

The Way Forward

to Strengthened Policies and
Practices for Unaccompanied
and Separated Children
in Europe



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Background and objective of the document

Regional and national laws in Europe provide a solid framework for child protection, based on international standards.¹

However these laws have not systematically translated into a positive impact on the wellbeing of refugee and migrant children. Instead, children, state institutions, and non-governmental actors often find themselves confronted with complex, confusing, costly, and bureaucratic procedures which do not adequately take into account the best interests of unaccompanied and separated children (UASC).

UNHCR, UNICEF, and IRC established a consultative process to support states to better operationalise their response for the protection of UASC in Europe –the Roadmap to Strengthened Policies and Practices.

The process included three consultations with around 100 practitioners (guardians, psychologists, social workers, lawyers, teachers and others) from nearly all European countries involved in the current refugee and migrant crisis² a roundtable with nine European states³, consultation with European Union (EU) level actors⁴, and last but not least individual or group discussions with over 50 UASC living in Europe.

The consultative process produced concrete recommendations on a way forward, captured in this paper, for efficient, lean, and harmonized processes which ensure children are protected and can access procedures and solutions in accordance with their best interests.

Special thanks go to all involved, and especially to all children, for their valuable contributions.



Key Considerations

The main components and suggestions identified during the different consultations are outlined below and grouped according to the areas identified as the most critical. However, there are some central considerations which cut across all of the areas of improvement:

The centrality of trust

Children feel scared and lonely while often being under severe pressure from smugglers and/or their family in their country of origin. Practitioners and UASC have therefore highlighted the centrality of trust for an effective and protective response. Every step of the response, from the identification, registration, prevention of uncontrolled onward movement and family tracing, to the implementation of a durable solution greatly depends on the existence or ability to build a trust relationship with the child.

Agents of change

In this sense, three key agents of change have been identified as the possible drivers for change and improvement:

1

Guardians, as they are often best placed in the system to ensure the best interests of the child and should serve as the one consistent contact point for the child;

2

Cultural mediators, as they can build the cultural bridges needed to develop a trust relationship with the children as well as mobilise refugee and migrant communities to support the protection of the children; and

3

The children and youth themselves, as they are most eager to improve their situation and have knowledge and expertise to contribute. It has long been recognised that children and youth can and want to effectively participate in issues affecting themselves, and that their perspectives often lead to significant and positive policy changes.

Prioritization

In light of limited resources, state and non-state actors should prioritize efforts in some key areas as a first step. The following areas are suggested as priority areas for initial reform based on their fundamental nature and their ability to have an immediate, considerable impact on the wellbeing of children.

1

Proper identification, registration in a Europe-wide system, and holistic age assessment procedures.

2

Provision of child-friendly information on procedures, available services, actors and their roles and responsibilities, duties and obligations of the children, and different options of solutions.

3

Establishment of a rapid and effective guardianship system, including the engagement of effective cultural mediators.

4

Strengthened access to age appropriate and safe care arrangements, including the provision of key services, such as education, medical care and psychosocial support, and development of Standard Operating Procedures (SOP's) linking all relevant actors (national, international, governmental and non-governmental, and communities) for an efficient and effective national and ideally cross-national procedure from identification to the provision of solutions.

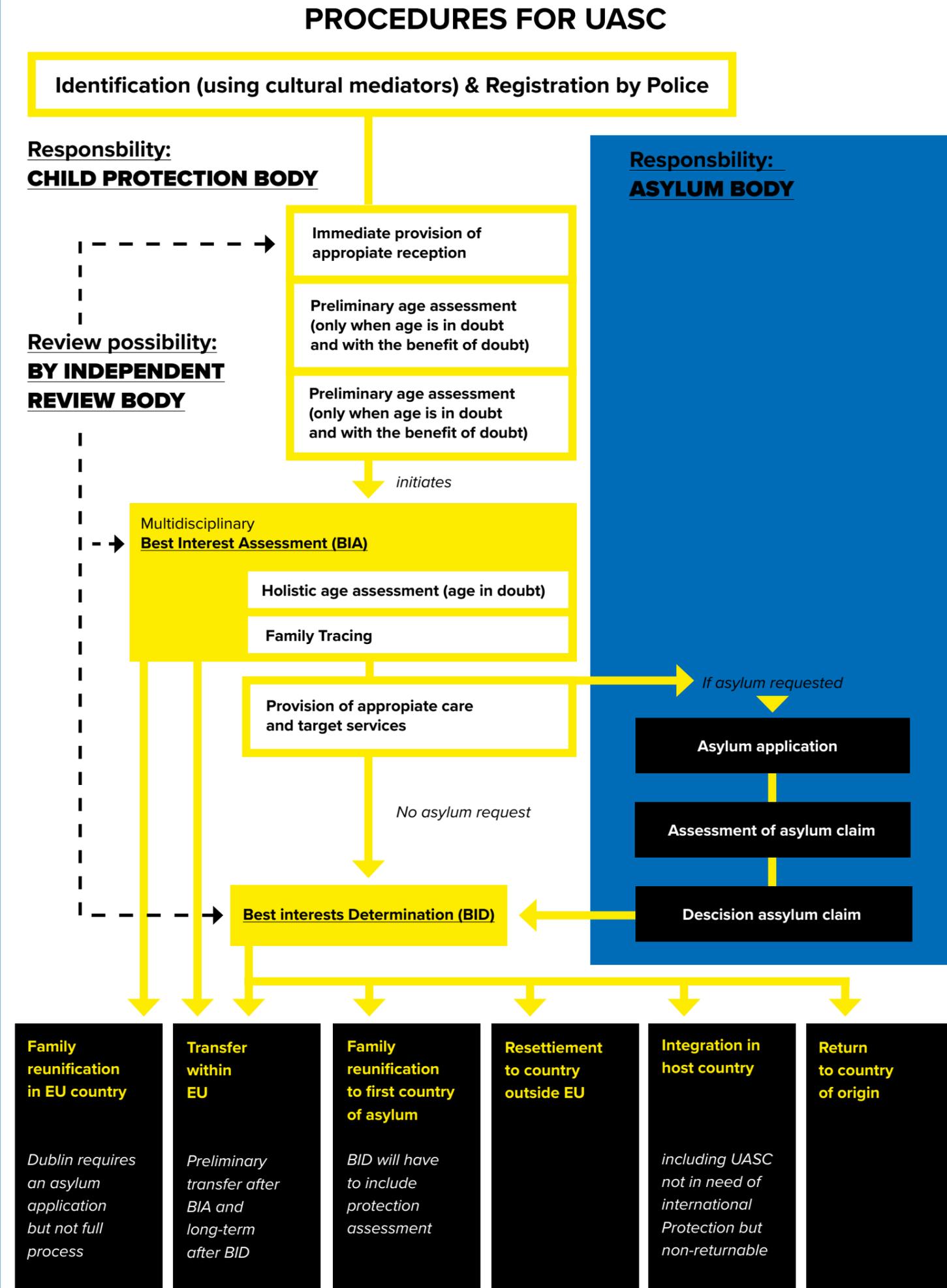
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The engagement of community members will further help overcome challenges in a more protective and cost effective way.

Areas of improvement

All suggested areas of improvement, including the problem statement, a vision, and a proposed way forward, are outlined in the following chapters.

The following graph depicts the suggested overall procedure for UASC, linking the different areas of improvement into one coherent system.



1

Identification, Registration and Age Assessments

Problem statement:

All procedures should begin with the registration and identification of UASC, as well as an assessment of age when age is in question. A system cannot properly protect a child without registration and identification. However, in many countries, registration has often been incomplete or inaccurate. Children are either not registered at all, or not registered as unaccompanied or separated (as they are registered with other individuals), or they are registered as unaccompanied, even though they are traveling with extended family members, which in turn can lead to family separations. There is also the risk they are erroneously identified and automatically registered as adults or the children deliberately register as adults due to pressure/advice from the smugglers.

**“I do not have information proper about my situation. I got information from the internet and contacts with my friends.”
Said Mokrani*,
Male, 16, Algerian**

Identification mechanisms are often not systematic and instead built on ad-hoc identification and referrals. The capacity of existing identification structures are weak and do not build on an engagement with the refugee/migrant communities. In addition, children who are unaccompanied often resist identification, in many cases due to the influence of smugglers and/or instructions from their families, the community, or even peer pressure.

A high number of UASC acknowledged in the consultations that children often try to evade identification and registration. The main reasons are their fear of the police or detention, as well as the prevention of their onward movement.

Finally, during the identification process, age assessments are often not carried out in accordance with relevant guidelines⁵. The differences in the procedures for the assessment of age across Europe have resulted in discordant decisions on the age of the individuals and disruptions in the

provision of care and protection to UASC, particularly in cases of transfers under Dublin. The response to the protection needs of UASC in the European context must be a regional, as well as a national, priority, underpinned by harmonized procedures for age assessment, including a systematic use/understanding of giving the benefit of the doubt. In many circumstances, authorities conducting age assessments focus only on medical aspects, leaving social and cultural aspects aside, frequently leading to incorrect age assessments. Very few countries provide for a formal challenge of questionable results from age assessments in front of an independent body. This procedural safeguard is fundamental as age assessment is not only the gateway for children to access national child protection systems, including specialized services, but is also relevant in other fields, e.g. criminal responsibility.

**“Children often do not register because of the inhuman treatment. [...] Provision of assistance and accommodation would encourage children to register.”
Faisal Shanawaz*,
Male, 16, Afghan**

Vision/Objective:

All children including unaccompanied and separated boys and girls arriving to Europe are identified, properly registered and referred to national child protection systems. Children are not deprived of their rights due to an erroneous age determination. All European states establish harmonised domestic statutory guidance on holistic methods for age assessment and implement a statutory appeal remedy for age assessment decisions.

Ways forward and milestones:

Identification

1

Frontloading of UASC processes: Identification and registration, as well as an enhanced assessment in the best interest of the child, should be given priority and be conducted as soon as the child is identified.

2

Training of border authorities: The vast majority of UASC consulted highlighted their fear of police and existing police brutality as major reasons for trying to evade identification and registration. All border authorities/police therefore need to be trained in how to approach and identify UASC. A child protection actor/body should also be present at this first point of contact.

“Children would register if they would be treated nicer along the route.”

**Amina Safi*,
Female, 16, Afghan**

3

Investing in trust building: During the consultations, UASC stressed their fear, loneliness, and lack of trust in other people, especially in a context very foreign to where they came from. Re-building this trust is key for every programme. Outreach teams, cultural mediators, immediate appointment of guardians, and provision of child-friendly information on the procedures are some measures mentioned by the children and practitioners to enhance the trust of children.

4

Engaging with outreach teams: In addition to the border authorities, outreach screening teams consisting of cultural mediators and protection staff should be engaged from the start and as early as the arrival stage in order to identify UASC as soon as possible. In doing so they can be channelled into the specific/appropriate procedures for UASC. These outreach teams can be managed by NGOs and overseen by governmental authorities. Constant engagement with existing populations, for example through cultural mediators⁶, should also form part of the identification process.

5

Cultural mediators: These actors play a critical role as they build dialogue and trust with the children and mitigate the influence of traffickers pushing children to leave. If appropriately trained and supervised, cultural mediators have proven their value in many instances. However, there is a need for close monitoring by a commissioned NGO or state authority to quickly detect and mitigate malpractice. In addition, state representatives participating in the roundtable suggested that good practices of existing cultural mediator programmes should be documented and the initiative further tested through pilot projects within certain states.

“Police must have interpreter in every moment and also cultural mediator or other official who can assist in this process.”
**Farooq Hashmi*,
Male, 17, Afghan**

Registration

6

Individual registration: All UASC should be registered individually, which could include the recording of biometrics in a central European database, taking into account that biometrics evolve with age. During roundtable discussions state representatives agreed that a database was needed but that the current system of EURODAC was not a suitable solution for this. EURODAC is primarily related to asylum procedures and therefore lacks the focus on child protection that a central database would require. For example, separated children must be linked to the relatives they are traveling with, while the enhanced best interest assessment (BIA – see below) will assess whether it is in the best interests of the child to stay with the family members or whether an alternative care arrangement has to be found. The registration system as a whole, and the database specifically, needs to accommodate these protection issues.

7

Separate registration track for UASC: A separate, child-friendly registration track should be established at the points of disembarkation or entry to prevent UASC waiting in the same areas with unrelated adults for long periods. The special registration track should mark the beginning of the specific child-friendly procedure for UASC. This can also include an emergency transfer to other provinces of the country if needs cannot be met at the point of disembarkation/identification. For example, in terms of the immediate appointing of a guardian, age appropriate reception and speedy access to procedures.

“I think that the authorities need to talk and explain to us about our rights and then encourage us to register.”
**Noor Khan*,
Male, 16, Pakistani**

8

Provide child-friendly and timely information on all procedures: The children that were interviewed highlighted the need to receive appropriate information about the procedures, the different options, and the available services at their disposal. The vast majority of consulted UASC stressed that more children would register if they were informed and counselled on their options.

Age Assessment

9

Harmonise age assessment across Europe: Based on existing guidance, standards for the age assessment process should be developed which can then be translated into national legal frameworks. It is recommended that this guidance be developed at the EU level with a broader focus than asylum, since age assessment is not an issue limited to the asylum procedure but actually goes far beyond that to the right to education, criminal liability, and other issues. National actors should ensure that relevant agencies know and understand best practices on age assessment and also receive regular training. State representatives participating in the roundtable agreed with the necessity of harmonising the practice of age assessments across countries to ensure better, more timely support and protection for UASC.

10

Two stage age assessments: As a general principle, not all children should undergo an age assessment. Age assessments should only be conducted for children where there is a reasonable doubt regarding their age. Furthermore, acknowledging the difficulties in conducting holistic and multidisciplinary age assessments at the point of identification, especially when dealing with several hundred UASC at the same time, the assessment should be divided into the following stages:

· As a first step, at the point of arrival where there is reasonable doubt regarding a child's stated age (due to them either looking older than 18 or having registered themselves as older than 18), a preliminary age assessment can be conducted immediately by a child protection actor through cultural mediators to ensure fast and effective placement in the appropriate first reception stream. The assessment should largely build on the statements of, and documentation presented by, the child, but also on the impression of the cultural mediator/ child protection specialist.

· As a second step, when there is doubt of the results of the age assessment and/or its methodology, a holistic and multi-disciplinary (medical, social, cultural, psychological) age assessment should be conducted as part of the enhanced BIA (see graph 1 and section below), including the views of the child, in order to produce a reasoned and documented decision. The multi-disciplinary age assessment can be done by the same team that conducts the enhanced BIA to save resources, as long as it is independent and separated from the asylum procedure.

11

The child should never bear the financial costs of any assessment of his or her age.

12

Establish an effective legal remedy enabling individual children to challenge the age assessment decision. This remedy could fall into the competency of the child protection review body (see chapter on best interests) with the ombuds-person for children, the national human rights institutions (NHRI), or the respective court dealing with youth and welfare affairs. The child should have access to legal assistance and counselling to understand their right to a legal remedy.





2

Guardianship and Legal Representation

Problem statement:

If appropriately prepared, equipped, and supported, guardians can play a key role in overcoming a number of the current challenges that UASC face in Europe. A guardian that has built a trusting relationship and functions as the agent and voice of the child can ensure that the best interests of the child are considered at every stage in the process, while mitigating the influence of smugglers, traffickers, or criminal organisations. This relationship will also encourage the child's cooperation and participation, for example in tracing his or her family. UASC, who have had regular contact with a committed guardian, highlighted the benefit in many areas of their life, from access to services and an appropriate care arrangement, to the asylum procedure and the possibility to raise issues and concerns.

However, guardianship services for UASC have thus far not been considered in a systemic approach to child protection, which also results in a lack of a harmonized approach to guardianship across countries in Europe with different understanding of their roles and responsibilities. Often, guardians play a dual role: that of a guardian and that of the legal representative, which can lead to a lack of clarity regarding responsibilities in each role. Furthermore, in the current context, guardianship systems are often overloaded and cost heavy, and guardians generally take a long time to be appointed, with negative consequences for the UASC. In some countries, practitioners have flagged that guardians represent up to 75 UASC, and rising arrival numbers pose serious capacity issues for guardianship systems.

Throughout the region, guardians are overstretched, may not be thoroughly screened, and receive little training in how to address the needs of the children they are supporting. This is frequently coupled with a lack of appropriate guidance and institutional support on their role and responsibilities, which is particularly worrying, considering that guardians have to establish a trusting relationship and are required to take key decisions on behalf, and supposedly in the best interests, of the children to whom they have been assigned. In the consultations with UASC, many of the children complained about not having a guardian at all

or experiencing frequent changes between different guardians.

While structures for guardianship are in place throughout Europe, the limited investment in training and effective support of the structures undermines their efficiency. A cost efficiency analysis based on evidence from Scotland and the Netherlands demonstrated that qualified support from a guardian improved the quality of decision making processes leading to not only more positive outcomes in the best interests of the child but also a positive cost-benefit outcome.⁸

“The first time I went alone to the ministry. It would be better to be accompanied to the ministry because it was a new situation for me.”
Tarek Gashi*,
Male, 14, Albanian

Vision/Objective:

Every UASC in Europe is provided with both effective legal representation and a qualified independent guardian immediately after identification, both of whom actively seek to achieve the best interests of the individual child and who are trained to communicate with children in an appropriate manner and respond to the child's protection and legal needs.



Ways forward and milestones:

1

Focus efforts on strengthening guardianship: A strengthened, efficient and effective guardianship system will save resources while also responding to other gap areas (e.g. best interests considerations, care arrangements, prevention of exploitation, abuse and violence, and identification and achievement of comprehensive solutions). Efforts should focus first on strengthening guardianship due to its key role in achieving protection and solutions in the best interests of the child in a timely, efficient, and effective manner. Concrete suggestions for reform have already been developed in view of the high number⁹ of arrivals and during roundtable discussions there was consensus by state representatives to further explore existing good practices as well as develop pilot projects to ensure guardianship systems are streamlined and effective.

2

One independent guardian institution: Good practices in countries such as the Netherlands have demonstrated the advantages of having one independent guardianship institution, recognized and commissioned by law to recruit, train, appoint, and monitor guardians for UASC. The proposed system has proven to be more cost and time effective and also ensured more effective protection of UASC right from the start.¹⁰ The institution should be specialised and independent, can be an NGO or a public institution, and should be separate from the service and care providers to avoid any possible conflict of interest. The institution can deal with both, refugee/migrant and national children or not, depending on the context, and the capacities. In addition to managing the guardians, the institution also serves as a main interlocutor and centre of expertise for the local authorities relieving them from the responsibility to

coordinate with hundreds of guardians. guardians. This also provides for better control as the institution should be monitored and evaluated on a regular basis. The Dutch model also includes a reimbursement scheme per child, maximizing cost efficiency and flexibility (if combined with a mixed volunteer/ professional model – see below) for the authorities. Finally, the institution is accountable for proper guardianship, and also for the selection of appropriate care, the provision of protection, and solutions, as these are the main tasks of a guardian.

“I have a guardian. He helped me a lot. And he took me from the camp to safe house. He explained the procedures through which you need to go, and also took care of me. He gave me a phone number where I can call or write to message me if you need anything. My guardian is constantly with me and I can talk to him whenever you want.”

**Atif Khan*,
Male, 16, Pakistani**

3

Guardians have to be appointed at the point of arrival/ identification, without delay or pre-condition (e.g. irrespective of whether the child has applied for, or is intending to apply for, asylum). This is fundamental not only for psychological stabilization and trust building but also for the concrete protection of the child. The model with one commissioned independent guardianship institution provides the required flexibility and efficient management,

as it does not require court decisions or any other administrative procedure before a guardian is appointed. Timely appointment can also reduce the number of children going missing from care soon after arrival.

4

A mixed professional/ volunteer model ensures flexibility in responding to a large increase in arrivals and compliance with standards at the same time. The guardianship institution would be responsible for recruiting a sufficient base of professional guardians and developing a roster of volunteer guardians from different communities to ensure an appropriate ratio of children to guardians. State practitioners during the roundtable concurred that a cap in the number of UASC per guardian is essential for effective guardianship. In times of heightened arrivals, the volunteer roster helps to quickly expand the number of guardians while mixing the two sets of experiences (Germany is a good example) and fostering skills and experience transfer between groups. The guardianship institutions would be responsible for the competency based recruitment and vetting process as well as for establishing clear accountability lines between the guardian and the institution. Whenever volunteers are appointed as guardians, the same standards must apply to them as to professional guardians. This includes qualifications, vetting procedures, training, monitoring mechanisms and accountability measures. Codes of conduct and written guidance on recruitment, training, monitoring, evaluation and supervision developed for professional guardians should also be used for volunteer guardians. Particular consideration should be given to gender and cultural aspects. For separated children, the appointment of relatives as guardians should be considered. However, the same vetting and monitoring system should apply at least at the beginning as to the other guardians.



“When I am discontented, I talk especially with the cultural mediator about it.”

**Saquip Zubair*,
Male, 16, Pakistani**

5

Cultural mediators should form part of the team. Both guardians and sufficiently trained cultural mediators will have to build the bridge between the child, the child’s community, the host community, state institutions and authorities. Interpreters are often not sufficient to fulfil this role. Experience, for example in the Netherlands, has proven that the establishment of trust requires more than interpretation. The guardianship institution would be responsible for bringing in the cultural mediators.

6

Ensure guardians are regularly trained and monitored. According to the SafeGuard initiative, four main competence areas are critical for the performance of guardians: procedural and legal matters; building a trustful communication with the child; psycho-social issues concerning the child, including specifically child victims of crime; and cultural mediation and effective linkages with all relevant actors and services. Participants of the roundtable agreed that guardians should undergo a substantive recruitment process, vetting, and monitoring. The FRA handbook on guardianship¹¹ also provides good guidance on the content. As a good practice, guardians should have access to a multidisciplinary team of professionals to seek expertise, advice and assistance when performing their guardianship duties. Practitioners have suggested a ratio of one supervisor for 30 guardians. However, regular participatory assessments with children as well as an accessible complaint mechanism should also be established to ensure quality and satisfaction.

7

Establish a European network/ federation of all national guardianship institutions. The model of one central guardianship institution supports the other objectives of improved cross border coordination and information sharing. The federation could assist in standardizing guardianship practices and providing training. It could also facilitate information sharing on individual cases, in accordance with data protection principles, if the UASC was transferred to another country. Currently, it is nearly impossible for an individual guardian to identify and engage with a counterpart across borders.

8

Create an EU wide fund to support the strengthening and creation of guardianship institutions as well as support their efforts in recruiting, training, and monitoring of guardians. This fund could be administered in coordination with the European network/federation of established national guardianship institutions and would have clear criteria for funding (e.g. a strategy and implementation plan, established procedures, a certain number of guardians already recruited). The implementation of the funds would then be monitored by an EU institution to prevent conflict of interest.

9

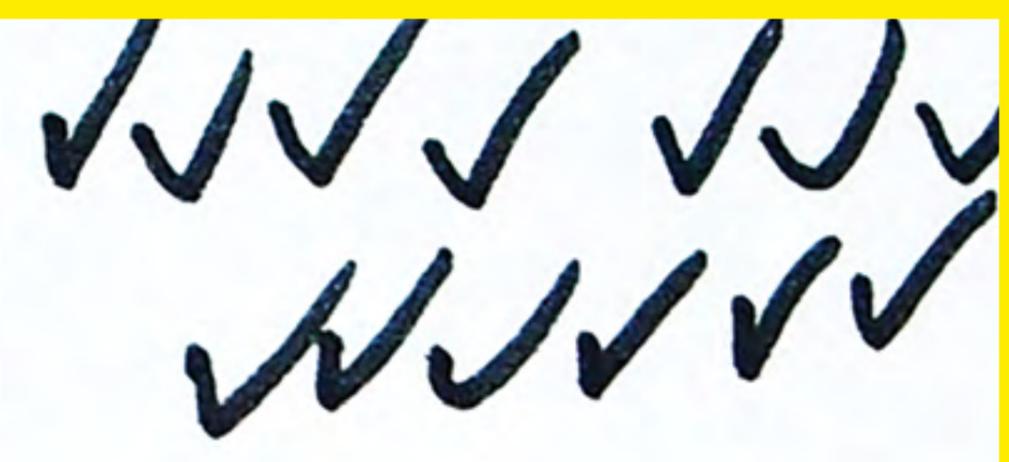
Guardianship should follow a holistic approach as described in the FRA Handbook. Guardians should decide on every aspect that concerns the child and be ultimately accountable that the best interests are considered at every stage. The guardian should serve as the primary focal point for the child and serve as a link between the child and the host community, relevant authorities, services providers, and institutions. Practitioners from the roundtable suggest a separation of guardianship and legal representation to establish effective checks and balances, and to reduce the workload of guardians. Consulted states agreed with that separation. In addition to guardians, free legal advice and representation by experienced lawyers should be made available according to needs throughout the procedures. Guardianship should not terminate at age 18 but be available up to age of 21 years (as in Northern Ireland), taking due consideration of the

youth's view. Finally, the guardian should work as a mobilizer of host community support mechanisms, to provide the best care for the child.

10

A complaint mechanism with immediate follow-up to ensure quality and prevention of harm should be established and communicated to every UASC. The complaint mechanisms should link into the guardianship institutions, but can also be linked to the child protection review body (see below). This is also how a child can express his or her disagreement with the appointed guardian.





3

Care Arrangements and the Provision of Appropriate Services

Problem statement:

The provision of appropriate care arrangement and services which respond to the specific needs of boys and girls is fundamental for children's wellbeing and protection but also for their development and future prospects. However, care arrangement systems throughout Europe are either falling short in capacity, quality, or both. Too often shelter or accommodation is mistakenly used as a synonym for care arrangements, while social and psychological components (in the form of mental health and psychosocial support (MHPSS), education, health services) are neglected.

Large scale institutional care is too often preferred over other forms of care arrangements, despite the general recognition among experts and practitioners that such arrangements often result in (sexual) abuse, violence, criminal activities, and severe psychological distress and are also more cost intensive (in the mid- and long-term) than a foster care system.¹² Unfortunately care systems such as small group homes or foster care systems, often the best possible care arrangements, are rarely implemented, largely overstretched, or do not target children with specific needs. In the worst cases, UASC have to stay longer periods in general reception centres or even detention centres often with adults, under inappropriate conditions, and without specific services for children. In these arrangements, UASC are often exposed to severe security, general protection, and physical and mental health risks. Authorities and other actors have not yet been able to establish an appropriate response to prevent and mitigate the heightened risk of violence and abuse, including sexual violence, in general but also in care arrangements. The lengthy detention of UASC is often related to the lack of identification and timely appointment of a qualified guardian. The varying reception conditions and diverse prospects for integration that prevail in different European states contribute to onward movement and expose children to further danger. Even if an appropriate care arrangement is found, it often ends abruptly when children turn 18.

“It is very important that UASC have an opportunity to immediately find service which will help them in the registration and accommodation process, otherwise they are constantly targeted by smugglers, especially if they are alone.”

**Naima Malik*,
Female, 17, Afghan**

Furthermore, national and international service providers have not yet been able to establish sufficient coverage of minimum services to respond to the very specific needs and risks of UASC in Europe. This is particularly true regarding the provision of MHPSS services. Given the high percentage of UASC and other children in psychological distress, the lack of a proper response affects their lives and the communities and societies in which they live. Both the lack of education and recreation further amplifies distress and harms the children's future prospects and stability.

The lack of access to formal education has, in particular, long term effects on the development of the children, but also on the host communities. All consulted practitioners and children confirmed that the different refugee and migrant communities have also not yet been systematically involved in the provision of services or protection. There are only a few examples where the diaspora or recently arrived communities have been mobilised. However NIDOS, the Dutch organisation for guardianship, found that these examples often proved to be successful in their experience and the children felt supported by people who understand where they have come from and what they are going through.

“Some drunk guys from enter our room sometimes even three times per night, in the middle of the night! We also need to sleep, we go to school, but they are disturbing us.”

**Mohammed Hassan*,
Male, 16, Afghan**

“It would be great if all of this [registration and transportation and services] was organized and I would not be so afraid of asking for any services coming from the Police or the other organizations.”

**Fayaz Khan*,
Male, 17, Afghan**

Regional, transnational, or even national case management systems are not yet functional. This leads to a loss of information on individual cases, hinders an effective and targeted provision of services across countries, and interferes with the provision of solutions in the best interests of the children. It also hampers the ability to monitor the condition and needs of the children.

Vision/Objective:

All UASC in Europe have access to safe, protective and age appropriate care arrangements that do not amount to deprivation of liberty, and where they can access services, in particular MHPSS and education, on an equal basis with the other children living in the community.

Appropriate care arrangements also include effective case management systems and the prevention and mitigation of risks of sexual and gender based violence. Detention for migration control purposes is never in the best interests of a child and therefore is to be prohibited.

Ways forward and milestones:

1

Follow a two stage approach in care arrangements: Age-appropriate first reception should be provided for immediate safety and protection purposes, preferably in age and gender clustered group homes with not more than 15 to 20 other children. The guardian should be appointed at the same time (see graph 1) to initiate (but not conduct) the enhanced multi-disciplinary BIA which will then determine the mid-term care arrangement until a comprehensive solution is found. The guardian should also identify any specific needs highlighted from the BIA so that targeted support can be provided.

2

Establish or commission a body to monitor reception conditions and whether reception centres meet the standards. This body should be independent from those providing services and have a national perspective. Again, the ombudsperson for children, or the national human rights institution could take over this function. The body should monitor, provide advice on improvements, and flag remaining gaps.



“It is important for authorities to organize the special centre which will provide comprehensive help for UASC, but if there is possibility for others too. In that centre, users can find lawyer, social worker, psychologist, MD, and information about everything that is their need.”

**Tawab Zahir*,
Male, 17, Afghan**

3

Target care arrangements and service provision: A wide array of care arrangements should be available, to cater to the different needs and circumstances of UASC, including semi-independent supervised living, small group homes and foster care. In view of limited capacities, care and services need to be targeted depending on the specific needs identified in each case. Not every UASC requires support in every area. Some children might not need specific services, or only require light support for a brief period of time. The interagency MHPSS pyramid¹³ provides solid guidance on when to initiate mental health interventions. Again, guardians, with the support of cultural mediators, play a key role in identifying specific needs and developing a targeted response. The same approach can be used to determine appropriate accommodation. Younger children (below 15) should ideally be placed in foster care while older children might be accommodated in group homes. The consulted UASC, most of whom were above 15, referred to small group homes or semi-independent living as their preferred care arrangement.

Nationally or even regionally harmonized vulnerability criteria help in targeting the support. A simple list defining the different groups, their specific needs, and the required services can help to harmonize the approach. Special attention should be paid to separated children who also need to benefit from a protective environment while being supported by relatives.

4

Immediately strengthen available MHPSS as well as access to formal education to mitigate any long-term psychological impact on the child's development. Community-based mechanisms are often the most effective (including cost) mechanism to relieve psychological distress. Again, cultural mediators can facilitate the engagement with the community of the child and guide how to best involve them in the provision of care (e.g., play groups with accompanied children, discussion groups, sport). UASC should be able to access education as soon as possible. Non-formal and informal education can be useful on a short term basis to bridge potential gaps but cannot and should not replace access to the formal education system (such as schools and vocational training).

5

Strengthen community-based foster care as it provides a protective care arrangement and is also the most cost effective arrangement. In the Netherlands, the foster care model where children were placed in families of their own community has demonstrated its economic benefit and value, providing the most appropriate care. However, as for every foster family, a detailed vetting for example through the guardianship institution and close monitoring is necessary to immediately detect any harm to the child. Networks of old and new foster families help in sharing experiences and training new foster families.

6

Compile European minimum standards and good practices.¹⁴ A regional cost-benefit analysis of various methodologies and programmes should be conducted. On that basis, practitioners recommended developing a best practice handbook/manual which is web-based, targeting children as well as practitioners working with children (teachers, lawyers, medical staff). An accessible handbook, which is also available in child-friendly language, would help to both inform and monitor service providers.

7

Ensure continuity of care when children turn 18 and gradually transfer children from one protection system to another.

8

Strengthen coordination of service providers, including volunteer groups. Authorities should take ownership of coordination to ensure that gaps are filled and that the children who need help are targeted with appropriate support. Service providers must be mapped to identify duplication, overlap, and gaps, as well as to formalize and agree upon SOPs and mapping documents that detail who does what when. Coordination structures should make use of new technical tools which facilitate communication and lower costs (i.e., web-based coordination platforms which exist in several countries).

“They don’t have good medical service in camp – only one medical doctor is available in camp and she can’t be responsible for all.”
Wahed Ahmed*,
Male, 17, Afghan

9

Develop a regional, web-based case management mechanism to ensure continuity of care and sharing of information. Such a system could sit with the federation of guardianship institutions, who should be the primary case manager. The case management system should document all decisions and steps taken on behalf of the child and what is recommended for the future, while adhering to national and international data protection standards. Furthermore, the case management system can generate statistical meta data (e.g., on background, situation, vulnerabilities) for national but also regional trend analysis which can be used for programming purposes.





4

Comprehensive Solutions in Children's Best Interests

Problem statement:

Positive outcomes for children and hosting communities can only be secured when individual children are provided with solutions that are durable and in their best interests. Without that prospect, children will continue to move outside of regular procedures, exposing themselves to heightened risks, which may result in abuse, violence, exploitation, and even death. However, the provision of solutions are often limited and not always based on solid procedures guaranteeing the best interests of the child. The provision of mid- to long-term solutions still receives limited consideration. However, solutions are crucial to (re)establish normality and stability. As noted in the recent Global Refugee Youth Consultations organized by UNHCR and the Women's Refugee Commission, one of the primary concerns for refugee children and youth is access to opportunities and positive prospects for their future.

“I think EU countries should make some agreement between them and to open the borders for the minors by offering them education and integration programme without passing this process of fear.”

**Khalil Kateb*,
Male, 17, Algerian**

The identification and provision of comprehensive, durable solutions for UASC is narrowly focused, lacking flexibility, and plagued with systemic deficiencies that existed before the crisis. The identification of solutions is rarely based on a determination of the child's best interests. Such procedures are missing in nearly all European countries. Family reunification is typically envisaged as taking place in “destination countries” without considering other

options which may be in the best interests of the child, including family reunification in a safe third country where the child previously resided with family members. Practitioners emphasized that a conflict remains between national migration policies and a child's best interests, which examine options through the lens of asylum and not child protection, meaning that the child's best interests are not a primary consideration.

Furthermore, the provision of solutions is still assessed from a national and not a regional standpoint, resulting in difficulties for UASC to access alternative pathways within and outside Europe. The time it takes to formalize a durable solution is also a serious barrier, as procedures can take months, or even years, including for family reunification. Family reunification under the Dublin Regulation is often a difficult and lengthy process, as a result, UASC often resort to irregular onward movement. Relocation from Greece and Italy is very limited as only a few countries accept UASC for relocation¹⁵ and it is a very lengthy process.¹⁶ Furthermore, national legal frameworks have restricted family reunification, with mandatory waiting time before reunification, and the limitation of family reunification to only parents.

“It would be better if I travel with my family, or with some of my relatives. This process of traveling is so difficult and dangerous.”

**Ali Jibril*,
Male, 17, Libyan**

Vision/Objective:

All UASC are provided with a solution that is durable and in their best interests within a reasonable timeframe without placing the child at risk.

Ways forward and milestones:

1

EU member states should develop a Comprehensive Solutions Framework which regularizes all possible comprehensive solutions and the different procedures in a regional protocol/SOP. For example, harmonised European SOPs for the processing of family reunification have to be developed or revised. The EASO network of national Dublin Units has to be strengthened and the coordination institutionalized, for example through exchange programmes or more systematic deployments of receiving country staff/liaison officers (e.g. as the UK Dubs programme has demonstrated), or having one dedicated international or European agency coordinating the network and the processing of family reunification.

2

Frontload identification of comprehensive solutions to save time and resources. Start considering comprehensive solutions from the moment of identification, and consider it as a process that goes beyond emergency assistance and protection. This will likely result in continuity of care and a long-term positive impact on the child. The appointed guardian should assume the role of a Comprehensive Solutions Coordinator who should develop a comprehensive solution plan based on the enhanced BIA and the family tracing, which then forms part of the BID panel discussion.



3

Every comprehensive solution decision has to be based on a BID which is based on a BIA. Furthermore, decisions on a comprehensive solution should be done by the child protection body and not asylum body, while considering the relevant legal frameworks that steer both. This ensures the right expertise and mitigates the conflict of interest (child's best interests vs migration control interests).

4

The portfolio of comprehensive solutions needs to be expanded, oriented mainly to the best interests of the child. It should not be assumed that asylum is automatically in the best interests of a child. Family reunification in the country of first asylum of the family or country of origin (if the child is not in need of international protection), flanked with a support programme in the country, has to be considered. However, also the integration into national child protection systems, even if the child is not in need of international protection but should not be returned because such a return would not be in their best interests, has to be considered.

5

Furthermore, comprehensive solutions would be facilitated by common criteria and mutual recognition (age determination, family links, guardianship) as described above. The above mentioned transnational case management system within the European federation of guardianship institutions could also help to facilitate fast information exchange on individual cases and facilitate continuous care and monitoring of the condition of the child. This would again demonstrate that the backbone of the Comprehensive Solutions Framework would be best placed under authority of the federation of guardianship institutions.

6

Promote social inclusion and opportunities for participation and skills building while children are waiting for their solutions. Raise awareness with communities on the need and benefit of social inclusion. Promote social inclusion through participation of children into sports and other leisure activities at community level. Ensure care and support measures that last beyond the 18th birthday, promote social integration as well as both educational and vocational integration measures to build resilience and strengthen the skills and resources of the children. The guardian again plays a vital role here but also needs to be provided with the necessary authority.





5 Participation of Children

Problem statement:

Children are not systematically consulted by any actor (state, international organisation, NGOs, civil society organisations) on their views and opinions in line with their age and maturity, nor are they systematically included in general programme planning and implementation. This not only violates their rights, but also sets them aside as mere recipients of care and assistance rather than active rights holders, and negatively impacts otherwise viable programmes and projects. States have rarely mainstreamed or implemented obligatory and systematized consultation of children in their policy and legal frameworks. In addition, only very few local authorities regularly conduct participatory assessments asking boys and girls for their views and opinions on issues that affect them, even though child participation is a cornerstone of the Convention on the Rights of the Child (CRC). One key challenge in this regard is the lack of sufficient interpreters, especially female interpreters.

“I don’t have approach to anyone with influence. I could probably get kicked out of the camp if I complain.”
Abdul Ghazoor*,
Male, 16, Afghan

Vision/Objective:

UASC are systematically consulted throughout Europe and their views and opinions are included in every decision affecting them and in programmes developed and implemented to serve them.

Ways forward and milestones:

1

Inform children at every step of the process about the next steps and their options. The vast majority of consulted UASC have stressed the lack of information as a central gap and root cause for a number of response deficiencies.

2

Ensure UASC are consulted on all matters concerning their case with both child protection and asylum authorities. Therefore, institutionalize the consultation of UASC in the national regulatory framework. The national guardianship institution or the ombudsperson for children could be commissioned to conduct participatory assessments with all age, gender and diversity groups of UASC on a regular basis. State representatives at the roundtable agreed on the importance of a more systematic inclusion and consultation of children on an individual basis but also highlighted a need for inclusion on a planning and programme implementation level. These assessments should include focus group discussions with the different groups, discussing their current situation, views and opinions. The outcome report should be widely shared with service providers to inform overall programming but also made public to ensure accountability when considering the children’s views.



“Trust the children so that they express themselves without fear. One should ask us what we want, verbally in a dialogue not in writing. I would be engaged, because I want to improve our situation.”

**Jangi Shah*,
Male, 16, Afghan**

3

Ensure UASC are aware and have access to national feedback and complaint mechanisms (e.g., through a hotline, web, frontline SMS) through which they can raise their concerns. Enable children to access justice and claim redress for violations of their rights. Hotlines can be one tool, but the national guardianship institution and the child protection review body (i.e., ombudsman, NHRI, court for children welfare) should enable the complaint mechanisms. Feedback and complaint mechanisms must document complaints, while respecting confidentiality, and ensure follow-up. If there is no documentation, follow-up, and response to the child, the mechanism will not gain trust and thus will not be used.

“I would like to be able to help other teenagers like me. I hope if we raise our voices maybe somebody will hear us.”

**Mustafa Fenni*,
Male, 17, Algerian**

4

Tap into communities to form an advisory group of key informants with representatives from the different communities consulted by local and national authorities on a regular basis on programming matters.





6

Best Interests of the Child in National Child Protection and Asylum Systems

Problem statement:

The best interests of a child should be a primary consideration according to the CRC, Article 3, together with its General Comments No., 6, 12 and 14. The CRC provides a fairly clear reference point for decision makers: the protection, wellbeing of a child as well as sustainable care and solutions can only be provided if the best interests are systematically considered. This means the best interests principle is fundamental not only for the development, stability, and future of a child, but also for the society around her or him.

However, national systems still do not consider the best interests of UASC throughout the various processes to which a child is subject. When included, best interests considerations are not often linked to every aspect of the wellbeing of the child, or solutions under consideration to address his or her circumstances. This systematic gap affects all areas concerning UASC, from the provision of care arrangements to comprehensive solutions. Missing or inadequate BIA and BID procedures are only one part of the problem but demonstrate the seriousness of the gaps. From the consultations with practitioners it became clear that it is not necessarily a problem of the principle but rather the inflexibility and number of administrative procedures facing the children which hinder its application. When asylum bodies take decisions concerning the welfare of a child, responsibilities are frequently unclear and indistinct. These decisions should instead be taken by an independent child protection body that has the right expertise and training to consider the best interests, which do not run the risk of being influenced by a conflict between the child's best interests and national migration policy. Furthermore, practitioners have flagged the culture of disbelief vis-à-vis the children's stories from the authorities.

In order to assess and determine the best interests of a child, all factors need to be considered. However, one clear trend in Europe is to examine the child's protection needs only through an asylum procedure, when seeking asylum may not be in the best interests of the child. Furthermore, tracing the UASC's parents and relatives, and assessing their living

conditions is still a major challenge for authorities and relevant actors. Divergent practices exist in Europe as to the degree of consent required to proceed with tracing, despite relatively clear guidance from EASO.¹⁷

“The people in the reception centre continued to talk to me even though I did not feel well. It was too much for me, and I did not like that they were interviewing me. I would have needed an interpreter. We communicated in English and I always said only yes.”

**Ali Bassim*,
Male, below 13 years,
disabled, Iraqi**

Vision/Objective:

All relevant actors systematically consider the best interests of the child at every key decision point. For every UASC in Europe, their family, living circumstances, and the potential implications of a reunification where the family lives, is conducted in a comprehensive and appropriate manner and following a BIA to prevent any risk for the UASC and to provide a solution which is in the best interests of the child.



Ways forward and milestones:

1

Ensuring the consideration of best interests at every key stage is not about developing additional procedures. Considering best interests is mainly about adapting the existing procedures and even making them more holistic by involving child protection actors from the start. It does not need to be cost intensive, but instead requires changing how processes are implemented. If all of the above recommendations are implemented it automatically ensures that the best interests is considered.

2

Ensure UASC are consulted on all matters
Clearly separate the asylum and the child protection bodies and their different responsibilities. Except for the asylum decision, all decisions concerning the child should be taken by a child protection body and not the asylum body (especially decisions in the scope of the BIA and BID). Again, guardians are the key figure in guiding the decision as they are the agent for the best interests. A clarification of the roles and responsibilities (e.g., in SOPs) can help to ensure the distinction. Children, depending on age and level of maturity, must be involved in all key decisions involving them (see point below). During the roundtable discussions with state practitioners there were opposing views on whether such a separation would be possible under existing legal frameworks and so there is a need for this to be explored further.

3

Institutionalise an enhanced BIA and the BID in the national regulatory framework. Develop SOPs on the procedure and anchor it in the regulatory framework. It should include an individual, enhanced, and multi-disciplinary BIA at any new phase, initiated by the

guardian. The BIA should be less formal and leave flexibility for manoeuvre. However, decisions need to be documented and reasoned. On the basis of the BIA, care arrangements and services are provided. A transfer from one state to another can also be possible, either under the Dublin Regulation within EU+ member states or if it is considered in the best interests as the needs are better catered for until a comprehensive solution is found. The procedure also has to include a formalised BID before a decision with long term impact. The national legal framework should clarify the parameters of the BID (e.g., panel composition, process, documentation), while building on and not redoing the BIA. The BID process has to be formalized with safeguards, but does not automatically mean that it needs to be heavy and cumbersome (especially since it builds on the BIA). The process can still be streamlined and fast if the procedures and the panel composition are clearly defined in SOPs. It is suggested to develop a pilot model procedure based on the recommendations in this document, Safe and Sound, and UNHCR BID guidelines[™] which adapt the existing procedures in one country to demonstrate the efficiency. The child as well as the guardian should be heard in both the BIA and the BID. The BID should entail a protection assessment of the country of asylum of the family, if family reunification in country outside Europe is considered. Beyond that, every decision needs to be documented and key actors involved in the process need training on best interests considerations.

4

Establish an independent review/conflict resolution body for all decisions taken for or on behalf of the UASC. The child needs to be provided with a remedy to challenge decisions which he/she thinks are not in his/her best interests (e.g., BID, appointment of guardian, provision care arrangement). The existence of an effective remedy will further foster the primary decision maker to consider the best interests. Such a review body has to be equipped with the necessary authority and can for example sit with the court on youth and welfare issues, the ombudsperson for children, or the national human rights institution. The appeal to the review body should have suspensive effect while the decision is an administrative and not substantive review, and can return the decision to

the original decision taker with the request to re-decide. State representatives at the roundtable expressed reservations regarding the establishment of an independent review body considering the additional costs it would add.

5

Include robust family tracing in the procedure as part of the BIA. A reflection is needed at the European level to examine what standards of tracing (length, means, partners, and reasonableness) must be pursued and what degree of cooperation may be sought from children and their appointed guardians, including cases where there are reasonable grounds to believe that children are still under the influence of smugglers or traffickers or family members who want them to reach a certain country. During roundtable discussions, state representatives stressed the necessity to explore different partnerships, especially within the present international organisations, to enhance family tracing procedures and time effectiveness. It was also stated that family tracing should be a multi-faceted approach including country of origin, country of first asylum, EU and non-EU states. Family tracing should be frontloaded (i.e., given priority as a procedure) immediately as the UASC is identified, immediately as the UASC is identified, as well as a common methodology between actors developed for more streamlined coordination. In addition, states suggested international agencies with a presence in countries where family members reside should be involved to better facilitate an assessment of the family's situation. However, tracing authorities need to also ensure that the tracing itself cannot cause harm to the child.

Also, family tracing in this context has to be understood as including extended family. Again, the guardian but also the cultural mediator and the community are key as the participation of the child can only be ensured with a trusting relationship. However, the guardian can decide to allow family tracing without the consent of the child if it is in the best interests. Furthermore, family tracing needs to look at a diverse range of factors and not only the mere existence of family members. Nearly all UASC reported for example that the journey was primarily financed through borrowed money, which implies they may be required to pay back these loans, and may also indicate high expectations from the families of UASC with regard to financial support in the future. Distress and anxiety related to these expectations were mentioned by UASC in several UNHCR-led surveys, particularly by members of the Afghan community.





7 Heavy Bureaucracy and Administration

Problem statement:

The provision of appropriate care, protection, and comprehensive solutions depends on the efficiency of administrative procedures. However, bureaucracy and administrative complexity often pose hurdles and challenges, sometimes leaving children living in poor conditions while capacities of appropriate care arrangements are not fully utilized. This can be within a country but also affects cross border cooperation, posing protection risks and wasting state resources. Leaner and more effective procedures are desperately needed as they can ensure operationalization of standards and more efficiency.

Vision/Objective:

The administrative procedures for UASC at national and also regional level are lean and cost and time efficient, catering for a prompt provision of care, protection, and a comprehensive solution which is in the best interests of the child.

Possible ways forward and milestones:

1

Minimize procedures by centralising and empowering guardians of the national guardian institution and by developing SOPs for the whole process (clearly stating who does what when). Both interventions can have an immense impact on the protection of children as well as on the cost effectiveness of a national system. Especially the SOPs will help to streamline processes. A model procedure could be developed, perhaps also bringing in private consulting firms to support with the development of such a lean model procedure, and then be tested in a pilot country.

2

Most of the above mentioned recommendations will eventually also lead to more effective and streamlined procedures. As an example, strong and effective legal guardianship will void delays in decision making and care arrangements and help in identifying remaining administrative challenges, the EASO network of Dublin Units and enhanced deployment of liaison officers to Dublin Units will help to facilitate faster family reunification, and the above mentioned case management system can facilitate faster exchange of information.

“I think procedures are so long and take too much time.”

**Adnan Shah*,
Male, 17, Pakistani**

3

Establish EU-level coordination platform among authorities who meet on a regular basis to identify gaps and work on solutions to overcome the different challenges. The Child Protection Forum, which meets once a year could provide such a platform although it would be beneficial to set up a more institutionalised group with terms of reference and the clear aim of harmonizing approaches and helping to develop some of the European initiatives. FRA, EASO, EUAA could possibly play a role in this.

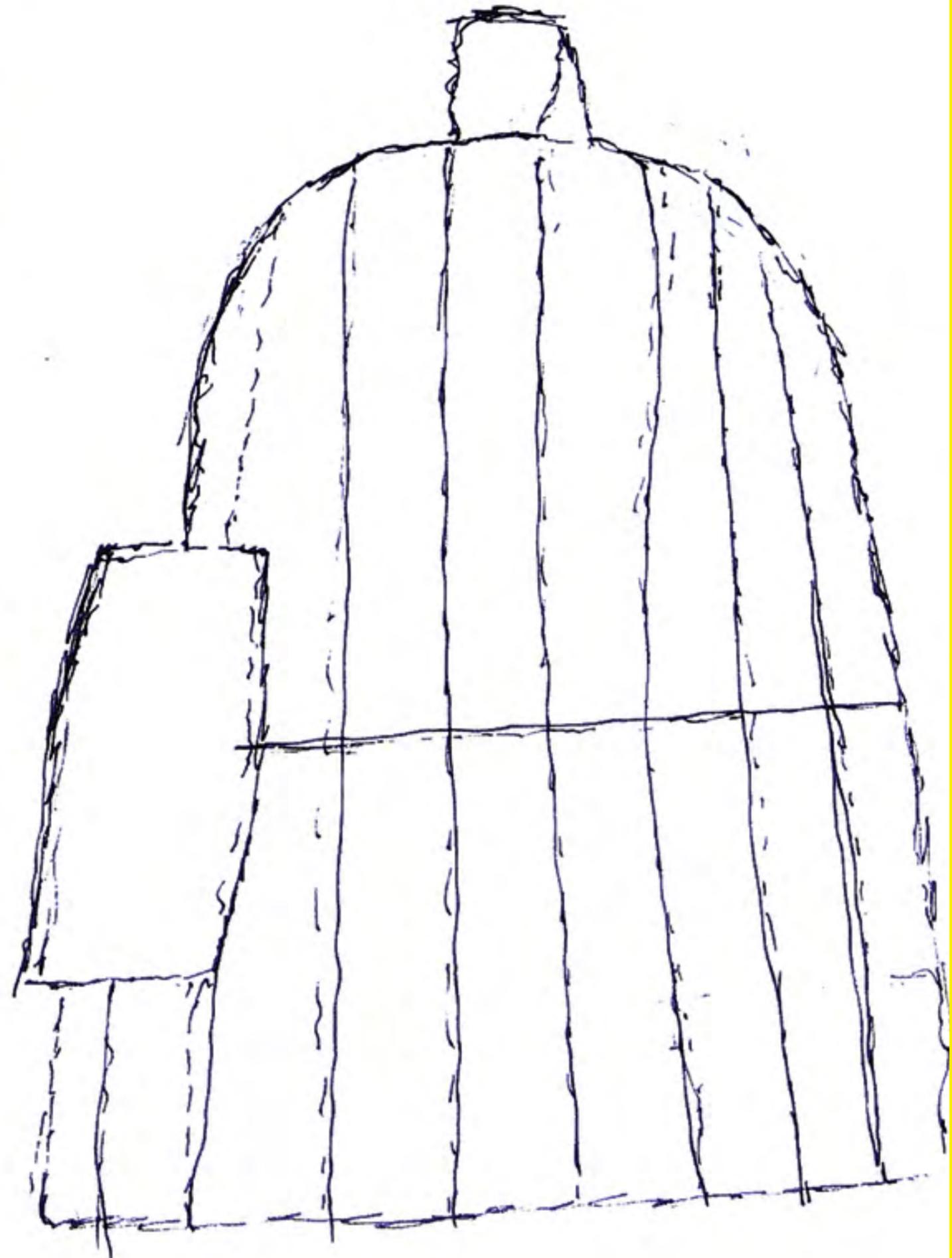
“An organized procedure that first will tell us our rights and opportunities. Instead of that we are afraid to ask for accommodation.”

**Farid Akbar*,
Male, 16, Afghan**





freedom



Endnotes

1 See Overview of all child protection standards codified on EU level under: http://www.connectproject.eu/PDF/CONNECT-EU_Reference.pdf

2 The three consultations took place in Berlin (24-25.11.2016), Rome (2-3.11.2016), and Belgrade (14-15.11.2016)

3 The roundtable was co-hosted by the Government of Sweden and participants came from relevant ministries of Austria, Denmark, Finland, Germany, Greece, Italy, Norway, Serbia, and Sweden.

4 The consultation was co-hosted by DG Justice and DG Home and participants included European Asylum Support Office (EASO), Frontex, the Fundamental Rights Agency (FRA), UNHCR, UNICEF, International Organization for Migration (IOM), and Brussels based nongovernmental organizations (NGO)s.

5 EASO, Age assessment in practice in Europe, 2013, <http://www.refworld.org/docid/532191894.html>

6 Cultural mediators are community members who speak the necessary languages, are trained in sensitive outreach and mediation techniques and are closely supervised by an NGO.

7 A representative “means a person or organisation appointed by the competent bodies in order to assist and represent an unaccompanied [child] in [international protection] procedures with a view to ensuring the best interests of the child and exercising legal capacity for the [child] where necessary.” Reception Conditions Directive (2013/33/EU), Article 2 (j). Representatives or legal representatives differ from the qualified lawyer or other legal professional who provides legal assistance, speaks on behalf of the child and legally represents him or her in written statements and in person before administrative and judicial authorities in criminal, asylum or other legal proceedings as provided in national law.

8 Association 'I Girasoli', Defence for Children International: SafeGuard, safer with the guard, transnational report Europe, 2016

9 Association 'I Girasoli', Defence for Children International: SafeGuard, safer with the guard, transnational report Europe, 2016, FRA, Guardianship systems for children deprived of parental care in the European Union [10 Counter Human Trafficking Bureau, Cost Benefit Appraisal of Legal Guardianship for Unaccompanied and Separated Migrant Children in England and Wales, Commissioned by UNICEF UK and The Children's Society, June 2014, pp. 3-4, 49. See also: UNICEF United Kingdom, The Children's Society, Indicative Costs and Efficiencies of Guardianship, March 2014.](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwiJ29S1wpf-QAhUHAsAKHXmpBOoQFggfMAA&url=http%3A%2F%2Fec.europa.eu%2Fdgs%2Fhome-affairs%2Fe-library%2Fdocs%2Fguardianship_for_children%2Fguardianship_for_children_deprived_of_parental_care_en.pdf&usg=AFQjCNHbxu3vXdPhekF-ad12-JteJ_cOpQ&sig2=X-XxVb-HonIKTK34A4aRXfw, 2015.</p></div><div data-bbox=)

11 http://ec.europa.eu/dgs/home-affairs/e-library/docs/guardianship_for_children/guardianship_for_children_deprived_of_parental_care_en.pdf.

12 Inter-agency Guiding Principles on unaccompanied and separated children, https://www.unicef.org/protection/IAG_UASCs.pdf, 2004.

13 IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings http://www.unicef.org/protection/guidelines_iasc_mental_health_psychosocial_june_2007.pdf, 2007.

14 UN Guidelines for the Alternative Care of Children, 2010, http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf

15 The relocation scheme ends in September 2017

16 UNHCR paper on lessons learnt from relocation February 2016

17 EASO practical guide on family tracing, page. 59: “Family tracing is the search for family members (including relatives or former caregivers of unaccompanied children) with the purpose of the restoration of family links and family reunification when they entail the best interests of the child”.

18 Field Handbook for the Implementation of UNHCR BID Guidelines, UNHCR <http://www.refworld.org/pdfid/4e4a57d02.pdf>

Quotes

* The names were changed to protect the individuals.

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