

# Current migration situation in the EU: separated children

December 2016

*Although official figures on the phenomenon are lacking, it is clear that children arriving in the European Union (EU) are often accompanied by persons other than their parents or guardians. Such children are usually referred to as 'separated' children. Their identification and registration bring additional challenges, and their protection needs are often neglected. On arrival, these children are often 'accompanied', but the accompanying adult(s) may not necessarily be able, or suitable, to assume responsibility for their care. These children are also at risk of exploitation and abuse, or may already be victims. Their realities and special needs require additional attention. The lack of data and guidance on separated children poses a serious challenge. This focus section outlines the specific protection needs of separated children, and highlights current responses and promising practices among EU Member States.*

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## Thematic focus: separated children

FRA evidence – as of December 2016 – indicates that EU Member States do not collect data on separated children, and relevant information is very scarce. Separated children are legally considered unaccompanied children, though in practice

their treatment may differ. This reality – and the general lack of guidance – makes it challenging to establish how Member States respond to these cases. Practice may also vary depending on the region or city, and from case to case.

### MAIN FINDINGS

- Member States do not collect data on separated children, since they are – when registered – generally registered as unaccompanied children. Anecdotal evidence suggests that most separated children are boys between the ages of 13 and 17 years from Afghanistan, Iraq and Syria, and accompanied by a sibling, uncle, aunt or grandparents. They travel without their parents, who stay in the country of origin to protect their house or land, or because the family could only afford the traveling costs for one of its members.
- In all Member States' legal frameworks, separated children are subsumed under unaccompanied children, except for some implementation differences concerning accommodation, the specific situation of married children, and guardianship/legal representation.
- There is a general lack of guidance and protocols regarding separated children; thus, responses vary by region, municipality, specific actor or even reception facility. Evidence suggests that child protection authorities are not always involved and play a weak role in most procedures related to separated children.
- Separated children are reportedly not informed in an appropriate and child-friendly way about asylum procedures, the possibility of applying independently for asylum and the consequences of different choices.
- Although officially considered unaccompanied children, separated children are often accommodated together with the accompanying adult until their relationship is assessed, without any protective measures in place. This entails serious risks for the child, given that the accompanying adult could be a smuggler, a trafficker or an abusive relative.
- Establishing the relationship and family ties between a child and the accompanying adult is difficult given the lack of official documentation. DNA testing is not often used due to its high cost. Few Member States have procedures to assess the quality of the relationship and the adult's ability to care for the child. There are even cases where the accompanying adult is assigned as guardian/legal representative or carer of the child without a proper assessment of the child's best interest.
- Responses to migrant children married abroad are not standardised. A majority of Member States recognise, under certain conditions, the marriage of a child that took place in a third country. Practices concerning the accommodation of children's spouses differ. Referral to child protection authorities is not a general rule.
- Migration authorities mainly determine whether transferring a child for family reunification purposes is in the child's best interests; child protection authorities and guardians sometimes also play a role.
- Different actors carry out the monitoring of reception facilities; there is often a lack of coordination and a lack of clarity as to who holds ultimate responsibility.

Separated children are children<sup>1</sup> who have been separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.<sup>2</sup> The accompanying adult(s), who could also be unrelated, may not necessarily be able to, or suitable for, assuming responsibility for their care.

In contrast, EU law defines unaccompanied children as children who arrive unaccompanied by an adult responsible for them, whether by law or practice of the Member State concerned, and for as long as they are not effectively taken into the care of such a person; it includes children who are left unaccompanied after they enter the territory of a Member State.<sup>3</sup> The legal status of separated children does not differ, but they form a special sub-group of children among the unaccompanied ones that requires specialised protection.

The treatment of children in both categories – separated and unaccompanied – should be similar, despite often involving different circumstances. Separated children are especially vulnerable as they may be accompanied by an adult who is abusive, a smuggler or a trafficker, or unable to effectively take care of them.

Separated children are entitled to protection under a broad range of international and regional instruments. These include the Convention on the Rights of the Child (CRC), guided by CRC Committee General Comments No. 6 and 14, and the Hague Convention for the Protection of Children. According to Article 24 (2) of the Charter of Fundamental Rights of the European Union (the Charter), the best interests of the child should be a primary consideration in all actions affecting children, including separated children in the asylum and migration context. All EU Directives relevant to unaccompanied children are also applicable to separated children, such as the Directive on Reception Conditions, the Dublin Regulation and the Asylum Procedures Directive.

This thematic focus concentrates on separated children, as well as on safeguards concerning family reunification and monitoring arrangements that are applicable to unaccompanied children in general.

## Profile of separated children

- **None of the 14 EU Member States studied were able to provide official information on the number and profile of children arriving in Europe accompanied by an adult who is neither the parent nor guardian.**

Only data on unaccompanied children who seek asylum are systematically collected; information on separated children is not disaggregated in any statistical or other data collection system.

Anecdotal evidence from some Member States suggests some 'typical' profiles. For example, the Swedish Migration Agency considers the typical profile of a separated child to be a 14- to 17-year-old Syrian boy who has been sent to Sweden with a relative for protection, while his parents try to protect their farm or house, with the hope of reuniting in Syria at some point. The relative is usually quite close, e.g. an aunt, uncle or grandparents. The percentage of newly arrived who are unaccompanied girls has risen to about 20 %.<sup>4</sup>

According to the Danish Red Cross, in Denmark, the majority of separated children are accompanied by a family member to whom they are close and with whom they grew up, e.g. an older sibling, uncle, aunt or grandparent. The main countries of origin are Syria, Afghanistan and Iraq. The parents of a majority of Syrians are in Syria or Turkey, whereas the parents of children from other countries of origin are typically in the country of origin. In general, the children travel alone because the family could not afford to pay for the entire family.<sup>5</sup>

In Bulgaria, according to NGOs, separated children seeking protection are predominantly boys from Afghanistan

between 12 and 17 years of age. Their relationship with the accompanying adults is difficult to establish because they sometimes point to the first person in their sight during interviews. This is often due to translation problems, and the weak registration and identification system. Separated children are most often accompanied by members of their family and less often by people they met along the way, family friends, or random people who took care of them during their travels.<sup>6</sup>

### Scrutinising the situation on the ground

In 2010, FRA published a comparative report on separated, asylum-seeking children in 12 EU Member States. The report draws on interviews with 336 children and 302 adults. It aims to provide a picture of the situation “on the ground” for such children.

*For more information, see FRA (2011), [Separated, asylum-seeking children in European Union Member States](#), Publications Office of the European Union (Publications Office).*

## Identification and registration

- **In all Member States, separated children are generally considered to be ‘unaccompanied’ upon arrival. However, in some instances children are registered as accompanied without further assessment of their relationship with the accompanying adult. This entails risks for the children and does not ensure their right to protection, to which separated children – like unaccompanied children – are entitled.**

Only in Sweden has a different registration practice been identified. Separated children are not registered as family members of the accompanying adults. However, they are registered in the same so-called ‘family group’, an administrative category into which the Swedish Migration Agency sorts individuals.

In some cases, separated children are reportedly registered as accompanied. For example, in Bulgaria, although the general practice is also to register separated children as unaccompanied, the police has in some cases registered them as accompanied. Police officers may also artificially ‘link’ a child to a relative travelling in the same group, without examining the ties between them. This is due to problems the police experiences with referring unaccompanied children to appropriate care.<sup>7</sup>

The initial registration at the border may differ in each Member State. In Poland, border guards do not register whether or not a child is accompanied, as the only information collected when entering are personal data. In Spain, the police compiles a “police description” of each child, containing their fingerprints, a photo, their place of origin and their affiliation. According to the Protocol on unaccompanied children,<sup>8</sup> DNA testing must be performed on children at risk. In practice, however, DNA tests are only carried out at sea-port border points – Algeciras, Tarifa, Motril and Malaga, all of which are in the Andalusian Autonomous Community – and in the Autonomous Cities of Ceuta and Melilla. Tests are not used for children arriving at the airport.<sup>9</sup>

Establishing the family links between the child and the accompanying adult is often difficult given the lack of documentation or spelling mistakes when registering. The same family name is often spelled differently on the documents issued to the persons, which sometimes hampers proving a family connection.

DNA tests, as used in some parts of Spain and in some cases in Slovakia,<sup>10</sup> are not a possibility available to all Member States given their high cost.

Other methods are used to assess the relationship between a child and their accompanying adult. However, assessments may be carried out at a later stage, when the child has already been assigned to accommodation.

## Reception and accommodation

Member States is not systematic and often varies.

- Although most separated children are registered as unaccompanied children in Member States, how these children are accommodated differs. The child and the accompanying adult are often accommodated together until their relationship is further assessed. This entails risks for the child as the accompanying adult could be abusive, a smuggler or a trafficker.

Member States need to determine the relationship between the two, the adult's capacity to take care of the child, and the child's best interests in that specific case. Once the family link, relationship with the child, adult's ability to take care of the child, and the best interests of the child are established, the CRC Committee's General Comment No. 6 suggests that a child who arrives with adult relatives or has relatives already living in the country of asylum should be allowed to stay with them – unless such action would be contrary to their best interests.<sup>11</sup>

According to Article 23 (5) of the Reception Conditions Directive,<sup>12</sup> "Member States shall ensure that children of applicants or applicants who are children are lodged with their parents, their unmarried minor siblings or with the adult responsible for them whether by law or by the practice of the Member State concerned, provided it is in the best interests of the minors concerned". The Qualification Directive (Article 31) suggests that unaccompanied children could be placed with adult relatives when in the child's best interests. The UNHCR's Statement of Good Practice recommends that, where children live with or are placed with relatives, the relatives' ability to provide suitable care should be assessed and they should undergo police checks.<sup>13</sup>

- How to determine the family links and whether the adult is willing to, and capable of, taking care of the child is key. The lack of documents is a major hindrance. Practice in

### Promising practice

#### Determining a child's relationship to an accompanying adult

The Danish Immigration Service has sub-contracted to the Danish Red Cross the performance of assessments of the relationship between the child and accompanying adult. The Red Cross's psychosocial assessments – led by social workers – are initiated when applicants are accommodated at a reception centre. Based on a screening interview, a temporary psychosocial assessment is made to determine whether the relationship between the adult and the child is viable, particularly vulnerable, or whether separation is needed. A more permanent assessment on the relation of the adult and child follows after the temporary assessment.

The Danish Red Cross has developed guidelines for this assessment. These include information on how to conduct the screening interview, make a temporary determination on the relationship, and suggest accommodation. Additionally, the Danish Red Cross monitors the relationship on an ongoing basis.

*Source: Interview with Danish Red Cross (Røde Kors), 1 December 2016*

Italy and Germany do not implement a common procedure throughout the country; the procedure depends on the authorities in charge of registration in each territory. In Apulia (Italy), there have reportedly been instances where, when an adult is with a child, the child is registered as an accompanied child and both are hosted in the same centre with no further investigation to assess the relationship.<sup>14</sup>

In Germany, stakeholders stress that separated children are often not immediately taken into the preliminary care of the youth welfare offices, even though the relationship to the adult companion has not yet been clarified. In Austria, child and youth services

assess the relationship to the accompanying adult/s.<sup>15</sup>

In Slovakia, there have reportedly been instances that go against the principle of family unity and non-separation of siblings, with children accompanied by an adult sibling generally separated (the children placed into children's homes for unaccompanied children and the siblings into different facilities for adults).<sup>16</sup>

Again, the question of how to assess the nature of the kinship when there is no documentation becomes fundamental. The relationship, as well as the ability and willingness of the accompanying adult to take care of the child, requires a proper assessment. On occasion, the accompanying adult is not willing or able to take care of the child and assume legal responsibility, or this is, after an assessment, not deemed to be in the child's best interests.

## National regulatory frameworks, guidelines and protocols

- **Separated children fall under the national legislative framework applicable to unaccompanied children in all Member States studied. However, a few differences in the implementation of legal provisions results in differences in their actual treatment – mainly with regard to accommodation, the specific situation of married children, and guardianship/legal representation.**

Very few guidelines, protocols or standard operating procedures on separated children are available in Member States. In principle, the same tools should be used as those used by national child protection authorities to conduct best interest assessments in cases of children deprived of parental care, when deciding on the placement or appointment of guardianship to family members. Nevertheless, child protection authorities are not always involved. In addition, existing tools are not adapted to the situation of

separated children. Separated children are considered to be covered under the existing tools developed to guide the treatment of unaccompanied children. Acknowledging these challenges, UNICEF has called for developing guidelines and clear standard operating procedures to assess the link between separated children and their accompanying adults; establish whether it is in the children's best interests to appoint these adults as their guardians; and monitor and support the adults in their guardianship role.<sup>17</sup>

Migration authorities in Sweden and Denmark have developed specific guidelines on separated children:

- The Danish Immigration Service has internal guidelines providing for the appointment of a representative to a separated child even when an accompanying adult assumes guardianship in certain circumstances (e.g. if the accompanying adult is very young or vulnerable).<sup>18</sup>
- The Danish Immigration Service has also issued guidelines aimed at accommodation centres concerning the accommodation of couples where one or both persons are under 18. These guidelines include information on accommodation; on visits (if accommodated separately); procedures for accommodation upon arrival and thereafter for couples between the ages of 15 and 17, and couples where one of the applicants is under 15; and the procedure for when both applicants turn 18.<sup>19</sup>
- The Swedish Migration Agency has developed a protocol for co-processing children who are without a caregiver but apply for asylum together with an adult other than their parent or legal guardian. The protocol is to be used "when it is in compliance with the best interest of the child". The protocol elaborates on the asylum process, the assessment of the relationship to the child, and for the follow-up of cases.<sup>20</sup>

## Asylum procedures

Article 7 (3) of the Asylum Procedures Directive<sup>21</sup> provides that Member States shall ensure that children have the right to either make an application for international protection on their own behalf – if they have the legal capacity to act in procedures according to the law of the Member State concerned; through their parents or other adult family members; through another adult responsible for them, whether by law or practice of the Member State concerned; or through a representative.

- **All studied Member States’ laws allow separated children to apply for asylum, by themselves or through a guardian or legal representative, independently from the accompanying adult.**

At the same time, where family links are established, separated children can often opt to process an application together with the accompanying adult – sometimes without guardianship being formally assigned. This is the case in the Netherlands, where separated children, guardians and legal representatives have to decide early in the asylum procedure whether it is in the child’s best interests to submit the application together or separately.<sup>22</sup> In Hungary, if the adult or the child can prove that they are family members, the Office of Immigration and Nationality can merge the asylum procedures at any stage of the procedure and order the adult and the separated child to be accommodated together, without necessarily having to conduct a best interests- or risk-assessment.<sup>23</sup> Separately submitted claims are reportedly very rare. Most separated children decide to stay with the adult with whom they arrived, or, by the time the authorities can hear the separated children, they have already left the country.<sup>24</sup> Merging the child’s and the accompanying adult’s asylum applications without conducting a best interests assessment and without involving the guardian can expose children to risks – such as trafficking and exploitation.

- **In most Member States covered in this report, separated children are reportedly not clearly informed about asylum procedures, the possibility of applying independently for asylum, and the consequences of the different choices. This hampers full access to a fair asylum procedure.**

## Guardianship and legal representation

Article 24 of the Reception Conditions Directive requires appointing a representative as soon as possible, to permit children to enjoy their rights in accordance with the principle of their best interests. This applies to all unaccompanied children who are not accompanied by their parents or legal guardians – such as separated children. Similar provisions concerning unaccompanied children can be found in Article 31 of the Qualification Directive and Article 25 of Asylum Procedures Directive. All of the directives require authorities to regularly assess representation. The proposed Reception Conditions Directive strengthens the role of guardianships for unaccompanied children.<sup>25</sup>

In cases of separated children, where it is established that the accompanying adult is a family member, the CRC Committee believes guardianship should regularly be assigned to that accompanying adult family member or non-primary family caretaker – unless there is an indication that this would not be in the child’s best interests; for example, where the accompanying adult has abused the child.<sup>26</sup> In such cases, the adult has to consent to the appointment and their ability to take care of the child should be assessed. If the family member is able and willing to provide day-to-day care, but unable to adequately represent the child’s best interests in all spheres and at all levels of the child’s life, supplementary measures – such as the appointment of an adviser or legal representative – must be secured.

- **Where extended family members are appointed as guardians, after**

**‘best interests’- and ‘risks’- assessments, the child protection system should ensure regular monitoring and review of the child’s situation. In such cases, the guardianship authority should take supplementary measures – such as appointing a child’s adviser or a family guardian or assistant to support the family and monitor the child’s situation.<sup>27</sup>**

In cases of separated children accompanied by an adult who is not a family member, the CRC Committee states that suitability for guardianship must be scrutinised even more closely. Given the particular vulnerabilities of such children, social welfare personnel should conduct regular assessments.<sup>28</sup>

- **National law on the appointment of guardians for unaccompanied children is also followed in cases of separated children. However, in several Member States, the accompanying adult is considered the preferred option for the role of guardian – mainly if family ties are proven.**

### **Guidance on strengthening guardianship systems**

FRA published a handbook on guardianship systems for children deprived of parental care and a report comparing guardianship systems available in Member States. The handbook provides guidance and recommendations to EU Member States on strengthening their guardianship systems, setting forth the core principles, fundamental design and management of such systems.

*For more information, see FRA (2014), [Handbook on Guardianship for children deprived of parental care](#), Luxembourg, Publications Office; and FRA (2015), [Guardianship systems for children deprived of parental care in the European Union](#), Luxembourg, Publications Office.*

Such practices are grounded in national guardianship law. Priority is given to assigning guardianship duties to close

relatives or persons from the child’s broader familial environment – thus acknowledging the importance of maintaining family links and the personal relationship between the future guardian and the child.<sup>29</sup>

This is the case, for example, in Austria – where the District Court decides whether to assign guardianship to the accompanying adult or to someone else. The child and youth service submits a statement on this question before the District Court issues a decision.<sup>30</sup> Guardianship is assigned until the age of maturity. Where the parents enter Austria after guardianship has been assigned to someone else, the parents have to apply for guardianship.<sup>31</sup>

### **Promising practice**

#### **Ensuring the continuous protection of separated children**

In the Netherlands, all cases of separated children are referred to the national guardianship authority (NIDOS) and are assigned a guardian. Following a best interests assessment and a risk assessment, when there are no signs of abuse or exploitation and there is no other reason to immediately separate the child from the accompanying adult, they are accommodated together. The accompanying adult assumes the role of a foster parent. The guardian monitors the child’s situation and continuously assesses the relationship with the adult for one year. After this period, based on the guardianship authority’s assessment of their relationship and the accompanying adult’s ability and willingness to assume responsibility for the child, a final decision is taken – e.g. guardianship is transferred to the accompanying adult, guardianship remains with NIDOS, or the child is placed in other accommodation.

*Source: NIDOS, Netherlands*

In one federal state of Germany, the youth welfare office reportedly assesses the adult’s capacity to temporarily take care of the child within a few hours or one or two days.<sup>32</sup> Assigning legal guardianship follows the standard legal procedures and takes between



two weeks and – often – several months.<sup>33</sup> In Finland, the accompanying adult cannot be assigned responsibility for the child's temporary care.<sup>34</sup> Instead, the director of the reception centre in which the child is accommodated acts as representative until the District Court assigns a formal guardian.<sup>35</sup>

Similarly, in Greece, it is very often the case that judicial authorities – based on the advice of social services – assign care responsibilities, but not guardianship, to the accompanying adult. Guardianship responsibilities, including legal representation of the child, remain with the competent authority – i.e. the public prosecutor – until another guardian is formally appointed.

Some Member States only allow accompanying adults to become guardians if family ties are proven through documentary evidence. For example, in Hungary, the authorities only assign the adult arriving together with a separated child as legal guardian if the adult is a family member. In such cases, the adult must prove his/her family connection to the child, and only documentary evidence is accepted.<sup>36</sup>

Similarly, in Bulgaria, the accompanying adult can only become a guardian if family ties are proven. However, due to a lack of documentation, this is not applied in practice. DNA tests are not used given the high costs. Also, emotional ties are not proactively explored due to the social authorities' lack of capacity – these only act when specific problems are signalled.<sup>37</sup> None of the collected evidence indicates that, once a family relationship is verified and documented, competent child protection authorities duly assess the accompanying adult's suitability to perform guardianship tasks, or that regular monitoring and reviews of the child's situation take place.

In addition to appointing guardians, Austria and Denmark also appoint representatives in some cases. In Denmark, until it is decided whether a child is accompanied or unaccompanied, the child is appointed a representative. If it is determined, after an assessment by the Danish Immigration Service, that the child is accompanied, the

appointment of a representative will, as a general rule, cease. However, in some cases, the Danish Red Cross will request the appointment of a representative – e.g. if the accompanying person is under 25 and very vulnerable.<sup>38</sup> The Danish Refugee Council assesses that in some cases there is a need for a representative, as a representative can support a child in different ways in relation to their asylum application than an accompanying person can.<sup>39</sup>

National child protection law prioritises appointing family members as guardians when in the best interests of the child. However, it also sets forth certain criteria to be fulfilled, and the competent authority should assess each potential guardian's suitability on a case-by-case basis, taking into consideration the child's best interests.<sup>40</sup>

Collected data suggest that, in cases of separated children, not all Member States appoint a guardian following a child's identification – as is done, for example, in the Netherlands. Where such a guardian is appointed, the temporary guardian, in cooperation with the competent authorities, assesses whether appointing guardianship to the accompanying family member is in the child's best interests and whether this person is willing and able to assume guardianship responsibilities. Moreover, the guardian ensures that the child is heard and that the child's views are taken into consideration by competent authorities.

## Married children

- **There is little information on how many couples in which one or both persons are under 18 years old arrive in Member States. In Germany, as of 31 July 2016, some 1,500 married children with non-German citizenship were registered, including some 1,150 girls. Most of the married children are from Syria, Afghanistan and Iraq.<sup>41</sup> Anecdotal evidence on the profile of married children suggests that a majority of girls are married**

with adult men, mostly young men aged 19 or 20 years.<sup>42</sup>

According to a few female migrants interviewed in Bulgaria, marrying as girls had been a coping strategy in their societies and a way for fathers to send their daughters away without having to pay smugglers.<sup>43</sup> A study in Sweden found – through manual searches – information on 132 married children: 97 % were girls, and a majority were 16 or 17 years old.<sup>44</sup> Relevant parties in Italy,<sup>45</sup> Bulgaria<sup>46</sup> and Slovakia<sup>47</sup> report not having seen any cases of married children recently.

- **The Member States report that there is a general lack of guidance with respect to married children. However, since the increased arrivals of children in 2015, this has received greater attention from authorities.**

International law obliges states to specify in their legislation a minimum age for marriage. Marriages concluded by children who lack legal capacity because they have not yet attained the minimum age for marriage are invalid.<sup>48</sup> The UN Committee on the Rights of the Child as well as the UN Committee on the Elimination of Discrimination against Women recommend setting the minimum age for marriage, with and without parental consent, to 18 years for both girls and boys.<sup>49</sup>

In addition, Article 19 of the UN Convention on the Rights of the Child obliges states to protect children from all forms of physical or mental violence. “All forms of” violence includes forced and early marriage, as noted by the Committee on the Rights of the Child in 2011 in its General Comment No. 13 (Paragraph 29). The Committee noted that, given their specific vulnerability to maltreatment, the obligation to protect a child from all forms of violence should continue to apply when children under the age of 18 attain majority or emancipation through early marriage and/or forced marriage (Paragraph 33).

### Preventing forced marriages

FRA has published a report on forced marriages, which describes civil legal provisions that can help prevent forced marriages and support victims. These include mechanisms to ensure that free consent to marry is given, safeguards for marriage for those under 18 years, as well as opportunities to annul forced marriages.

*See FRA (2014), [Addressing forced marriage in the EU: legal provisions and promising practices](#), Luxembourg, Publications Office.*

National laws in all Member States covered in this report establish 18 years as the minimum age at which persons from the Member State can marry.

However, as Table 1 shows, some Member States allow for exceptions, lowering the age while requiring the consent of the parents/guardians, and/or a court, and/or an administrative authority. Only the Netherlands and Sweden do not provide for the possibility of marrying before the age of 18. Table 1 also shows whether Member States recognise the marriages of children who married abroad.

The legal recognition of these cases, as well as how to treat them in terms of reception, has been the focus of media and policy discussions in several Member States. For example, the Federal Ministry for Justice and Consumer Protection in Germany recently established a working group to address the question of the legal recognition of marriages that were registered abroad and involve persons under 18.<sup>50</sup> In Denmark, on 30 November 2016, a bill was presented in parliament. If passed, the age requirement of 18 years for marriages entered into in Denmark will be absolute, without any room for dispensation.<sup>51</sup> The Ministry of Justice in Finland is also assessing whether it would be justifiable to set an absolute minimum age for marriage.<sup>52</sup>

**Table 1: Minimum age for marriage and recognition of foreign child marriages, by Member State**

EU Member State	Legal age for marriage (in years)	Lower age with consent <sup>53</sup> (in years)	Are foreign child marriages recognised?
AT	18	16 and partner must be of full legal age	Yes, if in line with Austrian law, e.g. the child was over 16 when married.
BG	18	16	Yes
DE	18	16 and partner must be of full legal age	Yes, if legal in the country of marriage and not against German fundamental values (public order).
DK	18	15 (age for sexual consent)	Only if the child was over 15 and after a best interests assessment.
EL	18	No minimum age established, but possible with relevant consent	Yes
ES	18	16	No information
FI	18	No minimum age established, but possible with relevant consent	No information
FR	18	No minimum age established, but possible with relevant consent	Yes
HU	18	16	Yes, if the child was over 16 when married.
IT	18	16	No information
NL	18	18 is minimum age in all cases	No
PL	18	16 only for girls (option not available for boys). Partner must be of full legal age.	Yes, if a civil marriage certificate is presented.
SE	18	18 is minimum age in all cases	Yes, if neither of the spouses are Swedish nationals.
SK	18	16	No information.

### Mapping minimum age requirements

FRA is mapping national laws across the EU that govern age requirements linked to a child's rights to protection and participation. The areas covered are: the legal definition of a child; political participation; social rights

and welfare; education; health and medical treatment; employment; child care and child protection; access to justice (including juvenile justice); children in the digital world; and asylum and migration.

*For more information, see FRA's webpage on [minimum age requirements](#).*

When a marriage is recognised in the Member State of arrival, the child can be considered to have reached legal capacity. This is the case, for example, in Hungary, Poland, Spain and Slovakia.

- **Whether to accommodate married couples together or separately (when one or both are under 18) is quite a controversial issue. Approaches vary depending on the Member State, but also depending on the region, city or reception facility. Proving with documentary evidence that a couple is married is a major difficulty.**

In Bulgaria, in the few cases identified, the couples were accommodated together. In Germany, the local youth offices decide, at their discretion, whether or not the married couple is accommodated separately. In Finland, the reception centres decide on a case-by-case basis. Married children – and their children, if any – are generally placed in group homes, and their adult spouses in regular reception centres.<sup>54</sup>

In Austria, marriages of individuals under the age of 16 are not recognised. Thus the child and adult partner are accommodated separately.<sup>55</sup>

### **Promising practice**

#### **Providing guidance for analysing the cases of married children**

NIDOS, the guardian authority for unaccompanied and separated children in the Netherlands, has developed a protocol for internal use on how to act in cases of child marriage in the migrant and refugee context. Although child marriages are not legally recognised in the Netherlands, the protocol acknowledges that it sometimes can be to a child or children's benefit to not be separated from their partner. Possible living circumstances and solutions are suggested for different situations.

The guidance policy describes factors that have to be taken into account, such as:

- What is the age of the couple? If under 16 years, the couple is in principle separated because of the legal prohibition on sexual intercourse; if over 16 years, different factors are taken into account.
- What is the relationship between the two?
- Is a pregnancy or child involved?
- Is there equality in the relationship?
- Is the relationship a free choice?
- Is there a chance of damaging the family's, girl's or boy's sense of honour?
- Is there a chance of so-called honour-based violence when separated?
- What is the family's opinion of the marriage?
- What is the boy's and girl's point of view on the marriage?

*Source: NIDOS, Netherlands*

Both in Denmark and Spain,<sup>56</sup> there are reports of negative consequences of accommodating migrant girls separately from their own infants or husbands. In Denmark, a change in policy in February 2016 ended all individual assessments of married children over 15, and all married children were separately accommodated from partners from then on.<sup>57</sup> Following severe criticism by NGOs, the Danish Institute for Human Rights and reports of a suicide attempt, symptoms of depression and a negative psychosocial impact on married girls, the authorities again changed the policy.<sup>58</sup> Since then, individual assessments are again carried out in cases concerning married children above 15 years of age, and accommodation is decided on a case-by-case basis.<sup>59</sup>

When it comes to legal representation of a married child, some countries – such as Bulgaria<sup>60</sup> and Greece<sup>61</sup> – treat the adult spouse as the married child's legal representative. No information has been found as to whether a best interests assessment is carried out. In some countries, the adult spouse – generally the husband – gets access to the child's asylum application

and/or is present in the interviews with the authorities.<sup>62</sup> This is very problematic and limits the chances of identifying forced marriages or abusive relationships. In Austria, if the marriage of a child is legally recognised, the adult spouse is usually appointed as guardian, but the child and youth services still take over the legal representation.<sup>63</sup> In Germany and France,<sup>64</sup> the adult spouse does not legally represent the underage spouse and is not responsible for the child's care. An ad hoc administrator should therefore be appointed to represent the married child.

- **The involvement of, and referral to, child protection authorities is not a standard practice.**

Child protection authorities are often not involved when a marriage is recognised. However, a few Member States do engage in some positive practices. In these cases, even when a child's marriage and emancipation are legally recognised, the child is supported and monitored by child protection authorities. In Austria<sup>65</sup> and Germany,<sup>66</sup> for example, this is done through the youth welfare offices. However, practice throughout Germany's regions is inconsistent.<sup>67</sup>

In a majority of Member States, the cases of married children are only referred to child protection authorities if there is a suspicion of violence or forced marriage or depending on the age, such as in Spain<sup>68</sup> and Bulgaria.<sup>69</sup> In Finland, referrals are not routinely made, and the risks of forced marriage and exploitation are not routinely assessed.<sup>70</sup> Reception centres make the decisions on a case-by-case basis after assessing a family's situation.<sup>71</sup> There is, however, a lack of guidance in this regard.<sup>72</sup>

- **Child protection authorities' lack of involvement raises serious concerns.**

Child protection authorities would generally be better qualified to identify and respond to situations involving risks for the married children.

## Transferring a child for purposes of family reunification

According to international law and relevant EU law, the child's best interests should be assessed in all cases to identify a durable solution for unaccompanied and separated children. The Committee on the Rights of the Child in its General Comment No. 6 clearly states that absolute priority should be given to reunifying a child with their family, unless this is not in the child's best interests. This will ensure compliance with the obligation under international and EU law to preserve family unity, the right to family life, and the UN Convention on the Rights of the Child (Articles 9 and 10 in particular).

Unaccompanied and separated children have the right to family reunification with their parents and legal guardians present in another EU Member State, the country of origin, or a third country. Under certain conditions, it is also possible to be reunified with other family members residing in another EU Member State. For example, the Dublin Regulation – which is currently under revision – provides for this in the case of asylum-seeking children.

However, the Directive on Family Reunification<sup>73</sup> does not provide married children the right to be reunited with the parents. At the same time, in the Member States where child marriages are not recognised at all, these children are not entitled to family reunification with their adult spouse.

Data collected for this report, focusing on how authorities determine that a transfer is in a child's best interests, show that procedures applied for unaccompanied children are also used for separated children. For more information on family tracing and family reunification, see FRA's [September 2016 thematic focus](#).

- **The entity responsible for carrying out best interests assessments varies according to Member State, but these are mainly carried out by asylum authorities, with some**

## **involvement by child protection authorities and guardians.**

For example, in Germany, the youth welfare office is responsible for assessing the parents' or other family members' capabilities to take care of the child.<sup>74</sup> In Bulgaria, Denmark, Finland, the Netherlands and Sweden, the migration authorities perform the assessments, sometimes collaborating with local social services.

The role of guardians in assessing the best interests of the child varies. For example, in Finland and in the Netherlands, where migration authorities perform the assessment, the child's guardian represents, informs and assists the child throughout the assessment process. In Denmark, since 2015, representatives are requested to submit a statement on their views regarding the child's transfer<sup>75</sup> – this is seen as a positive development.

In Slovakia, the child's guardian – generally the local office of labour, social affairs and family<sup>76</sup> – bears full responsibility for the process of family reunification, including gathering evidence. Practice shows that it is often not possible for guardians to manage the process given the lack of foreign-language skills.<sup>77</sup> NGOs are supporting local services based on their own projects, without being sub-contracted for this service.<sup>78</sup>

According to Article 8 of the Dublin Regulation, where the applicant is an unaccompanied child who has a relative who is legally present in another Member State and where it is established, based on an individual examination, that the relative can take care of the child, that Member State shall unite the child with the relative and shall be the Member State responsible, provided that this is in the child's best interests. The Commission's proposal for a new Dublin Regulation requires a formal assessment of the child's best interest before transferring an unaccompanied child. The new proposal also reinforces the right to family reunification, particularly by enlarging the regulation's scope to include siblings as

well as families formed in transit countries. If passed, this would also have implications for children traveling with persons other than their parents or guardians.

Under the current framework, the assessment of the relationship between a separated child and their accompanying adult can also affect a Dublin transfer. The Danish Refugee Council notes that, if children are considered separated but accompanied by e.g. an uncle or older sibling, their case, as a general rule, will be tied to that of the adult, which could result in a Dublin transfer that the child does not want. In some cases, children state that they do not want to be accompanied by the adult to avoid transfers.<sup>79</sup>

### **Providing fundamental rights advice on the proposed new Dublin Regulation**

Upon the European Parliament's request, FRA published an opinion on the impact on children of the proposal for a revised Dublin Regulation. It acknowledges certain progress from a fundamental rights perspective, such as the extended right to information for children. However, it also recommends providing additional guarantees – for example, the appointment of a guardian. The document provides 22 opinions of relevance for children, such as on the right to be heard and informed, guardianship, best interests assessments and family unity.

*For more information, see FRA (2016), [FRA Opinion on the impact on children of the proposal for a revised Dublin Regulation](#), Vienna.*

## **Monitoring reception facilities**

The Reception Conditions Directive requires accommodating unaccompanied children with adult relatives, a foster family or in specialised facilities (Article 24 (2)). The Directive (Article 22) also stipulates that Member States shall provide for appropriate monitoring of children's situations. This would include the monitoring of reception facilities into which unaccompanied and separated children are placed.

The monitoring of reception facilities is a fundamental safeguard for children when they are accommodated with an accompanying adult. Monitoring and follow-up measures would allow authorities to detect abuse, risks of exploitation or trafficking, forced marriages, or other risks. Monitoring is also fundamental for assessing the child's relationship with the accompanying adult, as well as the adult's capacity and willingness to take care of the child. Only a few Member States have clear procedures for following up on these cases – such as the Netherlands, where NIDOS takes over this monitoring role.

In other countries, the failure to appoint a guardian and the limited involvement of child protection authorities pose major obstacles. According to the Federal Association for Unaccompanied Minor Refugees, in some municipalities and districts in Germany, the operators of reception centres and refugee accommodation cooperate closely with youth welfare offices. This means that the operators' social workers inform the youth welfare offices and the youth welfare offices then contact the operators to detect possible violations of children's welfare. But, according to the Federal Association for Unaccompanied Minor Refugees, this procedure is an exception. In most cases, the youth welfare offices are not involved or present in first reception centres or other accommodation facilities.<sup>80</sup>

- **The information collected regarding reception facilities for unaccompanied children generally shows that different actors play a role in monitoring these facilities in Member States. Asylum/migration authorities, child protection authorities and National Human Rights Institutions play the main roles. NGOs and international organisations also play a role.**

In Italy, the Ministry of Labour and Social Policies publishes every four months a report on the condition of unaccompanied children, sharing official data on the number of children hosted in reception facilities.<sup>81</sup>

However, this monitoring activity does not focus on the adequacy of reception conditions, which is mainly supervised by NGOs and associations. For example, the National Association of Italian Municipalities publishes every year a monitoring report on the policies implemented at local level for the reception of unaccompanied children.<sup>82</sup>

In the Netherlands, the reception facilities of NIDOS and of the Central Agency for the Reception of Asylum Seekers are all monitored by the Dutch Inspectorate for Youth Care. The monitoring takes place under the country's general youth protection framework. The inspectorate has a special quality assessment framework for unaccompanied children's shelters.<sup>83</sup> In some cases, specific inspections are carried out, such as in the case of the so-called 'protected shelter' which specifically provides accommodation for children at risk of human trafficking.<sup>84</sup> The quality of these accommodations was severely criticised by the inspectorate at the beginning of 2016.<sup>85</sup>

- **Monitoring responsibilities are often not clearly set, resulting in a lack of clarity among the different actors involved.**

In Bulgaria, the State Agency for Child Protection conducts monitoring within its mandate as a child protection authority. However, monitoring is not carried out on a regular basis, but rather only when there is information about children in need of protection.<sup>86</sup> Other actors also conduct monitoring – among them the Ombudsman and UNHCR, who recently signed a Memorandum of Understanding agreeing to share their entities' monitoring results.<sup>87</sup>

In Denmark, the lack of clarity regarding different actors' monitoring responsibilities was the focus of intense media coverage<sup>88</sup> and parliamentary discussions.<sup>89</sup> The Danish Immigration Service is responsible for providing asylum facilities, but the day-to-day operation is sub-contracted to municipalities, the Danish Red Cross, the Prison and Probation Service, and the Emergency Management Agency.<sup>90</sup> The

municipality, where a child (including asylum seekers) resides, is responsible for monitoring the conditions under which the child lives.<sup>91</sup> Due to the high number of organisations involved, it became unclear who was ultimately responsible for monitoring centres. The Danish Immigration Service has stated that the municipalities monitor children's conditions, whereas the Danish Immigration Service monitors the operation of the centres. This has prompted criticism from a number of organisations and professionals.<sup>92</sup> The controversy has resulted in the closure of a reception centre for children, and an acknowledgement by the Minister of Immigration and Integration of the need for a new concept that defines the

frequency, extent and content of the monitoring system.<sup>93</sup>

Overall, actors in Member States lack standardised procedures to ensure the protection of separated children. Responses to these cases differ in practice. This, in addition to the lack of information and data, increases the vulnerability of separated children. Member States should step up efforts to ensure that all protection safeguards established in international and EU law are in place and used in the best interests of separated children.



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- <sup>1</sup> Namely any person under the age of 18 years, as defined by the United Nations Convention on the Rights of the Child, Art. 1.
- <sup>2</sup> UN, Committee on the Rights of the Child (2005), *General Comment No. 6: Treatment of unaccompanied and separated children outside their country of origin*, 1 September 2005.
- <sup>3</sup> Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (Qualification Directive), Art. 2 (I).
- <sup>4</sup> Sweden, Migration Agency.
- <sup>5</sup> Denmark, information provided by the Danish Red Cross (*Røde Kors*) in interview, 1 December 2016.
- <sup>6</sup> Bulgaria, Refugee Support Group.
- <sup>7</sup> UNHCR Bulgaria.
- <sup>8</sup> Spain, Protocol on unaccompanied children (*Resolución de 13 de octubre de 2014, de la Subsecretaría, por la que se publica el Acuerdo para la aprobación del Protocolo Marco sobre determinadas actuaciones en relación con los Menores Extranjeros No Acompañados*), Press release, 16 October 2014.
- <sup>9</sup> Spain, interview with key informant, Directorate General of Border and Alien Police of the Ministry of Interior.
- <sup>10</sup> Slovakia, information provided by Human Rights League in phone interview, 25 November 2016.
- <sup>11</sup> UN, Committee on the Rights of the Child (2005), *General Comment No. 6: Treatment of unaccompanied and separated children outside their country of origin*, 1 September 2005, para. 40.
- <sup>12</sup> 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) (Reception Conditions Directive).
- <sup>13</sup> UNHCR and Save the Children (2004), Separated Children in Europe Programme, [Statement of Good Practice](#).
- <sup>14</sup> Italy, information provided by ASGI in interview, 3 December 2016.
- <sup>15</sup> Asylum Coordination Austria (*Asylkoordination Österreich*).
- <sup>16</sup> Slovakia, information provided by Human Rights League in phone interview, 25 November 2016.
- <sup>17</sup> UNICEF (2016), [A call for effective guardianship for unaccompanied and separated children](#), August 2016.
- <sup>18</sup> Information provided by the Danish Red Cross (*Røde Kors*) in interview, 1 December 2016.
- <sup>19</sup> Denmark, Danish Immigration Service (*Udlændingestyrelsen*), [Retningslinjer for indkvartering af mindreårige asylansøgere, som har indgået ægteskab eller er samlevende med en person, som opholder sig i Danmark](#), 1 July 2016.
- <sup>20</sup> Sweden, Swedish Migration Agency protocols (*standarder*), KCI 38-2015 and KCI 52-2015.
- <sup>21</sup> 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 (Asylum Procedures Directive).
- <sup>22</sup> Netherlands, information provided by NIDOS representative in interview, 29 November 2016.
- <sup>23</sup> Hungary, Office of Immigration and Nationality.
- <sup>24</sup> *Ibid.*
- <sup>25</sup> Proposal for a Directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast), 2016.
- <sup>26</sup> UN, Committee on the Rights of the Child (2005), *General Comment No. 6: Treatment of unaccompanied and separated children outside their country of origin*, 1 September 2005, para. 34.
- <sup>27</sup> FRA (2104), *Handbook on Guardianship for children deprived of parental care*, Luxembourg, Publications Office.

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- <sup>28</sup> UN, Committee on the Rights of the Child (2005), *General Comment No. 6: Treatment of unaccompanied and separated children outside their country of origin*, 1 September 2005, para. 40.
- <sup>29</sup> FRA (2015), *Guardianship systems for children deprived of parental care in the European Union*, Luxembourg, Publications Office (with a particular focus on their role in responding to child trafficking).
- <sup>30</sup> Asylum Coordination Austria (*Asylkoordination Österreich*).
- <sup>31</sup> *Ibid.*
- <sup>32</sup> Germany, Youth Office Hamburg-Mitte (*Jugendamt Hamburg-Mitte*), 18 November 2016.
- <sup>33</sup> *Ibid.*
- <sup>34</sup> Information obtained via email from the Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*), 2 December 2016. See also Reception Act of 17.6.2011/746 (*Laki kansainvälistä suojelua hakevan vastaanotosta sekä ihmiskaupan uhrin tunnistamisesta ja auttamisesta/Lag om mottagande av personer som söker internationellt skydd och om identifiering och hjälp till offer för människohandel*), Section 40, which stipulates that the appointed guardian has to be legally competent, suitable, consent to the appointment and be free from any conflict of interests in relation to the child. The prospective guardian has to submit to the court extracts from the criminal records. The court evaluates the suitability of the guardian, who is the legal representative of the child and ensures that the child's interests are taken into account in all dealings with the authorities.
- <sup>35</sup> Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*), [Ilman huoltajaa turvapaikkaa hakevan lapsen edustaminen-tietoa vastaanottokeskuksen toiminnasta ja edustajana toimimisesta](#) (Representing an unaccompanied child - information on reception centres and on functioning as a guardian), 15 December 2014, p. 12.
- <sup>36</sup> Hungary, Office of Immigration and Nationality.
- <sup>37</sup> UNHCR Bulgaria.
- <sup>38</sup> Denmark, information provided by the Danish Red Cross (*Røde Kors*) in interview, 1 December 2016.
- <sup>39</sup> Denmark, information provided by the Danish Refugee Council (*Dansk Flygtningehjælp*) in interview, 2 December 2016.
- <sup>40</sup> FRA (2015), *Guardianship systems for children deprived of parental care in the European Union*, Luxembourg, Publications Office (with a particular focus on their role in responding to child trafficking).
- <sup>41</sup> Germany, [Federal Ministry of the Interior's response to a written parliamentary question](#), 8 September 2016, p. 20. In regard to the nationality of married children in Germany, in addition to Syria, Afghanistan and Iraq, Bulgaria is also reportedly one of the main countries of origin.
- <sup>42</sup> Netherlands, information provided by NIDOS representative in interview, 29 November 2016.
- <sup>43</sup> UNHCR Bulgaria.
- <sup>44</sup> Sweden, Swedish Migration Agency (2016), [Are you married?](#) (Unofficial translation) (*Är du gift?*), 29 March 2016.
- <sup>45</sup> Italy, information provided by ASGI in interview, 3 December 2016.
- <sup>46</sup> Bulgaria, State Agency for Refugees, and Refugee Support Group.
- <sup>47</sup> Slovakia, Human Rights League, phone interview, 25 November 2016.
- <sup>48</sup> Universal Declaration of Human Rights, Art. 16 (1) and (2).
- <sup>49</sup> UN, Committee on the Rights of the Child (2003), *General Comment No. 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child*, 1 July 2003, para. 20; UN, Committee on the Elimination of Discrimination against Women (1994), *General Recommendation No. 21*.
- <sup>50</sup> Germany, Federal Ministry for Justice and Consumer Protection, [Zitat Heiko Maas](#), 5 September 2016.

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- <sup>51</sup> Denmark, [Bill No. 94 of 30 November 2016 amending the Marriage Act, the Danish Aliens Act and the Act on Guardianship](#) (Abolishing the possibility for dispensation from the age limit when entering a marriage, acknowledgment of marriages entered abroad and increase of fee for trying the marriage conditions) (*Lovforslag nr. 94 af 30. november 2016 om ændring af lov om ægteskabs indgåelse og opløsning, udlændingeloven og værgemålsloven (Afskaffelse af muligheden for dispensation fra alderskrav ved indgåelse af ægteskab, anerkendelse af udenlandske ægteskaber og forhøjelse af gebyret for prøvelse af ægteskabsbetingelserne)*).
- <sup>52</sup> Finland, Ministry of Justice (*Oikeusministeriö/Justitieministeriet*), *Alaikäisen avioliittoa koskevien säännösten arviointi* ([Assessment of the provisions regarding conclusion of marriage by children](#)), 10 October 2016.
- <sup>53</sup> Consent may be required of the parents/guardians, and/or court, and/or an administrative authority.
- <sup>54</sup> Finland, information obtained from the Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*) via email, 2 December 2016.
- <sup>55</sup> Asylum Coordination Austria (*Asylkoordination Österreich*).
- <sup>56</sup> Spain, José Plazón, blog, [Melilla Southern Border](#) (*Melilla Frontera Sur*).
- <sup>57</sup> Denmark, then-Ministry of Immigration, Integration and Housing (*Udlændinge-, Integrations- og Boligministeriet*), [Inger Støjberg stopper indkvartering af barnebrude på asylcentre](#), Press release, 10 February 2016.
- <sup>58</sup> See, e.g., Denmark, Danish Institute for Human Rights (*Institut for Menneskerettigheder*) (2016), [Notat vedr. adskillelse af unge par på asylcentre](#), 22 March 2016. Danish Red Cross (*Røde Kors*) (2016), [Anmodning om dispensationsadgang for adskillelse af asylansøger-par, hvor den ene ægte-fælle er mindreårig og parret har børn](#), 3 March 2016.
- <sup>59</sup> Information provided by Danish Red Cross (*Røde Kors*) in interview, 1 December 2016; Denmark, Danish Parliament (*Folketinget*), Immigration, Integration and Housing Committee (*Udlændinge, Integrations- og Boligudvalget*), [2015-16 UUI Alm.del endeligt svar på spørgsmål 1007](#).
- <sup>60</sup> Bulgaria, State Agency for Refugees.
- <sup>61</sup> Greece, Ministry of Migration Policy.
- <sup>62</sup> See, for example, Sweden, Swedish Migration Agency (2016), [Are you married?](#) (Unofficial translation) (*Är du gift?*), 29 March 2016.
- <sup>63</sup> Asylum Coordination Austria (*Asylkoordination Österreich*).
- <sup>64</sup> Interview with the office of the Defender of the Rights of the Child, 8 December 2016.
- <sup>65</sup> Asylum Coordination Austria (*Asylkoordination Österreich*).
- <sup>66</sup> Germany, Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge, BAMF*), 22 November 2016.
- <sup>67</sup> Germany, Hamburg Ministry/Office for Work, Social Affairs, Family and Integration (*Hamburger Behörde für Arbeit, Soziales, Familie und Integration - Amt für Familie, Fachbereich Erziehungshilfen und Schutz junger Menschen*), 24 November 2016.
- <sup>68</sup> Spain, Ministry of the Presidency (*Ministerio de la Presidencia*) (1995), [Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal](#), Press release, 24 November 1995.
- <sup>69</sup> UNHCR Bulgaria.
- <sup>70</sup> Finland, interview with Women's Association Finland (*Monika Naiset liitto*), 29 November 2016; interview with Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*), 2 December 2016.
- <sup>71</sup> Finland, information obtained from Finnish Immigration Service (*Maahanmuuttovirasto/Migrationsverket*), via email, 2 December 2016.
- <sup>72</sup> Finland, interview with Union for Child Welfare (*Lastensuojelun Keskusliitto/Centralförbundet för Barnskydd*), 2 December 2016.
- <sup>73</sup> [Directive 2003/86/EC on the right to family reunification](#).

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- <sup>74</sup> Germany, Hamburg Ministry/Office for Work, Social Affairs, Family and Integration (*Hamburger Behörde für Arbeit, Soziales, Familie und Integration - Amt für Familie, Fachbereich Erziehungshilfen und Schutz junger Menschen*), 24 November 2016.
- <sup>75</sup> Denmark, information provided by Danish Red Cross (*Røde Kors*) in interview, 1 December 2016 and the Danish Refugee Council in interview, 2 December 2016.
- <sup>76</sup> Slovakia, Act No. 305/2005 on Socio-Legal Protection of Children and Social Guardianship, as amended (*Zákon č. 305/2005 Z. z. Zákon o sociálnoprávnej ochrane detí a o sociálnej kuratele a o zmene a doplnení niektorých zákonov*), Art. 29/3, 14 July 2005; Slovakia, Central Office of Labour, Social Affairs and Family (2015), Internal Standards No. IN - 105/2015, Implementation of measures of social protection of children and social guardianship for unaccompanied minors (*Interná norma č. IN - 105/2015 Vykonávanie opatrení sociálnoprávnej ochrany detí a sociálnej kurately pre maloletých bez sprievodu*), p.15.
- <sup>77</sup> Slovakia, Human Rights League (2015), [Durable solutions for separated children in Europe. National Report: Slovakia](#), p. 20.
- <sup>78</sup> Slovakia, information provided by Human Rights League, phone interview, 25 November 2016.
- <sup>79</sup> Denmark, information provided by Danish Refugee Council (*Dansk Flygtningehjælp*) in interview, 2 December 2016.
- <sup>80</sup> Federal Association for Unaccompanied Minor Refugees (*Bundesfachverband Unbegleitete Minderjährige Flüchtlinge*), 24 November 2016.
- <sup>81</sup> Italy, Ministry of Labour and Social Policies, [Dati minori stranieri non accompagnati, latest report](#) (updated as of 31 August 2016).
- <sup>82</sup> Italy, National Association of Italian Municipalities, *I COMUNI E LE POLITICHE DI ACCOGLIENZA, DEI MINORI STRANIERI NON ACCOMPAGNATI*, [latest report](#).
- <sup>83</sup> Netherlands, Inspectorate for Youth Care (*Inspectie Jeugdzorg*) (2016), [Toetsingskader Kwaliteit opvang alleenstaande minderjarige vreemdelingen](#), Utrecht.
- <sup>84</sup> Netherlands, interview with Defence for Children representative, 25 November 2016.
- <sup>85</sup> Netherlands, Inspectorate for Youth Care/Inspectorate of Security and Justice (*Inspectie Jeugdzorg/ Inspectie Veiligheid en Justitie*) (2016), [De kwaliteit van de beschermde opvang voor alleenstaande minderjarige vreemdelingen](#), The Hague.
- <sup>86</sup> Bulgaria, State Agency for Child Protection.
- <sup>87</sup> Bulgaria, Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*) (2016), [‘The Ombudsman Maya Manolova and the UN High Commissioner for Refugees have agreed to cooperate’](#) (*‘Омбудсманът Мая Манолова и Върховният комисариат на ООН за бежанците се договориха за партньорство’*), Press release, 11 November 2016.
- <sup>88</sup> Denmark, Radio24syv (2016), [‘Udlændingestyrelsen forfulgte ikke advarsel om svigt af asylbørn’](#), 2 December 2016; [‘Udlændingestyrelsen trækkes ind i asyl-skandale’](#), 1 December 2016; [‘Nye afsløringer i Langeland-sagen: Endnu et børnecenter svigtede flygtningebørn’](#), 29 November 2016; and [‘Hidtil hemmeligholdt rapport: Langelands asylsystem plaget af racisme, vrede og nepotisme’](#), 28 November 2016.
- <sup>89</sup> Denmark, Danish Parliament (*Folketinget*), [Åbent samråd i Udlændinge- og Integrationsudvalget om forholdene på børneasylcentre i Danmark](#), Transmission, 1 December 2016.
- <sup>90</sup> For additional information on the specific contracts in Danish, see <https://www.nyidanmark.dk/da-dk/publikationer/SearchPublications.htm?SearchType=publications&SubType=Kontrakt&Subject=Asyl>.
- <sup>91</sup> Denmark, [the Danish Act on Social Services](#) (*serviceloven*), section 146.
- <sup>92</sup> Radio24syv (2016), [‘Udlændingestyrelsen trækkes ind i asyl-skandale’](#), 1 December 2016.
- <sup>93</sup> Denmark, Danish Parliament (*Folketinget*), [Åbent samråd i Udlændinge- og Integrationsudvalget om forholdene på børneasylcentre i Danmark](#), Transmission, 1 December 2016. See also the Danish Immigration Service (*Udlændingestyrelsen*) (2016), ‘Børnecenter Tullebølle lukkes’, Press release, 26 October 2016.

## Further information:

After one year of regular reporting, the EU Agency for Fundamental Rights changed the format and Member State coverage of its regular overviews of migration-related fundamental rights concerns. Its monthly reports now cover up to 14 EU Member States and are shorter, including main findings for the Member States covered together with a thematic focus section. Specific findings for the Member States will include references to these for a better understanding of the challenges which affect several EU Member States or the EU as a whole.

For the highlights of the *Monthly data collection on the migration situation in the EU* in December 2016, see: <http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/december-2016>

For all previous monthly and weekly reports in 2015 and 2016, see: <http://fra.europa.eu/en/theme/asylum-migration-borders/overviews>

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