2009, CRC/C/GC/12, available at: https://www.refworld.org/docid/4ae562c52. htm.

Key relevant laws

EU and international legal instruments for the protection of children in civil law cases

Brussels IIb Regulation, 2019 HCCH 1980 Child Abductions

HCCH 1996 Child Protection Bilateral agreements between States

3.4 TRAFFICKED CHILDREN

1. IDENTIFYING TRANSNATIONAL ELEMENTS OF CASES INVOLVING TRAFFICKED CHILDREN

Child victims of trafficking are exposed to acute harm, being exploited in many ways, amongst them, for sexual exploitation, labour exploitation and different forms of criminal activities. The number of children trafficked into and within Europe is thought to have increased in the past few years. Comprehensive data is difficult to compile, as many children remain under the radar of any authorities.

The EU Strategy on Combatting Trafficking in Human Beings notes that "Almost every fourth victim of trafficking in Europe is a child", whilst also noting that many victims remain undetected. This partly stems from the lack of familiarity of some actors with trafficking.

For a further understanding of trafficking of children, see <u>Creating a Cycle of Protection</u>, <u>Guiding Principles and Key Considerations</u> for developing comprehensive, child-centred cooperation to identify, support and assist trafficked children.

Chapter 2 of the Guidance provides an overview of the essential knowledge that general child protection actors need to know about trafficking and which trafficking actors should recognise and understand about general child protection action.

It builds on the report In Need of Targeted Support, commissioned by CBSS from Child Circle, which focused on whether Barnahus, or Barnahus like services, do or could play a role both in enhancing the identification, support and assistance provided to trafficked children.

Trafficking is an offence that may occur internally within a State or internationally, with children being transferred between countries.

It may involve children who are EEA nationals moving within the EEA or it may involve third country national children being moved into the EEA or circulated within the territory. For example, children involved in street crime and begging may in fact be controlled by criminal gangs. They may have been moved from country to country for the purposes of criminal exploitation.

Criminal proceedings and child protection action involving a trafficked child may involve several countries, including countries of origin, transit countries, and the destination countries where children are exploited. Several countries may also be involved where children in one country are trafficked and exploited online by individuals located in other countries.

2. IDENTIFYING WHAT TRANSNATIONAL CHILD PROTECTION ACTION IS OR SHOULD BE INVOLVED

A need for transnational child protection action may be triggered at key moments:

- Location of children who disappear and are believed to be at risk of trafficking in another country; this may involve alerts in international databases or specific efforts to trace a child to another country where they are believed to have a connection with that country (see section on missing children below)
- Identification of the risk of trafficking and vulnerability assessments, including
- during screening procedures, for example, if a child arrives unaccompanied or separated from family members from a third country,
- when they are encountered by professionals in a host country where they are believed to have been trafficked from another country;
- during status determination procedures, where children may be seeking international protection.
- Tracing family of children who have been trafficked: tracing family members in other countries and restoring family contact, where it is in the best interests of the child, and where there is no danger to the

child or their family from trafficking

- Conducting criminal proceedings into trafficking, with children trafficked from another country involved as victims or suspects, or children participating and being informed as a victim on criminal procedures in another country against traffickers, or potentially seeking access to compensation in another jurisdiction
- Finding comprehensive sustainable solutions in their best interests, where the child is outside their country of origin or habitual residence

Points to consider in these processes

Most of these general processes are explored in other sections in this chapter (children in migration, child victims or suspects of crime, as well as civil law parental responsibility and child protection cases). This section focuses on aspects of these processes which are specific to trafficking of children.

Authorities should be alert to indicators of child trafficking, including when they encounter children in procedures such as asylum and migration procedures and criminal justice procedures. Indicators of what forms of child trafficking takes place from and in other countries should be consulted regularly. Whereas trafficking patterns may vary from country to country, they also evolve, and States should ensure key actors are familiar with trafficking trends outside their border.

Where children are being moved between countries, in the hands of traffickers, there is a need for active collaboration between countries to identify and tackle these forms of trafficking of children. This can prove particularly difficult where these children are outside formal care and reception, and national child protection services may have difficulties in reaching these children, in particular, where they live on the streets. Improving channels of cooperation between national child protection services and guardianship organisations in different countries will assist both in individual cases and in exchange of better practice as regards protecting these children.

There are several measures and mechanisms that do and could be further developed to assist in transnational cooperation when considering the protection of children who have been trafficked.

To support cooperation between States, the revision of the EU Anti-Trafficking Directive in 2024 obliges States to appoint national focal points for cross border cases of trafficking. The Directive underlines that "the focal point should serve as a point of contact for the cross-border referral of vic¬tims, in the relations between the authorities or institutions responsible for the cross-border support of victims in the various Member States, but not as a point of contact for the victims themselves"

The Commission Recommendation on integrated child protection systems underlines the opportunities to enhance cooperation in cases with cross border implications. It notes that this includes "through the assistance of Central Authorities of the relevant Member states designated under the Council Regulation (EU) 2019/111184, such as by stepping up prevention efforts, by sharing good practices among the Member States, specifically in the context of the European Judicial Network in civil and commercial matters [...]". It further emphasises that cross border cooperation should be enhanced "... by facilitating and strengthening transnational cooperation between the actors supporting children."

The EU Anti – Trafficking Strategy underlines the role of EU agencies, such as Europol and Eurojust, to facilitate close cooperation and coordination between national authorities for successful operational actions to bring criminals to justice and to identify and protect victims. It also notes that the Commission will enhance actions to improve victims' support and referral in the cross-border context, including towards the objective of setting up a European referral cooperation mechanism, with the support of relevant EU agencies (such as the European Asylum Support Office, Fundamental Rights Agency, European Institute for Gender Equality and CEPOL).

As noted in the CBSS/Child Circle Guidance on Creating a Cycle of Protection, transnational referral mechanisms (TRM) have been developed to link the full process of referral from initial identification, through return and assistance, between countries of transit, destination and origin and

these may involve cooperation between different government institutions and non-governmental actors. They may involve one or all the steps in the process. TRMs can be set up both multilaterally between several states as well as bilaterally. There are several international organisations that currently assist with setting these up, such as CBSS, ICMPD⁴¹ and OSCE.

Creating a Cycle of Protection recommends that States develop comprehensive, child-centred cooperation to identify, support and assist trafficked children. It encourages States to put in place a national action plan, which would establish the foundations for a better system of cooperation and set priority actions.

Two key actions concern improving cooperation, including across borders:

- Developing Standard Operating Procedures: developing a sustainable structure/process agreed by national stakeholders, including a set of Standard Operating Procedures, establishing which authority or organization is responsible for what and when during the referral process of a child who may have been trafficked;
- Strengthening international and European level cooperation to:
- o Participate in exchange on trends across Europe and globally,
- o Contribute to transnational mechanisms for sharing of information, intelligence and resources,
- o Work together towards improving safeguards for children in cross-border procedures covered by EU or international laws
- o Support participation of national authorities and stakeholders in regional networks dealing with trafficking and child protection.

⁴¹ For example, important Guidance is contained in ICMPD, Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU (2010).

3. FULFILLING THE SAFEGUARDS FOR TRAFFICKED CHILDREN - COMPLEMENTARY POINTS

This section provides reflection points and resources as regards fulfilling the safeguards described in chapter 2 as they apply in relation to trafficked children during these transnational actions.



For inspiration check in the Accompanying tool about the European Union Agency for Fundamental Rights (FRA) "Children deprived of parental care found in an EU Member State other than their own: a guide to enhance child protection focusing on victims of trafficking" (2019). This Guide provides EU Member States with practical suggestions on how to respond step-by-step from the moment of identification of the child until a lasting solution in their best interests is found.

Information, support & assistance See Chapter 2

- Information, support and assistance to trafficked children is vital to help them to disclose their situation (and indeed sometimes to recognize their situation) to child protection authorities.
- State actors may need to be able to "compete" with information provided to these children by smugglers, in whose interest it may be for children and their families to pay to be moved between countries. Consequently it will be important for authorities to be aware of the fact that children may be told that there are unique opportunities for them in certain countries (e.g. as regards family reunification or residence options) and for this reason, transnational cooperation between authorities will assist in ensuring that authorities can properly dispel myths or ensure a child recognises where they may be able to benefit from processes locally, e.g. such as assistance in family reunification cases.
- Guardians involved in cases of trafficking need to be knowledgeable about the needs of trafficked children and particular risks to them.
 There may be a need to involve professional, rather than volunteer, guardians in these sensitive cases.
- Equally, criminal lawyers representing children who are suspects or accused of crime should be alert to risks of trafficking; this will also be

important to immigration lawyers representing children. These lawyers should have specialized knowledge both of anti-trafficking measures, as well as necessary child protection law, and the transnational child protection measures that might apply.

Individual assessment

See Chapter 2

- The EU Anti-Trafficking Directive provides that "Member States shall take the necessary measures to ensure that the specific actions to assist and support child victims of trafficking in human beings, in the short and long term, in their physical and psycho-social recovery, are undertaken following an individual assessment of the special circumstances of each particular child victim, taking due account of the child's views, needs and concerns with a view to finding a durable solution for the child. Within a reasonable time, Member States shall provide access to education for child victims and the children of victims who are given assistance and support in accordance with Article 11, in accordance with their national law." (Article 14)
- Where States are encountering a child who may have been trafficked, child and family assessments may need to be undertaken at an early stage to determine both the involvement of traffickers in their situation as well as to determine whether a return is in their best interests. However, this may not always occur at the stage of any criminal investigation, meaning that safeguards for the child in the context of this criminal case may be diminished. The future of the child may be addressed simply by initiating return procedures to the family through the family law courts, using Brussels IIb Regulation or HCCH 1996 Child Protection Convention, without properly cooperating at an earlier stage in the process to fulf I the best interests of the child.
- There is a real risk that a trafficked child be may primarily treated as a suspect or accused in a criminal investigation, where they have been exploited to undertake criminal activities (such as cannabis farming, and petty crime). Where the child comes from another country, States will need to consider carefully and gather information on the situation of this child. Imprisoning or deporting the child will compound the harm to them. Children who are trafficked into criminal activities must

be identified as victims of trafficking and not child offenders.

The principle of non-prosecution and non-punishment are clear. "Trafficked persons should not be subject to arrest, charge, detention, prosecution, or be penalized or otherwise punished for illegal conduct that they committed as a direct consequence of being trafficked. The non-punishment principle applies to all stages of the criminal justice system and can also apply in non-criminal proceedings (e.g., immigration or administrative proceedings)." [UN Inter-Agency Coordination Group against Trafficking in Persons, Issue brief – Non-punishment of victims of trafficking]

• Contact with authorities of countries of origin: Embassies and consular authorities of countries of origin may also be involved in some cases.



See the Accompanying Tool for further information on the <u>CBSS Handbook</u> for Embassies and Diplomatic Missions on How to Assist and Protect Victims of <u>Human Trafficking</u>. This handbook is developed as a tool for staff at embassies and diplomatic missions to prevent, identify and assist victims of human trafficking.

- In some situations, however, it is precisely important not to contact authorities in a child's country of origin, where this could pose a risk to the child or their families. For example, this occurs where a child has fe d the country and is making a claim for international protection in another country.
- As noted in chapter 2, there also may be a need to create connections between a series of different proceedings involving them so that they are managed in a child centred way. For example, where a child from one country has been trafficked into another country, the latter country may have instigated a criminal case into the trafficking of the child and a separate proceeding will concern whether the child should be returned to their country. In many cases, it would be helpful to assess more fully the situation, needs and rights of the child to inform both the criminal procedures and to consider appropriate durable solutions.



Trafficked children often have a need for significant protection measures and may also be in generally precarious situations in terms of where they are living and the care that they are receiving. Particular care should be paid to ensuring they have access to services to protect them from risk of violence.



Right to be heard

See Chapter 2

See adapted procedures below.



Adapted procedures

See Chapter 2

Article 15 of the EU Anti-Trafficking Directive

Protection of child victims of trafficking in human beings in criminal investigations and proceedings

- 1. Member States shall take the necessary measures to ensure that in criminal investigations and proceedings, in accordance with the role of victims in the relevant justice system, competent authorities appoint a representative for a child victim of trafficking in human beings where, by national law, the holders of parental responsibility are precluded from representing the child as a result of a conflict of interest between them and the child victim.
- 2. Member States shall, in accordance with the role of victims in the relevant justice system, ensure that child victims have access without delay to free legal counselling and to free legal representation, including for the purpose of claiming compensation, unless they have sufficient financial resources.
- 3. Without prejudice to the rights of the defence, Member States shall take the necessary measures to ensure that in criminal investigations and proceedings in respect of any of the offences referred to in Articles 2 and 3:
- (a) interviews with the child victim take place without unjustified delay after the facts have been reported to the competent authorities;
- (b) interviews with the child victim take place, where necessary, in premises designed or adapted for that purpose;

- (c) interviews with the child victim are carried out, where necessary, by or through professionals trained for that purpose;
- (d) the same persons, if possible and where appropriate, conduct all the interviews with the child victim;
- (e) the number of interviews is as limited as possible and interviews are carried out only where strictly necessary for the purposes of criminal investigations and proceedings;
- (f) the child victim may be accompanied by a representative or, where appropriate, an adult of the child's choice, unless a reasoned decision has been made to the contrary in respect of that person.
- 4. Member States shall take the necessary measures to ensure that in criminal investigations of any of the offences referred to in Articles 2 and 3 all interviews with a child victim or, where appropriate, with a child witness, may be video recorded and that such video recorded interviews may be used as evidence in criminal court proceedings, in accordance with the rules under their national law.
- 5. Member States shall take the necessary measures to ensure that in criminal court proceedings relating to any of the offences referred to in Articles 2 and 3, it may be ordered that:
- (a) the hearing take place without the presence of the public; and
- (b) the child victim be heard in the courtroom without being present, in particular, through the use of appropriate communication technologies.

States should consider the use of specialised child centred intervention models such as Barnahus, where possible, to facilitate coordination of different processes involving the child, such as interviews (including, where possible, exploratory interviews where child trafficking is suspected), medical examinations, therapeutic interventions, and child protection. This might involve the use of adapted interview practices in cases involving child trafficking.



For inspiration see the Accompanying tool and the <u>Handbook for forensic child</u> interviews in presumed cases of trafficking developed within the EU-funded project Promise TRM to support professionals in carrying out investigative interviews, including investigations that take place in Barnahus.



Best interests procedures

See Chapter 2

- A particularly sensitive element of the best interests procedure in trafficking cases arises when determining a durable solution for trafficked children, as provided under the EU Anti-Trafficking Directive.
- Recital 23 of the EU Anti-Trafficking Directive provides that "[a] decision on the future of each unaccompanied child victim should be taken within the shortest possible period of time with a view to finding durable solutions based on an individual assessment of the best interests of the child, which should be a primary consideration. A durable solution could be return and reintegration into the country of origin or the country of return, integration into the host society, granting of international protection status or granting of other status in accordance with national law of the Member States."
- Importantly, the best interests procedure must investigate the actual situation of the child and their family, rather than being rooted in presumptions that it is always in the best interests of the child to reunite with their family. Serious risks to a child must be avoided; it will be critical to verify that family members or relatives are neither involved in the trafficking or at significant risk from traffickers, nor incapable of looking after the child.
- It will be important to consider the application of Brussels IIb Regulation and the 1996 HCCH Child Protection Convention to ensure cooperation on decision making around any transfer of care and custodial measures as well as protection measures for trafficked children.
- Children should benefit from assisted return programmes, which will properly plan, implement and resource a return that is in the best interests of the child. Returns of trafficked children should be monitored and implemented properly; cross border efforts in this regard, for example, from guardianship services in the returning countries, may be important to help ensure that the return of the child is secure and sustainable.
- When considering a transfer of a trafficked child between countries, it is particularly important to confirm that a child will continue to be recognized, assisted and supported as a trafficked child in the country to which they are transferred. This is because not all forms of trafficking are recognized in different countries, for example, this may be important in cases involving online trafficking.

Key relevant laws

EU and international legal instruments for the protection of trafficked children

EU Anti-Trafficking Directive, 2024

COE Anti-Trafficking Convention on Action against Trafficking in Human Beings, 2005 Palermo Protocol to the UN Convention on Transnational Organised Crime, 2000

Family law and civil law instruments

3.5 EMERGENCY DISPLACEMENTS - CHILDREN FROM UKRAINE

1. IDENTIFYING TRANSNATIONAL ELEMENTS OF CHILDREN WHO HAVE BEEN DISPLACED FROM THEIR COUNTRIES

In recent years, many children have been suddenly displaced from Ukraine because of the Russian invasion and the ongoing war. Their situation has unique features in that children arriving from Ukraine have largely been provided immediately with temporary protection in the EEA. They have freedom of movement within the EU and often retain close ties with family members who remain in Ukraine.

At the end of 2023, based on available data, about 1.4 million children who had fled Ukraine as a consequence of the Russian invasion in 2022, were under temporary protection in the EU.

Poland (44.1 %) recorded the highest share of children in the total number of non-EU citizens benefitting from decisions granting temporary protection on 31 December 2023, followed at some distance by Lithuania (34.0 %), Bulgaria (33.8 %) and Italy (33.4 %). At EU level, the share was 32.5 %.

In some cases, parents remaining in Ukraine made care arrangements for them, the scope and duration of which were initially provisional, and which may with time be reviewed or replaced. Equally groups of children who had been deprived of parental care in Ukraine were sometimes moved together, with caretakers, to EEA countries, where they are hosted in facilities, whilst remaining under the care of the caretakers appointed under Ukrainian law and employed by Ukrainian institutions.

The children's displacement from Ukraine has become more protracted

than originally envisaged, and the question of what the future looks like for these children, and the procedures that apply to decide this, may change, when temporary protection systems end.

2. IDENTIFYING WHAT TRANSNATIONAL CHILD PROTECTION ACTION IS OR SHOULD BE INVOLVED

A need for transnational child protection action may be triggered at key moments, including:

- **Identification and vulnerability assessments:** identifying the child who has been displaced and undertaking vulnerability assessments, with referral to proper reception and support; this may require authorities seeking information from other countries; it includes assessing and preventing trafficking risks.
- Recognising guardianship arrangements under the law of habitual residence and assessing the need for the appointment of local guardians or support: recognising guardians appointed in their country of origin or habitual residence for the children and assessing the need for the appointment of local guardians.
- **Contact with family:** may include tracing family members in other countries and restoring family contact, where it is in the best interests of the child; may involve consideration around visiting family during school holidays.
- Addressing child protection concerns that arise during the residence of the child in the EEA; this may require cooperation and coordination between the persons and authorities involved in the child's life from both Ukraine and the country in which they are located
- **Status determination procedures:** as needed, deciding on the status of the child in the host country under international protection, trafficking or national law provisions. This will need to take account of the situation in the child's country of origin or other relevant countries;
- Return procedures, and finding comprehensive and sustainable solutions, which should be informed by robust best interests

assessments. These must be informed, when relevant, by information from other countries. They may lead to transfers to another country depending on the best interests of the child.

Points to consider in these processes

Given the pre-existing visa arrangements between Ukraine and the EEA, borders between Ukraine and EEA countries were open prior to March 2020. Moreover, the immediate application of the Temporary Protection Directive meant that, for most children fleeing Ukraine, they could reside in Europe and move relatively freely between EU countries. Other European countries put in place similar protection arrangements.

This meant that experiences of protracted reception at the border and uncertainty as to status did not occur, such as has occurred for example at hotspots in Greek islands at times of other mass influxes. However, it also meant that there were sometimes limited opportunities to identify and screen children to determine whether they were risk and what protection measures could be put in place. Certain countries were able to mobilise guardianship services rapidly to engage with and assess the needs of unaccompanied children coming from Ukraine and continue to do so.

There were also immediate efforts to promote the use of standard notarial forms concerning parental responsibility and care and custodial arrangements granted to adults that accompanied children, where they were not family members. It was also clear that, whilst the application of HCCH 1996 Child Protection Convention was very valuable in this regard, there were novel questions in relation to how safeguards for children could be met in the context of their situation in host countries, either as beneficiaries of temporary protection, and/or some other form of international protection or national humanitarian protection.

For example, the ability of children to remain in contact with their parents in Ukraine and for some circular movement of parents and families in and out of Ukraine has also raised new questions as to whether and for what purpose local guardians should be appointed in all countries as well as raising questions for guardians when supporting and assisting these

children in the host countries.

Questions have also arisen in relation to what authorities have jurisdiction to make decisions in relation to these children, and indeed when Ukrainian authorities and authorities in local countries may have simultaneous jurisdiction (for example, over the appointment of guardians to support the children for particular purposes). This has proved particularly sensitive in the situation where children within groups are hosted in a Member States. Cooperation between the social services of host countries and Ukraine in relation to children in groups who were transferred from Ukrainian institutions in the company of Ukrainian caregivers has raised questions as to the child safeguarding processes that should be in place with local authorities, as well as decision-making on when and to where a return of such children might occur.

In the longer term, many children who arrived with one parent or a nominated caregiver, like a relative or family friend, may wish to return to Ukraine as soon as they turn 18 and a significant question becomes how to inform, support and assist such children, as the war in Ukraine continues. Other children (and their families) may consider that remaining in the host country for a longer period may assist these children in completing their education or training. It will be important to ensure that children have the opportunities to make their views heard ahead and are provided with continuity and stability to the extent possible. The process should explore whether and how the child will reintegrate in Ukraine or whether they might benefit from ongoing reception possibilities in the local country, whatever proves to be in their best interests and in line with the legal possibilities open to them.

The UNICEF/Child Circle Report: Fulfilling the rights of children without parental care displaced from Ukraine analyses the different legal challenges which may arise when applying international or European laws in EU and Council of Europe Member States. It focuses on their right to support and assistance (including from guardians), access to appropriate international protection procedures and, in the longer term, access to comprehensive, secure and sustainable solutions. It also examines obligations to ensure that such children are protected from violence, abuse, neglect, and exploitation while in responding countries, in particular,

through the application of national child protection laws. The report provides recommendations for reducing and meeting these legal challenges.

Ukrainian authorities have remained actively involved in seeking to put in place appropriate measures for the protection of children and engaging with States and regional bodies on issues concerning their reception and care. The significant efforts of the Ukraine to stay informed of children fleeing from Ukraine provides new opportunities for improving transnational cooperation. The dialogue promoted by the Council of Europe between CoE Member States and the Ukraine within the Consultation Group of Children from Ukraine has been helpful to reflect on what measures might improve transnational procedures.



3. FULFILLING SAFEGUARDS FOR CHILDREN – COMPLEMENTARY POINTS

This section provides reflection points and resources as regards fulfilling the safeguards described in chapter

2 as they apply in relation to children displaced by emergencies during these processes.



Information, support & assistance

See Chapter 2

A variety of initiatives have been undertaken to assist in informing children on their rights under the Temporary

Protection Directive.



See the Accompanying tool for relevant child-friendly resources, such as the EUAA leaflet targeting children on the temporary protection directive to inform them of their rights may be useful, or the <u>European Commission's information</u> page for people fleeing the war in Ukraine.

Guardian

When a guardian needs to be appointed for unaccompanied and separated children coming from Ukraine, and the scope of their role, has been discussed extensively in UNICEF/Child Circle Report: Fulfilling The Rights Of Children Without Parental Care Displaced From Ukraine in chapter 3, Responsibility, Support and Assistance Arrangements, including Guardianship for Unaccompanied and Separated Children.



Find in the Accompanying tool more information about the <u>Practical Tool for Guardians</u>, <u>Temporary protection for unaccompanied children fleeing Ukraine published by the EUAA and FRA.</u>

Legal assistance

In its June 2022 Political statement on the protection of displaced children from Ukraine in the context of Russia's war of aggression against Ukraine, the European Council encouraged EU Member States to provide free legal aid or assistance to the Ukrainian children enjoying temporary protection in their respective territory in relation to all procedures related to the temporary protection or its cessation, in accordance with the national law and procedures of each Member State.



See Chapter 2

Individual assessments of the circumstances and needs of children from Ukraine were not always undertaken consis-

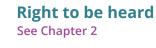
tently given that children were granted immediate access to the EU and access to necessary services. In some countries, authorities systematically sought to follow up and assess the situation of children once they were settled in reception, to examine whether guardianship arrangements need to be in place and to assess risk to children.



For further information, see more in the Accompanying tool about the <u>European Commission</u>, <u>Unaccompanied and Separated Children fleeing from war in Ukraine list of FAQs on Registration</u>, <u>Reception and Care</u>.



The child protection services available to children are established under national measures and the application of the UN Convention on the Rights of the Child. Chapter 4 of the UNICEF/ Child Circle Report: Fulfilling The Rights Of Children Without Parental Care Displaced From Ukraine focused on Ensuring that children displaced from Ukraine are protected from violence, abuse, neglect and exploitation while in responding States". It has a particular focus on children from alternative care settings in Ukraine".



Given the applicability of temporary protection for the large majority of children arriving from Ukraine, to date, most children were not interviewed in this regard, nor were they typically involved in status determination procedures.

Adapted procedures See Chapter 2

Given the applicability of temporary protection for the large majority of children arriving from Ukraine, to date, most children were not to date involved in status determination procedures. Chapter 5 of the UNICEF/Child Circle Report: Fulfilling The Rights Of Children Without Parental Care Displaced From Ukraine discussed the issue of accessing the international protection procedure appropriate to the individual needs of the child". For more general information on status determination procedures, see section on children in migration.



Best interests procedures

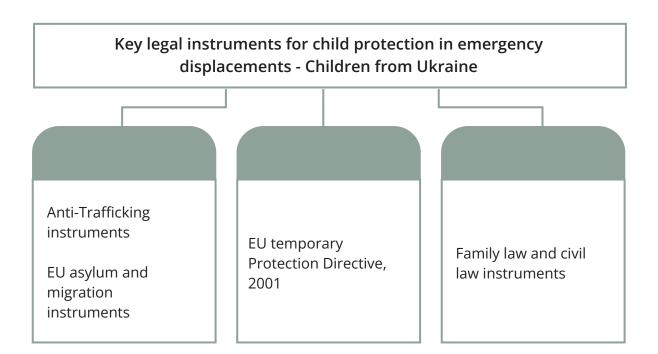
See Chapter 2

A range of international, EU and national laws may be relevant to any decision-making required in relation to the best interests of the child when the issue of their future arises. New procedures may need to be considered and put in place so as to ensure that there is a best interests assessment, proper assistance and support and adapted procedures. There needs to be a concerted effort to provide information to the child and ensure the child's views are heard for the purpose of decision-making and in terms of its implementation, to ensure continuity and stability in the child's life.



See more in the Accompanying tool, including about the UNICEF/Child Circle Report: Fulfilling The Rights Of Children Without Parental Care Displaced From Ukraine, and the Council of Europe CGU which also discusses the transnational procedures that may be involved in relation to decision-making for children.

Key relevant laws



See also UNICEF/Child Circle <u>Compendium</u> of Law and Guidance, Fulfilling the Rights of Children Without Parental Care Displaced from Ukraine.

3.6 MISSING CHILDREN WITHIN THE EEA

1. IDENTIFYING TRANSNATIONAL ELEMENTS OF CASES WHERE CHILDREN GO MISSING OR RUNAWAY

Where a child goes missing from his family or care arrangements, authorities may need to consider whether the child may have gone to another country and what action might be needed to locate them. Equally, where national authorities encounter a child in their jurisdiction, they may need to determine whether this is child is in fact missing from home or care arrangements in other countries.

Missing Children Europe's analysis reveals that children who run away often do so due to a combination of challenging personal and environmental factors. Family-related issues, such as conflict, lack of parental support, domestic violence, and abuse, are among the most common causes. Others flee due to neglect or mistreatment in institutional care settings. Mental health struggles, including anxiety, depression, and emotional distress, also play a significant role, sometimes compounded by substance abuse. Additionally, some children are either escaping trafficking and exploitation and, conversely, become more vulnerable to these dangers once they are on the run. Peer pressure can further influence their decision to leave.

A child may travel to another country, either independently or in the hands of adults who might exploit them. They may find themselves at risk of violence and in need to protection.

Every year, approximately 250,000 children are reported missing across Europe, equating to one child every two minutes, according to Missing Children Europe. In 2023, the 116000 hotlines network, which provide

assistance in cases of missing children, received over 67,000 calls related to nearly 7,300 incidents. A significant proportion, about 66%, of these cases involved children who had run away, often due to challenges such as family conflict, abuse, or exploitation. The latest report from Missing Children Europe, from 2023, also points to evolving threats, including the growing role of online platforms in child going missing. Digital grooming has become a major concern, making children more vulnerable to exploitation and increasing cross-border risks.⁴²

Migrant children traveling alone face particularly high risks of going missing. The Missing Children Europe Policy Brief "EU Pact for Migration and Asylum: Safeguarding Children in Migration at Risk of Going Missing", points to an investigation that more than 50,000 unaccompanied child migrants went missing between 2021 and 2023.

2. IDENTIFYING WHAT TRANSNATIONAL CHILD PROTECTION ACTION MIGHT BE, OR SHOULD BE, INVOLVED

Actions around transnational child protection concerning a missing child may be triggered with when:

- Trying to locate a child who is gone missing and there is an indication of a possible border crossing to another State
- Identification and referral to risks/needs assessment of children encountered by authorities who are believed to have gone missing from another State
- Resolution to the child's situation, such as return or stay

Seeking to locate a child who is gone missing, with an indication of a possible border crossing

When a child goes missing from care in Europe and there is an indication of a possible border crossing to another State, several EU-level

⁴² Missing Children Europe, Figures and Trends 2022 and 2023

instruments and networks come into play to ensure a coordinated response.

The process may involve the activation of missing children alerts as a first step. When a child goes missing, authorities can activate different alert systems, based on the nature of the case. Authorities assess the risk level before deciding to activate alerts and to select what kind of alert to activate. These alerts serve to quickly mobilise the public and law enforcement across borders.

- The Schengen Information System (SIS II): competent authorities can issue alerts on missing persons through the SIS, that can also be used for preventive purposes. For example, the authorities can enter preventive alerts in the system to protect certain groups, such as children at risk of abduction or potential victims of trafficking in human beings.
- Missing Child Alerts: Many EU countries have national alert systems that issue widespread notifications via TV, social media, digital bill-boards, and SMS to find the child as quickly as possible. These alerts will be activated only in particularly concerning cases, following a thorough evaluation by the authorities. For instance, in Belgium, a Child Alert is issued exclusively when there are clear indications that a child's life is in immediate danger, and the decision rests solely with the magistrate overseeing the case. There are also other European alert networks such as the AMBER Alert Europe which aims to help connect law enforcement across EU countries and works as an umbrella organization for national alert systems. INTERPOL Yellow Notice may be used for cases when the child is reported missing internationally, meaning non-EU and EU countries are involved in disappearance.

Beyond the missing children alerts, multiple support networks are in place across Europe and have a role in supporting children and their families or caregivers, and in helping competent national authorities manage missing children's cases in the first phases.

Missing Children Europe coordinates the network of 116 000 hotlines, dedicated to protecting and supporting missing children across Europe, working with national organizations, law enforcement, and policymakers

to ensure a coordinated response. The network of hotlines for missing children is made by national organisations across 32 European countries: anyone involved in a case of a child going missing can call 116 000 and receive free, round-the-clock support, including emotional, psychological, social, legal, and administrative assistance, thanks to trained staff and volunteers. This network also focuses on prevention, particularly among vulnerable groups such as runaway children, victims of parental abduction, and unaccompanied migrant children, and they cooperate with law enforcement, child protection services and other relevant actors.⁴³

Under the Brussels IIb Regulation and the 1996 HCCH Child Protection Convention, Central Authorities may also be asked to provide assistance in discovering the whereabouts of a child where it appears that the child may be present within the territory of the requested Member State and where that information is necessary for carrying out an application or request under these instruments.

Identification and referral to risks/needs assessment; notification to the authorities and cross-border cooperation

Should a child be encountered by authorities in another country when they are missing or believed to be missing from another country, the first and most critical step involves identifying them and assessing their situation. This includes determining their nationality, verifying identity (if possible, through documents), and immediately referring them to child protection services to evaluate the risks they face. Are they fleeing abuse, neglect, trafficking, or exploitation? Are they in immediate danger? Where these children are suspected to be missing from care in another State, a preliminary initial assessment may be done by local authorities or frontline professionals who may have come into contact with the child.

Missing children, especially those from migrant backgrounds, often lack official identification documents, making it difficult to verify their identity and country of origin. Communication may be further hindered if the child does not speak the local language, requiring interpreters or

⁴³ More information about this network and its members can be found at https://missingchildreneurope.eu/hotline-116-000/.

culturally sensitive approaches, which may not always be readily available. Runaway children, particularly those fleeing exploitation or abuse, may be hesitant to trust authorities, which can delay the identification process and the collection of crucial information. Furthermore, children who have run away from dangerous situations (e.g., abuse, trafficking) may be misidentified as voluntary runaways, delaying critical interventions which could protect them from risk. Ongoing training for police, social workers, and frontline professionals to communicate effectively with children from different cultural backgrounds and to identify signs of trafficking or abuse early, as well as having access to translators or interpretation services will assist.

Once any initial screening has been done, children should be referred to the local child protection services for the provision of emergency care and assistance to the child. Safe shelter and immediate protection are vital, but varying care standards, resource limitations, and cultural sensitivity issues can create challenges. Governments should ensure sufficient funding and resources for shelters that specialise in supporting runaway and unaccompanied minors.

Cross-border cooperation should be initiated as soon as possible, involving authorities in the EEA in which the child is habitually resident to get further information on the child and their circumstances. (As noted in section 3.1, there may be situations where contact with authorities should be excluded if this could put the child or their family at risk, for example in situations where the child may need to seek asylum.) Generally speaking, contact could include contacting the Central Authorities to request information of another country, potentially under Brussels IIb or HCCH 1996 Child Protection Convention depending on the circumstances of the case (see 3.3 above). The goal is to ensure that all relevant actors are aware of the case and can contribute to the child's immediate and long-term protection.

Legal Resolution: Return or Stay

A key question for authorities is to determine whether and how the child should be returned to their EEA country of origin or habitual residence or stay in the host country under legal protections. Transnational cooperation on these questions may involve Central Authorities, child protection agencies, and sometimes judicial entities. In cases involving children who applied for asylum in another EEA country, it may involve authorities addressing the application of the Asylum and Migration Management Regulation. Navigating the differences between national child protection laws, family laws, anti-trafficking laws and asylum and migration rules (see section 3.1 above) can make the decision-making process complex and delay decisions about whether the child should return or stay.

3. FULFILLING SAFEGUARDS FOR CHILDREN – COMPLEMENTARY POINTS

This section provides reflections and resources as regards fulfilling the safeguards described in chapter 2 as they apply in relation to missing children during these transnational actions.



Information, support & assistance See Chapter 2

A variety of initiatives have been undertaken to assist in informing children on their rights.

• Whether and how these safeguards are fulfilled (including access to appropriate information, the appointment of a guardian to support and assist the child and the availability of legal assistance and other forms of support) will depend on the procedures that are applicable to each child's situation. For example, national child protection laws vary in terms of whether they require the appointment of a guardian to any child deprived of parental care in their countries. EU anti-trafficking and asylum rules contain obligations in this regard. However, it is clearly very important for children who go missing to receive clear

information about their situation and what support and assistance they can receive. Child protection services and guardians, where necessary, should be trained and equipped to do so.

• 116 000 hotlines are available 24/7 and can be reached by anyone who needs to report a child going missing or looking for information, and by a child who is either in immediate need, who is considering leaving home/care, or who is looking for someone who went missing. The child hotline 116 111 child is available for children who need to talk to someone or need advice on issues related to violence, abuse of any kind, bulling, problems at school or home.⁴⁴



For inspiration: Especially targeting unaccompanied children in migration, the application "Miniila" – developed by Missing Children Europe – has been designed as a tool to help children who find themselves in a foreign country without a parental care nor a guardian. Find more about it in the Accompanying Tool.

Individual assessment

See Chapter 2

To uphold this right effectively, strengthening and leveraging on partnerships with international organizations would be beneficial, to share child identification data (fingerprints, photographs, etc.), which could help to quickly verify the identity of runaway children without documentation. Cooperation with Interpol and Europol could strengthen cross-border identification efforts, as well as cooperation and agreements at national level between civil society organisations, law enforcement and other services/actors involved in the protection of children – particularly children in migration but more broadly children in care and protection, and vulnerable groups of children.



An inspiring practice comes from Belgium where the Belgian organisation Child Focus in collaboration with a wide range of partners, led by the Secretary of State for Asylum and Migration and the Minister of the Interior developed a Guide for Frontline Professionals on Missing Unaccompanied Children. Child Focus also concluded a protocol with the Public Prosecutor's Office and the police services on cooperation on cases of missing UAMs and it has been incorporated into Belgian law, as is described further by in Guard-Up good

⁴⁴ https://missingchildreneurope.eu/child-looking-help/.

<u>practices guide 2025</u>. Check the Accompanying tool for more information about this and other resources.

 National child protection procedures will apply to assess the circumstances of a child. These may rely on information about the situation of the child or their parent (see further Brussels IIb or may rely on information from a guardian in another country). They may rely on home studies requested from organisations such as International Social Services.



For inspiration, see in the Accompanying tool more about the Practical guidance on preventing and responding to unaccompanied children going missing, from Missing Children Europe and ECPAT (2019), in the framework of the Summit project and updated in the framework of the INTERACT Project. It aims to stimulate and disseminate practice on how to better cooperation in prevention, response and after care of missing or exploited children in migration.



- Missing children should be provided with immediate care, such as temporary shelter, medical assistance, and psychological support, as is necessary to protect them from risk. Importantly, safe housing should be arranged to protect the child from further harm, such as potential re-abduction or exploitation. If the child is a migrant or refugee, collaboration with refugee organizations and Central Authorities may be needed.
- The quality and type of care available to the child may vary significantly between the countries. The child protection system in the host country may not have appropriate means and resources to provide the specific assistance these children need, posing the risk of the child running away again. Shelters may not have the capacity to provide specialised care for runaway children, especially if the child requires trauma-informed psychological support or has specific mental health needs or addictions. Besides the specific needs of each child, ensuring that the child's cultural, religious, and linguistic needs are met can be difficult in temporary shelters, particularly in countries unaccustomed to dealing with international child protection cases.

 All shelters and services working with children should have access to multicultural training for staff and offer care that respects the child's cultural, religious, and linguistic background. Collaborating with community-based organizations or employing staff from diverse backgrounds can enhance the child's sense of safety and belonging.

Right to be heard See Chapter 2

- In cross-border cases of missing children, competent authorities must ensure that the child's views are solicited and listened to by guardians, child protection officers, and/or specialised legal representatives. Courts and authorities handling these cases should try to understand why the child went missing. In taking action, they must consider the child's background, vulnerabilities, and potential risks, including through child-sensitive interviews conducted to assess the situation and throughout any proceeding the child will go through depending on the specific circumstances.
- If a child who was is unaccompanied in a foreign country or who was in care and goes missing, it may indicate that the existing care plan was either unsuitable for their needs or lacked their trust. Thus, it is crucial to ensure that the child's perspective is fully considered when making future decisions. Conducting a detailed interview with a qualified professional is essential to gather the necessary information for creating an appropriate care plan. This can also help prevent the child from going missing again. The plan should be followed up with personalized support tailored to the child's needs, such as access to an independent advocate.⁴⁵



For inspiration, check in the Accompanying tool about the <u>Listen up! Creating</u> <u>conditions for children to speak and be heard</u>. This CBSS guidance concerns how to create conditions for children at risk of exploitation and trafficking to speak and to be heard by professionals.

⁴⁵ SUMMIT Handbook: Practical guidance on preventing and responding to unaccompanied children going missing, p.122.



Adapted procedures

See Chapter 2

Missing children, like all other children, need to be ensured that any legal and administrative processes they may be involved in are child-sensitive, accessible, and have their best interests as a primary consideration. In all cases, access to adapted procedures will rely on the involvement of trained child protection professionals and child friendly mechanisms that prioritise their well-being. Approaches like trauma-informed care should be mainstreamed across child protection systems, ensuring that runaway children feel safe when sharing information about their situation.



Best interests procedures

See Chapter 2

a primary concern means that authorities, courts, and child protection agencies must assess each case individually, prioritising the child's safety, well-being, and long-term development over legal or administrative formalities. The question of which authority will take a decision in this regard and how they will cooperate with other authorities in other countries will depend on the underlying procedures. They should seek information on the child's situation in the country where the child is located. In cases of parental abduction, trafficking, unaccompanied children or child victims of abuse, it has been explained in the previous sections how determining the best interests involves evaluating risks, listening to the child's views, and considering their family situation, cultural background, and emotional needs. In cases of return, creating transnational systems for monitoring and follow-up care would help ensuring that, whether the child is reintegrated into their home country or allowed to stay, the child is not placed in a vulnerable position after their immediate needs are met.

Ensuring the right to have their best interests considered as

Key relevant laws

Key legal instruments for the protection of missing children

Brussels Ilb Regulation (2022)

HCCH 1996 Child Protection Regulations for a strengthened Schengen Information System (SIS), 2018

EU Anti-Trafficking Directive, 2024

Chapter 4

REFLECTIONS AND GUIDING PRINCIPLES

REFLECTIONS ON BETTER FULFILL-ING THE RIGHTS OF CHILDREN IN TRANSNATIONAL CHILD PROTEC-TION CASES

Given the mobility of children into and within Europe and their online interactions with others across borders, justice and administrative proceedings increasingly rely on transnational cooperation in order effectively to address protection issues for children.

Fulfilling children's rights should be at the heart of this cooperation. This requires the involvement of actors in different countries to ensure that their rights are fulfilled, including that their best interests are a primary consideration and that their views are heard.

The Guidance ref ects on actions to ensure that transnational child protection issues are more routinely identified and addressed. It points to necessary investment and collaboration at nation- al and regional level to fulf I safeguards for children, as well as highlighting regional resources that can be deployed. With these ref ections in mind, States should actively commit to improving transnational cooperation. A concrete starting point is to undertake a needs assessment, in consultation with local and national stakeholders, and determine priority actions for improvements which States can undertake or facilitate.

Effective transnational collaboration roots in trust between actors in different countries. The Guidance concludes with common guiding principles in cross border action which can help them align their approaches to strengthen collaboration.

OVERVIEW OF REFLECTIONS

- Raise general awareness of transnational elements in child protection cases
- Provide clear information on roles and responsibilities of actors involved
- Ensure adequate channels and capacity to support transnational cooperation
- Build knowledge of evolving International and European legal framework
- Introduce/ further develop transnational child protection case management protocols
- Better mobilise resources to fulfil safeguards to children in transnational cases
- Working to meet new challenges and continue to improve outcomes for children in transnational child protection cases

Raise general awareness of transnational child protection cases

A necessary starting point for improving transnational child protection is that all actors working with children recognise in a timely way when a child protection case may have a transnational dimension.

Having routine checklists for frontline law enforcement and child protection actors encountering children will help ensure that the transnational elements of their situation are not overlooked and neglected when administrative or justice proceedings are initiated.

Outreach and exchange from specialised services (such as organisations assisting trafficked children) to justice systems and child protection services can generate better awareness of the need to consider all the circumstances of the child's situation, including when they have close connections with other countries.

Provide clear information on roles and responsibilities of actors involved across the EEA

Responsibilities for children are organised in different ways in different Member States (and sometimes within States). Services and professionals in one country may struggle to identify the right authorities or services in another country when seeking to get information or to take decisions in relation to a child.

Providing clear information on the responsibilities and roles of actors in each country will mitigate these difficulties. **States should publish information which provides an overview of the roles and responsibilities of authorities in different areas.** The European Commission e-Justice Portal also assists in this regard. **European networks** can play a useful role when their websites provide information and contact details for member organisations. For example, Missing Children Europe and the European Guardianship Network websites provide an overview of organisations providing help when a child goes missing and organisations providing guardianship services to unaccompanied children in Europe, respectively.

Ensure adequate channels and capacity to support transnational cooperation

States should further develop the important channels that exist for transnational cooperation. This includes **increasing capacity of Central Authorities** in terms of personnel or resources where this becomes necessary in light of an increasing caseload. It involves **appointing focal points** on particular issues (as should happen with regard to trafficking for example, under EU law) to facilitate and support connections between relevant authorities in their own countries. **In emergency situations** where many children may be involved, it may involve the **appointment of local liaison officers** based in another country (as has happened in some situations where children were moving between EEA countries, in situations of mass influxes). Authorities, services and professionals working on children's cases can also benefit from connections with European networks working on supporting children and child-friendly justice across borders. The EU and its Members States should support strengthening

the role of these European networks through stable funding.⁴⁶

Raising the visibility of what authorities can help in transnational cases will support services and professionals working with children at a local level to know where to turn for assistance in transnational cases. For example, the Swedish Ministry of Foreign Affairs regularly visits Swedish municipalities and social services to inform about their role and which assistance they can provide through consular their consular departments.

Build knowledge of the evolving International and European legal and policy framework

Recent EU laws and policy address a wide variety of cross border cases including for example transfers of unaccompanied children within the EEA, enhanced victims' rights in criminal cases, transfers of criminal matters between jurisdictions, the use of measures such as European Investigation Orders, European Arrest Warrants and European Protection Orders. Relevant authorities and stakeholders should gain a better understanding of the procedures which govern working across borders in EU legal and policy framework.

Building knowledge can involve **common regional guidance and targeted training across a spectrum of actors**. Much relevant work is underway. For example, EU agencies are currently engaged in updating and developing further guidance in the field of asylum and migration. There are also a range of very helpful **regional platforms for training**, such as Council of Europe HELP, that could bring the issue into focus. The **European Commission's Recommendations on integrated child protection system and its EU Network for Children's rights** provide a channel for raising visibility of available guidance and training. The **Barnahus Network** also provides a hub of specialised resources and experts to provide training on the issue. It will be important for regional



See Accompanying Tool which describes several relevant networks, supported by EU funding, which also play a pivotal role in ensuring effective, child-centered approaches in the protection of all children. These include the Promise Barnahus projects, the European Guardianship Network (EGN), and Missing Children Europe, as well as the European Child Friendly Justice Network and Victim Support Europe focused on child-friendly justice).

for a including **networks of organisations working with children at risk** (such as Missing Children Europe, the Child Friendly Justice Network) to promote relevant resources and training, and to facilitate exchange of knowledge between peers on issues arising in transnational child protection cases.

Introduce/ further develop transnational child protection case management protocols

Actors across countries need to identify what steps are needed to improve the practical application of legal obligations that are relevant to addressing the transnational element of cases. International and EU obligations sometimes establish general obligations, rather than prescribing the detailed processes which are necessary to fulfil these obligations. For example, States may be obliged to cooperate on the best interests of the child (for example under the EU Asylum and Migration Management Regulation as regards potential transfers of children between States). However, there may not be agreed criteria and steps for undertaking best interest assessments. Transnational cooperation protocols on case management will be invaluable to underpin these processes.

Equally, in some child protection cases, forging **links between different types of proceedings involving the child** is necessary. In a 2022 resolution⁴⁷, the European Parliament stressed "the need to recognise the close connection between criminal, civil and other legal proceedings in order to coordinate the judicial and other legal responses to child and intimate partner violence; calls on the Member States, therefore, to adopt measures to link criminal and civil cases involving an individual family and children in order to effectively prevent any discrepancies between judicial and other legal decisions that are harmful to children". This may sometimes prove more challenging to achieve in a cross-border setting. For example, a request to interview a child in relation to an online sexual exploitation case may typically be organised by contacts between the

⁴⁷ P9_TA(2022)0104 Protection of the rights of the child in civil, administrative and family law proceedings European Parliament resolution of 5 April 2022 on the protection of the rights of the child in civil, administrative and family law proceedings (2021/2060(INI))

law enforcement officials in one country with law enforcement officials in another country. However, ensuring that child protection services in the country where the child is located are also involved properly to support the child and respond to their needs typically requires additional steps which need to be anticipated and agreed in more detailed protocols.

Transnational cooperation protocols should address the broad **exchange of information relevant to case management in transnational cases.**

They should include obligations to provide relevant information on the processes involved in different countries. For example, this includes the provision of court hearings and decisions in different procedures in which the child may be involved so as to allow any necessary coordination of measures taken in these procedures across countries, and in particular to ensure children access necessary support and protection measures.

They should also address the **modalities for data sharing** on the circumstances of the child to prevent obstacles when exchanging information across borders. The protocols could provide **common templates** for gathering information. Having an agreed format of questions and issues ensure that authorities and children in the two countries involved understand the scope of information requests which will mitigate difficulties that might otherwise arise between different processes, cultures and languages.

These transnational protocols can also capitalise on the practical support, operational work, and monitoring efforts that EU and UN agencies, as well as European NGO networks, can offer as regards cross border cases.

Better mobilise resources to fulfil safeguards to children in transnational cases

The Guidance shines a spotlight on some resources that are designed to fulfil safeguards for children in a particular proceeding as they may also provide inspiration for safeguards in other settings.

Some illustrative examples include:

Strengthening participation of children: while the laws increasingly

recognize the obligation to ensure the participation of children in procedures concerning them, more needs to be done to ensure that justice and child protection professionals have a common understanding of the importance of this step in transnational cases. Given that such cases may be more complex procedurally and in practice, there is a real risk that information and assistance is not provided to children in a timely way. The European Parliament Resolution on the protection of the rights of the child in civil, administrative and family law proceedings 2022 calls on States to ensure and provide easily accessible, understandable and exhaustive child-friendly information on the rights of the child in civil, administrative and family law proceedings and the proceedings themselves, including those of a cross-border nature. The Accompanying Tool to this Guidance also provides links to child friendly resources that may provide inspiration in this regard. For example, the EUAA has prepared information for children on age assessment procedures, including in animated form.

Improving access to legal assistance: as noted in the European Parliament Resolution, in civil, administrative and family law proceedings, especially in cross-border cases, children have limited possibilities to be represented by a legal professional or counsel. The Resolution calls on the Member States to enable access to free, publicly-funded, high-quality legal representation for children involved in civil, administrative and family disputes, including those of a cross-border nature, in cases where parents do not exercise full parental responsibility or when there is a suspicion that their interests may conflict with the best interests of the child. The e-justice portal offers factsheets about legal aid in different Member States of the European Union.48 The report Stepping Stones to Safety provides examples of cooperation between legal organisations assisting children in a family reunification case. States should also support, including by funding, transnational networks of guardians and lawyers working together on transnational procedures to provide information, support and assistance to children.

Ensuring access to child sensitive procedures: The Barnahus model provides a child-centred inter-agency model, designed to avoid

^{48 &}lt;u>https://e-justice.europa.eu/topics/taking-legal-action/legal-aid_en.</u>

retraumatisation and secondary victimisation to child victims. Deployment of Barnahus in transnational cases to record the evidence of a child for use in a court proceeding in another country could ensure the child's rights to be heard and that procedures are adapted to their situation are fulfilled. How to use Barnahus in this way must be considered carefully. For example, one step to explore would be putting a memorandum of understanding in place between Barnahus and law enforcement or justice officials in other jurisdictions to ensure a common understanding and approach to transnational child protection cases. This could ensure agreement on the provision of information and support for children, and how to ensure their rights are fulfilled, including rights to therapeutic services where needed.

Developing specialised skills for transnational child protection

cases: It is important to support the development of specialised skills to help address specific child protection concerns, such as trafficking, in cross-border cases. For example, in Sweden, the Swedish Gender Equality Agency and the Social Board have online specialised trainings on trafficking in human beings, including children, and sexual exploitation of children: Webbutbildningar | NSPM. As a further example, the Barnahus Network assists in regional training of professionals, including, for example, training of specialised interviewers in adapted interview protocols and investigation protocols for particular offences; training specialised professionals in acute crisis interventions and adapted trauma-focussed interventions and training in how to ensure participatory approaches of children.

Working to meet new challenges and continue to improve outcomes for children in transnational child protection cases

Looking to the future, it is important to continue to envisage how outcomes for children can be improved in transnational child protection cases, considering new trends and a growing number of transnational cases.

For example, in some cases, one country may be investigating circumstances that are not considered to be a criminal offence in the country in which the child is located. They may wish the child to give evidence, but

the child may have difficulty accessing appropriate victim support services in the country in which they are located, because there is no similar offence in that jurisdiction. **Harmonising definitions of criminal offences** which often have a cross-border aspect, such as online child sexual exploitation, will assist in ensuring that there are obligations to provide support services to children consistently across Europe in relation to these offences.

It would also be useful to **ensure that children have access to an effective appeal available to them in transnational child protection cases**, when measures in their regard are taken, or are being recognized or enforced.

European fora and networks can prove valuable channels for professional exchange and provide an important space for identifying areas of law and procedure which may need to be enhanced.

COMMON GUIDING PRINCIPLES FOR STATES

Building trust and collaboration between authorities and actors in different countries is essential for better cooperation and better outcomes for children. Creating a Cycle of Protection set out guiding principles for cooperation between actors in trafficking cases. This Guidance encourages States to consider a similar approach in all transnational child protection cases.

Goals of cooperation

- *Children's rights-based:* UN CRC General Comment no 13 underlines that a children's rights-based approach concerns developing both the capacity of duty bearers to meet their obligations to respect, protect and fulfil rights and the capacity of rights holders to claim their rights. In cases involving violence against children, the UN CRC has emphasised the common responsibility of all actors. Providing information,

support and assistance to children to claim their rights specifically in transnational child protection cases is of central importance, as they can be procedurally complex.

- Holistic and Comprehensive: The whole of the child's circumstances should be assessed and all their rights and needs should be comprehensively addressed, including through access to services. Children who have suffered violence or are at risk of violence may face co-occurring difficulties. They may have a wide range of needs for protection and care. They may also be involved in several legal or administrative proceedings. It is important to ensure countries can cooperate to consider and plan to address both the child's short-term and longer-term needs and their needs for longer term assistance, social inclusion and durable solutions.
- Effective and child friendly justice procedures: A central goal of transnational cooperation is to enhance the ability of the State to act in the fe ld of criminal law and immigration law, and to avoid conficts in cross border family law and child welfare cases. Prioritisation of resources to ensure child-friendly justice and the protection of children involved in transnational cases will also assist the State's ability to pursue these aims. In transnational cases, it is also important to put a particular focus on timeliness. In general, the timeliness of transnational procedures is a real concern in children's cases as transnational procedures in criminal justice and immigration procedures may be administratively complex and lengthy, including as regards evidence gathering in cross border.
- *Prevention-focussed:* All actors should work together to combine their knowledge and experience to ensure action to prevent violence against children involved in transnational child protection cases. Vulnerability to risk of violence should be actively mitigated at all steps.
- Dynamic and resilient: Cooperation amongst actors should involve learning from the past and present developments and emergencies, whilst look to the future, anticipating and being prepared to the next ones. The recent response to Ukrainian displaced children arriving in Europe highlighted the importance of multi-agency coordination, resilience, operational capacity, and rapid exchange between actors in different countries to enhance safeguards for children.

Features of the system

- *Transparency and accountability:* Given the wide range of bodies involved, it is crucial that their responsibilities to children in need of

protection, and the way in which they are exercised, are transparent. This includes ensuring clearly defined roles, with agreement on which actors lead on which responsibility as well as provisions for cooperation between them. Accountability must be assured through monitoring which addresses the specific obligations to children who have been trafficked. There should be a child friendly complaint system in place.

- *Resourced and sustainable:* State actors take action to establish a sustainable system through the provision of adequate resources and preserving knowledge and experience within the system, including in their Central Authorities and through investing as cooperation within European networks providing services and protection to child victims.

Features of case work

- Specific safeguards for children: Children should be at the centre of procedures involving them; procedures should be adapted to their needs and rights, avoiding re- traumatisation and secondary victimisation. Children should receive proper information, support and assistance.
- Multidisciplinary and interagency: There should be explicit commitment amongst the different agencies involved in the different procedures and services for children at risk of violence to work together. These commitments should address in a coordinated way the proceedings in which they are involved and involving all the necessary actors, including those involved in informing, supporting and assisting children.
- *Specialisation:* Trained, qualified and experienced actors should be involved in transnational child protections. This requires specialisation in processes involved in cross border cases and familiarity with the interplay of the different laws and procedures that might apply. It should also involve mobilising, deepening and connecting specialisation in children's cases.

ANNEX 1: INTERNATIONAL AND EU LEGAL AND POLICY LANDSCAPE FOR TRANSNATIONAL CHILD PROTECTION CASES

1.1 OVERVIEW OF RELEVANT UNCRC PROVISIONS TO PROTECTING CHILDREN FROM VIOLENCE

Protection from violence

States shall protect the child from all forms of violence, abuse, neglect or exploitation. (Article 19.1) Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement. (Article 19.2)

Asylum and migration

States shall take appropriate measures to ensure children who are refugees or seek refugee status receive appropriate protection and humanitarian assistance. (Article 22)

States shall take the measures necessary to trace family (Article 22) and address applications for family reunification in a positive humane and expeditious way. (Article 10)

Trafficking

State Parties shall take all appropriate national, bilateral, and multilateral measures to prevent the abduction, sale, or trafficking of children for

any purpose or in any form (Article 35). In transnational cases, this article encourages international cooperation to combat child trafficking, ensuring that states work together to investigate, prevent, and prosecute such crimes.

The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography (OPSC) supplements the CRC by specifically addressing issues related to the sale of children, child prostitution, and child pornography. Specifically on matters of transnational nature, the OPSC encourages international cooperation among states, particularly in terms of law enforcement, sharing of information, and mutual legal assistance and assistance in investigations and legal proceedings related to these crimes (Art.6 and Art.10).

Criminal justice

States shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. (Article 19.1) Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement. (Article 19.2)

Articles 37 and 40 of the CRC are specifically concerned with the treatment of children within the criminal justice system. These articles lay down key principles and standards that protect children from harsh treatment and ensure that their rights are respected throughout legal proceedings.

States shall ensure that children are not subjected to torture, cruel, inhuman, or degrading treatment or punishment; that children are not unlawfully detained and that arrest, detention, and Imprisonment are

used only as last resort measures and for the shortest appropriate period of time. Children deprived of their liberty must be treated with humanity and respect for their inherent dignity. They should be separated from adults unless it is in their best interest not to be and should have the right to maintain contact with their families. Children have the right to prompt access to legal assistance and the right to challenge the legality of their detention before a court. (Article 37)

States shall also ensure that children in conflict with the law are treated in a manner consistent with their age and the desirability of promoting their reintegration into society. States shall in particular ensure that procedural safeguards are guaranteed for every child involved in a criminal proceeding, and that diversion and other measures are offered as alternatives to institutional care. (Article 40)

Family law provisions

States shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of their rights. (Article 5)

States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence. (Article 9.1) ...applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. (Article 10.1)

Children who are temporarily or permanently deprived of their family environment are entitled to special protection and assistance. (Article 20)

... States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention. (Article 22)

Parental abduction

States Parties shall take measures to combat the illicit transfer and non-return of children abroad. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements. (Article 11)

International cooperation

General Comment no 13 of the UN Committee on the Rights of the Child - the right of the child to freedom from all forms of violence.

Para 7 (d) Implementation of Article 19 requires cooperation within and between national, regional and international human rights bodies, mechanisms and United Nations agencies;

Para 76. Regional and international cross-border cooperation. In addition to development assistance, cooperation is also needed to address child protection issues which cut across national borders such as: cross-border movement of children – either unaccompanied or with their families – either voluntarily or under duress (for example due to conflict, famine, natural disasters or epidemics) which can put children at risk of harm; cross-border trafficking of children for labour, sexual exploitation, adoption, removal of body parts or other purposes; conflict which cuts across borders and which may compromise a child's safety and access to protection systems, even if the child remains in the country of origin; and disasters that impact several countries simultaneously. Specific legisla-

tion, policies, programmes and partnerships may be required to protect children affected by cross-border child protection issues (for example cybercrime and extraterritorial prosecution of those who sexually abuse children through travel and tourism and traffickers of families and children), whether these children are in traditional caregiving situations or where the State is the de facto caregiver, as in the case of unaccompanied children.

1.2 OVERVIEW OF INTERNATIONAL AND EU LEGAL INSTRUMENTS

RELEVANT LEGAL INSTRUMENTS

Children's rights	UN Convention of the Rights of the Child (1989) and its Optional Protocols.
	European Convention on Human Rights, 1950
	European Charter of Fundamental Rights, 2012
	UN Refugee Convention, 1951
Asylum & Migration	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990
	Council Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals
	Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals. In March 2025, a proposal for a revision of the Directive was submitted by the European Commission.
	Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (codification). On 24 May 2024, the Council of the European Union adopted the reform of the Schengen Borders Code.
	Regulation (EU) 2018/1862 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU. In March 2023, SIS was renewed with new alerts, upgraded data and enhanced functionalities.
	EU Asylum Migration Management regulations: an overall overview can be found at https://home-affairs.ec.europa.eu/policies/migration-and-asylum/common-european-asylum-system_en. Council of Europe Convention on the Protection of Children
	against Sexual Exploitation and Sexual Abuse, Lanzarote 2007.
	Council of Europe Convention Against Domestic Violence, Istanbul 2011
	EU Directive 2004/80/EC relating to compensation to crime victims.
	EU Directive 2011/99/EU on the European protection order. EU Directive 2011/92/EU on Combating Sexual Abuse and Sexual
	Exploitation of Children and child pornography. In February 2024, a proposal for a revision of the Directive was submitted by the European Commission.

	EU Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime. In July 2023, a proposal for a revision of the Directive was submitted by the European Commission.
Criminal justice	Regulation (EU) No 606/2013 on mutual recognition of protection measures in civil matters.
	Proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse, 2022.
	EU Directive 2024/1385/EU on combating violence against women and domestic violence
	Regulation (EU) 2024/3011 on the transfer of proceedings in criminal matters.
	Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.
	EU Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings
	EU Directive 2012/13/EU on the right to information in criminal proceedings
	EU Directive 2013/48/EU on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular
	EU Directive 2014/41/EU regarding the European Investigation Order in criminal matters
	EU Directive (EU) 2016/343 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings.
	EU Directive 2016/800/EU on procedural safeguards for children who are suspects or accused persons in criminal proceedings
	Hague Convention on the Civil Aspects of International Child Abduction, 1980.
Family law/Civil law	Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, 1996.
	Brussels IIa Regulation, No. 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.
	Brussels IIb Regulation, No. 1111/2019 on Matrimonial matters and matters of parental responsibility.

Temporary protection	Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting abalance of efforts between Member States in receiving such persons and bearing the consequences thereof.
Trafficking	Palermo Protocol to the UN Convention on Trans-national Organ- ised Crime: Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, UN General Assembly Resolution 55/25, 2000
	United Nations Convention against Transnational Organized Crime, 2000
	Council of Europe Anti-Trafficking Convention on Action against Trafficking in Human Beings, 2005.
	EU Directive 2024/1712/EU amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.
Missing children	Regulations for a strengthened Schengen Information System (SIS), 2018

1.3 OVERVIEW OF INTERNATIONAL AND EU POLICY INSTRUMENTS

RELEVANT POLICY INSTRUMENTS

General Comments of the Committee on the Rights of the child: the Committee makes recommendations on any issue relating to children to which it believes the State parties should devote more attention. As of September 2023, the <u>Committee has adopted 26 general comments</u>. The full list of final general comments are available on the OHCHR database and supporting documents are available here.

Particularly relevant in this context are:

- General Comment no. 12 (2009), The right of the child to be heard
- General Comment no 13 of the UN Committee on the Rights
 of the Child the right of the child to freedom from all forms of
 violence.

• 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)

- Joint General Comment No. 3 of the CMW and No. 22 of the CRC in the context of International Migration: General principles
- Joint General Comment No. 4 of the CMW and No. 23 of the CRC (2017) on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return

CoE Guidelines on Child-Friendly Justice, 2010

CoE Strategy on the Rights of the child (2022-2027)

EU Strategy on the Rights of the child (2021-2024)

Commission Recommendation (EU) 2024/1238 of 23 April 2024 on developing and strengthening integrated child protection systems in the best interests of the child

Communication from the Commission to the European Parliament and the Council on the protection of children in migration, 2017

Asylum & Migration

CoE Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe (2021-2025)

Asylum and Migration Pact (2024)

Children's rights/ Cross-cutting

Criminal justice	CoE Guidelines on Child-Friendly Justice, 2010
	EU Victims' Rights Strategy (2020-2025)
	EU Child Sexual Abuse Strategy (2020-2025)
Family law/Civil law	Hague Conference on Private International Law (HCCH) guides, explanatory documents and publications on the 1980 HCCH Convention.
Temporary Protection	EU Anti-Trafficking Plan to protect people fleeing the war in Ukraine (2022)
Trafficking	EU Strategy on Combatting Trafficking in Human Beings (2021– 2025)
Missing children	See EU Strategy on the Rights of the child (2021-2024) and Communication from the Commission to the European Parliament and the Council on the protection of children in migration, 2017.

1.4 OVERVIEW OF EUROPEAN CASE LAW

UN Treaty Body Database

The UN Treaty Body Jurisprudence Database is an official repository maintained by the Office of the High Commissioner for Human Rights (OHCHR). It provides access to decisions (jurisprudence) issued by UN human rights treaty bodies on individual complaints, including under the UN CRC and Optional Protocols like OPIC. Users can search by treaty, country, case name, articles invoked, and outcomes. Its function is to make the jurisprudence of the UN treaty bodies transparent and accessible for legal professionals, researchers, and human rights advocates.

Consult the database here.

Optional Protocol on a Communications Procedure (OP3) caselaw database

The OP3 caselaw database gather the adopted views of the United Nations Human Rights Treaty Bodies on the individual communications submitted by children or on behalf of children since the Convention on the Rights of the Child came into effect (2 September 1990). Given that children are not only protected by the Convention on the Rights of the Child and its Committee but also by other UN human rights Conventions and their treaty bodies, other UN treaty bodies can also take up cases involving children and analyse any violations to their rights in the specific treaty they monitor. Thus, this jurisprudence database includes the adopted Views by the Committee on the Rights of the Child as well as other UN treaty bodies. Summaries of the adopted Views are also included.

Consult the database here.

HUDOC, Database of the European Court of Human Rights (ECtHR) case law

The HUDOC database provides access to the case law of the European Court of Human Rights. It includes judgments, decisions, advisory opinions, and legal summaries related to the European Convention on Human Rights.

Consult the database here.

See also the <u>Factsheet</u> on protection of minors.

Database of the Court of Justice of the European Union (CJEU) case law

The CJEU case law database offers access to judgments, opinions, and orders from the Court of Justice, the General Court, and the Civil Service Tribunal. It covers legal interpretations of EU law to ensure its uniform application across member states.

Consult the database here.

Legal database on international child abduction law by the HCCH (INCADAT)

The INCADAT database is a comprehensive legal resource maintained by the Hague Conference on Private International Law (HCCH). It provides searchable summaries and full-text judgments of significant court decisions related to the 1980 Hague Convention on the Civil Aspects of International Child Abduction, aiming to promote consistent interpretation across jurisdictions.

Consult the database here.

Implementing the Barnahus Quality Standards throughout Europe

Projects under the umbrella of PROMISE have been supporting Europe to adopt the Barnahus model as a standard practice for providing child victims and witnesses of violence rapid access to justice and care. We undertake this work to fulfil the PROMISE vision: a Europe where all children enjoy their right to be protected from violence.

A Barnahus provides multidisciplinary and interagency collaboration to ensure that child victims and witnesses of violence benefit from a child-friendly, professional and effective response in a safe environment which prevents (re)traumatisation. With the formal support from national authorities, PROMISE projects provide opportunities to translate national commitment into action and engage internationally in the process. In addition, regular networking and strategic communications continually activate our growing network of professionals and stakeholders who are committed to introducing and expanding Barnahus services nationally.

In the early years, we established European standards, formalised the Barnahus Network, and expanded into University training and case management tools. We further laid the groundwork to establish a European Competence Centre for Barnahus and an accreditation system for Barnahus. Our current focus is on addressing gaps and specific needs identified by Barnahus in Europe. This includes strengthening inclusive and resilient child protection systems particularly in times of crisis, improving national systems' ability to effectively handle transnational cases, and enhancing the role of Barnahus within broader child protection systems.

Access the PROMISE tools and learn more at www.barnahus.eu















