



# EASO practical guide on family tracing

*EASO Practical Guides Series*

March 2016





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Print ISBN 978-92-9243-991-0 doi:10.2847/995443 BZ-01-16-295-EN-C  
PDF ISBN 978-92-9243-987-3 doi:10.2847/57190 BZ-01-16-295-EN-N

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## Abbreviations in use

<b>APD recast</b>	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). It has also been mentioned as the Asylum Procedures Directive recast
<b>AT</b>	Austria
<b>ATD</b>	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. It has also been mentioned as the Anti-Trafficking Directive
<b>BE</b>	Belgium
<b>BG</b>	Bulgaria
<b>BIA</b>	Best Interests Assessment
<b>BIC</b>	Best Interests of the Child
<b>BID</b>	Best Interests Determination
<b>CEAS</b>	Common European Asylum System
<b>COM</b>	European Commission
<b>CRC</b>	Convention on the Rights of the Child
<b>CY</b>	Cyprus
<b>DE</b>	Germany
<b>DK</b>	Denmark
<b>Dublin III Regulation recast</b>	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 a stateless person (recast)
<b>EASO</b>	European Asylum Support Office
<b>EE</b>	Estonia
<b>EMN</b>	European Migration Network
<b>EU+ States</b>	EU Member States plus Norway
<b>EU</b>	European Union
<b>Eurodac Regulation</b>	Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of the European Dactyloscopy (Eurodac) for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 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 a stateless person and on requests for comparison with Eurodac data by Member States' law enforcement authorities and Europol for law-enforcement purposes and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast)
<b>FRA</b>	EU Agency for Fundamental Rights

<b>FI</b>	Finland
<b>FR</b>	France
<b>Frontex</b>	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
<b>FRD</b>	Council Directive 2003/86 EC of 22 September 2003 on the right to family reunification. It has also been mentioned as the Family Reunification Directive
<b>1951 Geneva Convention</b>	UN Convention Relating to the Status of Refugees 1951 (and the Protocol Relating to the Status of Refugees 1967)
<b>HU</b>	Hungary
<b>ICRC</b>	International Committee of the Red Cross
<b>IE</b>	Ireland
<b>Implementing Regulation No 118/2014</b>	Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national
<b>IOM</b>	International Organisation for Migration
<b>ISS</b>	International Social Service
<b>IT</b>	Italy
<b>LT</b>	Lithuania
<b>LU</b>	Luxembourg
<b>LV</b>	Latvia
<b>MS</b>	EU Member State(s)
<b>MT</b>	Malta
<b>NGO</b>	Non-governmental organisation
<b>Nidos</b>	The Nidos Foundation (a guardianship institute for unaccompanied minor applicants for international protection in the Netherlands)
<b>NL</b>	Netherlands
<b>NO</b>	Norway
<b>OHCHR</b>	Office of the High Commissioner on Human Rights
<b>PL</b>	Poland
<b>PT</b>	Portugal
<b>QD recast</b>	Directive 2001/95/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 (recast). It has also been mentioned as the Qualification Directive (recast)
<b>RCD recast</b>	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). It has also been mentioned as Reception Conditions Directive recast



<b>RO</b>	Romania
<b>SE</b>	Sweden
<b>SK</b>	Slovakia
<b>SI</b>	Slovenia
<b>THB</b>	Trafficking in human beings
<b>UAM</b>	Unaccompanied minor(s)
<b>UK</b>	United Kingdom of Great Britain and Northern Ireland
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>Unicef</b>	United Nations Children's Funds

# Introduction

This document is a printed version of the interactive electronic document, *EASO Practical guide on family tracing*, which you can find at [www.easo.europa.eu](http://www.easo.europa.eu).

## Why was this *practical guide* created?

The legal instruments forming the Common European Asylum System (CEAS) foresee the obligation for Member States to start tracing the family members of unaccompanied children who may be in need of international protection when it is in their best interest. As a consequence, EASO held a series of expert meetings on family tracing between 2013 and 2015. As part of this exercise, a mapping of EU+ States' policies and practices with regard to family tracing has been conducted. The findings from this consultation showed a diversity of practice among EU+ countries.

## How does this *practical guide* relate to other EASO support tools?

EASO's mission is to support EU Member States and Associated countries (Liechtenstein, Norway and Switzerland) through inter alia common training, common quality and common country of origin information. As with all EASO support tools, the *EASO Practical guide on family tracing* is based on the common standards of the CEAS. This guide should be seen as a complement to the other available tools. Its consistency with those tools has been a primary consideration, especially in relation to the other child-related tools such as the publication, *EASO Age assessment practice in Europe* and the EASO Training module *Interviewing children*.

## What is in this *practical guide*?

The practical guide will provide a set of reference and guidance materials on family tracing, as well as a mapping of the current state of play in the EU+ States.

The guide is constructed by four interlinked pillars:

- The first chapter, *Circumstances of family tracing*, is an introduction to the topic, including the motivation, the actors and the objectives of the process.
- The second chapter, *Family-tracing process*, contains a general flow chart model which provides a visual picture of the important elements to be outlined in each of the stages of the process. It addresses how the principle of the best interests of the child as enshrined in the UN Convention on the Rights of the Child and in the EU asylum *acquis* can be operationalised and the procedural safeguards implemented in the process.
- The third chapter addresses the *Overview of EU+ States practices* on family tracing, including the key findings of the mapping initially conducted in 2013 and updated in 2015.
- The fourth chapter of the publication, *Conclusions and Recommendations*, contains a compilation of conclusions and recommendations aimed at promoting similar standards and guarantees respect of the childrens' rights.

This publication is completed by a series of annexes:

- *Glossary* — mainly aimed at identifying and/or developing a common understanding of the most relevant terms used in the family-tracing process.
- *Legal framework* — intended to serve as a reference point for identifying the relevant instruments and provisions on international, European and national levels.
- *Projects and initiatives* — aimed at identifying relevant projects and initiatives on family tracing, undertaken by international or European bodies, national administrations, international intergovernmental (IGOs) and non-governmental organisations.
- *Publications* — compiles the significant documents and studies on family tracing developed by national authorities, and international intergovernmental (IGOs) and non-governmental organisations.
- *Mapping of methods* — reflects the methodology used by the EU+ States when conducting the process and when verifying the family links between the child and the found family member or relative.

## What is the scope of this *practical guide*?

This publication aims to provide guidance on the core aspects of the family-tracing process, and consequently other aspects linked to the family-tracing process, such as durable solutions or the determination of the best interest of the child, are not explored in the guide.

As mentioned, this guide is not meant to exhaust the topic of family tracing, therefore, after evaluating and updating the information, additional editions of this guide are foreseen in the future, depending on the needs of the target group.

## How was this *practical guide* developed?

The practical guide was developed by EASO and reviewed by the EU Commission and experts from EU+ States, and international intergovernmental (IGOs) and non-governmental organisations. Valuable input was further provided by a working group which consisted of EU+ States representatives, the European Agency for the Fundamental Rights Agency (FRA), the United Nations High Commissioner for Refugees (UNHCR) and relevant international and non-governmental organisations with expertise in the field, such as the International Organisation for Migration (IOM), International Committee of the Red Cross (ICRC) and the Nidos (a guardianship institute for unaccompanied children applicants for international protection in the Netherlands). It is the product of combined expertise, reflecting the common standards and the shared objective to achieve high-quality international protection procedures.

## How to use this *guide*?

For the purpose of this guide, some of the terms that are commonly used in the content of this publication (family tracing, unaccompanied child, guardian, EU+ States) with their specific meanings are included below to ease the reading and comprehension of this guide. The *Glossary* (Annex 1 of the publication) contains further information on these terms and additional terminology identified as useful for the family-tracing stakeholders.

**Family tracing** is the search for family members (including relatives or former caregivers, if unaccompanied children) with the purpose of the restoration of family links and family reunification <sup>(1)</sup> when they entail the best interests of the child.

**Child** and **minor** are considered as synonyms (any person below the age of 18) and both terms are used in this publication. The EASO preferred term is child, however, the term minor is selected when it is explicitly used by a legal provision or specific article (for example the EU asylum *acquis* provisions).

As stated above, **unaccompanied child** is applied as a synonym of unaccompanied minor, and defined as a child/minor who arrives in the territory of the EU+ States unaccompanied by an adult responsible for him or her whether by law or by the practice of the State concerned, and for as long as he/she is not effectively taken into the care of such a person/adult; it includes a child/minor who is left unaccompanied after he or she has entered the EU+ territory.

There is no general consensus on the definition of the **guardian** and in practice often the **guardian** has been assimilated to the figure of the representative or social worker. However for the purpose of this guide, **guardian** is considered to be an independent person who safeguards the child's best interests and general well-being.

The **EU asylum *acquis*** consists of the following set of EU legal instruments: Reception Conditions Directive recast, Asylum Procedures Directive recast, Qualification Directive recast, Temporary Protection Directive (not triggered), Dublin Regulation recast and Eurodac Regulation recast. A compilation of international, European and national provisions, and legal instruments related to family tracing can be found in Annex 2 *Legal Framework* of this publication.

For the purpose of this guide, the EU Member States plus Norway are referred to as **EU+ States**.

<sup>(1)</sup> In compliance with Article 22 of the Convention for the Rights of the Child, 'the right to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family' and with Article 10(3)(a) of the Family Reunification Directive (2003/86/EU), provides that the Member States shall authorise the entry and residence of his/her first-degree relatives in the direct ascending line without applying the requirements of Article 4(2). This authorisation may be applied to his/her legal guardian or any other member of the family, where the refugee minor has no relatives in the direct ascending line or such relatives cannot be traced.

# Chapter 1. Circumstances of family tracing

This chapter explores the reasons why family tracing must be undertaken by the national authorities in order to fulfil the rights of unaccompanied children in need of international protection in compliance with the principles and rights enshrined in international and European legislation. In addition, this chapter also lays down the objectives of the family-tracing process within the context of international protection.

## 1. Why is family tracing necessary?

Some children are moving across borders without the care of a responsible adult, or may be left unaccompanied after or prior to entering European territory. Due to their inherent vulnerability, children travelling on their own through unknown countries are exposed to a higher risk of violence and abuse. In some cases, other factors could further their vulnerability, as the child may be undocumented, stateless or in need of international protection. The EU Agenda for the Rights of the Child <sup>(2)</sup> aims to reinforce the full commitment of the EU — as enshrined in the Treaty of Lisbon and the Charter of Fundamental Rights of the European Union — to promote, protect and fulfil the rights of the child in all relevant EU policies and actions. The Charter of Fundamental Rights of the European Union <sup>(3)</sup>, in Article 24, provides that children are entitled to such protection and care as necessary for their well-being, should be allowed to express their views freely and that such views shall be taken into consideration on matters which concern the child, in accordance with their age and maturity. The best interest of the child principle, enshrined in the UN Convention on the Rights of the Child (CRC henceforth), is reaffirmed in the Charter by stating that in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.

The EU asylum *acquis* is one of the areas where this commitment has been reinforced with the recast legislation introducing additional safeguards for unaccompanied children who have applied for international protection. One of the areas where special attention and dedicated responses are required is family tracing. In addition, the EU Agenda for the Rights of the Child aims to reinforce the full commitment of the EU — as enshrined in the Treaty of Lisbon and the Charter of Fundamental Rights of the European Union — to promote, protect and fulfil the rights of the child in all relevant EU policies and actions.

### International and regional legal frameworks

As the CRC <sup>(4)</sup> Preamble acknowledges, the family as the fundamental group of society and the natural environment for the growth and the well-being of all its members and particularly children as such should be protected and assisted. The principle of family unity, recognised further in the European Convention on Human Rights (Article 8) and in the EU asylum *acquis* should be taken into account when assessing the best interests of the child. According to Article 24(3) of the EU Charter of Fundamental Rights and Article 23(2) of the RCD recast, Article 23 of the QD recast, Article 6(3) and Article 8 of Dublin III Regulation recast <sup>(5)</sup>, family unity is a part of such assessment, along with the minor's well-being and development, safety and security considerations and the views of the minor in accordance with his or her age and maturity.

In addition to the best interests of the child, in the specific context of family tracing, a number of other rights, as enshrined in the CRC, come into play when considering family tracing. These include:

- The right to **name, nationality and parental care** (Article 7):  
Every child has the right, as far as possible, to know and be cared for by his/her parents.
- The right to **preservation of identity including nationality, name and family relations** (Article 8):  
The identity of the child includes the gender identity, sexual orientation, religion, beliefs, cultural identity, personality and the right to access information about their biological family, in accordance with the legal regulation of the given country (as stated in CRC General Comment No 14).

<sup>(2)</sup> EU Agenda for the Rights of the Child is available at <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52011DC0060>.

<sup>(3)</sup> Charter of Fundamental Rights of the European Union is available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>.

<sup>(4)</sup> The Convention on the Rights of the Child is available at <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

<sup>(5)</sup> Besides the mentioned provisions, the protection of family unity is additionally acknowledged in Recital 9 RCD recast, Recital 16 Dublin III Regulation recast and Recital 18 of the QD recast.

- The right to **preservation of the family environment and maintaining personal relations** and direct contact with the child's parents (Article 9, similar content can be found in Article 24(3) of the Charter of Fundamental Rights of the European Union <sup>(6)</sup>):  
A child shall not be separated from his/her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. States Parties shall further respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
- The right to **family reunification** (Articles 10 and 22):  
Applications by a child or his/her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances, personal relations and direct contacts with both parents. Furthermore, Article 22 establishes that States Parties shall provide cooperation in any efforts [...] to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In this regard, Article 10(3)(a) of the Family Reunification Directive provides that the Member States shall authorise the entry and residence of his/her first-degree relatives in the direct ascending line without applying the requirements of Article 4(2). This authorisation may be applied to his/her legal guardian or any other member of the family, where the refugee minor has no relatives in the direct ascending line or such relatives cannot be traced.
- The respect for the **views of the child** (Article 12, and a similar reference is foreseen in Article 24(1) of the Charter of Fundamental Rights of the European Union):  
All children have the right to express their views freely. The views of the child shall be given due weight, on all matters which concern him/her, in accordance with his/her age and maturity. For this purpose, the child shall in particular be provided with the opportunity to be heard in any judicial and administrative proceedings affecting him/her.
- The protection against interference with **privacy, family life, home and correspondence** (Article 16):  
It protects the private life of children against arbitrary interference by public authorities and private organisations, such as the media. This protection covers four distinct areas: private life, family life, home and correspondence.
- Special assistance and protection of **children temporarily or permanently deprived of their family environment** (Article 20):  
A child temporarily or permanently deprived of his/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. States Parties shall in accordance with their national laws ensure alternative care for such a child.
- The right of the refugee or asylum seeking children to **protection and humanitarian assistance** when applying for or being granted **refugee status and the right to trace his or her family members in order to obtain information necessary for reunification with family** (Article 22):  
Particularly when referring to refugee children, the CRC (Article 22) acknowledges not only the right to receive appropriate protection and humanitarian assistance, but also to trace the parents or other members of the family and the right to receive the same protection as any child permanently or temporarily deprived of his or her family environment. This right, as the cornerstone of the family-tracing process for unaccompanied children in need of international protection, has been extensively recognised in the EU asylum *acquis* (Article 24(3) of the RCD recast, Article 31 of the QD recast, Article 6(4) and Article 8 of the Dublin III Regulation recast), and in conclusion subject to further development throughout the publication.
- The right of every child to a **standard of living adequate for the child's physical, mental, spiritual, moral and social development** (Article 27):  
As with most of the above rights, this right has the specific reflection in the EU asylum *acquis*, especially when ruling that the national authorities should ensure that adequate reception conditions for children are available (Article 23(1) RCD recast).

<sup>(6)</sup> Charter of Fundamental Rights of the European Union is available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>.

The European Commission assists Member States in the field of child protection when implementing EU law, or when exploring new dimensions of a policy field, including initiating new or proposing amendments to existing legislation. In line with that, the EU Action Plan on Unaccompanied Minors (2010-2014) <sup>(7)</sup>, reinforced family tracing as key element of the principle of ensuring family unity. During the 9th European Forum on the rights of the child, Coordination and cooperation in integrated child protection systems, in 2015, the European Commission presented for discussion 10 principles based on a child-rights approach <sup>(8)</sup>. These principles fully recognise children as rights-holders, placing emphasis on strengthening children's resilience and capacity to claim their rights, with due regard to the cross-cutting principles: the best interests of the child, non-discrimination, child participation and the right to life, survival and development. Among others, three specific principles can be highlighted as relevant to the family-tracing process:

- Families are supported in their role as primary caregiver.
- Child protection systems have transnational and cross-border mechanisms in place, including mechanisms for clarifying roles and responsibilities in the family-tracing process.
- The child has support and protection: No child should be without the support and protection of a legal guardian or other responsible adult or a competent public body at any time.

In conclusion, family tracing is necessary for two main reasons: to accomplish the different rights and needs of the child regarding his/her relationship with his/her family, as well as for assisting EU+ States in fulfilling their obligations in accordance with the principle of family unity and with due account to the best interests of the child.

## 2. The purpose of family tracing

Unaccompanied children in the international protection procedure are a particularly vulnerable category of applicants. This is legally acknowledged in the recast asylum instruments by the presence of a number of additional safeguards and procedural guarantees addressing the specific needs of unaccompanied children. According to the EU asylum *acquis* <sup>(9)</sup>, one of the main responsibilities of Member States, in order to address this inherent vulnerability, is to adopt the necessary measures to trace the family members of the child and reunify the child with his/her family members when it is found to be in the best interests of the child:

*Member States shall start tracing the members of the unaccompanied minor's family, where necessary with the assistance of international or other relevant organisations, as soon as possible after an application for international protection is made, whilst protecting his or her best interests. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis, so as to avoid jeopardising their safety.*

Furthermore, the results of family tracing and relevant information collected about the situation in the child's country of origin may be useful when determining the child's best interests as stated in Article 22 CRC and in CRC-General Comment No 12:

*Asylum-seeking children may also need effective family tracing and relevant information about the situation in their country of origin to determine their best interests.*

This information may enable relevant stakeholders to identify the child's individual needs and depending on them, to elaborate and provide adequate and personalised protection and care, as well as to determine the best interest of the child based on his/her individual circumstances. Family tracing is also an integration tool in the host society because it ensures knowledge of background and informal identification of the child. For example, it is very important to know the education and health background, quality of interpersonal relationships with parents and other relatives, history of abuse and/or domestic violence, socioeconomic situation of the family, health conditions of family members and societal local dimensions.

<sup>(7)</sup> Available at [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/action\\_plan\\_on\\_unaccompanied\\_minors\\_en\\_1.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/action_plan_on_unaccompanied_minors_en_1.pdf).

<sup>(8)</sup> The Report from the 9th European Forum on the Rights of the Child, 3-4 June 2015 is accessible at [http://ec.europa.eu/justice/fundamental-rights/files/rights\\_child/9th\\_forum\\_report\\_en.pdf](http://ec.europa.eu/justice/fundamental-rights/files/rights_child/9th_forum_report_en.pdf).

<sup>(9)</sup> See in particular Article 24(3) RCD recast, Article 31(5) QD recast and Article 6(4) Dublin III Regulation recast.

The scope and method of family tracing may be different depending on whether it is undertaken for the purposes of the Dublin Regulation <sup>(10)</sup> or in the broader framework of the international protection procedure. The main differences between family tracing in the EU territory and in the country of origin or a third country are highlighted below.

	Family tracing within the Dublin procedure	Family tracing in the country of origin or in third countries
Territorial scope:	<ul style="list-style-type: none"> <li>The family member may be in the territory any of the Dublin Member State.</li> </ul>	<ul style="list-style-type: none"> <li>The family member may be in the child's country of origin or a third country.</li> </ul>
Purpose:	<ul style="list-style-type: none"> <li>Respect the best interests of the child.</li> <li>Determine the Member State responsible for examining the application for international protection.</li> <li>Unite the child with his or her family members, siblings or relatives in Dublin Member State territory.</li> </ul>	<ul style="list-style-type: none"> <li>Respect the best interests of the child.</li> <li>Restore family links.</li> <li>Re-unite the child with his/her family member territory: <ul style="list-style-type: none"> <li>in the EU host country</li> <li>in the country of origin</li> <li>in a third country.</li> </ul> </li> </ul>
Legal obligation:	<ul style="list-style-type: none"> <li>Take into consideration and assess the best interest of the child.</li> <li>Ensure that a qualified representative represents/assists the child.</li> <li>Identify family members, siblings or relatives.</li> <li>Determine responsibility for examining the application for international protection accordingly.</li> <li>Unite the minor with his or her family members, siblings or relatives provided that it is in the best interests of the child.</li> </ul>	<ul style="list-style-type: none"> <li>Take into consideration and assess the best interest of the child.</li> <li>Start family tracing; or</li> <li>Continue the process when appropriate.</li> <li>Ensure that a qualified representative represents/assists the child.</li> </ul>

In conclusion, the purposes of family tracing are, primarily:

- 1) finding information regarding the unaccompanied child's family members or former caregivers (including knowing the whereabouts of his or her family members);
- 2) assisting the unaccompanied child to re-establish family relations, provided it is in his or her best interests;
- 3) facilitating the reunification of the child with family members in the host country, in another EU+ State, in a third country or in the country of origin, provided that this is in the child's best interests <sup>(11)</sup>.

It is important to note that finding the family does not automatically lead to family reunification. It is not always possible or desired and additional considerations regarding the best interest of the child must also be taken into account by the competent authorities.

In case of facing reluctance from the child or the family to restore links, reasons should be explored. Counselling the child and family separately or even jointly as appropriate (through telephone, video-link, etc.) could for example be a step forward in restoring family links. However, eventually should the child or the family not wish to restore family links, their wishes should be respected.

<sup>(10)</sup> Regulation (EU) No 604/2013 (Dublin III Regulation) is applied throughout the territory of 32 countries; for the purpose of this guide, these 32 countries are referred to as the (Dublin) Member States.

<sup>(11)</sup> In compliance with Article 22 of the Convention for the Rights of the Child, 'the right to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family' and with Article 10(3)a of the Family Reunification Directive (2003/86/EU) which provides that Member States shall authorise the entry and residence of his/her first-degree relatives in the direct ascending line without applying conditions, and of his/her legal guardian or any other member of the family, where the refugee minor has no relatives in the direct ascending line or such relatives cannot be traced.



### 3. Who should be involved in family tracing?

The involvement of different actors in the family-tracing process depends on the legal and institutional framework of the host country, as well as on the analysis of the risk factors and the principle of confidentiality in each individual case. Besides that, their participation in the initial steps or at later stages of the family tracing process would need in-depth assessment of the individual situation of the child (see Chapter 3.2, Responsible actors for undertaking the process, of this publication). Depending on the circumstances of the individual case, family tracing may imply identifying family members in the EU+ territory, or outside the EU+ territory, in the country of origin or in a third country (e.g. maybe the child has left his/her parents behind in a refugee camp). It would involve cooperation with other national authorities, the authorities of another EU+ States, or engaging resources in the country of origin or in the third country when this would not endanger the child and the family.

Actors that could be involved include:

Family tracing within EU+ States	Family tracing in the country of origin or in a third country
<input type="checkbox"/> the child	<input type="checkbox"/> the child
<input type="checkbox"/> the child's guardian/representative	<input type="checkbox"/> the child's guardian/representative
<input type="checkbox"/> authorities of the host State	<input type="checkbox"/> authorities in the host State
<input type="checkbox"/> authorities of other EU+ States	<input type="checkbox"/> host State's embassies and consular services
<input type="checkbox"/> international or other relevant organisations	<input type="checkbox"/> international or other relevant organisations
<input type="checkbox"/> child's family members	<input type="checkbox"/> local tracing services
<input type="checkbox"/> other	<input type="checkbox"/> authorities of the country of origin or of a third country
	<input type="checkbox"/> child's family members
	<input type="checkbox"/> other

- The **child** is often the main source of information for the purposes of family tracing. Appropriate child-friendly mechanisms should be put in place to enable the child to understand the aim of family tracing, the process, and possible outcomes and consequences (in the context of the international protection procedure). He/she should be properly informed and consulted about the family-tracing process as well as any progress made in this respect. His/her views should be taken into account at all stages and be taken into primary consideration in line with the child's age and maturity. The participation of the child in the process should be facilitated by the guardian, who can act as a link between the child and the various actors involved.
- The child's **guardian/representative** should support and accompany the child throughout the family-tracing process. The guardian/representative should represent the child and complement his/her legal capacity when necessary, ensuring that all actions are undertaken in the child's best interests. The appointed guardian should be informed and consulted regarding all actions taken in relation to the child. Depending on the individual circumstances of the case, the guardian may also be actively engaged in obtaining relevant information from the child.
- **EU+ State authorities** that could be involved in the family-tracing process include, for example, asylum authorities, immigration authorities and child protection services at national and at local levels. The host State's embassies or consular services in the country of origin or in third countries may also be involved. In accordance with the EU asylum *acquis*, particularly Article 31(5) QD, Article 24(3) RCD recast and Article 6(4) Dublin III Regulation recast, Member State authorities have a proactive role in the process of tracing a child's family members if this is considered to be in the child's best interests. States, through their child protection authorities and other relevant services, should develop family-tracing processes and make family tracing mandatory in the case of unaccompanied children — except when it is considered as not being in the child's best interests or when it could endanger the child or his/her family. Family tracing is a necessary prerequisite to ensure the necessary protection and care for the child's well-being and fulfilment of fundamental CRC rights (notably Articles 8, 9 and 10 CRC). In accordance with Article 6(4) Dublin III Regulation recast, the personnel of the competent authorities shall receive



continuous training concerning the specific needs of children. In this regard, EASO has developed training modules and practical guides addressing the specific needs of children and of vulnerable groups in general <sup>(12)</sup>.

- Family tracing is, furthermore, one area within the asylum context where EU+ States would often cooperate with and rely on the services of **international or other relevant organisations**. Some international organisations would have considerable experience and expertise in the field of family tracing and established networks, tools and methodologies to facilitate family tracing in a manner that ensures the safety and best interests of the child. The services of such organisations are especially relevant when family tracing takes place in the countries of origin or third countries. Some of the organisations which EU+ States collaborate with in this regard include the UNHCR, IOM, ICRC and ISS. In compliance with Article 6(4) Dublin III Regulation recast and Article 23(2) RCD recast, Member States may facilitate the child's access to the tracing services of such organisations. The guardian/representative should seek, when necessary, the assistance of relevant organisations and authorities to assist the child in the family-tracing process.
- **Local tracing services**, with hands-on experience in the field and familiar with the community ties, social and tribal networks, could also be involved in the family-tracing process where relevant. Confidentiality, data protection and safety should be taken into consideration when deciding whether to involve local services in order to avoid putting the child, the family members or the service providers themselves at risk.
- Depending on the circumstances in the country of origin or third country and upon a thorough consideration of the safety of the child and the family members, as well as of the principle of confidentiality, the **authorities in the country of origin or third country** may also be involved in the family-tracing process. This should always be done with extreme care to not jeopardise those involved and the integrity of the asylum process, in compliance with Article 31(5) QD recast and Article 24(3) RCD recast.
- When found, the **child's family member** should be involved in the verification of family links and in the process of restoration of family links and in any possible outcomes of the family-tracing process, if found to be in the best interests of the child. Other family members or relatives, who are present in the EU+ territory but not considered responsible for him/her in the Member State, should be involved during the process as they would be likely to have relevant information for the family-tracing process.
- In addition to the above-mentioned actors of the family-tracing process, **others** may also play a role, such as: public prosecutors or judges, teachers and psychologists, religious or community leaders, other persons who know the child or the family, etc.

In general, cooperation between these actors within a coordinated system would facilitate a functional and multidisciplinary family-tracing process. Safeguards ensuring that all actors involved take into account the child's best interests as a primary consideration, and especially the safety of the child and the family, should always be in place.

<sup>(12)</sup> The EASO Training Curriculum module, *Interviewing Children*, is a training module for case officers, aimed at enhancing their knowledge and skills in interviewing children. More information about the Training Curriculum and the module is available at <https://easo.europa.eu/about-us/tasks-of-easo/training-quality/training/>.

## Chapter 2. Family-tracing process

This chapter analyses the core stages of the family-tracing process. It includes a **flowchart of the process**, outlining the implementation of the principle of the best interest of the child and the specific procedural safeguards enshrined in the CRC and in the EU asylum *acquis*. It provides guidance on the different stages of the family-tracing process from ‘before family tracing’, i.e. its prerequisites and triggers, to ‘outcomes of family tracing’.

The family-tracing process itself is explored from two perspectives: (1) when undertaken within the framework of a Dublin procedure and in EU+ States; and (2) when undertaken in the country of origin or in a third country in the context of the international protection procedure in general or as its follow-up.

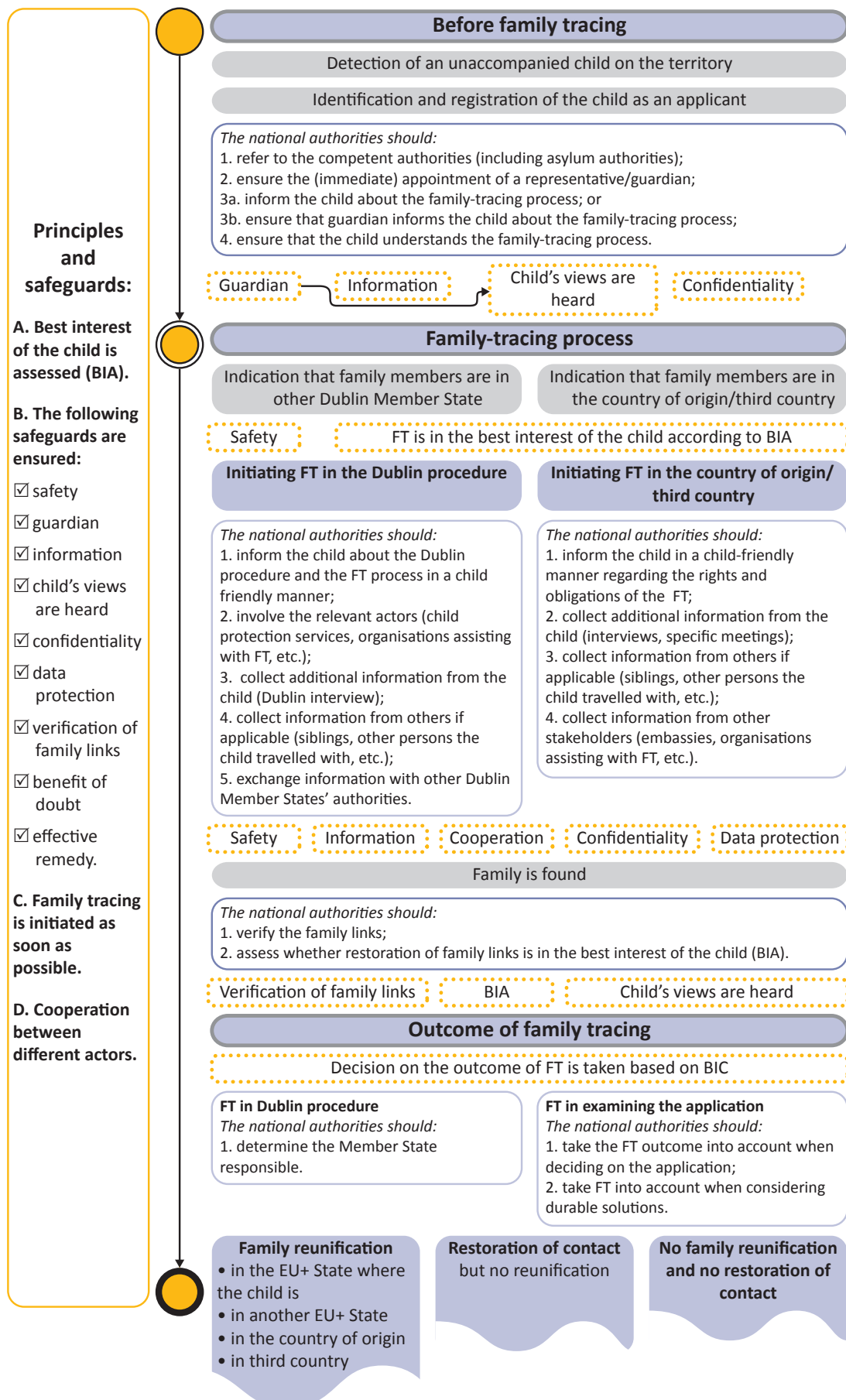
The flowchart is followed by **more detailed information** about the **overarching principles and safeguards** that must be guaranteed during the family-tracing process. In particular, addressing the safety and security considerations, the role of the representative/guardian, the rights of the child to information and participation, the principle of confidentiality, data protection guarantees, the process of verification of family links, the available mechanisms to challenge the decision and the cooperation among different actors.

### 1. Flowchart of the family-tracing process

The flowchart describes the steps preceding family tracing and the respective guarantees for the initiation of the tracing process within the scope of the Dublin procedure and/or the international protection procedure in general.

This is followed by an outline of the main stages of the family-tracing process itself, framed by the overarching principles and safeguards that must be put in place throughout the process.

The flowchart is concluded with the possible outcomes of family tracing.



## 2. Principles and safeguards

In addition to the best interests of the child as a primary consideration, the family-tracing process should integrate the following procedural measures and safeguards in order to ensure a respectful process, observing the child's rights:

- A. Best interest of the child is assessed (BIA).
- B. The following safeguards are ensured:
  - 1) safety;
  - 2) guardian;
  - 3) information;
  - 4) child's views are heard;
  - 5) confidentiality;
  - 6) data protection;
  - 7) verification of family links;
  - 8) benefit of doubt;
  - 9) effective remedy.
- C. Family tracing is initiated as soon as possible.
- D. Cooperation between different actors.

### A. Best interests of the child (BIC)

Family tracing is key in order to fulfil the right of the children to maintain personal relations and direct contact with their family members, and in order for Member States to comply with their obligation to preserve these relations when it is in the child's best interests.

The principle of the best interests of the child is one of the four overarching guiding principles on children's rights (right to non-discrimination, best interests, the right to life and development, and the right to be heard) underpinning the CRC (Articles 2, 3, 6 and 12 respectively) and the Charter of Fundamental Rights of the European Union (Article 24).

As stated in Article 3(1) CRC: *In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*

The UN Committee on the Rights of the Child clarifies that the best interests of the child should be interpreted as a threefold concept <sup>(13)</sup>, incorporating:

- a) a substantive right;
- b) a fundamental, interpretative legal principle; and
- c) a rule of procedure.

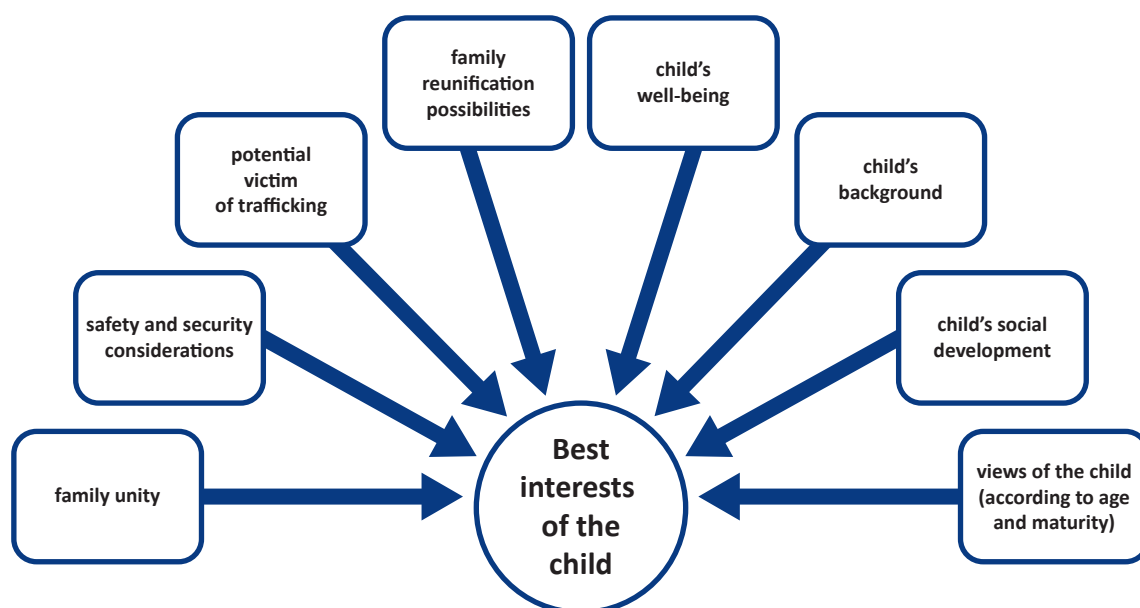
The CRC *General Comment No 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin* (paragraphs 80-88) <sup>(14)</sup> provides for guidance on how to take into consideration the best interests of the child as a mainstream rule of procedure though specific procedural guarantees. The CRC position on the right of the child to have his/her best interests taken as a primary consideration is further developed in General Comment No 14 (2013) and procedural safeguards are set out in Section V.B of the General Comment <sup>(15)</sup>.

<sup>(13)</sup> See Annex 1 Glossary's entry N. 3: Best Interests of the Child based on CRC General comment No 14.

<sup>(14)</sup> UN Committee on the Rights of the Child, General comment No 6 (2005) Treatment of unaccompanied and separated children outside their country of origin (final unedited version) available at <http://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>.

<sup>(15)</sup> 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 (Article 3, para. 1), 29 May 2013, available at [http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC\\_C\\_GC\\_14\\_ENG.pdf](http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf).

The recast instruments of the Common European Asylum System (CEAS), especially Article 6 of the Dublin III Regulation recast and Articles 23 and 24 of the RCD recast, further highlight some of the mentioned factors as relevant to be taken into consideration when assessing the best interests of the child.



The Dublin III Regulation recast (mainly Articles 6 and 8) envisages special guarantees for children and in particular for unaccompanied children. Those guarantees include, for example, specific information for unaccompanied children, the obligation of Member States to provide to the child with a qualified representative, outlining the factors that need to be taken into account when assessing the best interests of the child and the procedural steps that Member States should take to facilitate family tracing (proactive initiation of the process, efficiency). Moreover, it outlines in more detail the different scenarios for determining the responsibility of Member States for handling an application for international protection in the case of unaccompanied children.

#### UNHCR, *Safe and Sound* <sup>(16)</sup>

The best interests of the child principle should apply **throughout the process** and could be implemented by ensuring that certain safeguards are in place prior to and in the process of family tracing, including:

- access to a qualified, independent guardian, who acts in the child's best interests and who can help to create the necessary environment of trust for a child to disclose information about his/her family;
- interpretation;
- a legal representative and a social worker as appropriate;
- child-friendly procedures;
- right to receive age-appropriate information;
- right to be provided with adequate support;
- right to participate and to have his/her views heard and considered according to his/her age and maturity;
- right to effective remedy as may be applicable.

## B. Procedural safeguards

This section looks at the procedural safeguards to be guaranteed according to the relevant legal instruments and soft law recommendations. Most of these safeguards are clearly interlinked. For instance, the child's guardian or representative is essential to provide information to the child, to represent the child during the process and to assist him/her if a review of the decision takes place. Therefore, it is crucial to ensure the respect of these safeguards in an approach based on the child's rights. The application of the following procedural safeguards into EU+ practice is outlined in Chapter 3 *Overview of practice in the EU+*.

<sup>(16)</sup> UN High Commissioner for Refugees (UNHCR), *Safe and Sound: what States can do to ensure respect for the best interests of unaccompanied and separated children in Europe*, October 2014, available at: <http://www.refworld.org/docid/5423da264.html>.

## 1) Safety

It is fundamental to ensure that any activities regarding an unaccompanied child are undertaken after a thorough assessment of the potential risk and the safety of the child and any other parties involved. Family tracing should take place in full consideration of safety.

The process must not entail any danger for the child concerned, for the family or for the actors that will conduct the family tracing. Whilst tracing is being undertaken, responsibility for the child remains with the host state. Therefore, a risk assessment for the specific purposes of family tracing should be undertaken. This risk assessment must be part of the best interest assessment (BIA) undertaken prior to tracing, given that BIA analyses the child's and family's safety considerations, possibilities for restoring contact with family and/or of family reunification, the child's well-being and the child's views according to his/her age and maturity. The specific means for family tracing, the potential actors to involve and the possible ways to collect information should also be determined in full consideration of safety guarantees.

## 2) Immediate appointment of the guardian

The obligation for States to provide special protection and assistance to any child temporarily or permanently deprived of his/her family environment is in place in accordance with Article 20 and Article 22(2) CRC, the latter providing for specific protection of refugee children.

The recast EU asylum *acquis* repeatedly refers to Member States' obligations to appoint a representative or a guardian for assisting and representing the unaccompanied child. The representative shall perform his/her duties according to the best interest of the child and should exercise the legal capacity of the child where necessary.

In addition, the representative must be independent in order to avoid any conflict of interests so as to ensure that he/she acts in the best interests of the child as established in Article 24(1) and Article 25(1)(a) APD recast, as well as Article 24 RCD recast.

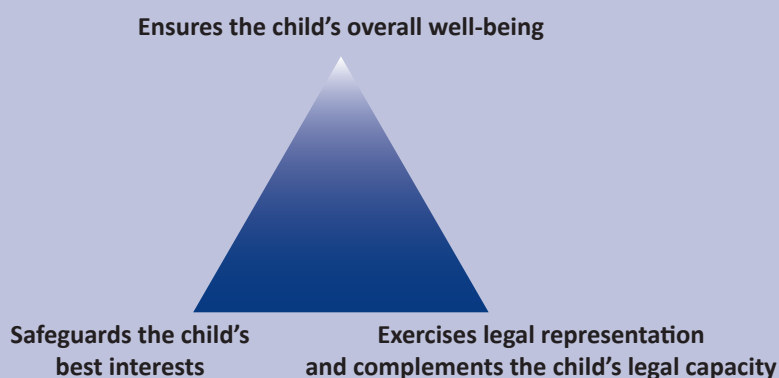
In this respect, CRC General Comment No 6 (paragraph 21) acknowledges the key role of the guardian as a procedural safeguard to ensure respect for the best interests of an unaccompanied child, and further recommends that the child should only be referred to the international protection procedure after the appointment of a guardian and the provision of a legal representative.

Additional guidance regarding the role of the guardian in family tracing may be found in the FRA Handbook *Guardianship for children deprived of parental care*.

### FRA, *Handbook on Guardianship for children deprived of parental care* <sup>(17)</sup>

For the purpose of the FRA's Handbook, a guardian is considered to be an independent person who safeguards the child's best interests and general well-being, and to this effect complements the limited capacity of the child when necessary, in the same way as parents do.

The guardian exercises three distinct functions when the child lacks parental care:



<sup>(17)</sup> The handbook is available at [http://fra.europa.eu/sites/default/files/fra-2014-guardianship-children\\_en\\_0.pdf](http://fra.europa.eu/sites/default/files/fra-2014-guardianship-children_en_0.pdf).

The role of the guardian/representative could be key for the family-tracing process. He/she could provide the necessary information to the child and build a relationship of trust, based on which additional information of significance for the family tracing could be acquired.

### 3) Information provided in an age-appropriate manner

Being informed on the rights and obligations that the family-tracing process entails, as well as on any progress and outcomes, is one of the important procedural guarantees to ensure that the child can participate in the process effectively. Depending on the national set-up and on the particular circumstances in the case, the child may be informed directly or through his/her guardian/representative. As underlined in CRC General Comment No 6 (para. 25):

*It is imperative that unaccompanied and separated children outside their countries of origin are provided with all relevant information concerning, for example, their entitlements, available services, including means of communication, the asylum process, family tracing and the situation in their country of origin, in order to allow for the child's well-informed expression of views and wishes.*

The EU asylum *acquis* further specifies the right of the child and their representative to be provided with legal and procedural information, (Article 25(4) APD recast). Furthermore, the Dublin III Regulation recast (Article 4(5)) and its Implementing Regulation (EU) No 118/2014 (Article 1(7)) specify that the applicant shall be informed of:

- the objectives and consequences of the Regulation;
- the criteria for determining the Member State responsible;
- the personal interview;
- the possibilities of submitting information regarding family members or relatives present in the Member State;
- the fact that the competent authorities can exchange data for the purpose of this Regulation, and the right to access to data;
- the possibility to challenge the decision.

The actor responsible for initiating family tracing (immigration or asylum authorities, the guardian/representative, etc.) must keep the child informed during the process, particularly when the process is initiated by the child.

The provision of age-appropriate information materials to children is considered a useful means in the family-tracing process. Annex XI of the Implementing Regulation (EU) No 118/2014 includes a specific information leaflet on Dublin and Eurodac Regulation for unaccompanied children who are applying for international protection <sup>(18)</sup>. Ensuring that the child understands the international protection procedure in general may further facilitate the collection of relevant information from the child <sup>(19)</sup>.

### 4) Child's views taken into consideration according age and maturity

The child has the right to express his/her own views freely in all matters that affect him/her. The views of the child should be given due weight according the age and the maturity of the child (Article 12 CRC and the UN *General Comment No 12 on the child's right to be heard* <sup>(20)</sup>).

The views of the child regarding the family-tracing process itself as well as regarding the possible outcomes (re-establishing contact, reunification with family members, etc.) should be duly taken into consideration, in accordance with the child's age and maturity. If there is a serious doubt regarding the child's age, age assessment may take place following the specific guarantees required for this process <sup>(21)</sup>. The assessment of the child's maturity also requires very specific skills and expertise in child psychology and with regard to the cultural context. Therefore, responsible actors may call for specialised assistance to conduct this specific assessment, such as social workers,

<sup>(18)</sup> See Annex XI of the Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 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.

<sup>(19)</sup> Council of Europe (CoE), *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice*, October 2011, available at <https://wcd.coe.int/com.instranet.InstraServlet?Index=no&command=com.instranet.CmdBlobGet&InstranetImage=2780890&SecMode=1&DocId=1657336&Usage=2>.

<sup>(20)</sup> UN Committee on the Rights of the Child, *General comment No 12 (2009). The right of the child to be heard*, 1 July 2009, available at <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>.

<sup>(21)</sup> Information regarding age assessment can be found in the publication EASO *Age assessment practice in Europe* (December 2013), available at <https://easo.europa.eu/wp-content/uploads/EASO-Age-assessment-practice-in-Europe1.pdf>.



psychologists, etc. Questions regarding personal details would be asked early on and would help within the tracing process.

There are different modalities for the child to express his/her views regarding the family-tracing process and the child should not be unnecessarily limited to do so in any particular procedural moment. Depending on the national set-up and the particular circumstances of the case, the child may express his/her views during an interview (a Dublin interview, the main personal interview in the international protection procedure, etc.), through written statements or other means, by him/herself or by the representative on behalf of the child.

Actively hearing the views of the child and informing the child about the process may lead to obtaining the child's informed consent. While the child's consent to the tracing process is not legally required, it is crucial to promptly obtain all the information necessary to conduct a successful process.

When family tracing is assessed to be in the child's best interests, yet the child refuses to agree to it, the guardian/representative could potentially still give consent to tracing. However, this needs to be well communicated between the child and representative in order not to jeopardise the relationship of trust between them <sup>(22)</sup>.

## 5) Confidentiality

Confidentiality refers to the treatment of information. When information is held in confidence and is, therefore, confidential, it can only be shared under the consent of the subject of the information or if allowed for in national law to authorised parties. The shared information is limited in scope only to the information necessary for these parties in order to carry out their functions. If not allowed for in law, the holder of the information will need to be given consent by the individual to share the information with another party. The consent of the child to share the information must be sought, in an age-appropriate manner, before sensitive information is disclosed.

The principle of confidentiality is intrinsically linked with the safety considerations. Safety and confidentiality guarantees must be put in place as important safeguards in the family-tracing process, especially when the unaccompanied child may be in need of international protection.

The rule of confidentiality in the family-tracing process applies not only to the information concerning the child but also to the personal information of those affected by the process (family members being traced, etc.). As underlined by the CRC General Comment No 6:

*[...] particular care must be taken in order not to endanger the well-being of persons still within the country of origin, especially the child's family members.*

This consideration takes on additional weight in case of tracing the family members in the country of origin of a child who is an applicant for international protection. A best interest assessment (BIA) should always precede the initiation of tracing as well as when deciding on the outcome of family tracing, especially if considering restoring family links.

As underlined CRC General Comment No 6, in conducting tracing activities, no reference should be made to the status of the child as an asylum-seeker or refugee (para. 80). The safety of the family members of the child remaining in the country of origin may be endangered in case the principle of confidentiality is not observed, the child may become a refugee *sur place* <sup>(23)</sup>.

The adverse consequences of a breach of the principle of confidentiality with regard to information collected within the international protection procedure, including information collected in the family-tracing process, may seriously affect the particular child and his/her family, but also the integrity of the asylum system.

## 6) Data protection

Under EU law, personal data can only be gathered legally under strict conditions and for a legitimate purpose. Persons or organisations collecting and managing personal information must ensure protection from misuse and respect the rights of the data owners guaranteed by EU law. Family tracing is a process which is based on the collection

<sup>(22)</sup> UN High Commissioner for Refugees (UNHCR), *Safe and Sound: What States can do to ensure respect for the best interests of unaccompanied and separated children in Europe*, October 2014, available at <http://www.refworld.org/docid/5423da264.html>.

<sup>(23)</sup> Refugee *sur place* are the individuals leaving their country of origin for reasons not related to international protection may nevertheless acquire a well-founded fear of persecution or serious harm in their own country following their departure.



and processing of personal data and, in many cases, the information processed is sensitive or its misuse may put those involved in the process at risk. The EU Data Protection Directive 95/46/EC further foresees specific rules for the transfer of personal data outside the EU to ensure the best possible protection of such data when it is exported abroad.

The family-tracing process should be undertaken on a confidential basis and in full respect of the key principles established by the EU data protection law <sup>(24)</sup>.

#### Article 6(1) EU Data Protection Directive

1. Member States shall provide that **personal data must be:**

- (a) *processed **fairly and lawfully**;*
- (b) *collected for **specified, explicit and legitimate purposes** and not further processed in a way incompatible with those purposes. [...]*
- (c) ***adequate, relevant and not excessive** in relation to the purposes for which they are collected and/or further processed;*
- (d) ***accurate and, where necessary, kept up to date**; [...]*
- (e) *kept in a form which permits identification of data subjects for **no longer than is necessary** for the purposes for which the data were collected or for which they are further processed. [...]*

Children and their guardians/representatives should be informed about the data that is going to be collected and the respective national legal framework.

### 7) Verification of family links

The verification of family links is aimed at establishing the authenticity of the family links between the child and the found family member. This is an important procedural safeguard and a compulsory stage of the process. In this regard, the EU asylum *acquis* establishes the obligation of Member States as following:

#### Article 1(7) of the Implementing Regulation (EU) No 118/2014

*Member State shall consult other Member States, as appropriate, and exchange information, in order to:*

- (a) identify family members, siblings or relatives of the unaccompanied minor, present on the territory of the Member States;*
- (b) establish the existence of **proven family links**;*
- (c) assess the capacity of a relative to take care of the unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State.*

The following considerations are especially important at this stage of the process:

- The selection of means to verify the family links must ensure that the child and the family are not put at risk (e.g. contacting the authorities of the country of origin may not be a suitable way to verify the family links of an unaccompanied child applying for international protection).
- This safeguard must be applied in combination with the benefit of doubt, as often the international protection applicants do not have documentation to verify the family links at their disposal.
- However, the implementation of the benefit of doubt in case of lack of documentation must not replace the verification of family links. A combination of additional means to verify the family links should be used in such cases (e.g. due weight should be given to other means that are available, such as interviewing family members or the statements of the child).

Chapter 3 provides specific information on the various practices applied by EU+ States and the means used regarding the verification of family links. Means are summarised in Annex 5 (table 2).

<sup>(24)</sup> Further information on data protection can be found at the European Union Agency for Fundamental Rights' publication *Handbook on European Data Protection Law* (2014), available in various EU languages at <http://fra.europa.eu/en/publication/2014/handbook-european-data-protection-law>.

## 8) Benefit of doubt

There are no specific provisions regarding the benefit of doubt within the family-tracing process. However, the ability of the child to sufficiently substantiate any statement, including on family links, should be considered in view of his/her age and maturity and his/her personal circumstances, including e.g. trauma which may affect the child's recollection of past events or facts.

In particular, where an unaccompanied child cannot provide documentary evidence of the family relationship, the national authorities shall take into account his/her statements and other available evidence and cannot reject the existence of family links solely based on the lack of documentary evidence. In this regard, reference can be made to the Family Reunification Directive as it provides some guidance on the conditions to be applied for the family reunification of beneficiaries of international protection. According to the COM Guidance for the application of the mentioned Directive <sup>(25)</sup> Member States are obliged, in such cases, to take into account other evidence of the existence of the family relationship. Since such 'other evidence' is to be assessed in accordance with national law where Member States have a certain margin of appreciation, yet they should adopt clear rules governing these evidentiary requirements.

Examples of 'other evidence' to establish family links may be written and/or oral statements from the child, interviews with family members (e.g. constructing a common family tree in simultaneous interviews), or investigations carried out on the situation abroad. The child's statements could be corroborated by supporting evidence such as documents, audiovisual materials, any documents or physical exhibits (e.g. diplomas, pictures, and proof of money transfer) or knowledge of specific facts. Due to such considerations, the benefit of the doubt must be applied. However, special caution should be exercised when doubt remains, in order to avoid the risk of trafficking or other potential dangers to the child.

## 9) Effective remedy

In the family-tracing context, there is no specific legal obligation to initiate or conclude the process with a written decision. However, in practice a decision on initiating or not the process after assessing the best interests of the child may be issued. The outcome or results of the tracing process may also be provided in a decision; however, they are usually reflected as part of the best interest of the child assessment decision on the application for international protection.

Although a separate decision is not regularly issued, the legal requirements and procedural safeguards regarding challenging decisions issued during the international protection procedure (including Dublin transfer decisions foreseen in Article 27 Dublin III Regulation recast) also apply when referring to the family-tracing process <sup>(26)</sup>. In particular, the following safeguards should be applied in order to guarantee effective remedy in this case:

- Unaccompanied children and their guardian/representative shall be provided with legal and procedural information.
- Decisions must be motivated (including factual circumstances and legal reasoning), justified and explained with clear reference to the relevant elements of the best interest assessment and how they have been weighted to determine child's best interests. Applicants should be provided with a reasonable period of time to exercise their right to effective remedy.
- Legal assistance and representation should be provided free of charge according to applicable modalities.
- Interpretation should be provided free of charge where necessary.

## C. Initiation without undue delay

With the recast EU asylum *acquis*, family tracing has become an obligation for the Member States with regard to unaccompanied children who may be in need of international protection. It is regulated as specific procedural steps to be taken under the RCD recast, under the Dublin III Regulation recast, as well as under the QD recast.

<sup>(25)</sup> Communication from the Commission to the European Parliament and the Council on guidance for application of Directive 2003/86/EC on the right to family reunification, Brussels, 2014. The document is available at [http://www.europarl.europa.eu/meetdocs/2014\\_2019/documents/com/com\\_com%282014%290210/\\_com\\_com%282014%290210\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2014_2019/documents/com/com_com%282014%290210/_com_com%282014%290210_en.pdf).

<sup>(26)</sup> Further guidance can be found in 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 (Article 3, para. 1), 29 May 2013, available at [http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC\\_C\\_GC\\_14\\_ENG.pdf](http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf).

In the context of international protection procedures, the timing of family tracing has been established as the following:

- **As soon as possible after an application has been made**, for the purposes of the Reception Conditions Directive.

#### Article 24(3) RCD recast

*Member States shall start tracing the members of the unaccompanied minor's family, where necessary with the assistance of international or other relevant organisations, **as soon as possible after an application for international protection is made**, whilst protecting his or her best interests. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis, so as to avoid jeopardising their safety.*

- **As soon as possible (where an unaccompanied child has lodged an application)** for the purposes of determining the responsible Member State within the Dublin context.

#### Article 6(4) Dublin III Regulation recast

*For the purpose of applying Article 8, the Member State **where the unaccompanied minor has lodged an application** for international protection shall, **as soon as possible**, take appropriate action to identify the family members, siblings or relatives of the unaccompanied minor on the territory of Member States, whilst protecting the best interests of the child.*

- The QD recast, on the other hand, states **that if not initiated earlier, this should be done as soon as possible even after the granting of international protection.**

#### Article 31(5) QD recast

*If an unaccompanied minor is granted international protection and the tracing of his or her family members **has not already started**, Member States shall start tracing them **as soon as possible after the granting of international protection**, whilst protecting the minor's best interests. If the tracing has already started, Member States shall continue the tracing process where appropriate. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis.*

There is no formal time limit interpreting what 'as soon as possible' means for the purposes of family tracing. This requirement has to be applied on a case-by-case basis, taking into account the guarantees outlined in this chapter. The following factors have to be taken into account, for example:

- child's views;
- assessment of the best interests of the child including the child's and the family's safety;
- the information available or the opportunity to obtain information.

In this regard, it should be taken into account that the responsible officer and the guardian/representative may need time to build a relationship of trust with the child, which may be necessary to obtain the minimum information needed to initiate the process, as well as to assess child's best interests.

## D. Cooperation between different actors

Different institutional actors may be involved in the family-tracing process at the national level, such as the determining authority, the authority/section responsible for the Dublin procedure, the reception authority/section, social services, etc. Cooperation between them is key for the effectiveness of the family-tracing efforts and to ensure that the best interests of the child are considered fully.

In spite of the different mandate that the national authorities and international intergovernmental and non-governmental organisations have, national authorities may also call for the assistance of international or other relevant organisations experienced in family tracing. Member States may further arrange for or facilitate the minor's access to the tracing services of such organisations as stated in Article 6(4) of the Dublin III Regulation recast. A similar provision is contained in Article 24(3) RCD recast.

Family tracing must also be based on cooperation and the sharing of responsibilities among EU+ States, and in some cases with the countries of origin and transit. A common approach, greater coherence and more cooperation within the EU+ States and with third countries, is in line with the general EU policy and in particular on matters concerning children, in order to provide concrete and effective responses within their best interests.

### 3. Stages of the process

#### A. Before family tracing

This publication looks specifically at family tracing with regard to unaccompanied children who are applicants for international protection. The process would, therefore, be triggered where an unaccompanied child is on the territory of an EU+ State and the child has applied for international protection. Expressing the wish to apply (making an application) would be sufficient to initiate family tracing under the RCD recast; while the application should be formally lodged to trigger family tracing for the purposes of determining the responsible State in the Dublin context.

When the unaccompanied child applies for international protection:

- 1) He/she should be referred to the competent authorities for dealing with the application for international protection, either for the purposes of the Dublin III Regulation recast or to examine the application as the responsible State.
- 2) The immediate appointment of a guardian/representative should be ensured as outlined in the guarantees above. In some cases, depending on national regulations, in order for the child to have full legal capacity to formally lodge the application, the guardian/representative must already be appointed.
- 3) The child should be informed early on about the family-tracing process. The responsible authorities should ensure that this is done in a child-friendly manner according to the age and maturity of the child. Information could be provided by the national authorities, by other entrusted organisations, or by the guardian/representative of the child, depending on the national set-up.
- 4) Nevertheless, it is the responsibility of the State to ensure that the child understands the family-tracing process. Being informed and understanding the process would further help the child to provide the information needed to initiate family tracing.
- 5) During initial meetings with the child (at first contact and making the application, during the lodging when personal data is collected) the responsible officer would normally collect information which would be useful further on in the process. Application forms or standard questions would in most cases cover information about family members, last place of residence, etc.

The appointed **guardian/representative** would play an important role in guaranteeing that the above steps are taken with the best interests of the child as a primary consideration and in observance of the specific procedural safeguards applicable to unaccompanied children within the international protection procedure. The guardian/representative could play a key role in providing information to the child as well as in collecting necessary information for the purposes of family tracing, taking into consideration the best interests of the child.

It is important that in these early stages of the international protection procedure and before initiating family tracing, the **child's views** are fully considered, taking into account his/her age and maturity. The child's views should be heard in order to consider the different elements in the assessment of the best interests of the child and to decide whether family tracing should be initiated.

Information would often need to be shared between different actors in order to guarantee the access of the child to the international protection procedure and to ensure that appropriate reception conditions are provided, as well as to initiate family tracing. Sharing information should take place in full consideration of the principle of **confidentiality** and any information shared by an unaccompanied child within the asylum context should be treated with care, taking into account the safety of the child and others (family members).

#### B. Conducting family tracing

The territorial scope, the actors involved, the methods applied and the purpose of the family-tracing process may be different depending on where the family members are indicated to be. This section looks at two distinct scenarios: family tracing within the Dublin context, i.e. on the territory of Dublin Member States, and family tracing in the country of origin or a third country.

The specific methods to be used in family tracing would depend on the national legislation and set-up as well as on the particular circumstances in the case. These could involve, for example, the guardian/representative of the child with an active role in this process, the social services of the State, other EU+ States or the social services in the country of origin, international, intergovernmental and non-governmental organisations could also provide invaluable assistance, especially when family tracing takes place in the country of origin or a third country, contact with the family members and interviews where possible, etc. The use of the different methods in the practice of EU+ States is outlined in Chapter 3 and summarised in the Annex 5 table 1 of this publication.

### Family tracing within the Dublin procedure

When the unaccompanied child has lodged an application for international protection and there is indication that his/her family members, siblings or relatives (as separately addressed within the Dublin III Regulation recast) may be in another Dublin Member State, family tracing would be triggered within the Dublin context and for the purposes of determining the responsible Member State to examine the application for international protection.

It should be ensured that the child is provided the relevant **information** about the Dublin procedure and about family tracing in particular in a child-friendly manner. Annex XI of the Implementing Regulation (EU) No 118/2014 is the standard information leaflet for unaccompanied children. It asks children to reflect whether they could have a family member (mother, father, brother or sister, aunt, uncle, grandmother or grandfather) in one of the other Dublin Member States and if they would like to live with them.

The decision to initiate family tracing should be taken based on specific assessment of the best interest of the child, taking into account in particular the safety of the child. Once this assessment is made, family tracing should be initiated without undue delay.

Once family tracing is initiated, the responsible authorities should consider the following steps:

- 1) Family tracing efforts would often go beyond the national authority responsible for applying the Dublin III Regulation recast. Relevant stakeholders, such as social services, child protection services and organisations assisting with family tracing, may have to be involved at this stage in order to guarantee the rights of the child and the effectiveness of family-tracing efforts.
- 2) Additional information for the purposes of family tracing may be collected at this stage. A particular opportunity would be the personal interview held in accordance with Article 5 Dublin III Regulation recast. During the interview, the responsible officer should also ensure that the child understands the aim of family tracing in this context and the possible outcomes.
- 3) It may also be possible to collect relevant information from others. If the child travels with siblings or relatives (who are not considered responsible for him/her in the Member State) they may be able to provide additional information which the child does not have. It is possible that the child has shared information with others that he/she travelled or stayed with. Collecting information from third parties should, however, take place with caution and observing the rights of the child and his/her best interests.
- 4) In the Dublin context the family-tracing process is facilitated by the established communication channels and the regulatory obligations on the part of Dublin Member States to communicate and exchange relevant information for identification of family members and for establishing proved family links (Article 1(7) of the Implementing Regulation). Therefore, exchange of information between the Member States, using in particular the DubliNet channel, is a key step in family tracing for the purposes of the Dublin III Regulation recast.

**Safety** is the most important element to consider when assessing whether certain actions are to be undertaken in the family-tracing process. The child's views have to be heard and considered and any indication of experienced violence or abuse in the family, as well as the potential risk of trafficking, should be examined carefully.

The involvement of all relevant actors and their **cooperation** is of utmost importance to ensure successful family tracing. Those responsible for guaranteeing the rights of the child should in particular be involved in the process. Cooperation between different actors is key in this case in the State where the child is, but also in the State where there are indications of (legally) residing family members.

The principle of **confidentiality** and **data protection** should be applied and the secure channels of DubliNet should be used for any communication including personal data necessary for the family-tracing process. A standard form for the exchange of relevant information on unaccompanied children is included as Annex VIII of Implementing Regulation (EU) No 118/2014. Once family members are found, the national authorities would have to undertake the following steps:

- 5) Family links should be verified. This could be done on the basis of positive and circumstantial evidence as outlined in Annex II of the Implementing Regulation (EU) No 118/2014. This includes, for example, positive evidence that the persons are related and, failing that and if necessary, a DNA or a blood test and circumstantial evidence such as verifiable information from the applicant and reports/confirmation by an international organisation such as the UNHCR.
- 6) The assessment of which outcome, regarding the responsibility of the Member State, would be in the best interests of the child is an integral element in the determination of responsibility according to Article 8 Dublin III Regulation recast. This should be done following the guidance in Article 6 Dublin III Regulation recast.

The **views of the child** should be heard and taken into account according to their age and maturity in both these steps.

### Family tracing in the country of origin or third country

During their flight, children may have left behind family members in the country of origin and in some cases in third countries (countries of transit, for example). Due to the different scope of family tracing in this case, different steps and additional safeguards would apply compared to family tracing within the EU+ territory.

When there are indications that family members are in a third country and it has been assessed to be in the best interests of the child to initiate family tracing, the following steps would apply:

- 1) Additional information could be collected from the child. The personal interview would be a key opportunity to collect the additional information necessary in order to trace family members, as well as for further assessing what next steps and eventual outcome would be in the best interests of the child. Specific meetings to collect additional necessary information may also be held.
- 2) It may also be possible to collect relevant information from others. If the child travels with siblings or relatives (who are not considered responsible for him/her in the Member State) they may be able to provide additional information which the child does not have. It is possible that the child has shared information with others he/she travelled or stayed with. Collecting information from third parties should, however, take place with caution and observing the rights of the child and his/her best interests.
- 3) Other actors may also be involved in the collection of necessary information. That could include national authorities, such as the embassy of the EU+ State in the third country, or other organisations assisting with family tracing. Such actors may be in position to facilitate family tracing efforts and the next steps of the process, such as verifying family links.

All steps with regard to third countries should be undertaken with extra caution, ensuring the **safety** of the child, the family members, as well as of the actors involved in family tracing.

Well-coordinated **cooperation** is also very important in order to ensure that efforts are undertaken in an effective manner and in full respect of the rights of the child.

The principle of **confidentiality** and **data protection** are also particularly important in this context, considering that the child is an applicant for international protection and a breach of those principles could potentially endanger the family members or the child. It is of key importance that all actors involved are fully aware and observe those principles.

Once family members are found, the national authorities would have to undertake the following steps:

- 4) Verification of family links would have to take place. This could be done on the basis of documentary evidence where available, the statements of the child and the family members collected through means of family visits by different actors, direct contact, etc., or through other evidence including, if necessary, DNA or blood tests.
- 5) The assessment of what steps to take next and of the outcome of family tracing must take the best interests of the child as a primary consideration. If the links were verified, this assessment could be done within the scope of the international protection procedure and be taken into account in the decision-making process regarding the application of international protection.

The **views of the child** should be heard and taken into account according to their age and maturity in both these steps.

## C. Outcome of family tracing

When family members have been found and the family links have been verified, a decision on the outcome of family tracing should be taken based on a thorough assessment of the best interests of the child.



The outcome of family tracing would also have an impact on the procedure where it has taken place.

Within the Dublin procedure, the outcome of family tracing and the assessment of the best interests of the child would determine the Member State responsible to examine the application for international protection.

Member States should cooperate with each other and take due account of the factors stipulated in Article 6(3) Dublin III Regulation recast. In addition to that, according to Article 1(7) of Implementing Regulation (EU) No 118/2014, national authorities that have found family members legally present in another Member State shall cooperate with the other Member State to determine the person to whom the child is to be entrusted and in particular to establish:

**the strength of the family links between the child and the different persons identified on the territories of the Member States;**

**the capacity and availability of the persons concerned to take care of the child;**

**the best interests of the child in each case.**

The exchange of information in this regard is linked to a timeframe and according to Implementing Regulation (EU) No 118/2014 the requested Member State shall endeavour to reply within 4 weeks from the receipt of the request. Where compelling evidence indicates that further investigations would lead to more relevant information, the requested Member State will inform the requesting Member State that 2 additional weeks are needed.

The best interest assessment is conducted in consultation with the guardian/representative and with other actors involved in the tracing process (tracing services, actors who may have been in contact with the family in the country of origin, etc.)

The best interest assessment does not require a formalised procedure, but the responsible actors should have the requisite skills and knowledge and the assessment should be documented. The child should in all cases be given an opportunity to express his/her views.

Possible outcomes of the family-tracing process range from:



Family reunification, depending on the particular circumstances, could be in **the EU+ State** where the child is located. This could be the case, for example, when family reunification is applied following the decision to grant international protection to the child. Family reunification can also take place in **another EU+ State**. For example, it could be found to be in the best interests of the child to reunite with a family member, sibling or relative legally residing in another Member State, which would then be considered the Member State responsible for examining the application of the child <sup>(27)</sup>.

Family reunification could also take place in the **country of origin or a third country** where the family member is, once the best interest has been duly determined and indicates that the reunification is in the child's best interests.

<sup>(27)</sup> In compliance with Article 22 of the Convention for the Rights of the Child, 'the right to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family', and Article 10(3)(a) of the Family Reunification Directive (2003/86/EU) provides that the Member States shall authorise the entry and residence of his/her first-degree relatives in the direct ascending line without applying the requirements of Article 4(2). This authorisation may be applied to his/her legal guardian or any other member of the family, where the refugee minor has no relatives in the direct ascending line or such relatives cannot be traced.

## Chapter 3. Overview of practice in the EU+ States

Chapter 3 provides an overview of current practices in EU+ States with respect to the family-tracing process. The initial mapping of the mentioned countries' practices took place in 2013 and was updated in 2015. The findings below are based on responses received from 25 EU+ States: **AT, BE, BG, CY, DE, DK, EE, FI, FR, HU, IE, IT, LV, LT, LU, MT, NL, NO, PL, PT, RO, SK, SI, SE and UK.**

This mapping aims at providing a general overview of the different aspects of the family-tracing process, including:

- A. timeframe for undertaking the process;
- B. methods that are currently in use, including some examples of national practice, in order to highlight its diversity at the EU+ level;
- C. procedural safeguards in place:
  - role of the guardian;
  - child's right to information;
  - principle of confidentiality;
  - verification of the family links;
  - mechanisms in place to review decisions on family tracing;
- D. challenges in undertaking family tracing:
  - lack of information;
  - unwillingness or inability of the child to disclose information;
  - unwillingness or inability of the family to restore contact with the child.

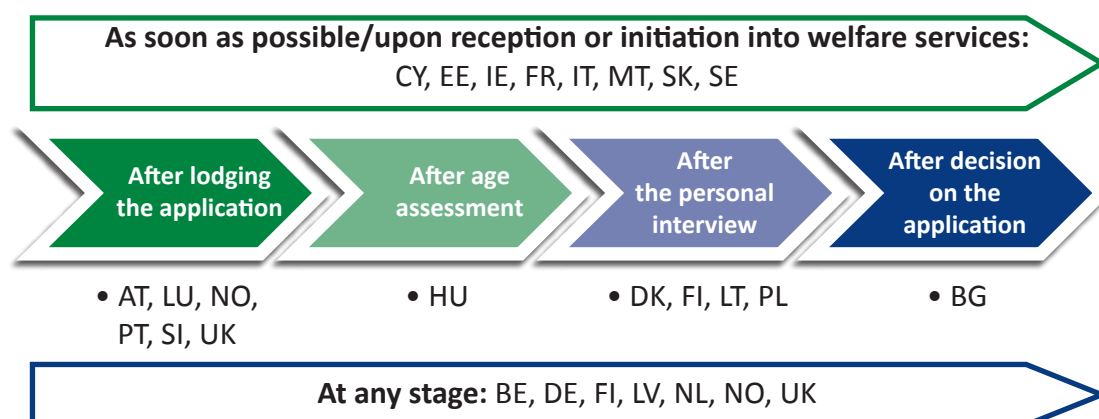
### 1. Timeframe for undertaking the family-tracing process

The recast asylum *acquis* requires national administrations to start the family-tracing process **as soon as possible**:

- after an application for international protection **is made** (Article 24(3) RCD recast);
- after **lodging an** application for international protection (Article 6(4) Dublin III Regulation recast).

Nevertheless, in practice the implementation of the requirement to trace 'as soon as possible' depends on a number of factors, including the child's and family's safety, the assessment of the best interests of the child, the information available or the opportunity to obtain additional information. Building a relationship of trust with the child may take time before the minimum information needed to initiate the process is collected.

In the current practice of EU+ States, the family-tracing process starts at different stages of the international protection procedure:



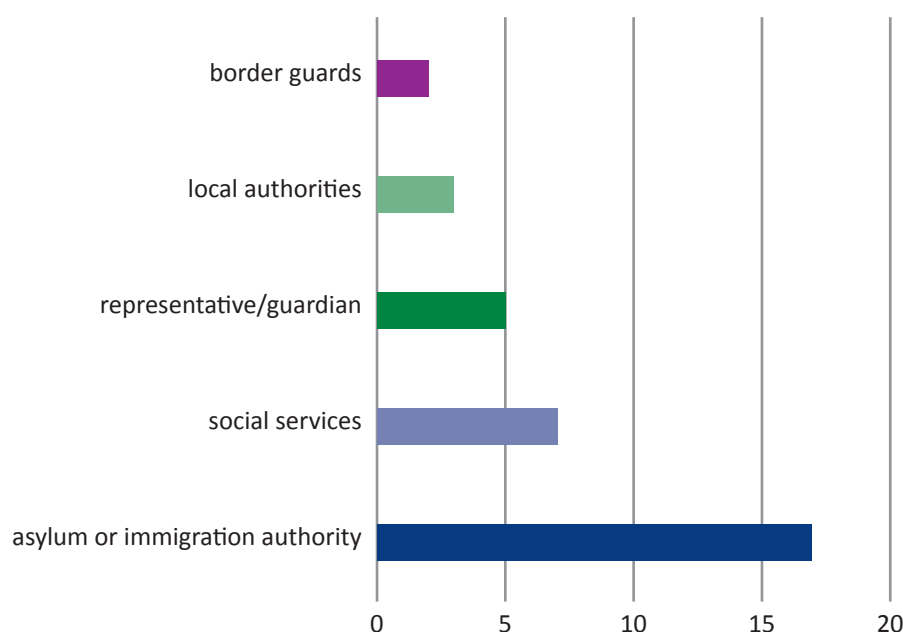


- In eight States (**CY, EE, IE** <sup>(28)</sup>, **FR, IT, MT, SK, SE**) the family-tracing process starts as soon as possible or when the unaccompanied child is admitted to the reception centre.
- Six States (**AT, LU, NO, PT, SI, UK**) initiate the family-tracing process after the child has lodged the application for international protection.
- In **HU**, the family-tracing process starts only after the age-assessment results confirm that the applicant is a child.
- In four States (**DK, FI, LT, PL**) the child is informed about the family-tracing process during the personal interview. Therefore, the process will start, if possible, immediately afterwards.
- In seven States (**BE, DE, FI, LV, NL, NO, UK**) the family-tracing process can be initiated at any stage of the international protection procedure.
- In **BG**, the family-tracing process starts only after the decision on international protection has been taken.

According to current practice, family tracing can either be conducted in connection with the asylum process or not, and the family-tracing conclusions may either be reached simultaneously or not with the conclusion of the application for international protection. In some EU+ States, family tracing may be concluded before the adoption of the decision on international protection, or the authorities may prefer to wait for a family-tracing result prior to making the decision on asylum. In some cases the authorities in charge of family tracing may not share information collected in the tracing procedure with the asylum authority.

## 2. Responsible actors

Different actors may be responsible for initiating family tracing in the case of unaccompanied children in the international protection procedure:



In most States (17 States: **AT, DE, DK, EE, FI, HU, LT, LU, MT, NO, PL, PT, RO, SE, SI, SK, UK**) the responsibility for initiating the family-tracing process lies with the asylum or immigration authority.

In 10 cases, other authorities may be responsible, such as Border Guards (two: **FR, LV**), social services (five: **BG, CY, IE, SK, SE**) or municipalities (three: **FR, IT, UK**).

In five States (**BE, BG, DE, IE, SK**), the competence for initiating the family-tracing process is assigned to the child's representative/guardian. In **LV** the consent of the child's representative/guardian is necessary to initiate the process. According to some answers, the child was also included among the responsible actors for initiating the process.

<sup>(28)</sup> In **IE**, the family-tracing process is the responsibility of the State's child protection services and begins immediately upon the initiation of a child welfare assessment and happens without regard to the international protection procedures.

<b>Asylum or immigration authority</b>	• AT, DE, DK, EE, FI, HU, LT, LU, MT, NO, PL, PT, RO, SE, SI, SK, UK
<b>Border guards</b>	• FR, LV
<b>Local/regional authorities</b>	• FR, IT, UK
<b>Social services</b>	• BG, CY, DE, IE, NO, SE, SK
<b>Guardian</b>	• BE, BG, DE, IE, SK

#### Examples from practice: shared responsibility and necessary coordination

<b>IT</b>	<p>The local authority which is in charge of the foreign unaccompanied minor asks the Ministry of Labour and Social Policies to initiate a family investigation by filling in a specific reporting form and, drawing from the minor's declarations, providing some basic information in order to be able to trace the family in the country of origin or in a third country of residence.</p> <p>The Ministry of Labour and Social Policies provides for family-tracing activities on the basis of a specific agreement with IOM. IOM provides appropriate functional organisational and logistical structures in the country of origin to carry out family-tracing activities and schemes for the reintegration of those minors who have expressed the will to return home and for whom the competent authorities have ascertained this upholds their best interests.</p>
<b>NO</b>	<p>The process of searching for family members, in the context of the international protection procedure, consists of various ways of collecting information to find out who the family members are, where the family members are situated and what the possibility to come in contact with them is.</p> <p>The registration of the application for international protection is done by the Immigration Police who speak to the applicant first and who start to collect information regarding family (Immigration Police have the formal responsibility to map the identity of all applicants for international protections).</p> <p>This is followed up by the Norwegian Directorate of Immigration (UDI) during the personal interview, which takes place after the UDI receives the results from the medical age examination (if applicable).</p> <p>The case officer then considers whether further investigation is needed in terms of a request for verification, family tracing in the country of origin or other forms of investigation, based on a risk assessment, before making a decision.</p>

## 3. Family-tracing methods

### A. Overview of methods in use

A variety of methods are currently in use in the practices of EU+ States <sup>(29)</sup> with regard to family tracing:

All of the responding countries (AT, BE <sup>(30)</sup>, BG, CY, DE, DK, EE, FI, FR, HU, IE, IT, LV, LU, MT, NL, NO, PL, PT, SI, SE, SK, UK) use the **interview with the child** as a method to collect the necessary information to carry out the family-tracing process.

<sup>(29)</sup> See Annex 5: Table of methods in use by the EU+ countries.

<sup>(30)</sup> The methods mentioned in this section are usually used by BE in the special procedure for unaccompanied minors who do not seek asylum. In the international protection procedure the methods used are the interview and the use of other MS' databases through the Dublin Network.

17 States further noted that they would conduct an **interview with the family members** that are present in the territory of EU+ in the family-tracing process (AT, BE, CY, DE, DK, EE, FI, FR, IE, IT, LV, MT, NL, NO, PT, SE, SK). UK noted that while the authorities do not formally interview the family member(s) that are present in the territory, they do send a request of assistance to the family member for the purpose of tracing family members in the country of origin.

Obtaining information by **directly contacting the family members** in the country of origin is applied by 11 countries (AT, BE, DK, FI, IE, IT, MT, NL, NO, SE, UK).

The vast majority of responding States also noted that they make **use of relevant national databases or records** for gathering information for the purposes of tracing family members, (17 States: AT, BE, CY, DE, EE, FI, HU, IE, IT, LV, NO, PL, PT, SE, SI, SK, UK).

Most EU+ States also **use other EU+ States' databases** for collecting information (16 States: AT, BE, CY, DE, DK, EE, FI, HU, IE, NL, NO, PL, PT, SE, SI, SK); 12 of them specified that they would use this method within the Dublin Regulation framework (AT, BE, DE, EE, FI, HU, NL, NO, PL, SE, SI, SK).

12 States (AT, BE, CY, DE, EE, IE, IT, PL, PT, SE, SK, UK) **use databases of the country of origin** for such purposes. In contrast, another four States (FI, FR, HU, NL) specified that they do not apply this method mainly due to security concerns.

10 States further noted that they could **use the databases of other (third) countries** (AT, BE, CY, DE, HU, IE, NO, SE, SK, UK).

All 18 States (AT, BE, CY, DE, EE, FI, FR, HU, IE, IT, LU, MT, NL, NO, SE, SI, SK, UK) which responded to this question rely in their practice on the **involvement of the social services placed in the State territory** during the family-tracing process. The participation of such actors is usually seen as key to the success of family tracing.

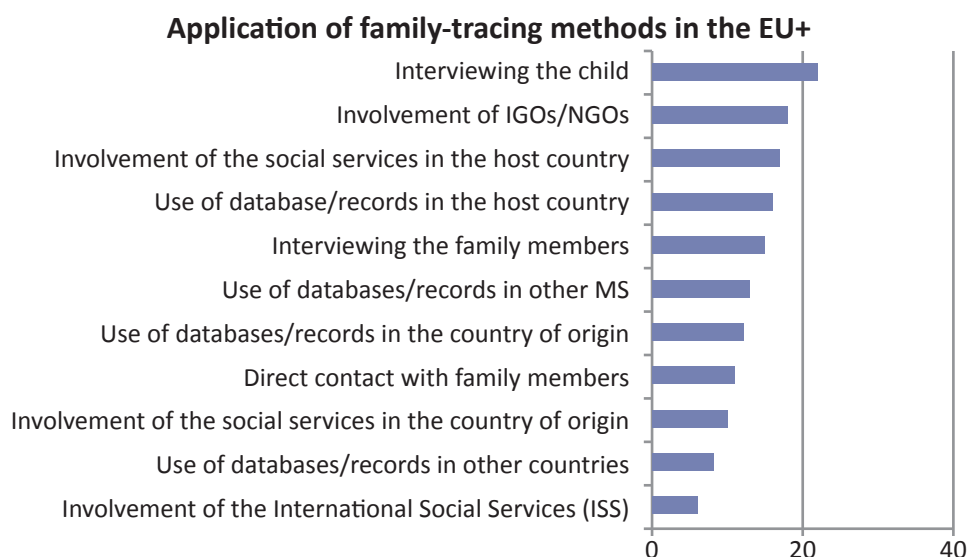
Nine out of 12 responding States would also request **the involvement of the social services in the country of origin** if relevant (CY, DE, FR, IE, IT, LU, MT, SE, UK).

Six States (CY, DE, FI, IE, NL, UK) specifically mentioned that they request the services of the **International Social Service** for family-tracing purposes.

19 States would involve **international, intergovernmental organisations (IGOs) or non-governmental organisations (NGOs)** in the family-tracing process.

In addition to the methods listed above, seven States referred to **other methods that they use**, such as the **use of EU+ States' diplomatic mission or of common networks**. In some States, there can be an active search for information of relevance to the family-tracing process, independently of the information provided by the child. The authorities may make **use of social media**, and may **contact other relevant actors**, such as the UNHCR.

The following bar chart shows which methods are applied to collect the necessary information by the States in the family-tracing process, ranking them according to their usage by the States:



## B. Description of the methods and examples of national practices

This section looks into the different methods currently applied by EU+ States and provides additional information regarding the parties which are involved in the respective family-tracing method, highlights other procedural concerns and outlines examples from practice.

### 1) Interview with the child

The process of family tracing can start with the first contact between the authority and the child, when he/she is identified as an unaccompanied child. At this point, an initial analysis and mapping of the family situation can already be conducted. The initial interview may allow for an individual assessment of the family-tracing needs. In some States, this initial interview is conducted independently of the asylum process (**FI, IE, IT**), while in others (**AT, BG, DE, DK, HU, NL, NO, PL, PT, SI, SK, UK**) it may take place in the context of the international protection procedure. Some States do not have a specific interview for the purposes of the family-tracing process but they collect relevant information in the framework of other meetings with the child (for example, during the personal interview (**UK**) or the child protection intake assessment (**IE**)).

In this method, the applicant is the main source of information for family tracing. Since interviewing children demands specialised knowledge and a particular set of skills, it is highly recommended that the actors responsible for interviewing children receive specific training<sup>(31)</sup>.

Several States noted that they apply special interview techniques according to the child's maturity and needs and provide specialised training to their interviewers (**AT, CY, DE, NO, SE, LV**).

Different methods and tools may be used in addition to the personal interview. For example, information can be obtained through a questionnaire (**BE**) or by asking the child to draw the location of his/her home (**FI**). In most of the responding countries, two actors, besides the child, are involved during the interview with the child: the asylum case officer (17 States) and the child's guardian and/or representative and/or social worker (17 States). Two States (**EE, PL**) foresee the services of a psychologist if necessary. There are other actors which may be involved in the interview with the child depending on the national procedure, such as the police, including the specific departments such as Aliens Police (**FI, LV, NO, SK**), NGOs, UNHCR, etc. The actors involved in this process according to the EU+ States practice have been mapped as follows:

<b>Case officer</b>	• AT, BE, BG, DK, EE, FI, DE, HU, LU, NO, NL, PL, PT, SK, SI, SE, UK
<b>Guardian/representative and social worker</b>	• AT, BE, BG, DK, EE, FI, FR, HU, IE, IT, LV, MT, NO, PL, SK, SE, SI
<b>Child's legal advisor</b>	• AT, BE, BG, NO, SE, SI
<b>Border guard Police</b>	• FI, LV, NO, SK
<b>Psychologist</b>	• EE, PL
<b>Others (NGOs, etc.)</b>	• CY, IE, LV, LU, SE

<sup>(31)</sup> The EASO Training Curriculum module, *Interviewing Children*, is a training module for case officers, aimed at enhancing their knowledge and skills in interviewing children (between the period 2010-2015, 538 officials were trained). More information about the Training Curriculum and the module is available at <https://easo.europa.eu/about-us/tasks-of-easo/training-quality/training/>.

**Examples from practice: interviewing children**

AT	Case officers apply special interview techniques taking into account the needs and situation of the child. Guidelines on the treatment of unaccompanied minors have been developed in projects by the Austrian Federal Asylum Office and UNHCR. Staff training is provided for the implementation of these interview techniques and guidelines.
FI	In the first interview, the police ask questions about the place of residence of the child. The child may also fill in a document in which he/she writes, in his/her native language, the names and addresses of the family members. During the personal interview the Immigration Service asks more questions which facilitate tracing. Apart from a verbal account, the child may be asked to draw a map of the location of the home.
LV	Interviews with children are conducted by an official who has the necessary knowledge regarding the special needs of children. The interviews are recorded.

**2) Interview with family member(s) present in the EU+ territory**

This method is used primarily for the purposes of the Dublin III Regulation recast.

When interviewing family members, the interviewing techniques used for interviewing applicants for international protection may be applied, as the circumstances of the family member(s) may often be similar.

Several States highlighted the importance for the tracing services to build a relationship of trust with the family member(s) in order to involve them in the process.

According to the responding States, other actors, besides the family member, that may be involved in the process include:

<b>Case officer</b> {	• AT, BE, DE, DK, NO, PT, SE, UK
<b>Guardian/representative and social worker</b> {	• AT, BE, DK, EE, IE
<b>Child's legal advisor</b> {	• AT, BE
<b>Border guard</b> {	• LV
<b>Tracing services</b> {	• DK, FI
<b>Others (NGOs, etc.)</b> {	• CY, DK, IE, IT, MT, NL, SE

**3) Direct contact with family members in the country of origin or in a third country**

The means used for applying this method are different depending on whether applied by the asylum or immigration authorities in the EU+ States or by authorities or organisations present in the country of origin/third country. In the first case, communication is generally established through telephone calls, emails, etc. However, if the method is applied in the country of origin or in a third country by the embassy or an international organisation entrusted with the tracing, in-person contact with the family member(s) is likely to take place.

The actors involved in this process according to the EU+ States' practice may include:

<b>Child's guardian/ representative and/or social worker</b>	• AT, EE, IE, SK, SE
<b>Case officer</b>	• AT, BE, NO, SE
<b>Others (NGOs, IGOs, embassies)</b>	• BE, DK, IE, IT, MT, NO, SE

The IOM holds a particular role in this method as it is often involved in the actual realisation of the contact with the family member(s) in the country of origin/third country. The IOM Mission in Rome, in particular, has over 5 years' experience dealing with approximately 1 700 family-tracing processes and/or family assessments. The semi-structured interview protocol developed based on this experience is used for family-tracing purposes by **IT** as well as **MT**.

#### Examples from practice: contact with family members in the country of origin/third country

<b>IT</b>	<p>IT involves their officials operating in the country of origin or in the country of residence of the child's parents. The representative contacts the child's family, and upon their consent, may organise a meeting at the family's residence.</p> <p>Interviews with the child's family are carried out by qualified IOM staff in the country of origin and, whenever possible, in cooperation with local social services. The interview follows a semi-structured questionnaire, and a final report gathering all the information collected during the visit and interview is then sent to the Ministry of Labour and Social policies.</p> <p>The objectives of the report are to:</p> <ul style="list-style-type: none"> <li>a) better understand the child's family history and the reasons of migration;</li> <li>b) elaborate potential vulnerabilities or critical situations that could have emerged during interviews with the child;</li> <li>c) better identify the child's needs and wishes, in order to possibly support the identification of a tailor-made reception/integration path for the minor in Italy;</li> <li>d) assess the reintegration opportunities in the country of origin and in the family context, in the perspective of sustainability and protection of the best interest of the child.</li> </ul>
<b>MT</b>	<p>The family is usually first approached by phone. The process of family tracing is explained by the IOM personnel and an appointment is fixed. The meeting is usually held at the place of residence of the family member(s), or possibly in another place where the family member(s)/relative(s) feel as comfortable as possible. It is important to always establish, as much as possible, a trustful relationship with the interviewees. This can significantly impact the outcome of the process.</p> <p>The actual interview is based on a semi-structured interview protocol developed through the experience of the IOM Mission in Rome.</p>
<b>FI</b>	<p>If the parents/former caregivers are found, tracing partners will conduct an interview with them. If possible, the interview will take place in the home of the parents/actual guardians, which helps the tracing partner to find out the actual local conditions in the home.</p>

#### 4) Use of databases and records

##### • *In the host country*

This method helps to identify and register the child properly, and to gather all the information related to him/her, as well as to detect the possible presence of family members or former caregivers in the host country.

Most of the responding States (**AT, BE, CY, DE, EE, FI, HU, IE, IT, LV, NO, PL, PT, SE, SI, SK, UK**) use national databases or records as a family-tracing method.

Two States (**NL, FR**) reported that they do not use national databases for the purposes of tracing.

The access to these databases or records is mostly restricted to the actors responsible for carrying out the relevant searches, including the asylum or immigration authorities, border guards or social services.

- ***In other EU+ States***

This method is applied when there are factors that indicate that family members of the child may be residing in another EU+ State.

As mentioned, 16 out of 18 MS use this method to get the information that might be available in another EU+ State's databases. The Dublin system is found by the responding States to be the most appropriate channel to facilitate this cooperation, as confirmed by 12 replies.

Within the national authorities, the actors involved in this method are mainly the respective asylum or immigration authorities (including the Dublin units).

- ***In the country of origin***

12 States (**AT, BE, CY, DE, EE, IE, IT, PL, PT, SE, SK, UK**) may seek to consult databases/records in the country of origin, while another four States (**FI, FR, HU, NL**) specified that they do not apply this method. Consulting national databases in the country of origin should be conducted taking into account confidentiality considerations and the potential risk for the child and/or for the family member(s). In order to prevent such risks related to contacting the authorities in the country of origin, a thorough risk assessment should be conducted in advance.

The actors involved in this method are mainly the asylum or immigration authorities, the EU+ States' embassies, or international organisations, such as the IOM.

#### **Examples from practice:**

<b>UK</b>	Following a request from the Home Office, Embassy staff will, if appropriate, submit a request to the authorities in the country of origin to obtain family contact details from national records. Such a step is dependent on the availability of such records and on an assessment that it would not put the child and/or the family at risk.
<b>IE</b>	Even if family is found, a child protection risk assessment must be carried out before the child can be reunited with family. Enquiries to the local authorities regarding any child protection concerns must be made and considered.

- ***In third countries***

Safety considerations similar to those regarding the country of origin databases/records apply with regard to collecting relevant information through databases/records in third countries. In order to prevent potential risk for the child and/or family member(s), a thorough risk assessment should be conducted in advance. The use of databases/records in third countries would be applied by eight countries (**AT, BE, CY, DE, IE, NO, SK, UK**), while another three (**FI, FR, NL**) specify that they would not use this method.

The actors involved in the application of this method are mainly the asylum or immigration authorities, embassies or international organisations, such as the IOM.

## **5) Involvement of social services and the guardian of the child**

Social services, especially those in the host EU+ State, play an important role in providing assistance to children within the international protection procedure. Their role in the family-tracing process was highlighted by the national authorities, who may involve them as described below.

- ***In the host country***

In most States, social services are in charge of providing care and assistance to the unaccompanied children, and potentially of facilitating the interaction of the children with other actors within the child protection system.

The appointed guardian of the child must ensure that the best interests of the child are a primary consideration in all the actions concerning the child.

Among others, the responsibilities of the guardian may include cooperation with the respective public authorities and seeking the assistance of relevant other organisations, e.g. the IOM or the Red Cross and Red Crescent National Societies, and assisting the child in family tracing and/or in establishing and maintaining communication and links with his/her family, if this is in the child's best interests <sup>(32)</sup>.

The guardian of the child and the social services are largely involved by the national authorities (**AT, BE, CY, DE, EE, FI, FR, HU, IE, IT, LU, MT, NL, NO, SE, SI, SK, UK**). It is considered as one of the methods which can provide reliable information for the purposes of family tracing as it builds on the relationship of trust between the child and the guardian.

Examples from practice:	
<b>IT</b>	In IT social services initiate the process. Investigations are carried out in order for the social service to prepare tailor-made individual programmes for unaccompanied children and to support the competent authorities in their realisation.
<b>UK</b>	The local authorities have a duty to assist unaccompanied children in their family-tracing endeavours as part of their responsibility to safeguard and promote the welfare of children. Furthermore, the local authorities may be asked to assist the Home Office in its family-tracing endeavours.

- ***In the country of origin***

This method is not as widely applied by national authorities as the former, due to concerns regarding the reliability of the social services in the country of origin. 10 EU+ States would apply this method, as long as the safety of the traced family member(s) and of the child are not jeopardised. Other States (**FI, HU, NL, NO, SK**) specified they would not involve the social services of the country of origin. The actors involved in this method are the EU+ State's embassy and/or the IGO/NGO that is in charge of the tracing in the country of origin.

Examples from practice: involvement of social services in the country of origin	
<b>SE</b>	The Swedish Migration Agency always tries to involve the social service authorities in the country of origin since they are considered to be the competent actor regarding family issues of their own nationals.
<b>FI</b>	<b>FI</b> is of the opinion that governmental agencies should not be used in the tracing of parent(s)/former caregivers(s) of unaccompanied children. However, in some countries of origin, the International Social Service cooperates with local social services. In these cases extra care is taken so as not to reveal any sensitive information to the governmental agencies through the tracing activities.

## **6) Involvement of international organisations, IGOs and/or NGOs**

This method is used by a vast majority EU+ States due to the hands-on experience that these international, intergovernmental (IGOs) and non-governmental (NGOs) organisations may have in the country of origin of the child. Some of them have become specialised tracing services with formal or informal local networks that facilitate contact with the local communities, to which the family of the child may belong. In some States, the responsibility of initiating the contact with these organisations is on the child's representative/guardian and, consequently, the asylum/immigration authorities would not be involved in this cooperation. Therefore, in most cases the actors involved are the international organisations, IGOs, NGOs, the representative/guardian of the child and/or the child. Some of the mentioned organisations are not willing to start a family-tracing process unless it has been requested by the child or by his/her representative/guardian or when not enough necessary information is available.

The above organisations which may play a particularly important role for family tracing in the country of origin/third country are the IOM, ICRC and UNHCR. Six MS (**CY, DE, FI, IE, NL, UK**) noted that they may involve ISS in the family-tracing process.

<sup>(32)</sup> FRA, *Guardianship for children deprived of parental care — A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking* (June 2014). <http://fra.europa.eu/en/publication/2015/guardianship-children-deprived-parental-care>.



### International Social Service

The ISS is an international, non-governmental organisation that undertakes family tracing within a global process aimed at protecting and assisting unaccompanied children. To that purpose, it has developed an inter-country casework comprehensive approach, based on key working principles, such as a child-focused approach, confidentiality and impartiality, etc.

Each inter-country case is referred from one member to another member of the ISS network on the basis of a detailed methodology. All professionals involved work within a coordinated system and perform family tracing not only to re-establish and maintain family links, but also to assess the current situation of the family and gather information on the child's background in order to be able to provide the child with appropriate support, as well as to define and prepare a durable solution for him/ her.

### International Red Cross and Red Crescent Movement

The Family Links Network of the International Red Cross and Red Crescent Movement — comprised of the ICRC and of 189 National Societies — helps people to look for family members when they have lost contact, including those separated as a consequence of migration. The aim of these activities is to alleviate the suffering of people who have no news of their families, and they are conducted in accordance with the principle of independence, neutrality, impartiality and humanity.

The first step and initial tool used to look for a missing person is the tracing request form. This form enables a family member (enquirer) to request a search for a relative with whom he or she has lost contact. The term family must be understood in a broad sense, to include all those who consider themselves and are considered by each other to be part of the family. Each case is examined individually. The tracing request should contain all available information to help search for the missing person and to maintain contact with the enquirer.

The tracing request is usually completed by a member of staff of the National Society or the International Committee of the Red Cross (ICRC) during an interview with the family member of the sought person.

Whenever possible, the Family Links Network follows up personally on a tracing request by instructing staff or volunteers to carry out a search for a person in areas where this person might be living or where reliable information might be collected on his or her whereabouts.

The personal data of the enquirer or the sought person is only published or disclosed to other organisations or to the authorities for a clear humanitarian purpose, when it is in the best interest of the sought person, and with the consent of the enquirer.

Within this framework, the Family Links Network is ready to assist children who are looking for their family members, as it is ready to assist family members looking for their children. This is done in line with the following principles:

- The tracing request must be initiated from the child (or in certain circumstances the legal guardian) looking for his or her family members, or from the parents looking for their children.
- The decision of the sought person must be respected. No information about the sought person can be disclosed without his or her consent.
- The person who initiated the tracing request must be informed about the results. This information cannot be shared with third parties without the informed consent of the concerned person.

## 7) Other methods

Some MS use diplomatic services to request information which is not available in the host country. For instance, information regarding the reception conditions in the country of origin may be requested from the national embassies (BE <sup>(33)</sup>, CY).

A persistent challenge for EU+ States is the lack of embassies in key countries of origin (including Afghanistan, Iraq and Somalia), which makes it also particularly difficult to gather country of origin information and/or make field contacts.

<sup>(33)</sup> BE for non-international protection procedure.

## C Procedural safeguards in practice

### 1) Role of the guardian

Chapter 2 of this publication addresses the principles that guide the role of the guardian as an important safeguard for the rights of the unaccompanied child. This section further addresses the practical approach of EU+ States in this regard and the diversity of functions which guardians are assigned within the family-tracing process.

The role of the guardian, as noted by EU+ States is to:

- Represent the child's interests: **BE, EE, IE, LT, LV** and **PL**;
- Ensure the best interests of the child: **AT, BE, CY, IT, LV, NL** and **SE**;
- Ensure that all safeguards are guaranteed: **AT, BE, CY, HU, LV** and **SK**;
- Take care of and assist the child: **BE, DK** and **HU**;
- Be a person of trust and a proxy for communication with other relevant actors: **BE, DE, LU** and **UK**.

The specific involvement of the guardian in the family-tracing process may include:

<b>The guardian is responsible for contacting the international IGO or NGO to initiate family tracing.</b>	• BE, DK
<b>The guardian is informed and consulted during the process and supports the child.</b>	• AT, BE, DK, FI, IT, MT, NO, PL, SE, SK, SI, UK
<b>The guardian is consulted during the process; his/her consent is required.</b>	• IT
<b>The guardian is consulted but consent is not required.</b>	• BE, FI

### 2) Child's right to information

The responding EU+ States confirmed that a key element in involving the child and guaranteeing his/her participation in the family-tracing process is keeping the child informed. The right to information in the family-tracing process includes as a minimum:

- the right to be informed about the aim of family tracing and the process itself;
- the right to be informed about the potential consequences and impact on his/her current situation or future circumstances;
- the right to be informed about any progress that is being made in this respect.

All responding States (**AT, BE, CY, DE, DK, EE, FI, HU, IE, IT, LU, LV, MT, NL, NO, PL, PT, SE, SI, SK, UK**) provide the child with information about the family-tracing process, either orally or in writing.

However, there are divergent practices with regard to the specific modalities of the provision of information. Some of the countries (**BE, CY, FR, HU, PL, UK**) inform the child at all stages of the procedure and about all the steps, whereas others (**AT, DK, FI, NO**) communicate only the initiation of the process and the results (or if appropriate the impossibility to initiate family tracing). One State (**AT**) informs the child directly upon his/her request. The rest of the States communicate the information through other actors, mainly through the child's guardian or social worker, but also through the legal representative, or through the international, intergovernmental and non-governmental

organisations in charge of the tracing. The chart below represents who communicates the information about family tracing to the child in the EU+ States.

Information is provided to the child through:				
guardian	legal representative	immigration/asylum case officer	social services	International Organisations /NGO
BE, DE, DK, EE, LU, NO, SE, SK, UK	FI, FR, LV, NO, SE, SI	AT, HU, NL, NO, SE	CY, FR IE, IT MT, UK	IE, PL, PT

### 3) Principle of confidentiality

Family tracing, especially in the context of international protection procedures, is a complex process which involves many different considerations. As mentioned in Chapter 2, the principle of confidentiality is an important safeguard which needs to be taken into account in order to guarantee the safety of the child and other actors involved. This section looks into the different approaches of the EU+ States for ensuring that the principle of confidentiality is observed in practice.

In the context of data protection and maintaining confidentiality, the national authorities encounter certain challenges with regard to transferring information securely, particularly to countries of origin or third countries if there is no embassy present. The challenge is how to communicate and to work with third countries that are not subject to EU standards and may not have corresponding data protection legislation.

The following table reflects the different national procedures as regards confidentiality in the family-tracing process:

The rules of confidentiality followed with regard to family-tracing procedures fall under two main categories:

- Foreseen in National data protection legislation (10 countries): **AT, BE, IT, LU, NL, NO, PL, SE, SI** and **UK**;
- Specific confidentiality rules applicable in the international protection procedure (13 countries): **BE, DE, HU, FR, LT, LV, MT, NO, PL, PT, RO, SK** and **UK**.

In accordance with the applicable national regulations, personal information cannot be transmitted in six of the EU+ States (**DE, EE, IE, LV, PT, SK**). In **DE** and **EE** exceptions are made with regard to the child's representative/guardian, who could receive personal information about the child.

Where personal information can be shared, this could take place as follows:

with competent authorities	with tracing organisations	with country of origin
<ul style="list-style-type: none"> <li>• AT, BE, BG (only for the purposes of international protection and among the States party to the 1951 Geneva Convention)</li> <li>• CY, DK, IT, HU, LT (with written consent)</li> <li>• LU (with written consent)</li> <li>• MT (only required information)</li> <li>• PL, SI, UK.</li> </ul>	<ul style="list-style-type: none"> <li>• CY, FI (to the Finnish diplomatic mission or UNHCR — only information necessary for tracing)</li> <li>• IE, IT (to IOM obliged to comply with internal data protection rules).</li> </ul>	<ul style="list-style-type: none"> <li>• AT (when international protection is not granted and data is required for entry authorisation)</li> <li>• NO (only upon risk assessment).</li> </ul>

### Examples from practice: the principle of confidentiality

- FI** Family tracing is conducted via trusted partners, who have been informed of the requirement of confidentiality. The Finnish Immigration Service currently uses the International Social Service (ISS) as its main tracing partner. The issue of confidentiality was addressed during the contract negotiations; it is included in the contract and was confirmed again during later stages of the cooperation. Apart from the ISS, **FI** conducts family tracing only through trusted partners such as the Finnish diplomatic representation abroad or, in exceptional cases, the UNHCR. When making a tracing request, only the information that is needed for tracing is communicated to the tracing partner. For example, the grounds for the application for international protection or other sensitive information would not be shared. Tracing is not initiated if it is considered that revealing confidential information might jeopardise the safety of the child or the family.
- PT** Staff members working with unaccompanied minors shall have or receive appropriate training concerning minors' needs, and shall be bound by the confidentiality principle in accordance with Portuguese law concerning any information they may obtain in the course of their work.




### 4) Verification of family links

As mentioned in Chapter 2, once family tracing has resulted in finding the family member(s) according to the available information, the family links still need to be verified. This stage of the process is aimed at confirming the existence of the family relationship between the child and the sought family member. It aims to prevent contact with a false family member due in particular to safety considerations. Establishing contact with a person without prior verification of the family links may put the child at risk, for example of being trafficked or re-trafficked.

Before exploring the topic of verification of family links, it should be highlighted that there are diverging definitions of who is a family member according to the national legislation of EU+ States. The EU legal *acquis* itself contains different concepts of family members encompassing different kinships, depending on the pursued purposes of the specific legal instrument <sup>(34)</sup>.

The majority of the responding EU+ States do not have a specific definition of family members for family-tracing purposes (**AT, BE, BG, DE, FR, LT, LV, LU, MT, PL, PT, RO, UK**). In contrast, eight States confirmed that their legislation or policy contain a specific definition for family member in the family-tracing process (**CY, FI, HU, IT, NL, NO, SI**).

The table below illustrates the different approaches of EU+ States to defining 'family members':

	<b>nuclear family only</b>		<b>nuclear family and relatives</b>		<b>broader interpretation</b>
	one degree in direct line mother and father (including adoptive parents)		different approaches to defining 'relatives' may include siblings, grandparents, aunts and uncles, relatives living with the family, extended family		different approaches, relying also on the views of the child may include former caregivers or others with no family link

What family links are considered for the family-tracing process?			
EU+	Only nuclear family (one degree in direct line)	Nuclear family and relatives	Broad interpretation
AT	According to the RCD definition		
BE			Based on unaccompanied child declarations — depending on his/her family network
BG	According to the Family Reunification Directive definition		

<sup>(34)</sup> See the glossary for additional information.

What family links are considered for the family-tracing process?			
EU+	Only nuclear family (one degree in direct line)	Nuclear family and relatives	Broad interpretation
CY		Nuclear family (biological and adoptive parents) and specified relatives (grandparents, siblings and aunts/uncles)	
DE		According to the Dublin III Regulation recast	
DK			Any relative considered as close by the child
EE		First- and second-degree relatives	
FI			Parents or parental guardianship
FR			Parents or parental guardianship
HU			Person responsible for the minor
IE		Immediate and extended family	
IT		Within the fourth degree	
LT			
LV	According to RCD definition		
LU			Persons who have shared a household with the applicant, even where there is no family link
MT		Case by case, but at least parents	
NL			Parents, relatives within the fourth degree, the spouse, friends, neighbours, fellow tribesmen, clansmen or villagers
NO		Nuclear family and specified relatives (grandparents, siblings and aunts/uncles) on a case-by-case basis	
PL		According to the Dublin III Regulation recast	
PT			Family Reunification Directive definition, as well as younger siblings, legal guardian, other family members if no direct ascendants
RO			Legal representative or any adult responsible (uncles, adult siblings or grandparents)
SE		Parents and close relatives if living with them in the country of origin	
SI		Parents and other relatives	
SK			Applied in case it is substantiated with due reasons
UK			Nuclear family, relatives (uncles, cousins or grandparents), legal guardian

As illustrated below, there is also a wide range of practices concerning what means are being used by the national authorities to verify the family links between the child and the family member.

The vast majority of EU+ States (17) rely on the information provided during the **interview with the child** to verify the links.

**Documents**, such as identification documents, civil status certificates, visas, etc., may also be an important element in the verification of family links. Documents may be required by 16 States in order to verify family links. However, in many cases documents that certify the family link may not be at the family member's or at the child's disposal.

Other means may also be used to substantiate the presumed family relationship, such as:

- **interview with the family member** (10 States): the interviewer may be able to double check the information provided by the child or assess the credibility of the statements by asking additional questions (e.g. fill in a family tree);
- **DNA test** (six States): In some EU+ States the DNA testing fees need to be paid by the applicant for international protection, however if the DNA testing is positive, some States reimburse the costs to the applicant;
- **embassy investigation** (five States);
- **contact with the country of origin** (four States);
- **use of external resources** (five States): where the resources such as those of international organisations are used.

The previous information is summarised in Table 2 included in Annex 5 of this publication.

### 5) Effective remedy

In some EU+ States (**BE, DK, LV, NO, PL, SE, SK, SI**) the family-tracing process does not entail an administrative procedure, but rather takes the form of an assessment. Therefore, no individual decisions are taken and, consequently, there are no mechanisms to review them.

In other States (**AT, HU, FI, NO, PT, UK**) family-tracing decisions may be taken within the decision on international protection, therefore they can be appealed and reviewed within the framework of the appeal procedures foreseen for decisions on applications for international protection.

In **IE** and **MT**, family-tracing results may be a determining factor in the development of the care plan for the specific child. Consequently, family-tracing decisions may be reviewed through the care plan review mechanisms.

Only one State (**DE**) has a specific mechanism in place for reviewing family-tracing decisions.

Other States (**CY, IE, NO, UK**) continuously collect, evaluate and indirectly review additional information after a decision has been taken.

## D. Challenges

EU+ States face several specific challenges in the context of family tracing. In this respect, national authorities mostly reported difficulties in collecting the necessary information to proceed with the tracing, including unwillingness and/or inability of the child to disclose information about his/her family or unwillingness and/or inability of the family to restore contact with the child.

### Lack of information

The EU+ States adopt different tools and measures to overcome the issue of lack of necessary information to proceed with the family-tracing process.

The responding States reported that measures to overcome the lack of information are adopted on a case-by-case basis. In some cases, different measures are adopted simultaneously in order to be more effective.

The most common measure is to inform the child about the lack of information and interview him/her again (**AT, BE, HU, NL, SE, UK**). Nine States (**AT, BE, CY, DE, FR, HU, NL, UK**) would adopt other additional measures, such as an information request to the guardian (**BE**), contacting intergovernmental organisations (**CY**), conducting further investigations through the relevant diplomatic missions (**BE**<sup>(35)</sup>, **FR**) and/or through the Dublin system or other parties (**DE, SI**). Two States (**DK, SK**) noted that the process would be suspended until further information is obtained. In case there is no sufficient information, some States (**FI, LT, NO, PT, RO**) conclude the tracing endeavour and continue, if applicable, with the asylum procedure.

<sup>(35)</sup> Non-international protection procedure.

Some States provide alternative safeguards in order to keep the child under their protection system, such as provision of the residence permit based on humanitarian grounds (**MT, PL**) or protection of the social care system (**IE** <sup>(36)</sup>, **IT, LT**). However, this approach may not necessarily be in the best interests of the child and an assessment is necessary in each individual case (e.g. especially when the status offered expires at the age of majority and a durable solution has not been identified for the child).

#### Suspend the tracing until it receives more information

- DK, SK

#### End tracing and continue the asylum procedure

- FI, LT, PT, RO, NO

#### Adopt additional measures to get more information

- AT: encourage contact with child and family;
- BE: child additional hearing, information request to guardian; further diplomatic investigations;
- CY: contact with IGO;
- DE: and SI continue searching through Dublin or other parties;
- FR: Further diplomatic investigations;
- HU: country-specific form;
- NL: more interviews with the minor;
- SE: tries to proceed;
- UK: informs the child to try other avenues and get additional info.

#### Child remains under protection of the EU+ State

- LT: remains under the protection of the State;
- PL: humanitarian protection;
- MT: if not international protection, temporary humanitarian protection is provided;
- IT: remains under the protection system;
- IE: full social service care is provided.

#### No experience

- BG, EE, LV, SI

### Unwillingness or inability of the child to disclose family information

The child's statements are largely acknowledged as a very important source of information. Therefore, the consent and participation of the child in the process are essential not only for achieving a successful tracing, but also as important safeguards. Acquiring the informed consent of the child minimises the risk of receiving false requests which may be made when family tracing is imposed on a person. False requests may further jeopardise the tracing services in countries of origin or third countries.

Children are more likely to provide information when they feel safe and are kept informed about the process in an age-appropriate manner. The guardian can play a key role in building a relationship of mutual trust with the child; at this point such a relationship could help to identify the real reasons why a child will not disclose family information. Information regarding the reasons of the child not to disclose further information may be very relevant for the assessments of risk as well as for assessing the best interests of the child.

<sup>(36)</sup> In IE, an assessment is required to determine if this is in the best interests of the child.



When consent cannot be obtained, the reasons for the unwillingness or inability of the child to provide relevant information should be explored. Reasons that may provoke the unwillingness of the child to provide information and lack of consent to the process are diverse. For example, the family may have instructed the child not to disclose any family information to the authorities, as they may fear that revealing the parents' whereabouts may result in immediate return; the child him/herself may feel that he/she is on a mission, with the task to create an income for the household; he/she may have been trafficked by the family or with their consent, in some cases children do not consider themselves as victims of abuse or of harmful traditional practices in his/her family (forced marriages, female genital mutilation, etc.). It might also be that the child fears that the family would face serious harm or persecution if they were traced.

The child might not be able to disclose any information on his/her family. This might happen for various reasons: for example, when separation took place a long time ago or due to the age of the child; or he/she could have lost the contacts. It is also possible that the child has incorrect information about his/her parents.

Depending on the reasons for the unwillingness or inability of the child to provide information, EU+ States may adopt different approaches.

11 States (**BE, FI, HU, IE, LU, NL, NO, PT, SE, UK**) reported that they would initiate or proceed with family tracing in spite of the child's unwillingness or inability to disclose information about his/her family. **BE, IE** and **NO** noted that they would initiate or continue family-tracing proceedings even if the child was unwilling to cooperate. **FI** and **LU**, on the other hand, noted that they would proceed only if the child was willing, but unable to provide such information. In such cases, some national authorities (**FI, LU, NL, PT**, and **SE**) will try to find other ways to obtain necessary information, such as interviewing other family members present in the EU+ territory (**FI**) or discussing the case with the legal representative/guardian (**SE**). Other States may start or continue the tracing with the available information (**DK, FR, HU, LU, NO, UK**).

On the other hand, nine States (**AT, DE, DK, FI, IT, MT, PL, RO, SK**) reported they would not proceed with the family tracing in cases where the child was not willing to disclose the information. In **DK**, an exception would be made if the child had been exposed to trafficking. In **CY**, authorities would wait to obtain the consent of the child to cooperate at a later stage in order to start or continue the tracing.

#### Example from practice: cooperation with child protection services

**PT** When there is a lack of information to proceed with the tracing, the Portuguese authorities (*Serviço de estrangeiros e fronteiras* (SEF)) decide on the application for international protection of the unaccompanied minor. Following that, the SEF always asks the institutions that host the unaccompanied minor when relevant information is obtained about the family, in the course of the everyday life, to transmit it to the authorities in order to initiate or continue family tracing.

#### Unwillingness of the family to restore contact with the child

The issue of the family member's unwillingness to restore contact with the child is closely linked to the question of consent, i.e. who is required to provide consent when the information sought and shared relates not just to the child, but also the family member being sought. It is, therefore, crucial to work on the concept of consent from both sides. The 'right not to be found' may limit or stop tracing in some cases.

The reasons for this unwillingness must be explored by the responsible actors. In some cases, the parents have arranged the journeys and in their opinion it is in the child's interests to remain unaccompanied in the EU+ State where he/she is.

The national authorities hold different approaches concerning this issue. Some would respect the decision of the family member(s) of not making the contact with the child; others may undertake a best interest of the child assessment/determination on the basis of the overall information, exploring the reason for the unwillingness. In two cases (**FR** and **PT**), the return decision will be made by a judge, taking into account all the elements. Two other States specified that they will try to re-establish the contact with the family at further stages of the asylum or immigration procedure (**CY** and **UK**).

In cases where no safety issues are detected and the child confirms his/her willingness to reunite with the family, but the family is unwilling to receive the child, success depends on initiating and maintaining a dialogue with the family.



## Chapter 4: Conclusions and Recommendations

This chapter seeks to highlight the key points that should be taken into consideration when conducting family-tracing activities. In addition to them, key recommendations are included in order to raise procedural standards and to promote an effective and common family-tracing process.

### Conclusions

- The **purpose** of family tracing is to find information regarding an unaccompanied child's family members or former caregivers. In case of successfully tracing the whereabouts of his/her family members and if this is in the child's best interests, family tracing may lead to re-establishing family relations. Ultimately, it may lead to reunification of the child with the family member(s) in the host country, in a third country or in the country of origin, when in the best interests of the child.
- It is fundamental to ensure that unaccompanied children within the asylum process are treated **first and foremost as children**, benefiting from all rights under the CRC on an equal basis with national children.
- Most of the **rights and principles enshrined in the CRC** have a clear implication in the family-tracing process.
- The recast EU asylum *acquis* introduces specific obligations for family tracing, reinforces **the principle of the best interests of the child and strengthens the procedural safeguards** for unaccompanied children.
- The **guardian and/or the representative of the child** plays a key role in the family-tracing process. By building a mutual trust relationship with the child, the guardian is in a position to obtain reliable information necessary for the tracing activities.
- **Independence of the guardian** is crucial in order to ensure that when the decision goes against the child wishes, the child's best interests are given a primary consideration.
- The **right to information and child participation involving the child in the process (right to be heard)** require sharing with the child, in a child-friendly manner, information about the family-tracing process and about its potential outcomes. The practices of EU+ States in this regard vary considerably.
- The principle of **confidentiality** in the family-tracing process affects not only the information concerning the child but also the personal information of those affected by the process (family members being traced, etc.).
- In practice, the **timing** for initiating the tracing activities 'as soon as possible' depends on a number of factors, including the child's and family's safety, the assessment of the best interests of the child, the information available or the opportunity to obtain information.
- The **actors** involved in the process vary among the EU+ States. Their involvement in the initial assessment or at later stages of the family-tracing process depends on the national set-up and on in-depth analysis of the individual situation of the child.
- Tracing family members **is a right that children are entitled to** and not a responsibility that should lie on them. The EU asylum *acquis* establishes a clear **obligation for national authorities** to initiate family tracing and to facilitate restoring of family links when in the best interests of the child. While the child is one of the key actors in the process, it doesn't imply an obligation on the child concerned.
- The interview of the child, the involvement of international, intergovernmental and non-governmental organisations and the involvement of the social services are the three **methods** used most widely by EU+ States to undertake the tracing.
- Diverging definitions of who is a **family member** have been identified depending on the purpose of the respective EU legal instrument, on the relevant national regulation or based on the margin of appreciation left to each

national authority. The majority of the responding States do not have a specific definition of family members for the family-tracing purposes.

- The **verification of family links** is a process aimed at authenticating the existence of the family relationship between the child and the sought family member. Besides the statements of the child and the found family member, documents are commonly required by national authorities to verify family links. However, in many cases documents that certify the family link may not be at the family member's or at the child's disposal <sup>(37)</sup>.

## Recommendations

The following recommendations should be applied when performing tracing activities, taking into account the child's best interests:

### Before initiating family tracing

- National authorities should set up a **mechanism or a protocol to regulate the family-tracing process** according to the national framework. It should include the main steps to be followed, the responsible actors and the possible methods to be used according to the scope of the process (within EU+ or outside the EU+ territory) and the procedural safeguards to be guaranteed.
- A **best interests of the child assessment** must clarify if the family-tracing process should be initiated or not. It should be verified that the tracing process does not jeopardise the fundamental rights of those being traced. Particular attention should be given to this aspect when family tracing takes place in the country of origin or a third country.
- A **guardian** should be appointed as soon as possible and thus the unaccompanied child should be provided with the support and protection of a legal guardian or another responsible adult or a competent public body at any time.
- Moreover, the guardian should always be consulted in order to ensure that family tracing is in the **best interests of the child**. The guardian should be involved in the assessment of the best interests of the child.
- Once it is confirmed that tracing is in the best interests of the child, the family-tracing process should be initiated **without undue delay and prioritised** while respecting the procedural safeguards. However, a period of reflection and rest for the child is advisable.
- In this regard, it should be taken into account that the responsible officer, the guardian of the child and/or the child's representative may need time for building a relationship of trust with the child which may be necessary to obtain the minimum information needed to initiate the process, as well as to assess child's best interests.
- Ensuring that the child understands **the reasons, the procedures and the outcomes of family tracing**, i.e. re-establishing family contact where lost, is crucial to obtain better cooperation and accurate information about family whereabouts. Information for the child should be provided in a child friendly manner and in a language that the child understands.
- EU+ States should take into account the **views of the child**. The child should be given an effective opportunity to express his/her views regarding initiating the family-tracing process and the family members to be traced.
- If national authorities adopt a decision contrary to the child's views, the decision should be **documented and explained to the child** reflecting what other factors have had greater weight when adopting this decision.
- For family-tracing purposes, EU+ States should consider applying a broader definition of **family members** taking into account the background of the child, the particular circumstances of dependency and his/her best interests.
- Different arrangements should be put in place to ensure that **cooperation with international and other relevant organisations** facilitates an effective family-tracing process in full consideration to the best interests of the child as the overarching principle including specific cautions on safety of the child and all actors involved.

<sup>(37)</sup> UN High Commissioner for Refugees (UNHCR), *Safe and Sound: What States can do to ensure respect for the best interests of unaccompanied and separated children in Europe*, October 2014, available at <http://www.refworld.org/docid/5423da264.html>. 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 (Article 3, para. 1), 29 May 2013, available at [http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC\\_C\\_GC\\_14\\_ENG.pdf](http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf).

- The specific methods for family tracing, the potential actors to involve and the possible means of collecting information should also be determined in full consideration of **safety guarantees**.
- When the child is an international protection applicant, the decision on his application is very important to establish if the family tracing's outcome (restoration of family contact and possible reunification with the family) is in the best interests of the child and will not put the child or family members at risk.

## During the process

- All efforts should be made to **re-establish family links** between the unaccompanied child and his/her parents if it is in his or her best interests.
- The process should be undertaken on a **confidential basis**, in particular, when tracing no reference should be made to the status of the child as an applicant for or a beneficiary of international protection. Special consideration should be taken for children that are presumed or identified as victims of trafficking in human beings.
- The **guardian and/or the representative** of the unaccompanied child should be involved in the family-tracing process to the greatest extent.
- All the actors in contact with the child during the process, including the guardian, should provide similar information regarding the tracing process to the child. It is crucial that the child perceives **consistency in the information** and understands that the primary aim of family tracing is to restore family links if it is in his or her best interests (EU+ States may consider developing protocols for the specific **sharing of information** related to all aspects of the family-tracing process. Strict precautions must be taken for the safeguarding of sensitive information.
- No reference about the status of the child in the international protection process (applicant or recognition) should be made during the tracing process.
- In cases of presumed or identified victims of trafficking, the **consent of the child** should be sought if the child has the capacity to give it. A risk assessment should be conducted before sharing information on the whereabouts of the child.
- The child should be properly **informed and consulted** about the family-tracing process as well as any progress made in this respect.
- In case of lack of documentary evidence for the verification of family links, Member States should take into account the following elements and apply the **benefit of doubt** when taking into consideration:
  - children's views according age and maturity;
  - the difficulties or impossibility for applicants for international protection, and especially children, or their family members to obtain and provide documentary evidence to prove their identity or their family links;
  - all possible means to prove the existence of the family relationship, ensuring that the selected method does not put the child and the family at risk;
  - the implementation of the benefit of doubt must not replace the verification of the family links.
- Although a separate decision is usually not issued, the **legal requirements and procedural safeguards** regarding challenging asylum decisions also apply when referring to the family-tracing results<sup>(38)</sup>. In particular, the following safeguards should be applied:
  - decisions must be motivated (including factual circumstances and legal reasoning), justified and explained with clear reference to the relevant elements in the best interest assessment and how they have been weighted to determine the child's best interests;
  - unaccompanied children and their guardians and/or representatives shall be provided with legal and procedural information;
  - applicants should be provided with a reasonable period of time to exercise their right to effective remedy;
  - legal assistance and representation should be provided free of charge according to applicable modalities;
  - interpretation should be provided free of charge where necessary.

<sup>(38)</sup> Further guidance can be found in *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 (Article 3, para. 1), 29 May 2013, available at [http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC\\_C\\_GC\\_14\\_ENG.pdf](http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf).

- Given the importance that the results derived from the family-tracing process may have on determining a durable solution for the child and on his/her development into adulthood, it is essential that **rigorous safeguards** are applied during the process.

### **After the family-tracing process**

- Once the family-tracing process is completed, before any further action is taken, the EU+ States should conduct an assessment to establish the way forward in the child's best interests.

### **Strengthening cooperation:**

- **with other EU+ States**, including the creation of a dedicated network on family tracing, is key not only for facilitating the family tracing process within the Dublin system, but also in the general exchange of expertise and good practices and the possibility to benefit from the experience and resources of other EU+ States;
- **with third countries** is a complex, but essential aspect to family tracing. Efforts in this regard should be made in full consideration of potential safety implications;
- **between different actors** is of particular importance in the field of family tracing, where national authorities may benefit from the long-term experience of international and other relevant organisations in this field. It is particularly important to involve child protection authorities and social services in the family-tracing process. Furthermore, the expertise of different actors (guardian, social worker, etc.) would ensure that a thorough assessment of the best interests of the child is a prerequisite for family tracing.

# Annex 1: Glossary

## Methodology

During the course of discussions held on family tracing in the expert meetings organised between 2013 and 2015 by EASO, a diversity of practices was identified, both between EU+ States and other expert organisations, on the use of terms relating to aspects of family tracing.

This glossary is mainly aimed at identifying and/or developing a common understanding of the most relevant terms used in the family-tracing process. In addition, it includes terms that are mentioned in the narrative of the guide although they are not further explored in the publication (for example adequate reception conditions, best interest determination, durable solutions, family assessment, etc). The purpose of the definitions compiled in the glossary is to serve as a source of reference to be used in practice by the relevant actors in the family tracing field, such as members of the EASO Network on Activities of Children (ENAC), EU+ States' policy-makers, or other practitioners in general.

The glossary's structure contains:

- **The selected term** in alphabetical order with the **synonym** if applicable.
- **The definition:** some definitions have been partially adapted from the original source in order to be more child focused and better reflect the practical context of family tracing. Among the different definitions and understandings of each term, EASO has prioritised:
  - the legal definition (if applicable);
  - the child-focused definition;
  - the definition addressed to unaccompanied children;
  - the definition closest to the family tracing context;
  - the most comprehensive definition from a practical perspective.
- **Additional information** includes relevant information to complement the definition of the term.
- **Related terms** include terms derived from the main term (such as best interest determination or assessment from the best interest of the child) or terms which are closely interlinked (family member and relative, etc.) or when their comparability would be helpful for the reader (smuggling and trafficking).
- **Sources** of the definitions:
  - legal definitions given by the EU legal instruments (regarding asylum, immigration in general) but also international instruments including conventions, protocols, etc.
  - guidelines, reports, handbooks and other materials provided by other EU agencies and international organisations (such as FRA, IOM, OHCHR, UNHCR).

(Where necessary, the source definitions have been amended in order to better reflect the context of family-tracing processes or to be more child focused.)

- **Legal reference** to the relevant provisions of the legal framework.

TERM AND SYNONYM	DEFINITION	RELATED TERMS (Not to be confused with main term)	SOURCE	LEGAL REFERENCE
1. Adequate reception conditions	<p>A standard of living adequate for the minor’s physical, mental, spiritual, moral and social development.</p> <p><b>Additional information</b></p> <p>For international protection applicants:</p> <ul style="list-style-type: none"><li>• Material reception conditions include housing, food and clothing, and a daily expense allowance, which aim to ensure applicants’ subsistence and basic needs. These may be provided in kind, or in the form of financial allowances or vouchers or in a combination of these provisions.</li><li>• Non-material reception conditions would consist of emergency healthcare, medical care, psychological care, free legal assistance, interpretation services and access to education, vocational training and employment.</li><li>• Basic reception conditions include access to healthcare, education and employment.</li></ul> <p>For unaccompanied children:</p> <p>The best interests of the child shall be a primary consideration for Member States.</p> <ul style="list-style-type: none"><li>• MS shall carry out an individual needs assessment of the child’s special reception needs.<ul style="list-style-type: none"><li>– The assessment should be initiated within a reasonable period of time and repeated regularly.</li><li>– Regular assessments shall be made by the appropriate authorities, including as regards the availability of the necessary means for representing the unaccompanied minor.</li><li>– The assessment should be monitored throughout the duration of the asylum procedure.</li></ul></li><li>• Support, such as access to education, access to healthcare, should be provided.</li><li>• Access to leisure activities, including play and recreational activities appropriate to their age within the premises and accommodation centres, should be provided.</li><li>• MS should, as soon as possible, take measures to ensure that a representative represents and assists the unaccompanied minor to enable him or her to benefit from the rights and comply with the obligations.</li></ul> <p>(Source: EMN, <i>The Organisation of Reception Facilities for Asylum Seekers in different Member States</i>.)</p>		Article 23(1) RCD	Article 23(1) RCD Article 27(1) CRC

TERM AND SYNONYM	DEFINITION	RELATED TERMS (Not to be confused with main term)	SOURCE	LEGAL REFERENCE
<b>2. Best interests assessment (BIA)</b>	<p>a) A unique activity that should be undertaken in each individual case, in the light of the specific circumstances of each child or group of children or children in general. These circumstances relate to the individual characteristics of the child or children concerned.</p> <p>b) Consists of evaluating and balancing all the elements necessary to make a decision in a specific situation for a specific child or group of children.</p> <p>c) An ongoing procedure for making decisions about what immediate actions are in an individual child's best interests, e.g. protection and care interventions. They are holistic and conducted by staff with relevant professional expertise.</p> <p><b>Additional information</b> According to the EU asylum <i>acquis</i>, when assessing the BIC, MS shall in particular take due account of the following:</p> <ul style="list-style-type: none"> <li>a) family reunification possibilities;</li> <li>b) the minor's well-being and social development, taking into special consideration the minor's background;</li> <li>c) safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking;</li> <li>d) the views of the minor in accordance with his or her age and maturity.</li> </ul> <p>According to UNHCR, <i>Safe and Sound</i>, the concepts of best interests assessment (BIA) and best interests determination (BID) can be understood as part of the same process, which starts in principle as soon as an unaccompanied or separated child is discovered and ends when the child has obtained a durable solution to her or his situation of separation and of displacement from country of origin or place of habitual residence.</p> <p>(Source: UNHCR, <i>Safe and Sound</i>, <a href="http://www.refworld.org/docid/5423da264.html">http://www.refworld.org/docid/5423da264.html</a>.)</p>	<p><b>Best interest of the child</b></p> <p><b>Best interest determination</b></p> <p><b>Risk assessment</b></p>	<p>a) and b) UNHCR, General Comment No 14, 2013, <a href="http://www.refworld.org/docid/51a84b5e4.html">http://www.refworld.org/docid/51a84b5e4.html</a></p> <p>c) UNHCR, <i>Safe and Sound</i>, <a href="http://www.refworld.org/docid/5423da264.html">http://www.refworld.org/docid/5423da264.html</a></p> <p>UNHCR, General Comment No 6, paragraph 31</p>	<p>Article 3 and Article 3(1) CRC</p> <p>Recitals 9 and 22, Article 2(j) and Article 23(2) RCD</p> <p>Recital 33 and Article 25(6) APD</p> <p>Recitals 18, 19 and 38 and Article 20(5) and Article 31 QD,</p> <p>Article 24, EU Charter of Fundamental Rights</p>



TERM AND SYNONYM	DEFINITION	RELATED TERMS (Not to be confused with main term)	SOURCE	LEGAL REFERENCE
<b>3. Best interests of the child is the child (BIC)</b>	<p><b>Best interests of the child is</b></p> <p>a) a threefold concept: a substantive right, a fundamental and interpretative legal principle and a rule of procedure aimed at ensuring both the full and effective enjoyment of all the rights recognised in the Convention of the Rights of the Child and the holistic development of the child;</p> <p>b) the well-being of the child: in a broad sense this includes their basic material, physical, educational and emotional needs as well as needs for affection and safety.</p> <p><b>Additional information</b></p> <p>In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>MS shall ensure a standard of living adequate for the minor's physical, mental, spiritual, moral, social development.</p> <p>In assessing the BIC, MS shall in particular take due account of the following:</p> <ol style="list-style-type: none"> <li>family reunification possibilities;</li> <li>the minor's well-being and social development, taking into special consideration the minor's background;</li> <li>safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking;</li> <li>the views of the minor in accordance with his or her age and maturity.</li> </ol> <p>The UN Committee on the Rights of the Child expects States to interpret development as a 'holistic concept, embracing the child's physical, mental, spiritual, moral, psychological and social development on a case-by-case basis: it should be adjusted and defined on an individual basis according to the specific situation of the child or the children concerned, taking into consideration their personal context, situation and needs'.</p> <p>The UNCRC recalls that there is no hierarchy of rights in the Convention; all the rights provided for therein are in the 'child's best interests' and no right could be compromised by a negative interpretation of the child's best interests on the right of the child to have his or her best interests taken as a primary consideration.</p> <p>(Sources: Article 3(1) CRC: UNCRC, General Comment No 14, 2013, <a href="http://www.refworld.org/docid/51a84b5e4.html">http://www.refworld.org/docid/51a84b5e4.html</a>.)</p>	<p><b>Best interest assessment</b></p> <p><b>Best interest determination</b></p>	<p>a) UNCRC, General Comment No 14, 2013, <a href="http://www.refworld.org/docid/51a84b5e4.html">http://www.refworld.org/docid/51a84b5e4.html</a></p> <p>b) UNHCR, <i>Guidelines on Determining the Best Interests of the Child</i>, <a href="http://www.unhcr.org/4566b16b2.pdf">http://www.unhcr.org/4566b16b2.pdf</a></p>	<p>Article 3(1) CRC</p> <p>Recitals 9 and 22, Article 2(i) and 23(2) RCD</p> <p>Recital 33 and Article 25(6) APD</p> <p>Recital 18, 19 and 38 and Article 20(5) and Article 31</p> <p>Article 24, EU Charter of Fundamental Rights</p>
<b>4. Best interests determination (BID)</b>	<p>The formal process with strict procedural safeguards designed to determine the child's best interests for particularly important decisions affecting the child.</p> <p><b>Additional information</b></p> <p>It should facilitate adequate child participation without discrimination, involve decision-makers with relevant areas of expertise and balance all relevant factors in order to assess the best option.</p> <p>According to UNHCR, <i>Safe and Sound</i>, the concepts of best interests assessment (BIA) and best interests determination (BID) can be understood as part of the same process, which starts in principle as soon as an unaccompanied or separated child is discovered and ends when the child has obtained a durable solution to her or his situation of separation and of displacement from country of origin or place of habitual residence.</p> <p>(Source: UNHCR, <i>Safe and Sound</i>, <a href="http://www.refworld.org/docid/5423da264.html">http://www.refworld.org/docid/5423da264.html</a>.)</p>	<p><b>Best interest assessment</b></p> <p><b>Best interest of the child</b></p>	<p>UNCRC, General Comment No 14, 2013, <a href="http://www.refworld.org/docid/51a84b5e4.html">http://www.refworld.org/docid/51a84b5e4.html</a></p> <p>UNHCR, <i>Safe and Sound</i>, <a href="http://www.refworld.org/docid/5423da264.html">http://www.refworld.org/docid/5423da264.html</a></p>	
<b>5. Child</b>	<p>Any person below 18 years of age.</p>	<p><b>Minor</b></p>	<p>Article 2(6) ATD</p>	<p>Article 2(6) ATD (EU asylum <i>acquis</i>)</p>



TERM AND SYNONYM	DEFINITION	RELATED TERMS (Not to be confused with main term)	SOURCE	LEGAL REFERENCE
6. Consent	<p>Informed, free and voluntary agreement.</p> <p><b>Additional information</b></p> <p>The consent of a child victim of trafficking to the exploitation of criminal activities, whether intended or actual, shall be irrelevant.</p>	<p><b>Exploitation of children</b></p> <p><b>Trafficking of children</b></p>	<p>UNHCR, <i>Field Handbook for the Implementation of UNHCR BID Guidelines</i>, <a href="http://www.refworld.org/docid/4e457d02.html">http://www.refworld.org/docid/4e457d02.html</a></p> <p>Article 2(5) ATD</p>	<p>Article 1(4) ATD</p>
7. Durable solutions	<p>A durable solution in the context of the unaccompanied or separated child is a sustainable and long-term solution that ensures that the unaccompanied or separated child is able to develop into adulthood, in an environment which will meet his or her needs and fulfil his or her rights as defined by the CRC and will not put the child at risk of persecution or serious harm.</p> <p><b>Additional information</b></p> <p>Because the durable solution will have fundamental long-term consequences for the unaccompanied or separated child, it will be subject to a BID. A durable solution also ultimately allows the child to acquire, or to re-acquire, the full protection of a state.</p> <p>The EU Action Plan on Unaccompanied Minors (2010-2014) established that durable solutions for UAM shall consist of either:</p> <ul style="list-style-type: none"><li>• return and reintegration in the country of origin;</li><li>• granting of international protection status or other legal status allowing minors to successfully integrate in the Member State of residence;</li><li>• resettlement.</li></ul> <p>A decision on the future of each unaccompanied minor should be taken by the competent authorities:</p> <ul style="list-style-type: none"><li>• within the shortest possible period (if possible maximum 6 months);</li><li>• taking into account the obligation to try to trace the family;</li><li>• to explore other possibilities for reintegration in their home society and assess which solution is in the best interests of the child.</li></ul> <p>(Sources: EU Action Plan on Unaccompanied Minors 2010-2014. UNHCR, General Comment No 6, 2005, <a href="http://www.refworld.org/docid/42dd174b4.html">http://www.refworld.org/docid/42dd174b4.html</a>. UNHCR, <i>Safe and Sound</i>.)</p>		<p>UNHCR, <i>Master glossary of terms</i>, <a href="http://www.unhcr.org/cgi-bin/rwmain/opendocpdf.pdf?docid=42ce7d444">http://www.unhcr.org/cgi-bin/rwmain/opendocpdf.pdf?docid=42ce7d444</a></p> <p>UNHCR, <i>Safe and Sound</i>, 2014, <a href="http://www.refworld.org/docid/5423da264.html">http://www.refworld.org/docid/5423da264.html</a></p> <p>UNHCR, General Comment No 6</p>	

TERM AND SYNONYM	DEFINITION	RELATED TERMS (Not to be confused with main term)	SOURCE	LEGAL REFERENCE
<b>8. Exploitation of children</b>	<p>Exploitation shall include as a minimum, the exploitation or the prostitution of others, or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery and servitude, or the exploitation of criminal activities or the removal of organs. When such conduct involves a <b>child</b>, it shall be the punishable offence of <b>trafficking in human beings</b> even without using the threat of or use of:</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <ul style="list-style-type: none"> <li>• coercion;</li> <li>• abduction;</li> <li>• fraud;</li> <li>• deception;</li> <li>• the abuse of power;</li> <li>• the abuse of a position of vulnerability;</li> <li>• payments or benefits to achieve the consent of a person.</li> </ul> </div> <p style="text-align: center;">For the purpose of exploitation</p>	<b>Trafficking of children</b> <b>Smuggling of children</b> <b>Consent</b>	Article 2 ATD	CRC provisions
<b>9. Family</b>	<p>The family is the fundamental group of society and the natural environment for the growth and well-being of its members, particularly children.</p> <p><b>Additional information</b></p> <p>The term family must be interpreted in a broad sense to include biological, adoptive or foster parents or where applicable, the members of the extended family or community as provided for by local custom.</p> <p>(Source: UNCRC, General Comment No 6, 2005, <a href="http://tb.ohchr.org/default.aspx?symbol=CRC/GC/2005/6">http://tb.ohchr.org/default.aspx?symbol=CRC/GC/2005/6</a>.)</p>		CRC Preamble	CRC Preamble
<b>10. Family assessment</b>	<p>Family assessment is a process of evaluating the family situation which takes into account elements such as: information on the child, family members and/or relatives, composition of the household and family life, situation of the minor in country of origin, expectations, issues of concern within the family or community such as domestic violence, abuse, neglect or mistreatment of the child, willingness for reunification and capacity to care for the minor along with sustainable reintegration opportunities.</p> <p><b>Additional information</b></p> <ul style="list-style-type: none"> <li>• Family assessment may provide relevant information for determining the individual and durable solution for the child.</li> <li>• A preliminary requirement to gain the involvement in the process of certain tracing services (for instance IOM). Family assessment serves to evaluate the impact of the return and reintegration of the child or adolescent in the family and the broader socioeconomic context.</li> </ul> <p>(Source: IOM, <i>Unaccompanied Children on the Move</i>.)</p>	<b>Verification of family links</b>	IOM, <i>Unaccompanied Children on the Move</i> , <a href="http://publications.iom.int/bookstore/index.php?main_page=product_info&amp;cPath=41_78&amp;products_id=764">http://publications.iom.int/bookstore/index.php?main_page=product_info&amp;cPath=41_78&amp;products_id=764</a>  COM implementing Regulation (EU) No 118/2014 amending the Dublin Regulation	

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<b>11. Family member(s)</b>	<p>The definition of this term appears in several legal instruments; however it is not homogenous in all of them. For the sake of clarity, the following tables present the different kinships that are considered as family members depending on the legal instrument. The first table includes the kinships that should be considered family members by the MS for the purpose of the specific instrument where they are ruled.</p>				
	<b>Dublin III Regulation</b>	<b>Reception Conditions Directive</b>	<b>Family Reunification Directive</b>		
	Family who already existed in the CoO and are present in the territory of the Member States:	Family who already existed in the country of origin and are present in the same Member State in relation to the application for International Protection:	<b>Relative</b>	Article 2(g) Dublin III Regulation Article 4 FRD Article 2(c) RCD Recital 9 FRD	Article 2(c) RCD Recitals 19 and 36 Article 2(j) and Article 31(5) QD Article 4 FRD Articles 2(g) and Article 8 Dublin III Regulation Article 14 RD Article 10(3)(a)
	<b>spouse</b>	<b>spouse</b>	<b>spouse</b>		
	his or her <b>unmarried partner</b> in a stable relationship, if by the law or practice of the MS are <b>comparable to married couples</b> under its law relating to third-country nationals;	his or her <b>unmarried partner in a stable relationship</b> , if by the law or practice of the MS are <b>comparable to married couples</b> under its law relating to third-country nationals;			
	the <b>minor children of couples</b> referred or <b>of the applicant</b> , if they are <b>unmarried</b> and regardless of born in or out of wedlock or adopted as defined under national law;	the <b>minor children of couples</b> referred or <b>of the applicant</b> , if they are <b>unmarried</b> and regardless of born in or out of wedlock or adopted as defined under national law;	the minor children of the sponsor and/or of his/her spouse, including children adopted if the sponsor or the spouse have custody and the children are dependent on one of them		
	when the applicant is a <b>minor and unmarried</b> : • the <b>father</b> , • the <b>mother</b> , • or another <b>adult responsible for the applicant</b> whether by law or by the practice of the Member State where the adult is present.	when that applicant is a <b>minor and unmarried</b> : • the <b>father</b> , • the <b>mother</b> , • or another <b>adult responsible for the applicant</b> whether by law or by the practice of the Member State concerned.	<b>first-degree relatives in the direct ascending line</b> without need to be dependant or lacking proper family support in the CoO		

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11. Family member(s)	The second table presents some additional kinship that may be discretionarily considered as family members by the MS, according to the Family Reunification Directive.			
	<b>Family Reunification Directive (optional consideration for the MS)</b>			
	First-degree relatives in the direct ascending line of the sponsor if they are dependent and lacking family support in the CoO			
	Other family members if they are dependents of the refugee (Article 10(2)).			
	His/her legal guardian or any other member of the family, where the unaccompanied minor refugee has no relatives in the direct ascending line or such relatives cannot be traced.			
	The adult unmarried children of the sponsor or of his or her spouse, if <b>objectively unable to provide</b> for their own needs on account of their state of <b>health</b> .			
	The <b>unmarried partner</b> with whom the sponsor is in a <b>duly attested, stable, long-term relationship</b> , or of a third country national who is bound to the sponsor by a <b>registered partnership</b> .			
	The <b>unmarried minor children</b> , including <b>adopted children</b> , as well as <b>adult unmarried children</b> who are <b>objectively unable</b> to provide for their own needs on account of their <b>state of health</b> , of the unmarried partner within an <b>attested, stable, long-term relationship, or by a registered partnership</b> .			
	<b>Additional information</b> According to the Recital 19 QD, broader definition of the family members may be applied by MS taking into account the particular circumstances of dependency and the special attention to be paid to the best interests of the child.			
	The Commission encourages MS to also consider individuals who are not biologically related, but are cared for within the family unit, for instance, foster children, even though MS retain full discretion in this regard. The concept of dependency is the determining factor.			
	(Source: Communication from the Commission to the European Parliament and the Council on guidance for application of Directive 2003/86/EC on the right to family reunification, <a href="http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/legal-migration/family-reunification/docs/guidance_for_application_of_directive_on_the_right_to_family_reunification_en.pdf">http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/legal-migration/family-reunification/docs/guidance_for_application_of_directive_on_the_right_to_family_reunification_en.pdf</a> .)			

TERM AND SYNONYM	DEFINITION	RELATED TERMS (Not to be confused with main term)	SOURCE	LEGAL REFERENCE
<b>12. Family reunification</b>	<p>a) For the purposes of the Family Reunification Directive, family reunification means the entry into and residence in a Member State by family members of a third-country national residing lawfully in that Member State in order to preserve the family unit, whether the family relationship arose before or after the resident's entry;</p> <p>b) For other purposes, family reunification is the process of bringing together the child and family or previous care-provider for the purpose of establishing or re-establishing long-term care, when in the best interest of the child.</p> <p><b>Additional information</b></p> <p>Article 22 of the Convention for the Rights of the Child states 'the right to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family.' Furthermore Article 10(3)a of the Family Reunification Directive (2003/86/EU) provides that, for the purposes of family reunification, the Member States:</p> <ul style="list-style-type: none"> <li>• shall authorise the entry and residence of: his/her first-degree relatives in the direct ascending line without applying the requirements of Article 4(2);</li> <li>• may authorise the entry and residence of his/her legal guardian or any other member of the family, where the refugee minor has no relatives in the direct ascending line or such relatives cannot be traced.</li> </ul> <p>Further guidance can be found at the Communication from the Commission to the European Parliament and the Council on guidance for application of Directive 2003/86/EC on the right to family reunification, available at: <a href="http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/legal-migration/family-reunification/docs/guidance_for_application_of_directive_on_the_right_to_family_reunification_en.pdf">http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/legal-migration/family-reunification/docs/guidance_for_application_of_directive_on_the_right_to_family_reunification_en.pdf</a>.</p>	<p><b>Family tracing</b></p> <p><b>Restoring family links</b></p> <p><b>Tracing process</b></p>	<p>Article 2(d) FRD</p> <p>ICRC, <i>Interagency Guiding Principles on unaccompanied and separated children</i>, 2004, p. 37, <a href="http://www.unicef.org/violencestudy/pdf/IAG_UASCs.pdf">http://www.unicef.org/violencestudy/pdf/IAG_UASCs.pdf</a></p> <p>Article 10 FRD</p> <p>Article 22 CRC</p>	<p>Article 2(d) and Article 10 FRD</p> <p>CRC provisions</p>
<b>13. Family tracing</b>	<p>Family tracing is the search for family members (including relatives or former caregivers of unaccompanied children) with the purpose of the restoration of family links and family reunification when they entail the best interests of the child.</p> <p><b>Additional information</b></p> <p>For the purpose of Dublin III Regulation (Article 6(4)), the MS where an unaccompanied minor lodged an application for International Protection shall as soon as possible take appropriate action to identify family members, siblings or relatives of the UAM in the territory of the MS whilst protecting the BIC.</p> <p>To that end, that MS may call for the assistance of international or other relevant organisations and may facilitate the minor's access to the tracing services of such organisations.</p> <p>In assessing the BIC, MS shall in particular take due account of the following:</p> <ol style="list-style-type: none"> <li>family reunification possibilities;</li> <li>the minor's well-being and social development, taking into special consideration the minor's background;</li> <li>safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking;</li> <li>the views of the minor in accordance with his or her age and maturity.</li> </ol> <p>(Source: Article 23 RCD recast.)</p>	<p><b>Family reunification</b></p> <p><b>Restoring family links</b></p> <p><b>Tracing process</b></p>		<p>UNCRC, General Comment No 6</p>

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<b>14. Family unity</b>	<p>Family unity is an internationally recognised principle/right which recognises and protects the family as a 'group' unit, and entails the right to marry, to find a family and to live as an integral whole, maintaining a family life together. The right to a shared family life is also drawn from the prohibition against arbitrary interference with the family and from the special family rights accorded to children under international law.</p> <p><b>Additional information</b></p> <p>In order to ensure full respect for the principle of family unity and for the best interest of the child, the existence of a relationship of dependency between an applicant and his or her child, sibling or parent on account of the applicant's pregnancy or maternity, state of health or old age, should become a binding responsibility criterion. When the applicant is an unaccompanied minor, the presence of a family member or relative in the territory of another MS who can take care of him or her should also become a binding responsibility criterion.</p> <p>(Source: Recital 16 Dublin III Regulation.)</p>		<p>Based on Family Unity and Refugee Protection, June 2003, available at: <a href="http://www.refworld.org/cgi-bin/textis/vtx/rwmain?page=search&amp;docid=470a33be08&amp;skip=0&amp;query=family%20unity&amp;querysi=family%20unity&amp;searchin=title&amp;sort=relevance">http://www.refworld.org/cgi-bin/textis/vtx/rwmain?page=search&amp;docid=470a33be08&amp;skip=0&amp;query=family%20unity&amp;querysi=family%20unity&amp;searchin=title&amp;sort=relevance</a></p>	<p>Article 8 ECHR</p> <p>Article 9 and provisions, CRC</p> <p>Recital 16 Dublin III Regulation</p>
<b>15. Guardian</b>	<p>a) Guardianship refers to the designation of responsibility to an adult or organisation for ensuring that a child's best interests are fully represented.</p> <p>b) A guardian is considered to be an independent person who safeguards the child's best interests and general well-being, and to this effect complements the limited legal capacity of the child, when necessary, in the same way that parents do (FRA definition).</p> <p><b>Additional information</b></p> <p>A guardian serves as key procedural safeguard to ensure respect for the best interests of an unaccompanied or separated child.</p> <p>(Source: FRA, <i>Guardianship for Children Deprived of Parental Care</i>, <a href="http://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship">http://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship</a>.)</p>	<p><b>Representative</b></p> <p><b>Lawyer</b></p>	<p>Articles 9 and 18 CRC</p> <p>a) ICRC, <i>Interagency Guiding Principles on unaccompanied and separated children</i>, 2004, <a href="http://www.unicef.org/violencestudy/pdf/AG_UASCs.pdf">http://www.unicef.org/violencestudy/pdf/AG_UASCs.pdf</a></p> <p>b) UNCRC, General Comment No 6, 2005</p> <p>Source: FRA, <i>Guardianship for Children Deprived of Parental Care</i>, <a href="http://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship">http://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship</a></p>	<p>Article 31 recast QD</p>

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<b>16. Lawyer</b>	The professional who provides legal assistance, speaks on behalf of the child and legally represents him or her in written statements and in person before administrative and judicial authorities in criminal, asylum or other legal proceedings as provided in the national law.	<b>Guardian Representative</b>	FRA, <i>Guardianship for Children Deprived of Parental Care</i> , <a href="http://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship">http://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship</a>  ECRE, <i>Guiding Principles for quality legal assistance for unaccompanied children</i> , <a href="http://ecre.org/component/downloads/download/909.html">http://ecre.org/component/downloads/download/909.html</a>	
<b>17. Minor</b>	For the purposes of the EU Asylum <i>Acquis</i> means a third-country national or a stateless person below the age of 18.	<b>Unaccompanied minor</b>  <b>Separated child</b>	Article 2(d) RCD  Article 2(l) APD  Article 2(k) QD  Article 2(i) Dublin III Regulation  Article 2(f) FRD	Article 2(d) RCD  Article 2(l) APD  Article 2(k) QD  Article 2(i) Dublin III Regulation  Article 2(f) FRD
<b>18. Relative</b>	For the purposes of the Dublin Regulation, the applicant's adult aunt or uncle or grandparent who is present in the territory of a Member State, regardless of whether the applicant was born in or out of wedlock or adopted as defined under national law.	<b>Family member</b>	Article 2(h) Dublin III Regulation	Article 2(h) Dublin III Regulation
<b>19. Representative</b>	A person or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied minor in International Protection procedures provided with a view to ensuring the child's best interests and exercising <b>legal capacity</b> for the minor where necessary.  <b>Additional information</b> Representatives or legal representatives differ from the qualified lawyer or other legal professionals who provide legal assistance, speak on behalf of the child and <b>legally represent</b> him or her in written statements and in person before administrative and judicial authorities in criminal, asylum or other legal proceedings as provided in national law.  (Source: FRA, <i>Guardianship for Children Deprived of Parental Care</i> , <a href="http://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship">http://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship</a> .)	<b>Guardian lawyer</b>	FRA, <i>Guardianship for Children Deprived of Parental Care</i> , <a href="http://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship">http://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship</a>	Article 2(j) RCD  Article 2(n) APD  Article 12 CRC  Article 31(2) QD  Article 2(k) Dublin III Regulation



TERM AND SYNONYM	DEFINITION	RELATED TERMS (Not to be confused with main term)	SOURCE	LEGAL REFERENCE
<b>20. Restoring family links</b>	<p>Re-establishing and maintaining contact between separated family members and clarifying the fate of persons reported missing when in the best interest of the child.</p> <p><b>Additional information</b></p> <p>According to the International Committee of the Red Cross, it should be done with:</p> <ul style="list-style-type: none"> <li>• respect of the wish of the child taking into account the safety and security factors;</li> <li>• respect of the wish of the person sought;</li> <li>• respect of data protection principles.</li> </ul>	<p><b>Family tracing</b></p> <p><b>Family reunification</b></p> <p><b>Verification of family links</b></p>	<p>ECRE, <i>Comparative Study on Practices in the Field of Return of Minors</i>, <a href="http://ec.europa.eu/home-affairs/doc_centre/immigration/docs/studies/Return_of_children-final.pdf">http://ec.europa.eu/home-affairs/doc_centre/immigration/docs/studies/Return_of_children-final.pdf</a></p> <p>ICRC, <i>Interagency Guiding Principles on unaccompanied and separated children</i>, 2004, <a href="http://www.unicef.org/violencestudy/pdf/IAG_UASCs.pdf">http://www.unicef.org/violencestudy/pdf/IAG_UASCs.pdf</a></p>	Article 22 CRC
<b>21. Risk assessment</b>	<p>For the purpose of family tracing, risk assessment is the process of identifying the presence of real or potential harm or danger that the family-tracing process may entail for the unaccompanied child and/or for his/her family.</p> <p><b>Additional information</b></p> <p>The primary purpose of a risk assessment is to ensure the safety of the child.</p> <ol style="list-style-type: none"> <li>1. It should take into consideration the child's views on his/her own/family safety and risk levels.</li> <li>2. It should be established whether the family is both willing and able to accept the child back.</li> <li>3. It should be regularly updated before deciding on the durable solution for an unaccompanied child.</li> </ol> <p>The type of information required for assessment of risk (useful also for the family assessment) may include:</p> <ul style="list-style-type: none"> <li>• the background of the child;</li> <li>• the strengths and the resources of the family;</li> <li>• the family's understanding of the importance of, and their ability to access healthcare, education and material needs for the child;</li> <li>• an understanding of the family's struggles;</li> <li>• a family history and structure;</li> <li>• family dynamics;</li> <li>• identification of formal and informal support for the child and the family;</li> <li>• identification of any household issues such as domestic violence, mental health problems, substance or sexual abuse.</li> </ul> <p>(Source: <i>Family Violence Risk Assessment and Risk Management Framework and Practice Guides 1-3</i>.)</p> <p>In addition, this term must not be confused with the risk assessment conducted as part of the international protection status determination. The latter is the stage of the examination of an application for international protection where the well-founded fear of an applicant and the real risk of serious harm he/she might be exposed to if returned are assessed.</p> <p>(See EASO <i>Practical guide on evidence assessment</i>.)</p>	<p><b>Family assessment</b></p> <p><b>Best interest assessment</b></p>		UNCRC, General Comment No 6



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<b>22. Separated child(ren)</b>	Children, 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.	<b>Unaccompanied minors</b>	UNCRC, General Comment No 6, 2005 UNHCR, <i>Safe and Sound</i> , p. 22	
<b>23. Smuggling (of children)</b>	<p>Child smuggling shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the irregular entry of a child into a State Party of which the child is not a national or a permanent resident.</p> <p><b>Additional information</b></p> <p>Although child smuggling has similarities with child trafficking, the two types of criminal activities should not be confused.</p> <ul style="list-style-type: none"> <li>Smuggling of children is the criminalised activity of facilitation of irregular entry into a country irregularly (often involves payment). The purpose of trafficking is to exploit a child and is regarded as a crime against the person.</li> <li>Trafficking is generally carried out with the use of coercion and/or deception, etc. With smuggling it is the opposite.</li> <li>Trafficking involves the intention to exploit children subsequent to their arrival in a state, whereas the role of the smuggler usually ends as soon as the child reaches his or her country of destination.</li> <li>Trafficking can take place both within and across national frontiers, whereas international movement is required for smuggling.</li> <li>A child's entry into a state can be regular or irregular in the case of trafficking, whereas smuggling is generally characterised by irregular entry.</li> </ul> <p>Child trafficking is not solely a trans-border crime: as the purpose of the criminal activity is the exploitation of children, children might be trafficked even within national borders.</p> <p>(Source: Frontex, <i>VEGA Handbook: Children at Airports</i>, 2015.)</p>	<p><b>Trafficking of children</b></p> <p><b>Exploitation of children</b></p> <p><b>Consent</b></p>	Frontex, <i>VEGA Handbook: Children at Airports</i> , 2015, <a href="http://frontex.europa.eu/assets/Publications/Training/VEGA_Children_Handbook.pdf">http://frontex.europa.eu/assets/Publications/Training/VEGA_Children_Handbook.pdf</a>	

TERM AND SYNONYM	DEFINITION	RELATED TERMS (Not to be confused with main term)	SOURCE	LEGAL REFERENCE
24. Trafficking of children	<p><b>Trafficking of children</b> is the recruitment, transportation, transfer, harbouring or reception of children, including the exchange or transfer of control over children, for the purpose of exploitation.</p> <p>In contrast with the exploitation of adults, when the subjects to exploitation are children it will be a punishable crime even without using the threat of or use of:</p> <div><ul style="list-style-type: none"><li>• coercion;</li><li>• abduction;</li><li>• fraud;</li><li>• deception;</li><li>• the abuse of power;</li><li>• the abuse of a position of vulnerability;</li><li>• payments or benefits to achieve the consent of a person.</li></ul></div> <p>For the purpose of exploitation</p>	<p><b>Exploitation of children</b></p> <p><b>Smuggling of children</b></p> <p><b>Consent</b></p>	Article 2(5) /ATD	Article 2(5) /ATD
<p><b>Additional information</b></p> <p>Although the child smuggling has similarities with child trafficking, the two types of criminal activities should not be confused. Smuggling of children is the criminalised activity of facilitation of irregular entry into a country irregularly (often involves payment). The purpose of trafficking is to exploit a child and is regarded as a crime against the person.</p> <ul style="list-style-type: none"><li>• Trafficking is generally carried out with the use of coercion and/or deception, etc. With smuggling it is the opposite. Trafficking involves the intention to exploit children subsequent to their arrival in a state, whereas the role of the smuggler usually ends as soon as the child reaches his or her country of destination.</li><li>• Trafficking can take place both within and across national frontiers, whereas international movement is required for smuggling.</li><li>• A child's entry into a state can be regular or irregular in the case of trafficking, whereas smuggling is generally characterised by irregular entry.</li></ul> <p>Child trafficking is not solely a trans-border crime; as the purpose of the criminal activity is the exploitation of children, children might be trafficked even within national borders.</p> <p>(Source: Frontex, <i>VEGA Handbook: Children at Airports</i>, 2015.)</p>				

TERM AND SYNONYM	DEFINITION	RELATED TERMS (Not to be confused with main term)	SOURCE	LEGAL REFERENCE
<b>25. Unaccompanied minor (UAM)</b> <b>Unaccompanied child (UAC)</b>	<p>A child/minor who arrives in the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he/she is not effectively taken into the care of such a person/adult; it includes a child/minor who is left unaccompanied after he or she has entered the territory of the Member States.</p>	<p><b>Separated children</b></p>	<p>Article 2(e) RCD  Article 2(m) APD  Article 2(l) QD  Article 2(j) Dublin III Regulation  Article 2(f) FRD  UNCRC, General Comment No 6, 2005  UNHCR, <i>Safe and Sound</i>, p. 22, <a href="http://www.refworld.org/docid/5423da264.html">http://www.refworld.org/docid/5423da264.html</a></p>	<p>Article 2(e) RCD  Article 2(m) APD  Article 2(l) QD  Article 2(j) Dublin III Regulation  Article 2(f) FRD</p>
<b>26. Verification of family links</b>	<p>The process of establishing the validity of a family relationship between the child and the alleged family member.</p>	<p><b>Family assessment</b>  <b>Family tracing</b>  <b>Restoring family links</b></p>	<p>Based on <i>Children on the Move, Family Tracing and Needs Assessment: Guidelines for Better Cooperation between Professionals Dealing with Unaccompanied Foreign Children in Europe</i>  ICRC, <i>Inter-agency Guiding Principles on Unaccompanied and Separated Children</i>, 2004, p. 37</p>	

## Annex 2: Legal framework

This annex is intended to serve as a reference point for identifying the relevant instruments and provisions on International, European and National level in the field of family tracing. Although all effort has been made to provide a comprehensive outline of the most relevant provisions on the topic of family tracing that are foreseen in legal and policy documents, the list below should not be considered exhaustive.

### 1. International legislation

Legal provision	Rights	Relevant article
UN Convention on the Rights of the Child of 20 November 1989 (CRC)	Family	Preamble
	Child	Article 1
	Non-discrimination	Article 2
	Best interests of the child	Articles 3(1), 9(3)
	Parental and extended family guidance	Article 5
	Right to life, survival and development	Article 6
	Registration, name, nationality and parental care	Article 7
	Preservation of identity and family relations	Article 8
	Right to maintain personal relations and contact	Article 9
	Restoring family links	Article 10, Article 22(2)
	Respect for the views of the child: right to be heard	Article 12
	Care and accommodation	Article 20
	Adoption	Article 21
	Refugee children	Article 22
	Family tracing	Article 22(3)
UN Convention Relating to the Status of Refugees 1951 and the Protocol Relating to the Status of Refugees 1967	Refugees Unaccompanied children Principle of family unity	Letter B(2) of No 2545 and Recommendation B of the Final Act of the UN Conference of Plenipotentiaries on the status of refugees and stateless persons.
European Convention of Human Rights	Right to respect for private and family life	Article 8

## 2. EU *acquis*

Legal Provision	Rights and safeguards	Relevant article
Treaty on European Union	Rights of the child	Article 3(5)
Treaty on the Functioning of the European Union	Common European Asylum System	Article 78
Charter of Fundamental Rights of the European Union	Right to asylum	Article 18
	Rights of the child	Article 24
Schengen Borders Code (Regulation (EC) No 562/2006)	Child-sensitive procedural measures for minors	Article 19
	Non-discrimination	Article 6(2)
Reception Conditions Directive (Directive 2013/33/EU) recast	Minor	Article 2(d)
	Unaccompanied minor	Article 2(e)
	Family members	Article 2(c)
	Representative	Article 2(j)
	Best interests of the child and family unity	Preamble (9)
	Best interests of the child	Preamble (22), Article 2(j), Article 11(2), Articles 23, 24
	Vulnerable persons	Articles 21, 22
	Registration and documentation	Article 6
	Family tracing	Article 24.3
Asylum Procedures Directive (Directive 2013/32/EU) recast	Minor	Article 2(l)
	Unaccompanied minor	Article 2(m)
	Representative	Article 2(n), Article 25
	Best interests of the child	Preamble (33), Article 2(n), Article 25(1)(a), Article 25(6)
	Right to information	Article 25(4)
	Age assessment	Article 25(5)
Qualification Directive (Directive 2011/95/EU) recast	Minor	Article 2(k)
	Family Members	Article 2(j)
	Unaccompanied minor	Article 2(l)
	Best interests of the child and family unity	Preamble (18)
	Best interests of the child	Preamble (19), (27), (38), Article 20(5), Article 31(4), (5)
	Right to be heard/right to participation, right to information	Article 22
	Maintaining family unity	Article 23
	Family tracing	Article 31(5)

Legal Provision	Rights and safeguards	Relevant article
Dublin Regulation (Regulation (EU) No 604/2013) recast	Minor	Article 2(i)
	Unaccompanied minor	Article 2(j)
	Family members	Article 2(g)
	Relative	Article 2(h)
	Representative	Article 2(k)
	Best interests of the child and family unity	Preamble (16)
	Best interests of the child	Preamble (13), (24), (35), Article 2(k), Articles 6, 8, Article 20(3)
	Right to information	Preamble (4), Annex XI Implementing Regulation 118/2004
	Identification of family members and relatives	Preamble (35)
	Family tracing, identification of family members and relatives	Article 6(4), Article 8 Article 1(7), Annex II LIST A(I), LIST B(I), Implementing Regulation 118/2004 Relevant jurisprudence — best interests of the child Case C-648/11, <i>M and Others</i> , ECLI:EU:C:2013:367, <a href="http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:62011CJ0648">http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:62011CJ0648</a>
	Exchange of information on the child	Annex VII Implementing Regulation 118/2004
Eurodac Regulation (Regulation (EU) No 603/2013) recast	Best interests of the child	Preamble (35)
Anti- Trafficking Directive (Directive 2011/36/EU)	Identification of child victims of trafficking and protection measures	Preamble (23)
	Child	Article 2(6)
	Vulnerability	Article 2(2)
	Best interests of the child	Preamble (8), (22), (23), Article 13, Article 16(2)
	Procedural safeguards in criminal investigations	Article 15
Directive on residence permits for victims of human trafficking (Directive 2004/81/EC)	Protection of unaccompanied children victims of THB	Article 16
	Unaccompanied minor	Article 2(f)
	Best interests of the child	Article 10(a)
	Identification as an unaccompanied child	Article 10(c)
	Family tracing	Article 10(c)
Family Reunification Directive (Directive 2003/86/EC)	Unaccompanied minor	Article 2(f)
	Family reunification	Article 2(d)
	Family members	Article 4
	Best interests of the child	Article 5
	Restoring family links	Articles 4, 10
	Vulnerable persons/vulnerability	Article 3(9)

### 3. National legislation

EU +	Legal provisions
AT	<p><b>The Austrian Asylum Act 2005</b> does not provide any provisions on family tracing. As the Recast Qualification Directive 2011/95/EU (hereinafter: QD) sets forth an obligation for the Member States to conduct family tracing procedures, a specific provision on tracing will come into force within the timeframe for the transposition of the QD. The new provisions which come into force from 1 January 2014 will contain provisions concerning family tracing.</p> <p>There are no specific judgments relating to issues of family tracing. The Asylum Court (2nd instance) and the Austrian Constitutional Court, however, apply Article 8 ECHR in the light of maintaining family unity and family reunification accordingly to the ECtHR jurisprudence.</p>
BE	<p><b>Programme Law Guardianship Service of 24 December 2002 Article 479 Article 11, paragraph 1</b> the guardian will take all necessary steps to trace the family members of the unaccompanied minor.</p> <p><b>Royal Decree, Article 110</b> states the application for obtaining a residence permit is introduced by the guardian and consists of the following elements:</p> <ul style="list-style-type: none"> <li>— All steps taken by the guardian in tracing family members and acquaintances in the country of origin or host country and the results.</li> <li>— Immediately after applying for a residence permit, the guardian is asked to clarify all the steps taken in search of family members in the country of origin or host country, and the results.</li> <li>— It is of vital importance for the minister or his/her representative to be aware of the unaccompanied minor's family situation in order to protect the unity of the family according to Articles 9 and 10 of the UN Convention on the Rights of the Child and to act in the best interests of the child of 20 November 1989.</li> </ul> <p><b>Protocol of cooperation between the Diplomatic Missions and the Immigration Office</b> in their search for a durable solution for the unaccompanied minor (July 2009) when tracing family members.</p>
BG	<p><b>Law on Asylum and Refugees — In force from 1 December 2002, Prom., State Gazette (SG) No 54, 31 May 2002, amended, SG No 31, 8 April 2005, amended, SG No 30, 11 April 2006, amended, SG No 52, 29 June 2007, amended, SG No 82, 16 October 2009, amended, SG No 39, 20 May 2011</b></p> <ul style="list-style-type: none"> <li>— Article 34(1) (Amended, SG No 31 of 2005, amended and SG No 52 of 2007). Any alien who has been granted refugee status or humanitarian status shall have the right to ask for family reunification within the territory of the Republic of Bulgaria.</li> <li>— Article 34(2) (Amended, SG No 31 of 2005, amended and SG No 52 of 2007). The Chairperson of the State Agency for Refugees shall grant permissions for family reunification.</li> <li>— Article 34(4) (New, SG No 52 of 2007). The Chairman of the State Agency for Refugees shall grant permission for the unification of an unaccompanied alien who is a minor or under the legal age having been granted status with his/her parents or with another adult member of his/her family or with a person responsible for him/her by law or custom, where his/her parents are deceased or missing.</li> <li>— Article 34(9) (New, SG No 52 of 2007). Where the location of the family members is unknown, the State Agency for Refugees shall, in cooperation with the United Nations High Commissioner for Refugees, the Bulgarian Red Cross and other organisations, undertake search actions to locate the family.</li> </ul>
CY	<p>Article 39(1) of the Combating Trafficking and Exploitation of Human Beings and for the Protection of Victims Law [L.87(I)/2007]</p> <p>Article 25A(3) of the Refugees (Amendment) Law of 2007 [L.112(I)/2007]</p> <p>Article 200(4) of the Refugees (Amendment) (No 2) Law of 2004 [L.241(I)/2004]</p>

EU + Legal provisions	
DK	<p><b>Act No 60 of 29 January 2003 Section 56a(8) in the Danish Aliens Act</b></p> <p>The act codified current practice regarding unaccompanied minor asylum seekers. Among other things, current practice for tracing the parents of unaccompanied minors was implemented in the Danish Aliens Act by Section 56a(8). According to the provision in force at that time, the Danish Immigration Service (DIS) initiated with the consent of an unaccompanied minor a tracing of his/her parents. If the unaccompanied minor did not consent to this, tracing could be initiated with the consent of the personal representative.</p> <p><b>Act No 504 of 6 June 2007 Section 56a(8) in the Danish Aliens Act</b></p> <p>The act expanded the DIS obligation regarding tracing. Thus, tracing of an unaccompanied minor's parents was no longer dependent on the minor's/the representative's consent. This means that tracing should always be carried out, unless there are special reasons not to. Furthermore, tracing should be carried out for all unaccompanied minors — both asylum seekers and unaccompanied minors staying in Denmark on an illegal basis.</p> <p><b>Act No 1543 of 21 December 2010 Section 56a(9) and (10) in the Danish Aliens Act</b></p> <p>The act implemented the current provisions (Section 56a(9) and (10)) in the Danish Aliens Act. The mandatory tracing now not only includes the tracing of parents, but can also include other close family members. The provisions include unaccompanied minors in general, regardless of whether the unaccompanied minor is seeking asylum.</p> <p>According to Section 56a(9) the DIS is only obliged to trace an unaccompanied minor's family if the unaccompanied minor consents. The obligation to trace family does not apply to unaccompanied minors who can take up residence in a reception- or care-centre in their home country. Unaccompanied minors from EU/EEA countries are normally exempted from this provision. However, if the minor in question has been exposed to trafficking (or special circumstances exist), tracing must always be carried out, unless special reasons go against it (see Section 56a(10)). The purpose of the obligation to initiate tracing is to make sure that tracing — in accordance with the best interests of the child — is initiated if the child and the parents have been separated and lost contact, e.g. due to war or conflicts in the country of origin, so they can hopefully be reunited.</p> <p><b>On 15 February 2013 the Danish Supreme Court</b> reached a decision in a case put forward by an unaccompanied minor whose application for a residence permit according to Section 9c(3)(ii) in the Danish Aliens Act had been rejected. (According to the provision mentioned, a residence permit can be granted to an unaccompanied minor who does not fulfil the conditions for asylum, but who will be placed in an emergency situation upon return to the country of origin as the unaccompanied minor does not have a family or social network in the home country.)</p> <p>The unaccompanied minor had, among other things, claimed that the immigration authorities were obliged to await the outcome of the family-tracing process before deciding on an application for a residence permit according to Section 9c(3)(ii) of the Aliens Act, and that failure to comply with the obligation to trace should lead to residence permit.</p> <p>The Danish Supreme Court stated that the purpose of the obligation to initiate family-tracing is to give the child certainty regarding his/her parents'/family's situation and to try to reunite the child with his/her parents/family. Therefore, a decision on a residence permit according to Section 9c(3)(ii) in the Aliens Act can be made regardless of whether tracing has been initiated and without waiting for the tracing results.</p>
EE	<p><b>Family Law Act</b></p> <p><b>Aliens Act</b></p> <p><b>Act on Granting International Protection to Aliens</b></p> <p><b>Obligation to Leave and Prohibition on Entry Act</b></p> <p><b>Children Act</b></p>



EU + Legal provisions	
FI	<p><b>Aliens Act Section 105b (passed in 2006, entered into force in 2007)</b></p> <p>Tracing a parent or another person responsible for the actual guardianship of an unaccompanied minor asylum seeker.</p> <p>(1) To further the interest of an unaccompanied minor asylum seeker, the Finnish Immigration Service must, if possible, endeavour without delay to trace his or her parents or another person responsible for his or her actual guardianship.</p> <p>(2) The information on the parent or another person responsible for the minor's actual guardianship must be collected, processed and circulated on a confidential basis, as provided in the Act on the Openness of Government Activities.</p> <p>The Administrative Court concluded that the minor could be refused entry into Finland and sent back to Turkey (11/1330/03, October 2011). The minor appealed to the Supreme Administrative Court. The Supreme Administrative Court did not grant a leave to appeal (3413/1/11, June 2012).</p>
HU	<p><b>Act LXXX of 2007 and Government Decree 301/2007 (XI.9.)</b></p> <p>Article 4. § (1) — (3) specific legal provisions concerning family tracing which say:</p> <p>(1) If the person seeking recognition, the refugee or the beneficiary of subsidiary or temporary protection is an unaccompanied minor, the refugee authority shall take action to trace the person responsible for the minor with the exception where it can be presumed on the basis of information received by the refugee authority that</p> <p>a) there is conflict of interest between the person responsible for the minor and the minor or,</p> <p>b) if tracing the person responsible for the minor is not justified for other reasons, bearing in mind the best interests of the child.</p> <p>(2) In tracing the person responsible for a minor the refugee authority shall act in compliance with Section 42.</p> <p>(3) When implementing the procedure set forth in sub-section (1), in the framework of international legal assistance as stipulated by Section 27 of Act CXL of 2004 on the General Rules of Public Administrative Procedure and Services, the refugee authority may approach, in particular, the refugee authority of another Member State of the European Union or a third country, and may also request the assistance of other international organisations engaged in supporting persons applying for recognition as refugees, persons in need of subsidiary or temporary protection, and/or refugees, and beneficiaries of subsidiary or temporary protection.</p> <p>As the task of courts is limited to the review of lawfulness of decisions, family tracing is out of the scope of court procedures.</p>
IE	<b>The Child Care Act 1991</b>
IT	<p><b>Decreto legislativo 18 Agosto 2015, n.142 'Implementation of Directive 2013/33/EC laying down standards for the reception of applicants for international protection and implementation of Directive 2013/32/EC on common procedures for granting and withdrawing international protection (recast)',</b></p> <p>Article 19 on family tracing. This Decree, which has been in force since 30 September 2015, abrogated the Legislative Decree 140/2005 regarding 'Implementation of Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers'.</p>
LT	<p><b>Law on the Legal Status of Aliens of 29 April 2004</b> (last amended on 8 December 2011)</p> <p>Gives the following definition of 'unaccompanied minor alien': an alien under the age of 18 who enters the Republic of Lithuania unaccompanied by parents or other lawful representatives, or who is accompanied by the above-mentioned persons but is left unattended in the Republic of Lithuania.</p> <p>'A minor' is also covered under the definition of 'vulnerable person' in the same Law.</p> <p><b>The Order of the Minister of Internal Affairs of the Republic of Lithuania</b> on Approval of the Procedure for Examination of Applications for Asylum, Enactment and Execution of Decisions on Asylum (adopted in 15 November 2004) provides for a separate section describing procedures of examination of asylum applications lodged by vulnerable asylum applicants, which also covers <b>unaccompanied minors</b>.</p> <p>'Civil servants examining an asylum application lodged by the unaccompanied minor are obliged to contact institutions in the Republic of Lithuania or abroad (except for those in the applicant's country of origin) in order to trace the minor applicant's parents or other close relatives, unless this is not in the best interests of the child.'</p>
LV	<b>Protection of the Rights of the Child Law of 1998</b>

EU +	Legal provisions
NL	<p>According to Article 3(56) Vreemdelingenbesluit, a residence permit can be given to the minor for whom, in the opinion of the Minister of Safety and Justice, there is no adequate reception in his/her country of origin. Therefore the Immigration Service, on behalf of the Minister, can request that diplomatic posts abroad investigate adequate reception conditions by way of tracing family members.</p> <p>This article was implemented on 1 April 2000.</p> <p>The interpretation of the above-mentioned article is elaborated in written policy. In § B14/2.4.4 Vreemdelingencirculaire it is regulated that in case of insufficient or untrustworthy information on adequate reception conditions given by the minor, research into family left behind can be initiated. This regulation was implemented on 1 April 2000 and most recently adapted on 7 March 2007.</p> <p>The <i>Afdeling bestuursrechtspraak van de Raad van State</i> (hereafter: AbRS), the highest administrative court in the Netherlands, ruled on 29 December 2004 (AbRS 200406032/1) and on 5 October 2005 (AbRS 200504815/1) that in case the minor frustrates the investigation on adequate reception in his/her country of origin by deliberately giving insufficient or false information, there is no claim for receiving a residence permit.</p> <p>On 7 May 2009 the AbRS ruled that the Minister was not obligated to investigate an unsubstantiated claim that the family of a minor who was still residing in the country of origin was not able to provide adequate reception because of physical and housing problems. If a minor states that he is in contact with one or more family members in his/her country of origin, but this family is not able to provide adequate reception, he has to substantiate such claim.</p>
NO	<p><b>Norwegian Act relating to the strengthening of the status of human rights in Norwegian law 21 May 1999 (The Human Rights Act)</b>, Article 22 in particular but many of the other articles also deal with the issue of a child's right to family life.</p> <p><b>The Norwegian Immigration Act of 2008</b></p> <p>(Section 38) states that a residence permit may be granted provided there are strong humanitarian considerations. If the foreign national is an unaccompanied minor who would be without proper care if he or she were returned, this amounts to strong humanitarian consideration. This means that being an unaccompanied minor without proper care will in itself be a humanitarian ground and the minor will qualify for a permit in Norway. In other words it means that one cannot consider returning a child unless the Norwegian Directorate of Immigration (UDI) can make sure that the child will be reunited with an appropriate caretaker, i.e. by tracing family or ensuring that other care facilities are provided upon return. On the basis of the legal framework UDI cannot start family tracing if that could put the family or the minor at risk.</p> <p><b>Section 98(d) The representative's duties</b></p> <p>The representative shall safeguard the minor's interests in asylum cases and otherwise perform such duties as are imposed on a guardian under other legislation.</p> <p>In the asylum case the representative shall, among other things</p> <p>[...]</p> <p>(c) assist the minor in connection with tracing his or her parents or other carers</p> <p><b>The Public Administration Act of 1967 (Section 17)</b> that 'the administrative agency shall ensure that the case is clarified as thoroughly as possible before any administrative decision is made'. This implies that tracing of family/ caretakers and verification of their whereabouts preferably should be carried out before the decision is made, as this information is essential to making the right decision.</p>
PL	<p><b>Act of 13 June 2003 on granting protection to foreigners</b> within the territory of the Republic of Poland.</p>
PT	<p>The national legal reference framework concerning this subject consists of the <b>Asylum Law No 27/2008, dated 30 June (Article 79º, Nos 5 and 6)</b>. As a subsidiary, the procedures for admission of unaccompanied minors in Portuguese territory are contained in <b>Law No 23/2007, dated 4 July</b> — the so-called 'Foreigners' Law with changes introduced by Law No 29/2012, dated 9 August 2012.</p>
SE	<p>On 22 February 2011, the Swedish Migration Board's Director of Legal Affairs issued <b>judicial guidelines (RCI 08 2011)</b> regarding unaccompanied minors, which also included aspects regarding family tracing. The Swedish Migration Board stresses the importance of always including guarantees of legal security in matters relating to unaccompanied minors.</p> <p>In case <b>MIG 2009:8</b>, regarding an unaccompanied minor from Burundi, the Swedish Migration Court of Appeal stated that an investigation indicating that the family was lost, or no longer alive, was not at hand, and that the circumstances rather indicated that the family was still residing in Burundi. Therefore, it could be assumed that the unaccompanied minor could receive appropriate care through reunification with his/her relatives, or at least through an organisation or institution in Burundi. Web link: <a href="https://lagen.nu/dom/mig/2009:8">https://lagen.nu/dom/mig/2009:8</a>.</p>

EU + Legal provisions	
SI	<b>The Law on International protection (first adopted in 2007)</b> provides that it is necessary, as soon as possible, to determine the identity of the unaccompanied minor and start the procedure of family tracing. There are two relevant court rulings on family tracing. The position of courts in its rulings was that the competent authority for deciding on applications should know exactly where the minor will be returned and who will be waiting for him at home, and therefore should make the contact with his family. Nevertheless MOI has appealed this ruling arguing that it is a matter of the authority responsible for the return of the child, but the Supreme Court of Slovenia insisted on such a position.
SK	<b>Act 305/2005 on the socio-legal protection of children and social care.</b>
UK	<p>The Receptions Conditions Directive (2003/9/EC) of 27 January 2003, Article 19(3) was transposed into UK law by Regulation 6 of the <b>Asylum Seekers (Reception Conditions) Regulations 2005</b> (2005 Regulations) which came in to force on 5 February 2005.</p> <p><b>DS (Afghanistan) vs Secretary of State for the Home Department</b> — promulgated on 22 March 2011. The Court of Appeal (Court) found that the Secretary of State for the Home Department (SSHD) had failed to endeavour to trace the family of the appellant and emphasised the link between Regulation 6 of the 2005 Regulations and adherence to Section 55 of the Borders, Citizen and Immigration Act 2009 (2009 Act), which requires the UK's Home Office to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. However, the Court held that the obligation to trace was largely distinct from the judicial consideration of a claim for asylum or Humanitarian Protection.</p> <p><b>HK (Afghanistan) and Others vs Secretary of State for the Home Department</b> — promulgated on 16 March 2012. The Court found that a failure to discharge the duty under Regulation 6 may be relevant to the judicial consideration of a claim for asylum or Humanitarian Protection and reconfirmed that it may also be relevant to consideration of the SSHD's duty under Section 55 of the 2009 Act.</p> <p><b>KA (Afghanistan) and Others vs Secretary of State for the Home Department</b> — promulgated on 25 July 2012. The Court found a systemic breach of the SSHD's duty to endeavour to trace under Regulation 6 during the period 2006 to 2010 by limiting the execution of the duty to notifying the minors of the availability of British Red Cross' family-tracing services. The Court also found that an ex-unaccompanied asylum-seeking child (UASC) may be eligible for relief (corrective leave) if they can establish a failure to discharge the SSHD's duty to endeavour to trace when they were UASC and demonstrate disadvantage as a consequence of this breach of duty, i.e. family tracing would have corroborated a claim, which if believed, would have resulted in a grant of asylum or humanitarian protection.</p>

## 4. Additional guidance

### Soft law instruments

Communication from the Commission to the European Parliament and the Council on guidance for application of Directive 2003/86/EC on the right to family reunification.

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52014DC0210>

UN Committee on the Rights of the Child (CRC), *General Comment No 6 (2005), Treatment of Unaccompanied and Separated Children Outside their Country of Origin*, 1 September 2005, CRC/GC/2005/6.

UN Committee on the Rights of the Child (CRC), *General Comment No 12 (2009), The right of the child to be heard*, 1 July 2009, CRC/C/GC/12.

UN Committee on the Rights of the Child (CRC), *General Comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration*, Article 3, para. 1, 29 May 2013, CRC/C/GC/14.

## Annex 3: Relevant projects and initiatives

This Annex presents information collected during the period of research between February 2013 and March 2016. Its content has been compiled from different sources that were consulted within the time frame and for the scope of this research, especially:

- the replies that the national administrations and civil society provided to the consultation circulated on family tracing in 2013;
- feedback from the experts that attended the EASO Expert Meetings on Family Tracing held since 2013 (including the EASO Expert meeting on Trafficking of Children and Family Tracing in May 2015);
- information from the ‘MS practices on UAM Family Tracing’ as submitted by the national authority to the Commission for elaborating the EU mid-term report on Unaccompanied Minors.

This annex is aimed at serving as a reference point for identifying relevant projects and initiatives on family tracing, undertaken by national administrations and civil society.

### PROJECTS AND INITIATIVES

#### DEVELOPED BY NATIONAL AUTHORITIES

##### AUSTRIA

- **FEDERAL ASYLUM OFFICE — UNHCR**

**UBAUM II:** This project is an extension of the UBAUM I project (authorities’ support for asylum procedures for unaccompanied minors); UBAUM II was launched in 2012 by the Federal Asylum Office and UNHCR. The project consisted of establishing general guidelines for the treatment of unaccompanied children during the asylum procedure. A desk review took place and currently a concept for family tracing is in progress.

##### BELGIUM

- **MINISTRY OF FOREIGN AFFAIRS — ALIENS OFFICE**

Belgian diplomatic services from the Ministry of Foreign Affairs and the Aliens Office (Ministry of the Interior) have signed a cooperation agreement to look for durable solutions. According to the information provided, consular posts check information sent to them and open a search upon request from the Aliens Office.

##### CYPRUS

- **SOCIAL WELFARE SERVICES — INTERNATIONAL SOCIAL SERVICE**

The Social Welfare Services cooperate with the International Social Service, where applicable, for tracing the parents of the unaccompanied children and, where possible, achieving family reunification.

##### ESTONIA

- **NATIONAL AUTHORITY — ESTONIAN RED CROSS**

National authorities cooperate with the Estonian Red Cross with regard to tracing the families of unaccompanied children. The Red Cross tracing service provides for sending messages to relatives in armed conflict areas and disaster areas.

##### FINLAND

- **FINNISH IMMIGRATION SERVICE — INTERNATIONAL SOCIAL SERVICE**

The Finnish Immigration Service signed in 2007 a cooperation agreement with the International Social Service (ISS) regarding family tracing. In 2010, the Finnish Immigration Service received five reports in response to 18 requests.

In 2011, 19 requests for tracing were sent: in six cases guardians were traced, in eight cases guardians were not traced or tracing was discontinued and six cases are still pending.

## GERMANY

- **FEDERAL OFFICE FOR MIGRATION AND REFUGEES — UNHCR — BUNDESFACHVERBAND UNBEGLEITETE MINDERJÄHRIGE**

In the Dublin procedures, the Federal Office for Migration and Refugees is in contact with UNHCR to support and review the cases involving unaccompanied minors. There are also meetings and an exchange of information with other NGOs like the *Bundesfachverband unbegleitete Minderjährige*, as well as with legal guardians and government authorities.

## ITALY

- **COMMITTEE FOR FOREIGN MINORS — IOM**

The activity of family tracing is currently carried out with the collaboration of IOM on the basis of a grant agreement after a specific call for proposal and only for UAMs who are not asylum seekers.

The Committee for Foreign Minors is in charge of family tracing in the country of origin of unaccompanied foreign minors. The Committee is responsible for starting family investigations in collaboration with the IOM — International Organisation for Migration. The IOM supports family tracing and gives useful information to understand the context of origin of the minor. Through interviews and meetings with the family, the IOM identifies the family and local background for each minor in order to be able to give municipalities, responsible social assistants and operators the required information to:

- get to know the family history and reasons for migrating;
- analyse critical points or weakness shown during interviews with the minor;
- adjust assistance/integration paths in Italy for the minor, thus adapting the project to his/her needs and motivation;
- evaluate possible chances of reintegration in the country of origin, based on the sustainability of the action and in the best interest of the minor.

## MALTA

- **AGENCY FOR THE WELFARE OF ASYLUM SEEKERS — SIX OTHER LOCAL AND INTERNATIONAL BODIES**

The Agency for the Welfare of Asylum Seekers (AWAS) launched a pilot project, **Sparklet** (Supporting Closed and Open Centres through Profiling, Action Research and Knowledge Transfer), part of which focuses on tracing the families of unaccompanied minors. This project is partially financed by the European Refugee Fund and implemented by AWAS in association with six other local and international bodies.

## NETHERLANDS

- **DUTCH AUTHORITIES — THE DUTCH REFUGEE COUNCIL**

In the Netherlands, the Dutch Refugee Council may also assist the Dutch authorities in locating family members.

Dutch authorities outlined that they commence tracing only after a decision on asylum has been taken, however pre-tracing starts right at the beginning of the process. Pre-tracing involves gathering documents and/or other information which may later assist with tracing.

Depending on the country of origin of the child, different tactics are followed.

With regards to Afghanistan, Dutch authorities have been making use of the Identification Checking Unit (IDCU) in Kabul since 2010. Out of 120 cases, information was obtained about the family in 40, in 20 there was not enough information to trace the family and for the other cases the results are still pending. On the occasions where the parents were located they have not wished to receive the child back and the children remained in the Netherlands. Whilst there have been no results of tracing in central Iraq, there has been some success with northern Iraq. Out of five requests there have been two positive results where two children were returned to their families.

## NORWAY

- UDI — MINISTRY OF JUSTICE

Norway is part of **ERPUM**, a project in which family tracing plays a crucial part (described more in depth at the end of this section).

Besides its participation in the ERPUM project, Norway (UDI) has developed a **family-tracing pilot in Sri Lanka**. After receiving a large group of minors from Sri Lanka, most of whom were below 15 years old and offered very little information regarding family, the UDI had quite good results in terms of tracing — families were found in most of the cases.

The Ministry of Justice funded special envoys to five relevant embassies to strengthen the return work for all cases; the Sri Lankan situation had a particular focus on family tracing so the special envoy had specific competencies with regards to unaccompanied children. Sri Lanka was chosen because it was possible in practice to undertake tracing, in terms of the security situation; it was possible to move around and there was infrastructure, including registers, in place.

## POLAND

- OFFICE FOR FOREIGNERS — THE POLISH RED CROSS

The Office for Foreigners and the Polish Red Cross have adopted a model of practical cooperation regarding the search for relatives of unaccompanied children applying for refugee status in the Republic of Poland.

## SWEDEN

- SWEDISH MIGRATION AGENCY — ERPUM — THE BALKANS-UGANDA-BURUNDI

Sweden undertakes tracing in countries separate to the **ERPUM** project.

Sweden receives minors from 70 different countries and the experience of the Swedish Migration Agency is that each has a different system. Sweden has also been successful in tracing in **the Balkans**, where they have a readmission agreement and good connections with the authorities. They are also due to sign an agreement with **Uganda** and a locally based **child's rights organisation to undertake family tracing** with a focus on involving the family as part of the process. Lastly, they also have experience of tracing in **Burundi** and using the Burundian birth registry facility. One difficulty in Burundi is that all details of marriage, death, etc., are handwritten within a ledger, so if exact details are missing or the ledger is not clear then the information cannot be found.

## ERPUM II

- SWEDEN, NORWAY, THE NETHERLANDS AND THE UNITED KINGDOM

ERPUM II is a continuation of the ERPUM project which commenced in 2011 and is partially financed by the European Commission Return Fund. It is an instance of practical cooperation on tracing and the possible return of unaccompanied minors between Sweden, the Netherlands, Norway, and the United Kingdom. The purpose is to pool resources and share instances of good practice and experience to progress in this area. ERPUM II currently focuses on Afghanistan, Iraq and Morocco.

- **Afghanistan:** investigating the possibilities of a reception centre for short-term stay, possibly with the IOM as integration facilitators; ongoing discussion with Afghan representatives since 2010.
- **Iraq:** the situation in Baghdad is difficult, although they are engaged in ongoing negotiations with the government. So far they have also not managed to identify a facilitator. However, in Kurdistan, they have managed to undertake some tracing and are currently in talks with the Ministry of the Interior.
- **Morocco:** work on developing family tracing has begun and it has been followed by several field visits.

The importance of working in partnership to develop relations and cooperation with officials in these countries has been outlined. The work is undertaken by two teams:

- a. The 'Third Country Team' is responsible for negotiations with governments and organisations in third countries as well as the implementation of agreements with third countries.



b. The ‘Tracing contact points team’ meets bi-monthly to discuss statistics, developments, reports and conduct workshops with officers to understand their experiences. It is an opportunity to share expertise.

## DEVELOPED BY INTERNATIONAL ORGANISATIONS

### INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC)

The worldwide **Family Links Network** of the Red Cross and Red Crescent International Movement is comprised of the ICRC, including the Central Tracing Agency (CTA) at the HQ and the RFL units of its Delegations and Missions in 84 countries, as well as of the Restoring Family Links services of 189 Red Cross and Red Crescent National Societies. The Family Links Network is responsible for the Restoring Family Links activities (RFL). The CTA of the ICRC coordinates the network and plays an advisory role to the Red Cross and Red Crescent National Societies on issues related to RFL.

<http://www.icrc.org/eng/resources/documents/publication/p0966.htm>

#### Online tracing

When a large-scale emergency occurs, another way in which the Family Links Network often looks for people is through the online tracing service. Online tracing services have been used since 1996, in connection with various conflicts and disasters, to publish lists of names and information on: people who are safe and well; hospital patients; people who are looking for relatives; sought persons or those who are dead; addressees of Red Cross messages who are difficult to reach.

Individuals can access these lists directly on the web page and can look for the names of their family members. They can also publish the following details on the web page: their name and location and whether they are safe and well; or the name of a sought relative with a request for news, together with their own name and contact details.

#### Family Links website

The Family Links website helps people looking for family members when they have lost contact due to armed conflict or other situations of violence, natural or man-made disasters, or migration as well as in other situations of humanitarian need.

<http://familylinks.icrc.org/en/Pages/home.aspx>

#### E-learning course: Restoring Family Links and PsychoSocial Support

This e-learning course aims to increase the awareness and knowledge of psychosocial support staff on Restoring Family Links, and to allow the Restoring Family Links practitioners to acquire the basic tools and concepts of Psychosocial First Aid.

<http://familylinks.icrc.org/en/Pages/NewsAndResources/Resources/E-learning-RFLPSS.aspx>

#### Hotline

In a large-scale emergency, a telephone ‘hotline’ can also be set up by the ICRC or a Red Cross and Red Crescent National Society to collect information, inform family members or refer them to the appropriate sources of information.

### INTERNATIONAL ORGANISATION FOR MIGRATION (IOM)

A project on **Enhancing capacities in EU Member States and third countries to promote durable solutions for unaccompanied minors** (through identification of good practices in family tracing and assessments as well as the provision of an enhanced reintegration approach) ran from January 2013 until June 2014. It was undertaken in cooperation with Austria, Belgium, Hungary, Italy and the Netherlands and looked at the following origin countries: Afghanistan, Albania, Iraq, Kosovo, Pakistan and Serbia. Intended beneficiaries of the project included unaccompanied children, guardianship services and EU authorities.

A second project looked at **family tracing activities and the organisation of assisted voluntary returns of unaccompanied migrant children residing in Italy**, in support of the Italian Ministry of Labour and Social Policies. It covered the geographical areas of Italy and unaccompanied migrant children countries of origin. Intended beneficiaries include unaccompanied migrant children temporarily residing in Italy, social workers and others working with unaccompanied migrant children. The project was foreseen to last 18 months. Although family tracing is usually

an integral part of Assisted Voluntary Return and Reintegration, the IOM also conducts family tracing aimed at a wider scope of migration management.

By providing information on the socioeconomic context of the minors in the origin country and the causes and expectations related to their migratory project, those in direct contact with the minors in the host country (e.g. social workers, legal guardians) can have additional grounds to support the minors in finding the best durable solutions, responding to their aspirations and needs. Information sharing has to be made in accordance with IOM data protection principles and any other more stringent mechanisms in place (in the hosting country).

Currently in **Italy**, the IOM has been carrying out project **PRUMA: Promoting Family Reunification and transfer of Unaccompanied Minor Asylum Seekers (UMASs) under the Dublin Regulation**. This project is aimed at facilitating family reunification for unaccompanied migrant children arriving in Europe in order to seek international protection and who have relatives living in one of the EU Member States. The goal of this initiative is to streamline and expedite the reunification process envisaged by European law for unaccompanied children asylum seekers, in order to protect them from the risk of becoming victims of trafficking or exploitation.

Funded by the European Commission under the European Refugee Fund, project PRUMA aims at supporting the timely implementation of the family reunification provisions envisaged by the Dublin III Regulation. For this reason standard procedures have been developed with the purpose of strengthening cooperation among national Dublin Units and other relevant authorities. These procedures are also aimed at speeding up the many steps of the reunification process: from the identification of the child up to his transfer to the Member State where his relatives reside, taking constantly into consideration the minor's best interests and the legal guarantees on which this is based.

In addition to the regional standard operation procedures (SOPs) identified, National SOPs have been elaborated by a committee of experts and proposed to the competent authorities in the following participating countries: France, Germany, Greece, Italy, Malta and the United Kingdom.

#### UNITED NATIONS CHILDREN'S FUND (UNICEF) AND THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR)

As part of a joint endeavour to step up protection for the growing numbers of children and others with specific needs arriving in Europe, the UNHCR and Unicef have set up special support centres for children and families along the most frequently used migration routes in Europe.

Twenty **Child and Family Support Hubs**, known as '**Blue Dots**', provide a safe space for children and their families, vital services, play, protection and counselling in a single location. The services include restoring family links — provided by the Red Cross and Red Crescent network; family reunification, child-friendly spaces, dedicated mother and baby corners, safe sleeping areas for women and children, psychosocial and legal counselling and referral to other services as needed.

### DEVELOPED BY CIVIL SOCIETY ORGANISATIONS

#### BELGIUM CARITAS INTERNATIONAL

Belgium Caritas International works with the minor for family tracing, often linked to return. This is a very long process which is intended to provide for a sustainable return.

Before tracing, it is essential to build up trust and family tracing must be carried out on this basis of trust. When family is traced, the first step is the 'rehabilitation' of children with parents, which takes a long time. The role of the family in the child's life and the reintegration and educational possibilities of the child must be explored. The minor is to be educated in the receiving country so that he or she can work back home. Belgium Caritas runs two projects, one in **Guinea** and the other in **Morocco**, working with families before return, working on reintegration and understanding the mandate of the family — when and to what the child can return. Belgium Caritas invests in training facilities, so that minors can rebuild their lives.

#### DEFENCE FOR CHILDREN

From December 2009 until November 2011, Defence for Children coordinated the project **Closing a Protection Gap: core standards for guardians of separated children**. Seven European partners were involved in this project. During the project, ten core standards for guardians aimed at offering better protection to separated children arriving in Europe were developed. Interviews with 68 guardians and 127 separated children formed the basis for



the development of the standards. Since 2012, Defence for Children International-Netherlands has also coordinated the follow-up project **Closing a Protection Gap 2.0**. The primary aim of this project was to ensure that the core standards will be implemented on both a national and European level. All of the individual country reports, tools for guardians and policy-makers and additional information may be found at: [www.corestandardsforguardians.com](http://www.corestandardsforguardians.com).

From December 2012 until December 2014 nine project partners worked on the implementation of the core standards for guardians of separated children. The objectives of the project are:

1. raising awareness of the core standards, tailoring them to the situation in every EU country participating in the project and empowering guardians;
2. the national implementation of the core standards in practice and advocate for provisions in national legislation;
3. the development of European Strategic guidelines for the harmonisation of appropriate guardianship inspired by the core standards;
4. enlarging the scope of the core standards for guardians of separated children in Europe in nine other EU countries.

#### EUROPEAN COUNCIL ON REFUGEES AND EXILES (ECRE)

ECRE was recently involved in the project **No longer Alone: Advancing Reception Standards for Unaccompanied Children**, which will run until March 2016.

The project's overall goal is to contribute to the improvement of reception standards for unaccompanied children (UACs) and for ensuring that accommodation and reception are adequate to their needs. The project in particular aims to further provide tools for development of good practices and raising awareness on existing good practices by studying in depth five selected models/practices in the following countries: France, Hungary, the Netherlands, Scotland and Sweden.

Particular interest has given to the practice of reception facilities in the Netherlands. A special form of reception called 'Protected Reception Location' (BO) is available for males and females, as well as teen-mother unaccompanied minors, who are (possible) victims of human trafficking. If a minor is flagged as a possible victim of human trafficking, he or she automatically ends up in this Protected Reception. The object of the case study visit (to be held in October 2015) and the study visit (to be held in January 2016) will not only look at the functioning of the 'Protected Reception' centre but also at the identification of the possible and/or potential candidates during the intake. It will also look further into the functioning of the verification (loop) system in place if the initial identification of these unaccompanied minors has been correct or not.

The project will also look at disappearances from the BO and the solutions found or that needs to be pursued further.

For further information on the project please check:

<http://www.ecre.org/component/content/article/63-projects/1005>.

#### INTERNATIONAL SOCIAL SERVICE

ISS Switzerland has developed a project to protect and reintegrate, at a social and professional level, children who are on the move and in a vulnerable situation within the West Africa transnational context called **West Africa Networks**. Family tracing is a key activity of this project.

More information at <http://www.westafricanetwork.org/>.

#### MISSING CHILDREN EUROPE

The project, **SUMMIT — Safeguarding Unaccompanied Migrant Minors from Going Missing by Identifying Best Practices and Training Actors on Interagency Cooperation**, has the objective to reduce the number of unaccompanied migrant children who will go missing and to protect the rights that they are entitled to. The project is aimed at responding to the need for clarification on how the issue of the disappearance of unaccompanied migrant children is addressed in different countries and to promote successful strategies and behaviours related to the prevention and response to disappearances. This project also studies the transnational dimension of the matter of the disappearance of unaccompanied migrant children, especially challenges related to information sharing and child tracing.

From the launch in October 2014, MCE have been:

- exploring challenges and opportunities related to interagency cooperation in seven countries (IT, CY, EL, ES, BE, UK, IE);
- in touch with operators in reception centres, guardians and law enforcement and MCE has been collecting their experience and their opinions;
- exploring within MCI's network of 116 000 hotlines what is the current level of involvement of hotlines in cases of disappearances of unaccompanied migrant children and what would be the added value that they can bring to cross-border cases. Particular attention is given to the aspect of prevention, because of the importance to avoid the exposure of those children to serious risks to their health and their life.

The final product of SUMMIT will be the creation of training materials for the aforementioned actors and the organisation of a training seminar in 2016, with the participation of 60 professionals. An increased standard of training and preparation of relevant actors will directly entail an increased standard of service, for the direct benefit of unaccompanied migrant children and, indirectly, relevant authorities.

#### NIDOS — CARITAS INTERNATIONAL — FRANCE TERRE D'ASILE

As part of the project, Dublin Support for Guardians, Nidos set up a helpdesk to assist guardians with Dublin-cases of unaccompanied children. This project is implemented by Nidos in cooperation with Caritas International and France Terre d'Asile, funded by the European Commission. It started 1 June 2013. The project aims to:

- formulate concrete steps for each Member State on how to reunite a UAM with his family (care to care);
- offer concrete support to guardians and other representatives in Dublin cases of UAMs, for example with practical problems with the reunification of minors with their families.

The helpdesk is meant for guardians and other representatives of UAMs that have family in another Member State and want to be reunited. It offers online information on contact details and country practice on [www.engi.eu](http://www.engi.eu).

## Annex 4: Publications

This annex is intended to serve as a reference point for identifying the relevant publications and documents developed by international, European or national public or private bodies or organisations on the topic of family tracing. Although all effort has been made to provide a comprehensive outline, the list below should not be considered exhaustive.

### EUROPEAN COUNCIL ON REFUGEES AND EXILES (ECRE)

Two main publications regarding this subject:

***The Dublin II Regulation: Lives on Hold*** by the Dublin Transnational Network Project, February 2013

The objective of the Dublin Transnational Network project is to enhance knowledge of the implementation of the Dublin Regulation and investigate and analyse Member State practice surrounding the technical application of this Regulation. This report provides a comparative analysis of Member State practice in applying the Dublin Regulation in Austria, Bulgaria, France, Germany, Greece, Hungary, Italy, the Netherlands, Slovakia, Spain and Switzerland. It serves as a synthesis of the findings of national reports produced by project partners and also draws upon the jurisprudence in these Member States. The report is available at:

<http://ecre.org/component/content/article/56-ecre-actions/317-dublin-ii-regulation-lives-on-hold.html>.

***Comparative study on practices in the field of return of children***, December 2011

It is a study on ‘best practices in the field of the return of minors’ that was carried out in strategic partnership with Save the Children, on behalf of the European Commission.

The study looked at legislation and practices regarding the return of children, either unaccompanied or within families, who return voluntarily or are forced to return because of their status as irregularly staying third-country nationals.

The aim of the study is to help Member States develop an effective system for managing the return of children to countries outside of the EU.

The key legal instrument to which the study relates is Directive 2008/115/EC on common standards and procedures in Member States for returning irregularly staying third-country nationals, the so-called ‘Returns Directive’. The Directive identifies the ‘best interests of the child’ as a ‘primary consideration’ for States when implementing the Returns Directive and it contains a range of provisions which specifically address the situation of children. The study is available at:

[http://ec.europa.eu/home-affairs/doc\\_centre/immigration/docs/studies/Return\\_of\\_children-final.pdf](http://ec.europa.eu/home-affairs/doc_centre/immigration/docs/studies/Return_of_children-final.pdf).

### EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS (FRA)

***Report on Guardianship systems for children deprived of parental care in the European Union — With a particular focus on their role in responding to child trafficking***, October 2015

This report explores the key features of guardianship systems put in place to cater for the needs of all children in need of protection, such as unaccompanied children including child victims and those at risk of becoming victims of trafficking in human beings or of other forms of exploitation. The research covers four specific areas, namely the type of guardianship systems in place, the profile of appointed guardians, the appointment procedures and the tasks of the guardians.

<http://fra.europa.eu/en/publication/2015/guardianship-children-deprived-parental-care>.

***Handbook on Guardianship for children deprived of parental care — A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking***, June 2014

This handbook provides guidance on how to establish and run national guardianship systems, and it points to the main tasks that a guardian should carry out to strengthen protection of children deprived of parental care, such as unaccompanied children. The second part of the handbook on the guardians’ tasks contains checklists of possible

actions that guardians may need to take to promote the best interests of the child in his or her various life spheres including on family tracing.

The handbook is available in various EU languages on the FRA website:

<http://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship>.

***Separated, asylum-seeking children in European Union Member States (Comparative Report), 2010***

The report looks at the children's living conditions as well as legal issues and procedures which concern them. The different findings correspond to the various settings in which these children live, thereby addressing the need to incorporate children's views and experiences into work that seeks to inform policy action. Family tracing and reunification is one of the areas explored.

<http://fra.europa.eu/en/publication/2012/separated-asylum-seeking-children-european-union-member-states>.

***Handbook on European law relating to asylum, borders and immigration, 2014 edition***

The handbook examines the relevant law in the field of asylum, borders and immigration stemming from both European systems: the European Union and the Council of Europe. It provides an accessible guide to the various European standards relevant to asylum, borders and immigration.

The handbook is available in various EU languages on the FRA website:

<http://fra.europa.eu/en/publication/2013/handbook-european-law-relating-asylum-borders-and-immigration>.

***Handbook on European law relating to the rights of the child***

The handbook aims to illustrate how European law and case law accommodate the specific interests and needs of children. The handbook also illustrates the importance of parents and guardians or other legal representatives and makes reference, where appropriate, to where rights and responsibilities are most prominently vested in children's carers.

[http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-ecthr-2015-handbook-european-law-rights-of-the-child\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-ecthr-2015-handbook-european-law-rights-of-the-child_en.pdf).

EUROPEAN AGENCY FOR THE MANAGEMENT OF OPERATIONAL COOPERATION AT THE EXTERNAL BORDERS OF MEMBER STATES OF THE EUROPEAN UNION (FRONTEX)

***VEGA Handbook: Children at airports***

The handbook, published in 2015, contains suitable operational actions for entry, transit and exit controls that are designed without taking into account the possible but rare presence on the spot of officers who are specialised in children's rights or child protection. The guidelines also try to reflect and ensure at all times an approach based on the rights of the child, taking into account the concrete needs and obligations of border guards' activities at the same time. It is available at:

[http://frontex.europa.eu/assets/Publications/Training/VEGA\\_Children\\_Handbook.pdf](http://frontex.europa.eu/assets/Publications/Training/VEGA_Children_Handbook.pdf).

INTER-AGENCY COLLABORATION: INTERNATIONAL COMMITTEE OF THE RED CROSS, INTERNATIONAL RESCUE COMMITTEE, SAVE THE CHILDREN, UNITED NATIONS CHILDREN'S FUNDS, UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES AND WORLD VISION

***Inter-agency Guiding Principles on unaccompanied and separated children***

This set of comprehensive guidelines outlines a framework and set of principles intended to ensure that the rights and needs of separated children are effectively addressed. Created through close inter-agency collaboration, the document addresses all aspects of an emergency, from preventing separations to family tracing and reunification through to long-term solutions and it encourages the pooling of complementary skills and expertise. It is available at:

[http://www.unicef.org/protection/IAG\\_UASCs.pdf](http://www.unicef.org/protection/IAG_UASCs.pdf) or at <https://www.icrc.org/eng/resources/documents/publication/p1101.htm>.

Translations to French and Spanish are available at: <http://resourcecentre.savethechildren.se/library/inter-agency-guiding-principles-unaccompanied-and-separated-children> or at <http://www.refworld.org/docid/4113abc14.html>.

## INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC)

### ***Accompanying the families of missing persons: A practical handbook***

This handbook is based mainly on the experiences, in various contexts, of the International Committee of the Red Cross (ICRC) and others involved in supporting families whose relatives have gone missing as a consequence of armed conflict or of violence in some other form. The ICRC has played an active role since 1991 in supporting the families of missing persons and advocating respect for their right to know the fate of their relatives. During the conflicts in Bosnia-Herzegovina, Croatia and Kosovo, families filed over 34 000 tracing requests with the ICRC, hoping to learn what had become of their loved ones and to recover their remains.

<https://www.icrc.org/eng/resources/documents/publication/p4110.htm>

### ***Are you looking for a family member?***

This publication highlights the [familylinks.icrc.org](http://familylinks.icrc.org) website, intended for people who have been separated from their family members by armed conflicts, natural disasters or migration. It explains how to contact specialists of the Red Cross and Red Crescent National Societies around the world through the website, which provides access to a range of services designed to help people restore contact with their loved ones.

<http://www.icrc.org/eng/resources/documents/publication/p4102.htm>

### ***The need to know: restoring links between dispersed family members***

This publication explains how the Family Links network operates. It describes situations in which family separations occur, and the many ways in which the Red Cross and the Red Crescent International Movement supports dispersed families and families of missing people.

<http://www.icrc.org/eng/resources/documents/publication/p4037.htm>

### ***Restoring family links strategy***

This publication contains the Restoring Family Links (RFL) strategy of the Red Cross and the Red Crescent International Movement and implementation plan (2008-2018) as well as a selection of relevant legal references.

<http://www.icrc.org/eng/resources/documents/publication/p0967.htm>

### ***Restoring family links, presenting the strategy for a worldwide network***

This leaflet summarises the work being done by the Family Links Network of the Red Cross and the Red Crescent International Movement to meet the needs of those separated from their loved ones as a result of war, disasters, migration or other circumstances.

### ***Restoring links between dispersed family members***

This leaflet provides a concise summary of the problem of families split up by war or disasters and a description of the methods used by the Red Cross and the Red Crescent International Movement to restore family links, reunite separated families and ascertain the status of detainees and missing persons. It also includes an overview of results achieved in Mexico and Central America, Haiti, the Democratic Republic of Congo and Afghanistan.

<http://www.icrc.org/eng/resources/documents/publication/p0592.htm>

### ***Restoring family links: a guide for National Red Cross and Red Crescent Societies***

Intended for Red Cross and the Red Crescent International National Societies, this guide promotes a common approach of the Red Cross and the Red Crescent International Movement to restoring family links broken by conflict, natural disaster or other humanitarian crises. It includes advice on refining tracing tools, including new technologies, and describes the legal basis for tracing work.

<http://www.icrc.org/eng/resources/documents/publication/p0784.htm>

## INTERNATIONAL JUVENILE JUSTICE OBSERVATORY

***Children on the Move, Family Tracing and Needs Assessment — Guidelines for Better Cooperation between Professionals Dealing with Unaccompanied Foreign Children in Europe*** is a report coordinated by the International Juvenile Justice Observatory.

The main goal of this report is to develop a comprehensive comparison and analysis of the Unaccompanied Children's profiles — concerning needs and family tracing issues — in the different host-partner countries and to provide a multi-dimensional evaluation of the problem at a European level.

This report is part of the EU project, **Net for U — Needs Tackling and Networks for Unaccompanied Children integration**, which involved seven partners and is coordinated by the Istituto Don Calabria in Italy, with the support of the European Commission, DG Home Affairs.

## INTERNATIONAL ORGANISATION FOR MIGRATION (IOM)

***Unaccompanied Children on the Move***

The document aims to provide an overview of the scope of activities of the International Organisation for Migration (IOM) in relation to the protection of unaccompanied migrant children and support for this group. It significantly draws on the IOM's operational data and programmatic information, collected through internal knowledge management tools; at the same time, this information is supplemented by a mapping of the activities of IOM Field Offices covering the period 2009-2011.

In line with the increased attention paid to child migration as part of a larger phenomenon of family migration, transnational families and family reunification, the work of the IOM has substantially grown in relation to providing assistance to children on the move, particularly those who are unaccompanied.

***International Dialogue on Migration No 24 — Migration and Families***

This publication contains the report and supplementary materials about the workshop on migration and families, which was held in Geneva, Switzerland, on 7 and 8 October 2014, within the framework of the International Dialogue on Migration (IDM). The workshop was the second in a series of two workshops organised in 2014 under the overarching theme, 'Migration Human Mobility and Development: Emerging Trends and New Opportunities for Partnerships'.

## INTERNATIONAL SOCIAL SERVICE

Since its creation, the ISS has published several guides and manuals addressing the issue of family tracing, such as the book, ***Unaccompanied children in emergencies: A Field Guide for their Care and Protection or the ISS Casework Manual***.

More recently, the ISS has been actively involved in developing and promoting the **Guidelines for the Alternative Care of Children** as well as the **Implementation and Monitoring Handbook for the Guidelines** (<http://www.iss-ssi.org/index.php/en/what-we-do-en/advocacy#guidelines>), which address this issue as well (see in particular paragraphs 139-166 of the Guidelines and pages 113-119 of the Handbook). The **ISS Monthly Review** also contains occasional articles on unaccompanied minors and, thus, also addresses the issue of family tracing.

## SAVE THE CHILDREN

This list includes a number of arenas in which STC have addressed family tracing in the EU context in recent policy discussions concerning children arriving in Europe:

- contribution to EU Return Directive Contact Committee workshop on Article 10(2) of the Return Directive, February 2010;
- **EU Study on the return of children, ECRE and Save the Children** (Nov 2011);
- policy recommendations in relation to the issue in the recast EU asylum legislation negotiation, consultation on the EU Action Plan on Unaccompanied Children and report on its implementation;
- contribution to Family Tracing EU Expert Meeting March 2013, organised by the European Commission;
- contribution to Save the Children/Danish EU Presidency conference on unaccompanied children June 2013;

- Save the Children submission to the UN Committee on the Rights of the Children in the context of the General Day of Discussion on children in migration.

#### UNITED NATIONS CHILDREN'S FUND (UNICEF)

***The Lost Ones: Emergency care and family tracing for separated children from birth to five years***, UN Children's Fund (Unicef, April 2007), available at:

<http://www.bettercarenetwork.org/toolkit/protection-and-care-in-emergencies/registration-emergency-care-and-family-tracing/the-lost-ones-emergency-care-and-family-tracing-for-separated-children-from-birth-to-five-years>.

The document was intended to provide guide measures that ensure that children under five are not separated when this can be avoided, and, if separated, can be reunited with their families as quickly as possible. It includes chapters on tracing, registering, verification, reunification and the provision of care to meet developmental needs.

#### UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR)

***Safe and Sound: what States can do to ensure respect for the best interests of unaccompanied and separated children in Europe***, UNHCR Unicef October 2014, available at:

<http://www.refworld.org/docid/5423da264.html>.

This document aims to support States in the EU and EFTA in applying the best interests principle as a primary consideration when dealing with unaccompanied and separated children in their territory. This document has been primarily designed for use by policy-makers and public and private institutions in the EU and EFTA countries seeking to establish or improve arrangements for identifying unaccompanied and separated children, and according primary consideration to their best interests, including when identifying durable solutions for them. It may also be of interest to other actors in child protection systems such as lawyers, social workers, representatives/guardians, the judiciary and children's ombudspersons.

***The Heart of the Matter — Assessing Credibility when Children Apply for Asylum in the European Union***, December 2014, available at:

<http://www.refworld.org/docid/55014f434.html>.

This publication aims to help decision-makers assess the credibility of children's claims in a fair objective and consistent manner. In particular, the publication has different national practices on family tracing and on age assessment methods. It sets out a number of observations that could serve as the foundation for guidance on the subject.

#### ***Field Handbook for the Implementation of UNHCR BID Guidelines***

The BID Guidelines and this Field Handbook are part of UNHCR's commitments relating to the protection of refugee children.

Best interests determination is a tool to implement ExCom Conclusion No 107 (2007) on Children at Risk, and is also included in UNHCR's Global Strategic Priorities 2010-2011 and 2012-2013 and is part of the Age, Gender and Diversity Mainstreaming Accountability Framework. It is therefore important that all programme, community services, protection and field staff, as well as relevant (child protection) partners, have an understanding of the process and apply the guidelines in their daily work. Available at <http://www.refworld.org/docid/4e4a57d02.html>.



## Annex 5: Family-tracing methods used in the EU+

**Table 1:** Methods applied by EU+ States to collect the necessary information for the family-tracing process.

EU+ States	Interviewing		Direct contact with family members	Use of databases/records				Involvement of social services			Involvement of IGOs/NGOs	Other methods
	the child	the family members		in the host country	in other MS	in country of origin	in other countries	in the host country	in the country of origin	ISS		
AT	✓	✓	✓	✓	✓ Dublin	✓	✓	✓			✓	✓
BE	✓	✓	✓	✓	✓ Dublin	✓	✓	✓			✓	✓
BG	✓											
CY	✓	✓	No	✓	✓	✓	✓	✓	✓	✓	✓	✓
DE	✓	✓		✓	✓ Dublin	✓	✓	✓	✓	✓	✓	
DK	✓	✓	✓		✓						✓	
EE	✓	✓		✓	✓ Dublin	✓		✓			✓	
FI	✓	✓	✓	✓	✓ Dublin	No	No	✓	No	✓	No	✓
FR	✓	✓		No	No	No	No	✓	✓	No	✓	✓
HU	✓		No	✓	✓ Dublin	No	✓	✓	No		✓	
IE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
IT	✓	✓	✓	✓		✓		✓	✓		✓	✓
LT												
LV	✓	✓		✓							✓	
LU	✓							✓	✓		✓	
MT	✓	✓	✓					✓	✓		✓	
NL	✓	✓	✓	No	✓ Dublin	No	No	✓	No	✓		✓
NO	✓	✓	✓	✓	✓ Dublin	No	✓	✓	No	No	✓	No
PL	✓			✓	✓ Dublin	✓					✓	
PT	✓	✓		✓	✓	✓					✓	
RO												
SE	✓	✓	✓	✓	✓ Dublin	✓	✓	✓	✓		✓	
SI	✓			✓	✓ Dublin			✓			✓	
SK	✓	✓		✓	✓ Dublin	✓	✓	✓	No		✓	No
UK	✓	No	✓	✓	No	✓	✓	✓	✓	✓	No	N/A
Summing up	23/23	17/18	11/14	17/19	16/18	12/17	10/13	18/18	9/12	6/8	19/21	7/8



**Table 2:** *Methods applied by EU+ States to verify the family links between the child and the found family member or relative.*

EU+	Documentation	Embassy investigation	Contact with country of origin	Statements of child	DNA	Interview/ account of family member	Use of external resources
AT	✓			✓			✓
BE	✓	✓		✓			
BG				No experience			
CY		✓	✓	✓			
DE	✓			✓	✓	✓	
DK				✓		✓	
EE					✓		
FI				✓		✓	
FR		✓	✓	✓			
HU				No experience			
IE	✓				✓		
IT	✓			✓	✓	✓	
LT				-			
LV	✓			✓	✓		
LU	✓						
MT	✓			✓			✓(IOM)
NL	✓				✓		
NO	✓			✓		✓	
PL				No experience			
PT	✓	✓	✓				
RO				-			
SE	✓	✓	✓	✓	✓	✓	(NGO in CoO)
SI	✓			✓			
SK	✓			✓		✓	
UK	✓			✓		✓	



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