



Unaccompanied Minors in the European Union – Ensuring the Best Interests of the Child

SAFE & SOUND

- * In recent years, a growing number of unaccompanied and separated children have arrived in Europe. From 2010 to 2013, a total of 48,820 unaccompanied children claimed asylum in the European Union (EU) plus Iceland, Liechtenstein, Norway and Switzerland.
- * The total number of unaccompanied and separated children in these countries is thought to be significantly higher. Regardless of their numbers, these children face a range of challenges and are in need of appropriate support and protection.



* Making sure that they receive the protection and care they are entitled to in line with their best interests, as provided for under international and regional law, is not an easy task. *Safe and Sound*, developed by UNHCR and UNICEF, offers inspiration for and support to States as they make efforts to ensure that unaccompanied children have their best interests considered in all decisions which impact their lives.



What is the best interests principle?

- * *This principle is found in Article 3.1 of the Convention on the Rights of the Child and states that, “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.”*
- * *Following are some of the elements to take into account when assessing and determining a child’s best interests: the child’s identity, the child’s views in line with the child’s age and maturity, the parent’s or caretaker’s views, the child’s safety and well-being, the preservation of family life, any vulnerabilities the child may have and the child’s right to health and education.*





- * An unaccompanied or separated child is first and foremost a child, and should be treated as such. Deprived of a supportive family environment, he or she is entitled to special protection and assistance based on their age, gender and background. This protection is critical for children crossing borders who, without accompanying family members, may be in situations of high vulnerability and risk.



- * These children may be fleeing from persecution, armed conflict, exploitation or poverty. They may have been sent by members of their family or they may have decided to leave on their own. They may be trying to join parents or other family members, they may have been separated from their family during flight, or they may be victims of trafficking. Often it is a combination of factors.





- * When children don't have a parent or legal caretaker to look out for them, they are dependent on States to take decisions in their best interests.
- * States are required under the Convention of the Rights of the Child as well as EU and national law to assess and determine what actions are in the child's best interests.
- * Moreover, States are required to make these best interests a primary consideration in all decisions that affect the child, from the moment the child arrives until a durable solution is found.





* *Safe and Sound* follows the path of an unaccompanied or separated child from the time of arrival in a European country to the point at which a durable solution has been found. In order to ensure respect for the best interests of the child, UNHCR and UNICEF recommend that, throughout this process, States seek to embed this principle in their structures and procedures by:





- * Ensuring a holistic approach is taken to establish a child's best interests, considering all the characteristics of the child and his/her circumstances and needs;
- * Making efforts to ensure that the processes are child-friendly, including through the provision of child-friendly information;



- * Giving each child the opportunity to be heard, in accordance with the child's age and level of maturity;
- * Seeking all relevant information about the child with the child and from relevant sources as early in the process as appropriate, for the earliest possible understanding of the child and his or her circumstances;



- * Actively seeking the early establishment of trust;
- * Seeking a joined-up vision for the child across the many people the child encounters, from border officials to counsellors to administrators;



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- * Ensuring that a greater level of safeguards is put in place as the impact that a decision has on the life of a child increases;
- * Considering actions in the short, medium and long term, which enable the child to develop into adulthood in an environment which will meet the child's needs as well as fulfill the child's rights, and will not put the child at risk of persecution or serious harm.

