

# Right to Justice: Quality Legal Assistance for Unaccompanied Children

## Annex 1

### GUIDING PRINCIPLES FOR QUALITY LEGAL ASSISTANCE FOR UNACCOMPANIED CHILDREN

*This document was produced in the framework of the project “Right to Justice: Quality Legal Assistance for Unaccompanied Children”, coordinated by the European Council on Refugees and Exiles (ECRE), and is an Annex to the comparative report of the project.*

# Introduction

Children enjoy particular rights and special protection in accordance with the rule of law and international human rights law including the 1989 UN Convention on the Rights of the Child (hereinafter CRC). In particular, unaccompanied children are entitled to special protection and assistance in accordance with the CRC (Art. 20).<sup>1</sup> National asylum and migration systems should be adapted for children to respect children's rights, take into account their specific needs and circumstances and ensure they are equal partners in the proceedings to which they are subject through effective participation.

The delivery of quality legal assistance is vital to ensure effective access to justice, a fair hearing, respect for the principle of equality of arms and respect for the child's rights. It also helps to guarantee access to a fair procedure so that the claim can be correctly determined and the right to an effective remedy. It is also part of the principle of effective judicial protection. Finally it contributes to finding a durable solution for the child, in their best interests. States also must ensure that national legal assistance systems are developed in such a manner which enables them to interact with the broader child protection obligations a State bears for unaccompanied children.

Any system in place needs to contain specific measures to ensure a child's access to proceedings, qualified assistance during proceedings, effective participation of the child in the proceedings, specific information gathering concerning the circumstances of the child, expert evidence on the situation of the child or the availability of child specific information on their country of origin, appropriate child protection services to support the child, and measures to implement durable solutions identified in the proceedings. Firstly, asylum and migration procedures are becoming increasingly complex for those concerned to navigate; therefore support is needed for children to assert their rights in these procedures in an effective manner. Secondly, unaccompanied children are often subject to not one procedure during their time in the host Member State, but several, such as age assessment procedures as well as migration or asylum procedures. These multiple procedures present multifaceted challenges which are all the more difficult for unaccompanied children given their inherent vulnerability as persons in need of special protection and assistance and their lack of legal capacity in most Member States.

The delivery of timely legal assistance also contributes to fairer, better quality and well-reasoned decisions, a more secure environment for unaccompanied children to raise their protection concerns and more efficient and cost effective procedures in the interest of States.

Capturing what quality legal assistance entails for unaccompanied children and how it can be ensured in practice is a complex task. Special measures need to be taken to ensure meaningful access to legal assistance for children. There is no existing complete standardised 'checklist', combined with indicators, which shows comprehensively what should constitute "quality" in legal aid systems as regards unaccompanied children. Therefore these guiding principles aim to establish a broad set of parameters within which the quality of legal assistance can be improved at the national level.

The purpose of the 'Guiding Principles for Quality Legal Assistance' is to set out key principles which have as their essential goal the safeguarding of the rights of unaccompanied children in accessing and enjoying quality legal assistance in asylum and migration procedures.<sup>2</sup> This list of principles is designed to assist Member States, independent legal assistance providers and individual legal advisors by providing a set of standards for improving national systems of legal assistance. The principles should serve to contribute to a better understanding of what quality legal assistance for

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<sup>1</sup> Article 20 of the UN Convention on the Rights of the Child provides that "a child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State"; See also UN Committee on the Rights of the Child General Comment n°6 (2005) Treatment of unaccompanied and separated children outside their country of origin, para. 16.

<sup>2</sup> It is important to note that this document only includes migration procedures with respect to third country nationals and does not include within its scope the migration of European citizens and family members in Europe.

unaccompanied children encompasses as well as outlining what other measures need to be in place at a minimum to ensure advice, assistance and representation of high quality. Even though most of the principles are of general application, indicators<sup>3</sup> may need to be translated and tailored to the national context, for instance based on the national institutional framework, the actors and the structure of the justice system. In interpreting and applying these principles, it is important to remember that the law continues to change and to develop as does the provision of legal services. These principles should be read and interpreted in light of that changing environment. Member States also need to recognise that obligations in law particularly within the EU law framework may develop in the future beyond these principles.

## Methodology

The principles were developed from existing international and regional legal standards and authoritative guidance as well as from the findings of the project's comparative research and the good practices identified.<sup>4</sup> Problematic practices identified in the course of the study were also examined to identify principles that would help to remedy those problems in the future. The principles have been developed with regard to different legal frameworks in Europe but not to fit one specific legal framework. However, the legal standards include relevant EU legislation on asylum and migration.<sup>5</sup>

The principles were first discussed at an expert workshop held on 4 March 2014 in Brussels, Belgium with participants from across Europe with expertise in asylum and migration procedures and the provision of legal assistance as well as child-specific expertise.<sup>6</sup>

It should be noted that these principles are referred to as a working document arising from the Right to Justice: Quality Legal Assistance for Unaccompanied Children project. ECRE and the project partners envisage further engagement and development of these principles with relevant stakeholders post the closure of the project as part of a broader ECRE advocacy activity.

A supplementary set of indicators has also been established in Annex 2 for monitoring progress in applying these principles, following the methodology used by the Office of the High Commissioner for Human Rights for their human rights indicators.<sup>7</sup>

The principles and indicators are primarily aimed at the provision of legal assistance for unaccompanied children in asylum and migration procedures.<sup>8</sup> However, it may also be relevant for the provision of legal assistance for other categories of asylum seekers, refugees and migrants, including children within families. It is applicable to all forms of legal assistance during asylum and migration procedures including legal advice at first instance and procedures and legal representation

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<sup>3</sup> The indicators support this list of principles and are presented in Annex 2.

<sup>4</sup> For further information see the *Right to Justice: Quality Legal Assistance for Unaccompanied Children* comparative report. The research was conducted by way of interviews with relevant stakeholders, desk and literature research and gathering information on the practice concerning legal assistance in the Member States in the scope of the study.

<sup>5</sup> Among the 28 EU Member States, Denmark opted out of all EU legislation on asylum, except the Dublin Regulation. Ireland and the UK opted out all recast Directives of the Common European Asylum System. The initial Asylum Procedures Directive and Qualification Directive continue to apply to Ireland and the UK. The initial Reception Conditions Directive continues to apply to the UK while Ireland had also opted out this Directive.

<sup>6</sup> The workshop was attended by legal practitioners, representatives from the Commission, UNHCR, UNICEF, Save the Children, guardianship organisations and other relevant stakeholders from a range of EU countries, included but not limited to those analysed through the project. The meeting was conducted under the Chatham House Rule.

<sup>7</sup> For further information see the Office of the High Commissioner for Human Rights, [Human Rights Indicators a guide to measurement and implementation](#), 2012

<sup>8</sup> The term 'legal assistance' also incorporates legal representation. For further information on the terminology used see the methodology in the *Right to Justice: Quality Legal Assistance for Unaccompanied Children* comparative report.

before judicial bodies and administrative tribunals at appellate stages of the procedure.<sup>9</sup> The relevant factors under each principle will also vary depending on the form of legal assistance provided.

## Structure

The guidelines are composed of two parts. Part 1 includes nine principles, two of which are overarching, which set the standards for establishing a quality legal assistance system for unaccompanied children. Principle 1 and 2 are the central overarching principles which should be encompassed in every feature of a legal assistance system and through which the other principles should be interpreted and applied. Each principle is introduced by way of a short commentary as to its importance in the context of legal assistance followed by indicative factors which should be met in order to respect the principle in practice. The most relevant standards and authoritative guidance upon which each principle is based are outlined in boxes.<sup>10</sup>

Annex 2 consists of indicators aimed at assisting policymakers, legal practitioners, administrative authorities and other independent monitoring bodies to measure the extent to which each principle is being implemented in law and practice, as well as to assess the impact of correct application of the principles on the children affected.

# Principles for quality legal assistance for unaccompanied children

## Overarching principles

- **Principle 1:** Legal assistance for unaccompanied children is provided with the aim of, and in a manner which, fully respects the rights of the child
- **Principle 2:** The provision of legal assistance draws on, and contributes to, the child protection system.

## Principles

- **Principle 3:** Prompt and effective access to quality legal assistance is ensured
- **Principle 4:** The framework within which legal advisors provide legal assistance enables them to ensure the participation and engagement of unaccompanied child clients
- **Principle 5:** Legal advisors have sufficient time and appropriate resources to prepare and provide legal assistance to unaccompanied children
- **Principle 6:** Legal advisors working with unaccompanied children possess the necessary qualifications, knowledge, skills and attitudes and are fully independent in their function and role.
- **Principle 7:** Qualified, trained and independent interpreters are available for effective communication between the child and their legal advisors
- **Principle 8:** Independent monitoring and evaluation mechanisms of the quality of legal assistance are established
- **Principle 9:** Sufficient funding is provided to ensure the availability of legal assistance. Legal advisors have access to information, training and expertise needed to support quality legal assistance

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<sup>9</sup> For an overview of the different ways in which legal advice is provided during asylum and migration procedures please see *the Right to Justice: Quality Legal Assistance for Unaccompanied Children*, comparative report.

<sup>10</sup> Many of the principles draw from overlapping applicable legal standards so where possible in the interests of concision and to be succinct only the most relevant legal standards are listed under each principle. Guidance is also drawn from standards in other similar areas of law for example with respect to criminal justice. The legal standards do not include relevant jurisprudence on legal assistance and the rights of the child. Jurisprudence from the European Court of Human Rights and the Court of Justice of the European Union is also useful in interpreting and applying these principles. For an overview of some of the main jurisprudence in this area see the introduction to the *Right to Justice: Quality Legal Assistance for Unaccompanied Children* comparative report.

## Overarching principles

### Principle 1: Legal assistance for unaccompanied children is provided with the aim of, and in a manner which, fully respects the rights of the child

This overarching principle contains two components in that legal assistance must be aimed at respecting and promoting the rights of the child and must equally be provided in a manner which meets this objective.<sup>11</sup> The UN Convention of the Rights of the Child (CRC) and the EU Charter of Fundamental Rights (hereinafter the Charter), contain general principles which oblige Member States *inter alia* to ensure that the best interests of the child are a primary consideration in all actions concerning children. Both instruments also provide that they have a right to life, survival and development, that due account is taken of the views of the child and that all children enjoy their rights without discrimination.

The best interests' principle also plays an important role in the interpretation and implementation of all of the rights of the child and equally so in terms of access to justice. As the best interests' principle is a right, a principle and a rule of procedure it must be taken into account in every aspect of legal assistance systems for unaccompanied children.<sup>12</sup> Effective participation of the child in the legal assistance process is also necessary in line with the right to be heard under Article 12 CRC.<sup>13</sup>

The CRC also sets out specific rights of particular relevance to unaccompanied children such as rights related to special assistance and protection for children separated from their families, and the rights to be protected from violence, exploitation and inhuman and degrading treatment. Article 22 CRC explicitly obliges State parties to the Convention to ensure that asylum seeking and refugee children receive appropriate protection and assistance in the enjoyment of their rights under human rights instruments to which a State is party, therefore including the 1951 Refugee Convention and its 1967 Protocol.

#### Factors:

- All unaccompanied children should have timely access to legal assistance for any administrative and judicial procedures to which they are subject. The type of legal assistance should be adapted to the child and the specific procedure in question such as by way of requiring specific qualifications for certain forms of legal assistance and/or having specific procedural safeguards in place for children.
- Legal advisors should seek to ensure that the best interests of the child are considered in all aspects of the procedure in question.
- Children's participation must be ensured in a manner consistent with the evolving capacities of the child, including by the legal advisor, during the relevant legal procedures.
- Legal assistance must be tailored to the child's position and personal circumstances taking into account individualised factors including, but not limited to, the age, gender, gender identity and sexual orientation of the child as well as the needs of trafficked, traumatised or disabled children and the level of maturity and educational background of the child.

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<sup>11</sup> This requires legal advisors to not only ensure that the best interests of the child principle is taken into account during the substantive decision making process but also with respect to the way the procedure in question is conducted.

<sup>12</sup> For further information on the best interests of the child principle see UN Committee on the Rights of the Child General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration.

<sup>13</sup> For further information see UN Committee on the Rights of the Child General Comment No. 12 (2009) on the right of the child to be heard.

## Legal standards

### *UN Convention on the Rights of the Child*

Art. 3 (best interests of the child), Art. 9 & 16 (family provisions), Art. 10 (family reunification), Art.12 (right to be heard); Art. 20(1) (special assistance and protection for separated children); Art. 22(2) (appropriate protection for asylum seeking children), Art. 37 (access to legal and other appropriate assistance in case of deprivation of liberty)

### *Universal Declaration of Human Rights*

Art. 7 (equal protection before the law without discrimination); Art. 8 (right to an effective remedy)

### *International Covenant on Civil and Political Rights*

Art. 2 (right to an effective remedy), Art. 17 & Art. 23 (family provisions), Art. 24 (right to protection for children)

### *EU Charter on Fundamental Rights*

Art. 4 (prohibition of torture or inhuman or degrading treatment or punishment), Art. 7 (right to family life), Art. 18 (right to asylum), Art. 19 (protection in the event of removal, expulsion or extradition), Art. 20 (equality before the law), Art. 21 (non-discrimination), Art. 24 (rights of the child and best interests of the child), Art. 41 (right to good administration), Art. 47 (right to an effective remedy and fair trial)

### *European Convention on Human Rights*

Art. 1 (obligation to respect human rights), Art. 3 (prohibition of torture), Art. 6 (right to fair trial), Art. 8 (right to respect for private and family life), Art. 14 (non-discrimination), Art. 13 (right to an effective remedy)

### *European Convention on the exercise of children's rights*

Chapter II – procedural measures to promote the exercise of children's rights

### *Temporary Protection Directive*

Art. 15 (best interests in family reunification procedure)

### *Return Directive*

Art. 5 (best interests of the child), Art. 10(1) (assistance), Art 13(4) (free legal assistance)

### *Anti-Trafficking Directive*

Art. 13 (assistance to child victims of trafficking and best interests), Art. 14, Art. 15(3) (procedural safeguards for child victims of trafficking in criminal proceedings), Art. 16 (assistance to unaccompanied child victims of trafficking)

### *Recast Reception Conditions Directive*<sup>14</sup>

Art. 9 (free legal assistance to detainees); Art. 23 (best interests), Art. 26 (Appeals)

### *Recast Asylum Procedure Directive*<sup>15</sup>

Art. 12(1) (a) and (c)(information and access to legal assistance providers), Art. 25(4) (legal information to unaccompanied children and their representatives); Art 21 (conditions for access to free legal assistance); Art 20 (free legal assistance at appeals)

### *Dublin III Regulation*

Art. 4(3) (common information leaflet for unaccompanied children); Art. 6 (best interests of the child), Art. 27(5)(6) (legal assistance as part of remedies provision)

<sup>14</sup> Recital 11 and Art. 21 (appeals) of the initial Reception Conditions Directive (2003/9/EC) are also of relevance here, particularly for Member States that have opted out of the recast legislation.

<sup>15</sup> It is important to note Art. 15, 16 (legal assistance) and Art. 17 on guarantees for unaccompanied children in the first version of the Asylum Procedures Directive (2005/85/EC) as well, particularly for Member States that have opted out of the recast legislation.



## Authoritative Guidance

### *UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*

Para. 32 (special measures for access to legal assistance taking into account special needs), para.34-35 (best interests and assistance for children), para.53 (special measures for children)

### *UN Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment*

Principle 5 (special measures for vulnerable groups)

### *UN Committee on the Rights of the Child General Comment No. 6*

Para. 20 (best interests), para. 21 and 33 (representation to ensure child's best interests and the finding of a durable solution), para. 68-72 (procedural guarantees for unaccompanied asylum seeking children)

### *UN Committee on the Rights of the Child General Comment No. 12*

Para. 32 (right to be heard in all judicial and administrative proceedings), para. 33 (application and explanation of the right to be heard), para. 34 (appropriate environment and information), para. 123-124 (implementation of the right to be heard in immigration and asylum proceedings)

### *UN Committee on the Rights of the Child General Comment No. 14*

Para. 46-49 (best interests' assessment and determination), para. 89 (information to ensure child's participation), para. 97 (legal reasoning)

### *CoE Committee of Ministers Guidelines on Child Friendly Justice*

Fundamental Principles III -section B (best interests of the child), Part D section 2, paras. 37-43 (legal counsel and representation) and Part D section 3, paras. 44-49 (right to be heard and to express views)

### *CoE Twenty Guidelines of the Committee of Ministers of Europe on Forced Return*

Chapter II – the removal order (legal assistance in forced return procedure)

### *UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum*

Para. 5.7 (representation to ensure child's best interests and finding of a durable solution); para. 5.14 (consultation with the child and the child's participation in searching for a durable solution)

## **Principle 2: The provision of legal assistance draws on, and contributes to, the child protection system.**

For child-friendly justice in the context of asylum and migration, it is important to ensure a good interaction between the national asylum and/or migration system and the child protection system. An integrated child protection system is multidisciplinary in nature and aims along with other objectives to secure cooperation between relevant actors engaged with the child.<sup>16</sup> Frequently, a wide range of actors interact with unaccompanied children in asylum and migration procedures, with the guardian playing a central role.<sup>17</sup> It is therefore important that the legal advisor should liaise with other child protection actors, including guardians, for the purpose of ensuring the overall protection of the child and respect for their best interests in a holistic manner. Early legal assistance is an important component of this interaction to ensure that appropriate referrals are made depending on the personal circumstances of the child.

To provide a coordinated response for the individual needs of each child, it is crucial that those actors cooperate and use the individual expertise that each possesses. This coordinated approach is important with respect to quality legal assistance in three ways: (i) other actors can provide support for

<sup>16</sup> For further information on integrated child protection systems see the general background paper for the European Forum on the rights of the child, Brussels 13-14 November 2012. An integrated child protection system is multiagency and multidisciplinary in nature composing not only of the legal and policy framework but also other components such as data and knowledge and resources.

<sup>17</sup> Not all EU systems provide a guardian to unaccompanied children. The term guardian is used in these guiding principles as a generic term to describe 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. See the comparative report for more information.

children’s access to, engagement and participation in justice systems; (ii) other actors may contribute expertise depending on the asylum or migration procedure at hand and (iii) other actors may contribute to the implementation of each procedure for example of decisions made in the host Member State.

In particular, to ensure quality legal assistance, it is important that legal advisors are able to maintain regular communication and a constructive relationship with the child’s guardian and make use of or refer the child to specialised child services recognised as such by the State authorities where appropriate. Moreover, such engagement with relevant experts and services should be facilitated within national protection systems for instance through clear and effective referral mechanisms.

**Factors:**

- Guardians are appointed to unaccompanied children in a timely manner and they, *inter alia*, assist the child to access legal assistance
- Guardians are authorised to act for the child where the child does not have legal capacity.
- Legal advisors maintain a constructive relationship with the guardian and/or social workers who work with the child and procedural safeguards are in place to prevent conflicts of interest.
- Legal advisors keep the child’s guardian informed on the progress of the case and the procedure concerned.
- Guardians or other trusted adults according to national law are permitted to attend meetings between the legal advisor and the child.
- Legal advisors make appropriate use of external expertise available to them in the preparation of their client’s case for example by instructing country experts, medical professionals, or psychologists.
- Systems of referral to social, psychological and health services are in place and legal advisors are aware of these services and utilise them to help to ensure that necessary assistance is provided to unaccompanied children.
- The legal assistance system is part of and contributes to child sensitive procedures and processes in national protection systems, including the provision of information on access to procedures and assistance in a child appropriate manner, ensuring a child-sensitive environment in administrative and judicial settings, ensuring children’s views are taken into account, prioritising children's cases and avoiding undue delays and uncertainty.

<b>Legal standards</b>
<p><i>UN Convention on the Rights of the Child</i></p> <hr/> <p>Art. 20(1) (special assistance and protection for separated children), Art. 34-37 (protection from exploitation, trafficking and other harmful measures), Art. 39 (physical and psychological recovery and social reintegration of child victims)</p>
<p><i>Temporary Protection Directive</i></p> <hr/> <p>Art. 16 (representation of unaccompanied children)</p>
<p><i>Anti-Trafficking Directive</i></p> <hr/> <p>Art. 11(4) (mechanisms for identification, support and assistance for victims of trafficking)</p>
<p><i>Recast Reception Conditions Directive</i></p> <hr/> <p>Art. 24 (representation and guarantees for unaccompanied children)</p>
<p><i>Recast Asylum Procedures Directive:</i></p> <hr/> <p>Art. 25 (representation and guarantees, including presence of the representative at interviews)</p>
<p><i>Dublin III Regulation</i></p> <hr/> <p>Art. 6 (representation and best interests of the child)</p>



## Authoritative Guidance

### *UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*

Para. 35 (multidisciplinary legal aid), para. 53 (special measures for children), para 55(c) (cooperation between justice agencies and other professionals), para. 58 (child friendly legal aid systems); para. 58(e) (cooperation and referral between legal advisors and other professionals)

### *UN Committee on the Rights of the Child General Comment No. 6*

Para. 33 (appointment of a guardian), para. 68-72 (procedural guarantees for unaccompanied asylum seeking children)

### *UN Committee on the Rights of the Child General Comment No. 12*

Para. 124 (informing the child in asylum and migration proceedings)

### *UN Committee on the Rights of the Child General Comment No.12*

Para. 96 (Legal representation)

### *CoE Committee of Ministers Guidelines on Child Friendly Justice*

Part A- section 1, para. 1 (information on the child's rights and procedures), section 5, paras. 16-18 (multidisciplinary approach); Part D- section 4, para 50. (urgency principle); Part D- section 5, para. 54-62 (child friendly environment) and para 63. (specialist court, procedure or institutions), Chapter V(f) (system of specialised lawyers).

### *UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum*

Para 5.7 (appointment of a guardian), para. 12 (cooperation and coordination)

### *Report of the Special Rapporteur on the Independence of judges and lawyers 2013*

Para. 84 (legal aid for children), para. 85 (special measures for legal aid provision for children)

## Principles

### Principle 3: Prompt and effective access to quality free legal assistance is ensured

Free legal assistance should be available to all unaccompanied children, at all stages of the procedures to which they are subject, to ensure effective access to justice. The availability of free legal assistance for unaccompanied children is of little value if those children are not informed effectively of the possibility of receiving legal assistance and how to gain access to it, or if no clear referral mechanism exists to ensure their access in practice. Given their vulnerability, it is crucial that, in countries where there is no automatic appointment of or referral to legal advisors, unaccompanied children are not only informed in a child appropriate way, but also effectively supported in accessing legal assistance in practice.

Access to legal assistance also needs to be prompt, so that unaccompanied children are not left unrepresented in asylum or migration procedures for periods of time. Indeed, in asylum procedures, for instance, the quality of the first interview with national administrative authorities can determine the rest of the procedure and can therefore have an important impact on the decision on international protection. Therefore, legal assistance should be provided at the earliest possible stage in the asylum or migration procedure. Furthermore, national authorities and legal advisors can facilitate priority access to procedures and prevent unnecessary delays and uncertainty for the child.

The continuity of legal assistance to unaccompanied children is also important. Changes of legal advisor not only disrupt the procedure and risks creating delays, but it can be disturbing for the child and can hamper the building of a relationship of trust with the child. Changes of legal advisor should

be made only where there is a conflict of interest or the relationship between child and legal advisor breaks down or where additional or different expertise is needed and cannot be provided through support for the original legal advisor.

**Factors:**

- Information on the right to legal assistance, what it consists of and how to access it, are provided to the child in a language and manner the child understands.
- Any written, audio or visual materials should also be explained orally to the child.
- Materials and supplementary explanations are appropriate to the child’s educational background, age and maturity.
- Legal advisors ensure the child understands their rights and the procedures.
- Procedures for obtaining legal assistance, where no automatic referral is made, are simple and easy to access.
- The guardian plays an active role in ensuring access to legal assistance.
- A referral mechanism is in place or the child is assisted in accessing legal assistance by the guardian, or, if no guardian has yet been appointed, by the Member State authorities via an independent organisation.
- Free legal assistance for unaccompanied children is available for all procedures they may be going through, and at all stages of those procedures, including to contest age assessment decisions and verify identity.
- Free legal assistance for unaccompanied children is not subject to means or merits test or other admissibility criteria.
- The continuity of legal assistance throughout the different stages of the procedure is ensured.
- Member States ensure that the child is effectively represented and supported by a legal advisor in addition to a guardian at interviews or court hearings.
- There are sufficient numbers of legal advisors with the required competencies to meet the needs of unaccompanied child clients.
- The procedures in place are designed in such a manner as to enable access to legal assistance for example by the provision of legal aid clinics in otherwise closed areas for unaccompanied children.

<b>Legal standards</b>
<p><i>EU Charter on Fundamental Rights</i></p> <hr/> <p>Art. 47 (right to an effective remedy and fair trial)</p>
<p><i>Anti-Trafficking Directive</i></p> <hr/> <p>Art. 15(2) (free legal counselling and representation for child victims of trafficking)</p>
<p><i>Returns Directive</i></p> <hr/> <p>Art. 13(4) (free legal assistance in return procedures)</p>
<p><i>Recast Asylum Procedures Directive</i></p> <hr/> <p>Art. 12(1)(a) and (c)(information and access to legal assistance providers), Art. 21 (conditions to access free legal assistance), Art. 25(4) (legal information to unaccompanied children and their representatives), Art. 26 (free legal assistance at appeals)</p>
<p><i>Dublin III Regulation</i></p> <hr/> <p>Art. 27(6) (free legal assistance within the remedies provision)</p>

## Authoritative Guidance

### *UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*

Para. 42 (comprehensive and child appropriate information on legal aid), para. 53 (right to legal counsel)

### *CoE Committee of Ministers Guidelines on Child Friendly Justice*

Chapter IV. part A –section 1, Para. 1 (information on access to justice) and Para. 2,4-5 (age appropriate information), Part D – section 2, para. 38 (free legal aid for children)

### *UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum*

Para. 5.7 (role of the guardian in cooperating with other actors), para. 5.14 (keeping the child informed on procedures and decisions)

### *UNHCR Global Consultations on International Protection (Fair and Efficient Asylum Procedures)*

Part VII. Concluding observations and recommendations, 50(g) (access to legal assistance)

### *Report of the Special Rapporteur on the Independence of judges and lawyers 2013*

Para. 15(1) (legal counsel and role of the guardian)

## **Principle 4: The framework within which legal advisors provide legal assistance enables them to ensure the participation and engagement of unaccompanied child clients.**

The right of access to justice and to effective remedies cannot be theoretical or illusory in nature. These rights need to be effective in practice.<sup>18</sup> To that end, it is crucial that unaccompanied children have effective access to and contact with legal advisors and vice versa. Access by legal advisors to unaccompanied children should be ensured for whichever procedures unaccompanied children go through, or despite the location they are in in the Member State concerned. This includes procedures such as age assessment, border procedures, accelerated procedures and unaccompanied children in transit zones, remote locations, or in detention.<sup>19</sup> All unaccompanied children should be able to communicate and consult a legal advisor when required and legal advisors should be able to update the child on the progress of the case and meet with them when necessary. This also implies that legal advisors are kept informed of any changes in the location or situation of the child.

### **Factors:**

- Access to legal assistance for unaccompanied children is unhindered, including for children in border, admissibility or accelerated procedures and/or deprived of their liberty or residing in remote locations.
- Legal advisors can effectively engage with unaccompanied child clients, by having unhindered access to them and being able to effectively represent them in the relevant procedures as well as coordinating with other relevant actors where necessary.
- Tools and resources are available to facilitate access of unaccompanied children to legal assistance including the availability of interpreters for communication purposes.
- Children themselves or through their guardian are able to easily and readily contact legal advisors when necessary and legal advisors ensure they are reasonably accessible to their client.<sup>20</sup>

<sup>18</sup> See ECtHR, *Airey v Ireland* Application no. 6289/73, 9 October 1979.

<sup>19</sup> While the detention of unaccompanied children is still a reality in the EU, including in age-disputed cases and in transit and border zones, ECRE and the project partners strongly advocate against the detention of any unaccompanied child, as it can never be in the best interest of the child to be detained.

<sup>20</sup> In States where guardians are not independent from the authorities, contact should be made directly between the legal advisor and the child

- If States have national dispersal mechanisms or other structures in place for the accommodation and residence of unaccompanied children, these should be arranged in such a manner as to ensure effective access to legal advisors.
- Legal advisors explain the procedure and/or process to the child, taking their age, educational background and maturity into account, explain the possible outcomes and advise on what can be expected, and ensure that the child has understood and has the opportunity to ask questions.
- Legal advisors keep the child and their guardian informed of the steps in the procedure and upcoming dates of important appointments, through various communication means.
- Legal advisors are given sufficient time to meet with the child prior to any hearing and/or interview as part of the procedure and are informed in a timely manner of meetings or hearings the child shall attend.
- Legal advisors ensure the child's participation and right to be heard in the procedure, taking into consideration the child's age and maturity.
- Legal advisors take all necessary and appropriate steps to build trust, confidence and a mutually respectful relationship with the child.
- Legal advisors respect confidentiality and seek the agreement of the child and their guardian prior to disclosing confidential information to the authorities.
- Legal advisors act with due diligence, and respect deadlines and appointments, including avoiding making the child wait too long before an appointment concerning their case.
- State authorities ensure the legal representative is informed of any decisions or action taken in relation to the child's case in a timely and efficient manner.

<b>Legal standards</b>
<p><i>UN Convention on the Rights of the Child</i></p> <hr/> <p>Art. 12(right to be heard)</p>
<p><i>EU Charter of Fundamental Rights</i></p> <hr/> <p>Art. 24 (rights of the child), Art. 41 (right to good administration)</p>
<p><i>Recast Asylum Procedures Directive</i></p> <hr/> <p>Art. 12(1)(a) (timely information to exercise one's rights), Art. 23(2) (access of legal advisors to closed areas), Art.12(1)(c) (ability to contact organisations providing legal advice), Art. 25(1)(b) (information and preparation of the child for the interview and presence of the legal representative, presence of legal adviser and child at the interview)</p>
<b>Authoritative Guidance</b>
<p><i>UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems</i></p> <hr/> <p>Para. 28 (unhindered access to legal aid providers for detainees, respect of the principle of confidentiality)</p>
<p><i>UN Basic Principles on the Role of Lawyers</i></p> <hr/> <p>Para. 8 (access to a lawyer for detainees)</p>
<p><i>UN Committee on the Rights of the Child General Comment No. 6</i></p> <hr/> <p>Para. 63 (access to legal aid in detention)</p>
<p><i>UN Committee on the Rights of the Child General Comment No. 12</i></p> <hr/> <p>Para. 32 (right to be heard in all judicial and administrative proceedings), para. 33 (application and explanation of the right to be heard), paras. 123-124 (implementation of the right to be heard in immigration and asylum proceedings)</p>
<p><i>UN Committee on the Rights of the Child General Comment No. 14</i></p> <hr/> <p>Para. 89 (information to ensure child participation)</p>

*CoE Committee of Ministers Guidelines on Child Friendly Justice*

Chapter IV Part D – section 2, Para. 40 (lawyer articulating the child’s opinions), para. 41 (lawyer informing the child on consequences of the child’s views)

*CoE Committee of Ministers Recommendation on the freedom of exercise of the profession of lawyer*

Principle IV- Access for all persons to lawyers

*UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum*

Para. 5.14 (child’s consultation and participation in searching for a durable solution)

*UNHCR Global Consultations on International Protection (Fair and Efficient Asylum Procedures)*

Part III. Receiving asylum seekers at the border, para. 22 (access to legal advice at the border and in transit zones)

## **Principle 5: Legal advisors have sufficient time and appropriate resources to prepare and provide legal assistance to unaccompanied children**

In order for legal advisors to provide quality advice and representation, it is crucial they are provided with sufficient time and appropriate resources. All of the procedural safeguards and measures on quality are meaningless if insufficient time is afforded to prepare and provide quality legal assistance to unaccompanied children. Time is needed to prepare a case well, meet the client and establish a relationship with the child client to assist in the identification of their protection or other needs. Time is all the more important for unaccompanied children, where building a relationship of trust and the disclosure of relevant information often requires more time than for adults. Sufficient resources are also necessary to support the legal advisors’ submissions to national authorities on behalf of the child and provide advice where appropriate. This principle should also be read in conjunction with principle 9 whereby sufficient funding as well as other resources such as sufficient staff and experts all need to be available to provide quality legal assistance to unaccompanied children.

### **Factors:**

- Legal advisors are granted sufficient time to prepare the case based on the individual child’s needs and personal circumstances and taking into account the time needed to establish a relationship of trust, receive relevant information from the child, researching child-specific issues in the country of origin and in the host Member State. This also requires that asylum and migration procedures are designed in such a way to enable this to happen.
- Workloads of legal advisors are reasonable to ensure they have sufficient capacity and can spend enough time on each case, including taking into account factors such as the complexity of the case, the progress of the case and individual circumstances of the client concerned.
- Legal advisors have the proper tools at their disposal including access to up-to-date country of origin information and can request expert reports as part of the legal aid system to support the child when necessary depending on the nature of the claim.
- Legal advisors may request the translation of documents necessary for their work as part of the legal aid system for the child client.
- If legal assistance works through a fixed fee/fixed time scheme in the national legal aid system, more funding and/or time is given/can be requested for unaccompanied children cases.

## Legal standards

### *International Covenant on Civil and Political Rights*

Art. 14(3)(b) (adequate time and facilities for the preparation of the defence and communication with counsel)

### *EU Charter of Fundamental Rights*

Art. 24 (rights of the child), Art. 41 (right to good administration), Art. 47 (right to an effective remedy and to a fair trial)

### *European Convention on Human Rights*

Art. 6(3)(b) (adequate time and facilities for the preparation of a defence)

### *Recast Asylum Procedures Directive*

Art. 12(1)(d) (access to information by the legal advisor), Art. 12(1)(e) (timely notice of a decision), Art. 23(1) (access to client's information), Art. 46(4) (reasonable time limits for effective remedy)

### *Dublin III Regulation*

Art. 27(2) (reasonable time limits for effective remedy)

## Authoritative Guidance

### *UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*

Para. 28, 44(g) and 45(b) (adequate time and facilities for the preparation of the defence). Para. 28 (access to case files and adequate time and facilities to prepare the defence of detained persons), para. 63. (staffing of nationwide legal aid system commensurate with the needs)

### *UN Basic Principles on the Role of Lawyers*

Para. 21 (timely access to information and documents)

### *UN Committee on the Rights of the Child General Comment No. 12*

Para. 134(e) (adequate time and resources to ensure child participation)

### *CoE Committee of Ministers Guidelines on Child Friendly Justice*

Chapter IV Part A- section 5, paras. 16-17 (cooperation between different professionals)

### *CoE Committee of Ministers Guidelines on human rights protection in accelerated asylum procedures*

IV. Procedural guarantees 1(f) (access to legal advice and assistance)

## **Principle 6: Legal advisors working with unaccompanied children possess the necessary qualifications, knowledge, skills, and attitudes and are fully independent in their function and role.**

While accessing legal assistance is critical to ensure unaccompanied children's right to justice, right to effective judicial protection and to a fair hearing, the effectiveness of the assistance is on condition that the legal advisor is properly qualified, knowledgeable and has the skills and competencies required to advise and represent the child in the child's best interests. Legal advisors working with unaccompanied children must have the required knowledge, skills and qualifications not only in the field of asylum and migration law but also with respect to broader aspects of children's rights and child-friendly working methods.

In addition, as legal advisors must represent the interests of their clients, and in the case of children, operate on the basis of the best interest of the child, it is of paramount importance that the legal advisors are fully independent in their function and role at the national level.



## Factors:

- Legal advisors are independent of the State, judicial authorities and guardians and procedural safeguards are in place to prevent conflicts of interest.
- Legal advisors working with unaccompanied children possess an excellent knowledge of asylum and migration law, as well as of children's rights, child development, child specific persecution, child protection and child- friendly communication.
- Legal advisors only take on legal assistance work they have the necessary knowledge, skills and capacity for.
- Legal advisors have the requisite skills and are trained on child-friendly working techniques and communication.
- Legal advisors have significant knowledge of the asylum and migration procedure before starting to represent unaccompanied children in such procedures and/or have the requisite skills from other fields for representing children.
- Non-governmental organisations providing legal assistance have established minimum standardised criteria for their legal advisors which they must fulfil before representing unaccompanied children.
- Codes of conduct and standards on ethics, confidentiality and responsibilities specific to working with unaccompanied children are adopted for persons providing legal assistance to children.
- Legal advisors have access to and attend regular up-to-date relevant training as part of their continuing professional development in this area of law.
- A regulatory system is in place to ensure that legal assistance providers have the requisite competencies to effectively support unaccompanied children.

### Authoritative Guidance

#### *UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*

Para. 36 (independence of the legal aid provider), para. 37 (competence of legal aid providers), para. 58(c) and (d) (child friendly legal aid standards, code of conducts and vetting), para. 58(d) (training of legal aid providers working with children), para. 64 (qualifications of legal aid providers), para. 67(d) (code of conduct for paralegals); para. 68 (trainings and accreditation schemes for paralegals), para. 69(b) (code of conduct for legal aid providers)

#### *UN Basic Principles on the Role of Lawyers*

Para. 9 (qualification and training of lawyers), para. 24 (professional lawyers association promoting continuing education and training), para. 26 (code of conduct for lawyers)

#### *CoE Committee of Ministers Guidelines on Child Friendly Justice*

Chapter IV Part A- section 4, para. 14-15 (training of professionals working with children), Part D – section 2, para. 39 (training and knowledge of lawyers working with children), Chapter. V(l) (support, training, and practical guidance for professionals working in contact with children)

## **Principle 7: Qualified, trained and independent interpreters are available for effective communication between the child and their legal advisors**

In the context of asylum and migration procedures, the role of the interpreter is paramount for effective communication between the legal advisor and their client and between unaccompanied children and the State or judicial authorities. Both the quality of the assistance provided and the effective enjoyment by the child of their rights can be undermined by poor interpretation and/or an inappropriate attitude of an interpreter. Interpreters should be qualified and trained to understand the particular nature of their role, respect confidentiality and possess the competency to work with children.

**Factors:**

- Interpreters remain neutral, impartial and professional and respect confidentiality.
- Funding is available for high-quality independent interpretation for meetings and other correspondence between the child and their legal advisor.
- Minimum standards for qualifications of interpreters working with unaccompanied children are established at the national level.
- Interpreters working with unaccompanied children are provided with relevant training including on child friendly and gender sensitive communication.
- In the provision of legal advice, legal advisors first seek confirmation from the child that they understand and is able to communicate with the interpreter.
- The role of the interpreter is explained to the child as well as the possibility of requesting a different interpreter, if necessary. Every effort must be made to accommodate this request, even if delays to the process are necessary.
- Children may request an interpreter of a specific gender for hearings or interviews and are informed of this right in advance. Every effort must be made to accommodate this request, even if delays to the process are necessary.

<b>Legal standards</b>
<i>UN Convention on the Rights of the Child</i> <hr/> Art. 40 (right to an interpreter in criminal proceedings)
<i>International Covenant on Civil and Political Rights</i> <hr/> Art. 14 (right of an interpreter in court)
<i>European Convention on Human Rights</i> <hr/> Art. 6(e) (right of an interpreter in court)
<i>Anti-Trafficking Directive</i> <hr/> Art. 11(5) (assistance and support measures including translation and interpretation services)
<i>Recast Asylum Procedures Directive</i> <hr/> Art. 12(1)(a) (information on rights and obligations in a language they understand or are reasonably supposed to understand), Art. 12(1)(b)(receipt of the services of an interpreter), Art. 15(3)(c)(selection of interpreters)
<b>Authoritative Guidance</b>
<i>UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems</i> <hr/> Para. 43(f) (right to an interpreter for detained persons)
<i>UN Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment</i> <hr/> Principle 14 (right to an interpreter in order to receive information)
<i>CoE Committee of Ministers Guidelines on child-friendly justice</i> <hr/> Section IV. A. General elements of child-friendly justice, 1 (K) (information on the availability of interpretation and translation)
<i>UN Committee on the Rights of the Child General Comment No. 6</i> <hr/> Para. 25 (availability of interpreters at all stages), para. 71 (qualified interpreter during personal interview), para. 95 (specialised trainings for interpreters working with unaccompanied children)
<i>UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum</i> <hr/> Para. 5.13. (skilled and trained interpreters)

**Principle 8: Independent monitoring and evaluation mechanisms of the quality of legal assistance are established**

Given the importance of the rights at stake in asylum and migration procedures and the need for quality legal assistance it is important that independent monitoring mechanisms exist at the national level in order to ensure the requisite standard of legal assistance and to remedy any potential problems concerning the work of legal assistance providers.

Legal advisors are responsible for the assistance they provide and they need to be held accountable for the work performed. Accountability and responsibility can be ensured at different levels, from peer review and quality assurance mechanisms to larger scale independent evaluations and audits with quality as the central focus. Similarly, when problems do arise, unaccompanied children or their guardian must be able to report problems with legal advisors through accessible, effective and simple to use complaints mechanisms. Complaint mechanisms complement monitoring by allowing immediate reporting of problems by those receiving the legal aid services. Periodic evaluation mechanisms can also be beneficial by providing the opportunity to provide feedback to legal aid providers for areas of improvement arising from such evaluations.

In addition, monitoring and complaint mechanisms can only be effective if breaches of legal obligations or code of conduct and ethics are acted upon and appropriate sanctions are imposed at the national level.

**Factors:**

- Peer review and/or independent quality assurance systems are established at the national level following a period of consultation with relevant stakeholders.
- State provided legal assistance is monitored by an independent body with the power to independently investigate the quality of legal assistance.
- Monitoring and/or evaluation systems allow independent monitors to have access to files, as long as this meets appropriate standards of confidentiality and data protection measures.
- Legal assistance provided by NGOs is independently evaluated on a periodic basis.
- An independent accessible complaints mechanism is in place for unaccompanied children to report problems with legal advisors and guardians and children are informed in advance about its functioning by their appointed legal advisor.
- Complaints lodged by children concerning legal advisors are prioritised and processed swiftly.
- Legal advisors are responsible for the services they provide and are held accountable for any professional misconduct in the delivery of legal assistance.
- Sanctions are foreseen at the national level for legal advisors who breach their legal obligations, codes of conduct and/or ethics.
- Unaccompanied children are given the possibility to choose their own advisor from a pool of legal advisors, or to contest the appointment of a specific advisor.
- In case there is a problem with an appointed legal advisor, the legal assistance provider will ensure that a new legal advisor is appointed promptly with undue delay.

<b>Authoritative Guidance</b>
<i>UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems</i>
Principle 13 para. 38 (prompt review of complaints), Guideline 11 para. 59 (oversight of legal aid providers, independent bodies to handle complaints), Guideline 14 para. 67(c) (monitoring and evaluation mechanisms of services provided by paralegals), Guideline 15 (regulation and oversight of legal aid providers), Guideline 16 para. 71(b) (monitoring and evaluation mechanisms)

*UN Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment*

Para 27 (expeditious review of complaints)

*CoE Committee of Ministers Guidelines on child-friendly justice*

Section III E.3 (right of the child to access complaint mechanisms), section IV.A.1 (information on complaint mechanisms), section V(e) (facilitation of access to complaint mechanisms)

*UN Committee on the Rights of the Child General Comment No. 12*

Para. 46-47 (Complaints, remedies and redress)

*CoE Committee of Ministers Recommendation on the freedom of exercise of the profession of lawyer*

Principle VI – Disciplinary proceedings

*Report of the Special Rapporteur on the Independence of judges and lawyers 2013*

Para. 61 (monitoring of State run legal aid systems), para. 64 (monitoring of non-state legal aid providers), para. 68 (accountability of lawyers), para. 89 (monitoring and accountability), para. 96 (recommendation on monitoring)

## **Principle 9: Sufficient funding is provided to ensure the availability of legal assistance, access to information, training and expertise needed in order to guarantee quality legal assistance**

Over the past number of years, legal assistance has been subject to severe budget cuts in a number of Member States. This is problematic in two ways: a) in practice there is no or limited legal assistance provided to persons in asylum and migration procedures leading to protection gaps; b) low remuneration for legal aid work means that experienced lawyers in this field are deterred from providing legal assistance. Given the important role legal assistance plays in ensuring the enjoyment of children's rights in practice it is essential that sufficient funding is made available for such assistance early in the procedure. Early legal assistance within a system of 'frontloading' benefits not only the individual asylum seeker but also the Member State concerned in supporting a well-reasoned and sustainable decision-making process at the initial stage which also enables appeal bodies to hear appeals more quickly and therefore more cost-effectively.<sup>21</sup>

In many Member States legal assistance is provided on an ad-hoc basis through project-based funding. In those cases it is important that the Member States concerned still ensures the long-term sustainability of provision of legal assistance in order to avoid that services have to be terminated or suspended for periods of time. Furthermore, adequate funding is needed to ensure legal advisors may access necessary information and external experts to prepare the case of their client, as well as funding to attend necessary training as a central component in improving the quality of legal assistance.

### **Factors:**

- Sufficient sustainable funding is secured to ensure there are enough legal advisors providing assistance and representation to unaccompanied children to meet client's needs.
- States allocate appropriate funding commensurate with the needs of those in the asylum and migration procedure to legal assistance schemes and ensure the long –term sustainability of assistance provided through projects.

<sup>21</sup> See for instance, Home Office, *Evaluation of the Early Legal Advice Project, May 2013*; Runnymede, *Justice at Risk Quality and Value for Money in Asylum Legal Aid*, December 2012; See also Bridget Anderson and Sue Conlan, *Providing Protection: Access to early legal advice for asylum seekers*, July 2014. ECRE defines frontloading as the policy of financing asylum determination systems with the requisite resources and expertise to make accurate and properly considered decisions at the first instance stage of the procedure.

- Legal advisors are properly remunerated for their work.<sup>22</sup>
- If legal assistance works through a fixed fee/fixed time scheme at the national level, more time is given and/or more funding can be requested for unaccompanied children's cases in the asylum and migration field.
- Remuneration for legal assistance work takes into account travel costs and other ancillary additional expenses to the provision of legal assistance such as documentation costs and costs for instructing experts.
- Timely payment of fees and additional expenses is ensured both for legal representation and instructed experts.
- Sufficient funding is available for legal advisors to request expert reports, access information tools, consult external experts, request necessary translations or request the assistance of an interpreter for meetings with the child.
- Funding is available for the organisation and participation of regular specific training aimed at improving the quality of legal assistance for unaccompanied children.

Legal standards
<p><i>Recast Asylum Procedures Directive</i></p> <hr/> <p>Art. 20-21 (free legal assistance and representation in appeals, legal and procedural information free of charge)</p>
<p><i>Dublin III Regulation</i></p> <hr/> <p>Art. 27(6) (provision of legal assistance for remedies)</p>
Authoritative Guidance
<p><i>UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems</i></p> <hr/> <p>Guideline 12: Para. 60-61 (funding of legal services), para. 62 (funding of other expenses and timely payment)</p>
<p><i>UN Basic Principles on the Role of Lawyers</i></p> <hr/> <p>Para. 3 (funding for legal services)</p>
<p><i>Report of the Special Rapporteur on the Independence of judges and lawyers 2013</i></p> <hr/> <p>Para. 73 (appropriate budget for legal aid services), para. 103 (recommendation on adequate funding)</p>

## LIST OF LEGAL STANDARDS AND AUTHORITATIVE GUIDANCE USED

### Legal standards

- [1989 United Nations Convention on the Rights of the Child](#)
- [The Universal Declaration of Human Rights](#)
- [International Covenant on Civil and Political Rights](#)
- [International Covenant on Economic, Social and Cultural Rights](#)
- [Charter of Fundamental Rights of the European Union](#)
- [1950 European Convention for the Protection of Human Rights and Fundamental Freedoms](#)
- [European Convention on the Exercise of Children's Rights](#)

<sup>22</sup> The remuneration should also take into account the additional time spent depending on the complexity of the case, the time needed to gain trust and enable the child to disclose information as well as the time needed to go meet the child if they are in a remote location.

- Temporary Protection Directive: [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 a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.](#)
- Return Directive: [Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals](#)
- Anti-Trafficking Directive: [Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA](#)
- Recast Asylum Procedures Directive: [Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection \(recast\)](#)
- Recast Reception Conditions Directive: [Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection \(recast\)](#)
- Dublin III Regulation: [Regulation \(EU\) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or stateless person \(recast\)](#)

### Authoritative guidance

- [United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems](#)
- [United Nations Basic Principles on the Role of Lawyers](#)
- [United Nations Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment](#)
- [United Nations Standard Minimum Rules for the Administration of Juvenile Justice](#)
- UN Committee on the Rights of the Child [General Comment No. 6 \(2005\) on the treatment of unaccompanied and separated children outside their country of origin](#)
- UN Committee on the Rights of the Child [General Comment No. 12 \(2009\) on the right of the child to be heard](#)
- UN Committee on the Rights of the Child [General comment No. 14 \(2013\) on the right of the child to have his or her best interests taken as a primary consideration](#)
- Council of Europe [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#)
- Council of Europe [Committee of Ministers Guidelines on human rights protection in the context of accelerated asylum procedures](#)
- Council of Europe [Twenty Guidelines of the Committee of Ministers of Europe on Forced Return](#)
- Council of Europe [Recommendation No. R \(2000\)21 of the Committee of Ministers to Member States on the freedom of exercise of the profession of lawyer](#)
- UNHCR, [Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum](#)
- UNHCR, [Global Consultations on International Protection/Third Track: Asylum Processes \(Fair and Efficient Asylum Procedures\)](#), 31 May 2001, EC/GC/01/12
- UN 2013 [Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul](#)

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