

Practical Tool for Guardians

The asylum procedure



Practical Tool for Guardians

The asylum procedure

October 2023

On 19 January 2022, the European Asylum Support Office (EASO) became the European Union Agency for Asylum (EUAA). All references to EASO, EASO products and bodies should be understood as references to the EUAA.



Manuscript completed in September 2023

Neither the European Union Agency for Asylum (EUAA), the European Union Agency for Fundamental Rights (FRA) nor any person acting on behalf of the EUAA or FRA is responsible for the use that might be made of the information contained within this publication.

Luxembourg: Publications Office of the European Union, 2023

PDF ISBN 978-92-9403-439-7 doi: 10.2847/718054 BZ-03-23-315-EN-N

© European Union Agency for Asylum (EUAA), 2023 and European Union Agency for Fundamental Rights (FRA), 2023

Cover photo, Monkey Business © AdobeStock

Reproduction is authorised provided the source is acknowledged. For any use or reproduction of photos or other material that is not under the EUAA or FRA copyright, permission must be sought directly from the copyright holders.

About this series

The European Union Agency for Asylum (EUAA) and the European Union Agency for Fundamental Rights (FRA) have joined forces in the development of a series of practical tools for guardians of unaccompanied children with international protection needs. The objective is to support guardians in their daily tasks and responsibilities during the asylum procedure, including the procedure under the Regulation (EU) No 604/2013 (Dublin III regulation) ⁽¹⁾ and temporary protection. The series of practical tools addresses the following topics:

- temporary protection;
- introduction to international protection;
- the asylum procedure;
- transnational procedures.

The four booklets complement each other.

The aim of these practical tools is to allow the guardian to better inform and assist children in the process, and thus help children to better understand the relevance of the steps involved. The child's meaningful participation and capacity to make informed decisions will be improved.

Good functioning guardianship systems are essential in promoting the best interests of the child and children's rights. Guardians are responsible for ensuring that any legal, social, medical and psychological needs are addressed throughout the specific procedure and until a durable solution is secured for the child.

In preparation for the drafting of these practical tools, the EUAA and FRA have consulted the European Guardianship Network through a rapid needs assessment to define the objectives and the topics covered by the practical tools.

Considering the target group of this series, the tools are based on the handbook on guardianship by FRA and the European Commission ⁽²⁾ and are consistent with the FRA training modules for guardians ⁽³⁾ as well as with EUAA training curriculum ⁽⁴⁾.

(1) [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) (OJ L 180, 29.6.2013).

(2) FRA and European Commission, [Guardianship for Children Deprived of Parental Care – A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking](#), 30 June 2014.

(3) The FRA e-learning website is available at: <https://e-learning.fra.europa.eu/>.

(4) EUAA training catalogue is available at: <https://euaa.europa.eu/publications/training-catalogue-20222023>.

Contents

List of abbreviations	5
About this tool	6
1. The asylum procedure and your role as a guardian	7
1.1. What is the asylum procedure?	7
1.2. Safeguards for a fair and effective procedure	8
Your role as a guardian	9
2. Access to the asylum procedure	14
2.1. Making an application for international protection	15
Your role as a guardian	16
2.2. Registering an application for international protection.....	17
Your role as a guardian	19
2.3. Lodging an application for international protection.....	20
Your role as a guardian	21
2.4. What happens if the child’s age is disputed?	22
Your role as a guardian	23
3. Right to dignified living during the asylum procedure	25
3.1. Reception conditions.....	25
Your role as a guardian	27
3.2. Immigration detention	28
Your role as a guardian	30
4. The examination phase	31
4.1. Admissibility stage (not compulsory).....	31
Your role as a guardian	32
4.2. The personal interview	32
Your role as a guardian	33
4.3. Decision-making process and notification	36
Your role as a guardian	37
5. Appeal against a negative decision	39
Your role as a guardian	40
6. What can you do when something is not going as expected?	41
Annex 1. Additional resources	44
List of figures	47

List of abbreviations

Abbreviation	Definition
APD	asylum procedures directive — Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)
CRC	United Nations Convention on the Rights of the Child
EUAA	European Union Agency for Asylum
FRA	European Union Agency for Fundamental Rights
Member States	EU Member States
RCD	reception conditions directive — Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)
UNHCR	United Nations High Commissioner for Refugees

About this tool

EU law provides for the appointment of a representative for unaccompanied children applying for international protection ⁽⁵⁾. Guardians should be qualified and equipped to deal with the wide variety of laws and procedures that regulate asylum, migration or other issues they may need to engage with ⁽⁶⁾.

This booklet aims to support guardians assigned to children in the asylum procedure. It includes an overview of the asylum procedure with a specific focus on children, the guarantees in the asylum procedure and your role as a guardian in the different phases of the asylum process. There is also a section on what to do if something unexpected may happen, or if the age of the applicant is disputed.

The tool contains boxes with practical tips for the guardians and further reading materials.

Disclaimer

This tool was developed while the Common European Asylum System was under reform by the responsible EU bodies. However, said instruments were only available as proposals and not as final and adopted legal documents at the time of drafting. Therefore, this tool has been drafted on the basis of the Common European Asylum System instruments legally in force at the time of its development.

The information contained in this tool has been researched, evaluated and analysed with the utmost care. However, this document does not claim to be exhaustive.

⁽⁵⁾ Article 25 of [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), (OJ L 180/60, 29.6.2013) (APD).

⁽⁶⁾ For more information, refer to European Union Fundamental Rights Agency (FRA) and the European Commission, [Guardianship for children deprived of parental care — A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking](#), 2015.

1. The asylum procedure and your role as a guardian

1.1. What is the asylum procedure?

The asylum procedure is the process by which Member States determine whether a person is in need of international protection.

In the EU context, international protection (or asylum) is granted in the form of refugee status and subsidiary protection status ⁽⁷⁾. To know more on the definitions of these statuses, refer to the tool for guardians on introduction to International protection in this series ⁽⁸⁾.

International protection needs may arise because of risks of persecution or serious harm based on the following points.

- Events that took place while the applicant was in their country of origin.
And/or
- Events that took place after the applicant left their country of origin, referred to as needs arising *sur place*. In this case, international protection needs may arise once the individual is already on the territory of a Member State.

The asylum procedure can be divided in phases:

1. access to the procedure;
2. Dublin procedure, to establish which Member State is responsible for examining an application for international protection;
3. examination phase;
4. appeal phase.

This booklet describes phases 1, 3 and 4. The procedure to establish which Member States has to examine an asylum application is dealt with in EUAA-FRA, [Practical Tool for Guardians – Transnational procedures](#), 2023.

⁽⁷⁾ Article 2, point (i) APD.

⁽⁸⁾ EUAA-FRA, [Practical Tool for Guardians – Introduction to international protection](#), October 2023.

Figure 1. The key stages of the asylum procedure**Key**

Green: access to the procedure

White: Dublin procedure (if applicable)

Blue: examination phase

Red: appeal phase (if applicable)

1.2. Safeguards for a fair and effective procedure

Every person arriving in the EU and seeking international protection is entitled to an appropriate examination of their international protection needs. Such people may be in a particularly difficult situation as they find themselves in a foreign environment, they face language and cultural barriers as well as psychological and other obstacles. They may have suffered from trauma.

For these reasons, procedural safeguards are essential for ensuring a fair and effective asylum procedure. The APD provides applicants for international protection with certain procedural guarantees in order to overcome these barriers.

Regardless of the applicant's age, such main procedural safeguards include:

- the applicant's right to remain on the territory until a final decision on their application has been made to ensure compliance with the principle of *non-refoulement*;
- guarantees for the personal interview, which must be conducted in the language the applicant prefers or another language the applicant understands and can communicate in clearly;
- the right to information: Member States have to provide general information on the asylum procedure as soon as possible;
- free legal and procedural information tailored to the applicant's needs;
- free legal assistance at the applicant's request, and representation in the appeals procedure;
- the right to communicate with the United Nations High Commissioner for Refugees (UNHCR) at all stages of the procedure as well as with other organisations providing legal advice or other counselling.

Some applicants may be in need of special procedural guarantees. This is especially true for children. Some children are moving across borders without the care of a responsible adult or may be left unaccompanied after or prior to entering the EU. Children travelling on their own through unknown countries are exposed to a higher risk of violence, abuse and neglect.

Your role as a guardian

As a key safeguard for unaccompanied children (or of a presumed child if the age is in doubt) an independent and qualified guardian must be appointed as soon as possible ⁽⁹⁾.

Based on national legislation, where, for practical reasons, a permanent guardian cannot be assigned swiftly to a child, provisions may be made for the appointment of a person who temporarily carries out the guardian's tasks. In such cases, temporary guardians must have the same qualifications and characteristics (e.g. independence) as non-temporary guardians. The guardian should be informed and consulted about all the aspects of the administrative process and should be able to accompany the child during the whole procedure.



Related EUAA publication

FRA, [e-learning course for guardians](#), 2022.

FRA and European Commission, [Guardianship for Children Deprived of Parental Care – A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking](#), 30 June 2014.

Once appointed as a guardian, your task is to promote the best interests of the child and to exercise legal capacity for the child where necessary ⁽¹⁰⁾.

You will have to pay attention to several important aspects for the protection of the child throughout the whole asylum procedure: promoting the best interests of the child, providing child-appropriate information, listening to the child's views, ensuring the child's safety and respecting family unity.

The best interests of the child

The best interests of the child is a right, a principle and a rule of procedure recognised in international and European law. It is the basis for all decisions regarding children in the context of migration. Its aim is to ensure the child's development and full enjoyment of all the rights laid down in the United Nations Convention on the Rights of the Child (CRC).

In practice, this means you as guardian and all other actors must assess the child's individual and specific circumstances and needs. This assessment needs to be considered in all actions and decisions affecting the child, whether for the short-, medium- or long-term. These aspects should be covered in the assessment as a minimum: the child's views; the child identity; family environment and relations; care, protection and safety needs; possible additional vulnerabilities; health and education aspects.

⁽⁹⁾ Article 25(1) APD.

⁽¹⁰⁾ Article 25(1), point (a) APD as well as Article 24 RCD.

Best interests assessments should be done on a regular basis, so that authorities take into account the evolution and development of the child and any changes in the child's circumstances or views. Important decisions regarding the child, should also explain how the best interests of the child was considered and informed the decision.

As guardian you should make sure relevant authorities assess and consider the best interests of the child, in consultation with you and with the child, on a regular basis. You should keep in close contact with the child and inform authorities on any development that would require a new decision or a change of approach.



Related publication

EASO, [Practical Guide on Best Interests of the Child in Asylum Procedures](#), 2019.

Provision of information

At all times, the child has a right to seek, receive and share information guaranteed in the APD ⁽¹⁾, and in Directive 2013/33/EU (RCD) ⁽¹²⁾. Information must be provided in a language and a manner that the child understands. Providing information to the child is the responsibility of all actors who are in contact with the child. The child might not receive adequate information, or might have misunderstood, or might have forgotten. As the guardian, you are responsible for providing information as well as for making sure that the appropriate information from other actors reaches the child.

Children must be informed in a manner that ensures they understand the nature and purpose of the processes in which they are participating, how these are relevant to their situation, the options they have, the potential outcomes and what they would mean for them. This information should be imparted using child-friendly, gender-sensitive and age- and context-appropriate explanations in a language that the child can understand to allow the child to participate in a fully informed manner.

The child should be provided with interpretation whenever needed. Where possible, the interpreter should be experienced in interpreting for children.

The individual circumstances such as the age, maturity, potential intersectional vulnerabilities or cultural background of a child affect their ability to access information. A child may not be able to read or have the patience to focus on written text. Give information in manageable amounts, use simple vocabulary, animations and pictograms, and minimise the length of text.

⁽¹⁾ Article 12(1) APD.

⁽¹²⁾ Article 5 of [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), (OJ L 180, 29.6.2013).



Related publication

For more on information provision, see the EUAA, [Practical Guide on Information Provision – Access to the asylum procedure](#), January 2023.

Hearing the child's views and child participation

The child has a right to express their views and opinions, either personally or via you as their guardian. Any interviews with the child should always be conducted in a safe, confidential, comfortable and child-friendly environment at appropriate location(s) that help to build trust with the child. The child's views and wishes should be taken into account according to age and maturity.

Your role as a guardian is also to uphold the views of the child and guarantee that the authorities are considering these views. The child's right to be heard should not be restricted to the context of the personal interview only. Authorities should be attentive to the child's views, needs and opinions also outside of the context of the more formal interviews.

Ensuring the child's safety

Throughout the asylum procedure, children must be protected from all forms of violence, abuse, neglect and exploitation. Asylum and reception officials must consider and be alert to possible indicators of vulnerabilities and risks to ensure the safety of the child. As a guardian, you should collect information on the well-being of the child, and any protection or safety concerns. In practice, collecting such information means being available and in regular communication with the child, and communicating with authorities and other professionals involved, such as social workers, reception officers, teachers, doctors, and giving due weight to the information received.

Be mindful of potential risks to the child, such as the possibility of the child encountering individuals who may have already or could potentially subject them to abuse, harm, or trafficking. If you become aware of a credible threat such as this, it is imperative to promptly notify the designated officer within the relevant authorities. Nonetheless, it is vital for authorities to exercise prudence when evaluating the situation to prevent any harm to the child.



Practical tip

Possible actions by the guardian in relation to the child's safety:

- Inform the child about existing protection measures that could be taken.
- Ensure that authorities are continuously assessing risks for the child. Be proactive in supporting the child in their interactions with the relevant authorities and law enforcement officials.
- Immediately inform the relevant authorities if you have new information related to the child's safety, especially if you consider the child could be in danger.
- In the event of disappearance, ensure that the relevant authorities are immediately notified, that they enter information on the missing child in the Schengen Information System and that efforts are made to find the child.
- Regularly remind all authorities involved not to share information on the child's status as an applicant for international protection.

Respecting family unity and carrying out family tracing

According to the EU asylum *acquis*, one of the main responsibilities of Member States is to trace the family members of the child and reunite the child with their family members when it is found to be in their best interests ⁽¹³⁾. Authorities should start the family tracing as soon as possible ⁽¹⁴⁾. It is important to note that finding the family does not automatically lead to family reunification.

Family tracing has three main objectives:

1. to find information on and the whereabouts of the child's family members or former caregivers;
2. to assist the child in reestablishing family relations, provided it is in their best interests;
3. to facilitate the reunification of the child with family members in the host country, in another EU+ country, in a third country or in the country of origin, provided that this is in the child's best interests ⁽¹⁵⁾.

⁽¹³⁾ Article 24 RCD.

⁽¹⁴⁾ Article 24(3) RCD.

⁽¹⁵⁾ In accordance with Article 22 of the UN General Assembly, [Convention on the Rights of the Child](#), 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, '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), point (a) of [Council Directive 2003/86/EC](#) of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003) which provides that Member States must authorise the entry and residence of their first-degree relatives in the direct ascending line without applying conditions, and of their 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.

In the case of children traveling with related family members other than their parents or legal guardians (known as separated children), family links with those accompanying adults must also be verified and assessed. Family tracing should also be carried out for separated children to understand the whereabouts of the parents/legal guardians.

As a guardian, you should support the authorities and the child in this process. This includes informing the child about the purpose of the family tracing as well as seeking and listening to the child's views. You should facilitate the exchange of information with the authorities to establish contacts with the family. You can also support the child when establishing contact with the family and if needed, accompany them in difficult decisions or conversations in relation to the family.



Practical tip

As a guardian, you play an important role in family tracing. Consider the following:

- unaccompanied children may not wish to return to their country of origin, and they could interpret the initiation of a family tracing procedure as a step towards their return to their country of origin; sometimes they may be under pressure from families to remain.
- children may have genuine, well-founded fears in relation to family tracing and may believe that family tracing may place them or their family at risk.
- guardians should support the child in ensuring the family tracing, and eventually family reunification, takes place in the best interests of the child, taking into account the views of the child, and facilitating the information exchange with the authorities.



Related publication

EASO, [Practical Guide on Family Tracing](#), March 2016.

2. Access to the asylum procedure

Applying for international protection is a fundamental right of every child. The child should be assisted with making an informed decision to apply for international protection ⁽¹⁶⁾. In this context, age, gender and culturally appropriate information should be provided in advance. The child's views on applying for international protection should be taken into consideration according to their age and maturity.

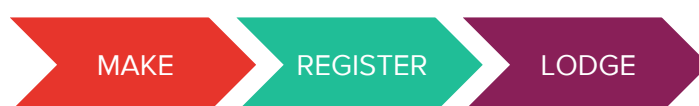
In your role as a guardian, you should support the children in the asylum process from the first phase. A guardian should be appointed as soon as possible to guarantee that the best interests of the child are taken into account from the outset.

However, it is possible that you will start taking part in this process partway through. This is especially the case when the child has expressed their will to apply for international protection at the moment of crossing the border or when disembarking and therefore before the competent authorities have had the chance to appoint you as a guardian.

The child should be provided with access to legal advice and counselling. This can help the child and you as a guardian in understanding all the procedural steps of the asylum procedure, which can be quite complex. It is good practice to ensure that the child has access to legal aid services free of charge at all stages of the asylum procedure. The child's legal advisor should also be given the opportunity to attend any interviews with the child.

The phase of 'access to the procedure' consists of three steps as shown in figure 2. These are the making, registering and lodging of an application ⁽¹⁷⁾. These three stages trigger certain rights and obligations for the applicant.

Figure 2. Phases of the access to the asylum procedure



⁽¹⁶⁾ EASO, *Practical Guide on Best Interests of the Child in Asylum Procedures*, 2019.

⁽¹⁷⁾ Article 6 APD refers to the following stages of access to asylum procedures: making, registering and lodging an application for international protection.



Practical tip

Depending on the legislation and practices of each Member State, the terminology used to refer to these steps of the access to the procedure might differ. It may be useful to consult the translation of the three steps in your language of Article 6 APD ⁽¹⁸⁾. The registration and the lodging of an application may be conducted concurrently. In other cases, all three steps could be completed on the same day in the same administrative setting. When these steps are conducted separately, basic background data will normally be collected at the registration stage, which allows, as a minimum, for the practical organisation of the initial reception. Additional detailed data will be gathered during the lodging.

2.1. Making an application for international protection

Making an application for international protection is the act of expressing, in any form and to any national authority, one's wish to obtain international protection.

Making an application is the first step to access the asylum procedure.

From the moment a person expresses their wish to obtain international protection, they are considered an applicant for international protection.

Making an application can be done in any form. It does not require the applicant to fill in a form. An applicant can even make an application by vocally expressing a fear of return, without explicitly using the words 'asylum' or 'international protection'. Many children who may be in need of international protection may not clearly state, or not even form an understanding, that they are in need of asylum upon arrival in the country. Many may not know their rights and obligations or may not ask for protection because they may have heard incorrect information or because they have been misinformed, including by smugglers, about their rights and options.

Several rights and obligations are triggered with the making of an application, including:

- the right to remain in the territory of the Member State ⁽¹⁹⁾;
- the right to information, in a language that the applicant understands, on how to lodge an application for international protection and on the applicant's rights and obligations during the asylum procedure ⁽²⁰⁾;

⁽¹⁸⁾ The translation of the APD in all EU languages is available at: <https://eur-lex.europa.eu/eli/dir/2013/32/oj>.

⁽¹⁹⁾ Article 9 APD.

⁽²⁰⁾ Article 12(1), point (a) APD.

- the right to communicate with UNHCR and/or any other organisation providing legal counselling ⁽²¹⁾;
- the obligation of Member States to identify/assess whether the applicant is in need of special procedural guarantees ⁽²²⁾ or special reception needs ⁽²³⁾;
- the obligation of Member States to provide basic material reception conditions as laid down in the RCD ⁽²⁴⁾;
- the obligation of the applicant to cooperate with the authorities ⁽²⁵⁾.

Your role as a guardian

You should be able to build a certain level of trust to identify when the child is expressing the intention to apply for protection, and to proactively inform authorities that the child may wish to apply for protection. This means that you should talk with the child, listen and consider their views, and ensure that the child fully understands the meaning of international protection, what it entails, which rights it triggers and the consequences.

If you have already been appointed as a guardian when the child expresses their will to apply for international protection, your main role is to verify that it is indeed in the best interests of the child to apply for international protection.

In some situations, other procedural pathways and legal statuses, other than applying for international protection, may be in the child's best interests. Such solutions may include referral of the child to procedures specific to victims of trafficking or stateless persons, other residence permits, permit to stay based on the child's minor age, for example, or pursuing more than one legal pathway at the same time.

You should collect all relevant information and inform the child on their rights concerning the possible legal pathways available and consequences related to each decision. Suggesting appropriate solutions should be done in coordination with the relevant child protection and migration authorities. In your role as a guardian, you could promote that the asylum authorities communicate with and are linked to the national child protection systems / referral mechanisms.

⁽²¹⁾ Article 12(1), point (c) APD.

⁽²²⁾ Article 24(1) APD.

⁽²³⁾ Article 22(1) RCD.

⁽²⁴⁾ Article 22(1) RCD.

⁽²⁵⁾ Article 13 APD.



Practical tips

- Always consider the best interests of the child.
- Build a good level of trust.
- Inform the child about their rights and the legal pathways available.
- Assist the child in deciding whether to apply for international protection.
- Collect relevant information to support the application.
- Coordinate with other relevant actors in your Member State and make decisions in collaboration with child protection authorities.



Related publication

EASO, [Practical Guide on Best Interests of the Child in Asylum Procedures](#), 2019.

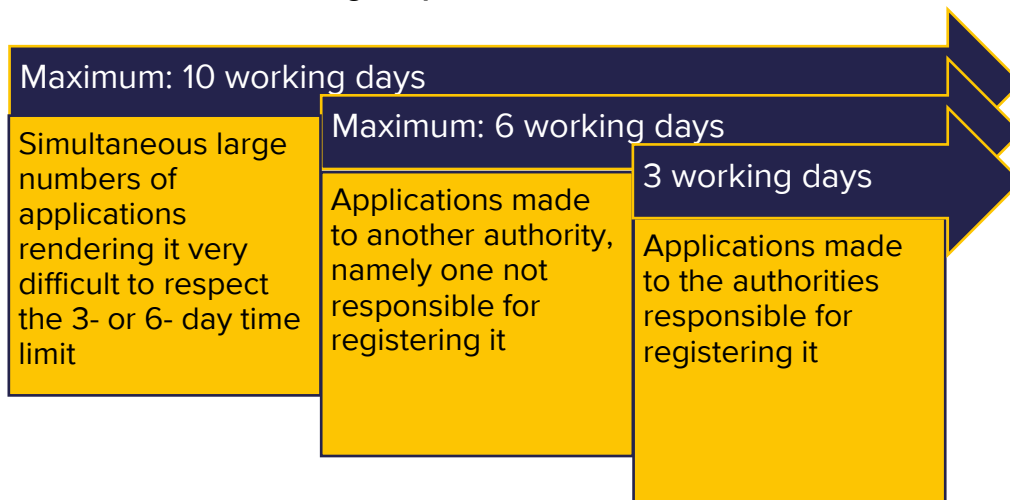
2.2. Registering an application for international protection

Registration means making a record of the applicant's intention to seek protection.

The objective of registration of the asylum claim is to generate an official record so that the applicant can effectively benefit from their rights and comply with their obligations ⁽²⁶⁾. The registration should be completed as soon as possible within the time limits laid down in Article 6 APD, as shown in figure 3 below.

At this stage, authorities collect basic personal details about the applicant such as their name, surname, date and place of birth, and their nationality, if they have one.

⁽²⁶⁾ Recital 27 APD.

Figure 3. Time limits for accessing the procedure as laid down in Article 6 APD

Depending on the age of the child, Member States will also take fingerprints in accordance with the time limits stipulated in Regulation (EU) No 603/2013 (Eurodac regulation) ⁽²⁷⁾. Authorities must inform the child of why they take the fingerprints and how the data will be used. Fingerprints must be taken fully respecting human dignity.



Related publications

EASO, [Practical Guide on Registration – Lodging of applications for international protection](#), December 2021, Chapter VIII, Section A ‘Eurodac’.

FRA, [Right to information – Guide for authorities when taking fingerprints for EURODAC](#), December 2019.

During the registration phase, authorities will collect the passport of the child, if available, and or any other identification documents such as birth certificates, school and vaccination records. Children need to inform the authorities on the whereabouts of parents and family members. At this point it is particularly important to indicate if any family member is living in another EU+ country for the purpose of the Dublin procedure.



Related publication

The procedure to establish which Member States should examine an application is detailed in the EUAA-FRA, [Practical Tool for Guardians – Transnational procedures](#), 2023.

⁽²⁷⁾ Article 9(1) of [Regulation \(EU\) No 603/2013](#) of the European Parliament and of the Council of 26 June 2013 on the establishment of 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 the 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) (OJ L 180, 29.6.2013).

Your role as a guardian

As the guardian, you could start by assessing the information that is already available on the child. You should pay attention to the statements given by the child on their personal story and ask if there is any more documentation that the child may have or could collect without putting themselves at risk. Useful documentation could include school records, their birth certificate, vaccination records, any public articles or documents linked to potential reasons for fleeing their country of origin and documents or information related to family members. It is also important that you pay attention to child-specific types of claims (e.g. documentation related to forced/early marriage, forced recruitment, female genital mutilation/cutting, child trafficking, family and domestic violence, forced labour, sexual abuse).

Depending on your national practices, medical checks might be conducted before or after the registration. As a guardian, you should draw the doctor's attention to any health problems the child might have.

In addition, the authorities need to also assess any possible special needs the child may have. The process of identifying the special needs of children requires an active role of the authorities and non-governmental actors involved in the asylum procedure. The identification of specific needs may be conducted by the authorities at the moment of the making of the application, but there are cases where the identification happens only during the registration or lodging phase, or later. Vulnerabilities giving rise to specific needs may emerge also at a later stage.

If a child has special needs, you should make sure that all procedural guarantees are in place for the next step, i.e. the lodging, to take place. For example, and depending on the circumstances, this could include the presence of a psychologist, a male or female interpreter depending on the child's preferences or the possibility to be supported by a counsellor or a legal adviser.



Practical tips

- Make sure an interpreter is available.
- Make sure the child is informed about their rights and duties during the registration process.
- Inform the authorities if the whereabouts of the parents or other family members are known.
- If you are aware that the child has special needs, make sure that they are known and addressed by authorities.
- Collect the relevant documentation supporting the child's claim and share it with the appropriate authorities.

2.3. Lodging an application for international protection

Lodging means completing the process of applying for international protection.

The lodging completes the phase of access to the procedure. The examination of the application starts at this moment.

The lodging stage is of paramount importance as information is collected during this stage and shared with the determining authority. This forms the basis of the personal interview.

Member States are obliged to ensure that a person who makes an application for international protection has the opportunity to lodge it as soon as possible ⁽²⁸⁾. If, however, a person refrains from lodging their application, in the absence of good reasons, the determining authority may decide to discontinue the procedure ⁽²⁹⁾. The lodging is generally made in person. A written registration may only be done in special cases, for instance if the child is physically impaired or in a hospital. Check your national practices for these exceptional cases.

The time for the preparation varies depending on the individual casefile at hand, the personal circumstances of the applicant (e.g. consider the intersectional vulnerabilities, health-related issues, etc.) and also on the availability of information on the child before the registration takes place.

Member States may set additional rules for the lodging, for example national legislation may provide that lodging is to take place in person and/or at a designated place ⁽³⁰⁾.

The lodging triggers further specific rights and obligations, including:

- the start of the time frame for the examination procedure ⁽³¹⁾;
- the start of the time frame for the process of determining the EU+ country responsible for examining the application (Dublin procedure).

The asylum procedures for children should be treated with high priority. It is important, however, to individualise the duration of the procedure by either prioritising the child's application or by extending a rest and recovery period before setting the date of the interview, if in the child's best interests.

In the border and accelerated procedures, different standards apply compared to the regular asylum procedure. Accelerated procedures introduce shorter procedural steps, notably when the application is likely to be manifestly unfounded. When applications for international protection are made at the border or in a transit zone, Member States can provide for admissibility and/or substantive examination procedures at these locations and in that context, applicants may be detained or their freedom of movement may be restricted. However, the

⁽²⁸⁾ Article 6(2) APD.

⁽²⁹⁾ Article 6(2) and Article 28 APD.

⁽³⁰⁾ Article 6(3) APD.

⁽³¹⁾ Article 31(3) APD.

APD provides an exception ⁽³²⁾ to the application of border and accelerated procedures to children. Indeed, when the adequate support required for children cannot be secured in the context of such procedures, children must be exempted.

Your role as a guardian

This lodging phase is particularly important and you as a guardian should be present for it. Remember that depending on the Member State, registration/lodging may not be two separate stages in the procedure but only one.

The child should also receive all the important information in writing in their native language or a language that the child understands or is reasonably supposed to understand. The personal data is recorded and the child should have the possibility to confirm their personal data and double check if it is being registered properly. If the personal data of the child has already been collected in the making or the registering phase, the child should have the possibility to check if it has been registered properly.

Many children, especially if they have just arrived, will be unfamiliar with being questioned formally by the authorities. This may lead the child to be confused about what information they need to disclose in this particular setting, or they may feel distrustful if they have had prior negative interactions with professionals.

In your role as a guardian, you should reassure the child about the role of the authority, considering the fact that a child might have experienced difficult relations with their parents or other adults or they might have been subject to trauma or discrimination. You will need to take extra care to put the child at ease and explaining in a child-friendly manner each step of the procedure and the role of the authorities in this context.

You should explain that everything discussed is confidential and that the information given to the authorities involved in the procedure for the examination of the international protection application cannot be shared or transmitted to the authorities of the country of origin of the child. It is important for the child to know this to feel at ease when sharing their story. As a guardian, you should also emphasise to the child the importance of telling the truth and providing as much information as possible to the authorities.

If the child has difficulties explaining, if the child does not remember, if you see that the child feels tired or in distress when remembering and explaining, it is always appropriate to give them more time and ask for breaks. During the lodging, the child will not be requested to explain and/or write all the reasons they left/escaped their country but only the most important reasons.

⁽³²⁾ Article 24(3) APD.



Practical tips

You should inform the child on what to expect at this phase. For example, regarding:

- the aim of the lodging;
- the child's rights at this stage of the procedure;
- the content and steps during the lodging of the application;
- the applicant's obligation to say the truth and potential consequences of false statements;
- the role of the interpreter;
- the role of accompanying people, if any;
- the duty of confidentiality of the authority;
- the possibility to ask for breaks;
- the purpose of the audio recording (if relevant).

Before closing the lodging phase, the authorities should make sure that they have correctly registered all the information. For various reasons, misunderstandings or confusion may occur during the registration. Reassure the child that is normal to be insecure and/or to have doubts about what was said during the meeting. Explain to them that they can ask questions and reformulate answers if they have not been well understood.

The authorities may have different practices related to official signatures of the lodging report. The signature may be required of either the guardian or the child, or both. It is good practice for the authorities to collect the signature of both the child and the guardian. When you have approved and signed this report, a copy will be issued to you, together with copies of any additional documentation.

2.4. What happens if the child's age is disputed?

Age is an essential element of a child's identity and it also determines the relationship between the state and the person. As such, changes in age may trigger specific rights and obligations.

If an unaccompanied child cannot provide any type of documents, the authorities might decide to carry out an age assessment. The age assessment is the process by which the authorities seek to estimate the chronological age or range of age of a person in order to establish whether an individual is a child or an adult.

Chronological age does not play an important role in the acquisition of adult status in all cultures. In some cultures, children are treated as adults as soon as they go through certain physical changes or if they marry. For these reasons, it is possible that some children may not know their chronological age and find it difficult to understand its importance in European

cultures. This cultural difference may result in somewhat vague statements regarding dates of birth or age.

It may also happen that children pretend to be adults to continue on their journey or to avoid supervised accommodation. In other situations, an adult applicant may claim to be a child to take some advantage of the system for children.

Age assessment methods should be multidisciplinary, and the medical methods should be used as a last resort.

The APD establishes a number of safeguards as well as the methods to make sure that the age assessment is not invasive. Methods should be implemented in a cascade approach starting from the document examination, psychosocial interview, and only then proceeding with medical tests.

Some medical methods of age assessment are indeed invasive, may be traumatic for the child and must be evaluated carefully. An estimation based only on physical appearance cannot be considered as a method for age assessment, since ethnic characteristics as well as the life events of individuals may affect a person's appearance.

While the assessment procedure is ongoing and the age is not yet estimated, the benefit of the doubt must be exercised, and the applicant must be treated as a child.

Your role as a guardian

It is recommended that before initiating age assessment procedures, the authorities, with the involvement of the guardian, conduct a best interests assessment to understand the situation of the child and any possible negative impact(s) of the age assessment or the methods to be used.

The authorities should provide information to the child concerning the scope and the methods used for the age assessment to ensure the child can fully understand and participate in the process. You should support the information provision process.

The child and/or you, as the guardian, should provide your informed consent for the conduct of the medical examination. No automatic assumptions or consequences should result in the event of refusal to consent.

Your role as a guardian is to support the child in understanding the age assessment procedure and to understand if the child can provide any useful documentation to the authority to help in the age determination. You should inform the child about the reasoning for the age assessment, help the child to collect further documentation, prepare the child for the psychosocial assessment or medical test, provide or refuse the consent for the medical test and accompany the child during the process, etc.

Not all Member States assign a guardian before the age is assessed. It might happen that you are appointed as guardian only after the assessment was conducted. If so, discuss with the child how the assessment went. Some children might find the assessment quite intrusive or

dislike the fact that authorities did not believe their declared age. The child might need some support or information to overcome any open issues.



Related publication

EUAA, [All You Need to Know about Age Assessment](#), January 2022.

EASO animations:

- [Age assessment for children](#), 2021.
- [Age assessment for practitioners](#), 2020.

EASO, [Practical Guide on Age Assessment – Second edition](#), September 2018.

FRA, [Age assessment and fingerprinting of children in asylum procedures – Minimum age requirements concerning children’s rights in the EU](#), April 2028.

3. Right to dignified living during the asylum procedure

3.1. Reception conditions

The RCD aims at ensuring to asylum applicants, including children, a dignified standard of living and comparable living conditions in all EU Member States.

Member States have to inform unaccompanied children, within a reasonable time not exceeding 15 days after they have lodged their application for international protection on the established benefits and obligations with which children must comply relating to their reception conditions ⁽³³⁾.

The RCD also defines special categories of vulnerable applicants for international protection ⁽³⁴⁾, which includes unaccompanied children ⁽³⁵⁾, and obliges states to consider the specific situation of vulnerable persons.



Related publications

EASO, [Guidance on Reception Conditions for Unaccompanied Children: Operational standards and indicators](#), December 2018.

FRA-European Commission, [Handbook on Guardianship for Unaccompanied Children](#), 2014.

Dignified reception conditions require adequate housing, access to healthcare, education, food, clothing and other basic items.

Access to accommodation

EU Member States and Schengen associated countries usually accommodate unaccompanied children in separate reception facilities; designated areas for unaccompanied children within mainstream reception facilities; mainstream care facilities; or foster families. When unaccompanied children are provided with accommodation in institutions, such facilities must be adapted to the specific needs of the children and be staffed with personnel qualified to take into account the needs of unaccompanied children.

⁽³³⁾ Article 5 RCD.

⁽³⁴⁾ Article 21 RCD.

⁽³⁵⁾ Article 1, point (e) RCD.

Foster care is an adequate and often preferable and cost-effective setting for accommodating unaccompanied children.

The allocation of children to reception facilities must be implemented giving primary consideration to the best interests of the child and in line with the principle of family unity, as well as respecting the special reception needs unaccompanied children might have. Member States are allowed, however, to set up system for a balanced distribution of applicants for international protection across their territories.

It is important to always update the authorities on where the child is accommodated and to inform the asylum authorities if and when the child changes address. This should guarantee that none of the communications concerning the procedure gets lost.

Access to healthcare

Children arriving in your country might be suffering from physical or emotional problems due to the accumulation of trauma and a situation of ongoing distress. They therefore require special care. Children seeking asylum have the right to access healthcare, including preventive care, mental healthcare and psychosocial support as well as sexual and reproductive healthcare.

Access to education

Education should be guaranteed to children seeking asylum in the same conditions as national children. Member States should consider ensuring access for all children beyond the mandatory schooling age and beyond the provisions of compulsory education. You as a guardian should support the child in finding the right school, vocational training or educational pathway. If needed, you might need to communicate with school authorities and teachers.

Food clothing and other non-food items and allowances

Explanatory note on terminology

The term 'food' includes food as well as non-alcoholic beverages. The term 'clothing' refers to both clothes and shoes. The term 'non-food items' refers to essential household items other than food, including for example personal hygiene products, cleaning and laundry products, bed linen and towels. Non-food items also include school utensils.

Food, clothing and other non-food items as well as daily expenses allowances form an essential part of the material reception conditions.

Children can be provided with food, clothing and other non-food items in kind or in the form of financial allowances or vouchers. This means that where EU Member States and Schengen

associated countries choose to provide unaccompanied children with a financial allowance to cover these costs, this allowance should fully cover the costs of these items. The provision of non-food items as well as the quantity provided should always take place while considering the personal situation of the individual child. For example, a child may already possess sufficient clothing or other non-food items and thus might not need to receive additional items.

As the guardian, you may have to support the child in managing the allowances, depending on their age and maturity.

Your role as a guardian

As a guardian, you should verify that reception standards are respected by your Member State, and if not, address the relevant authorities with your concerns.

To avoid overwhelming the child with too much information at the initial reception, you should give information at different times and on a regular basis, considering the child's needs and their maturity. Unaccompanied children should receive information on reception (e.g. house rules, who does what, key staff, complaint mechanisms) as well as on the available support measures. These measures include psychosocial counselling and different types of assistance such as supporting unaccompanied children on how to access school, medical care, cultural mediation, conflict solving and guidance on the next steps.

You should also keep in mind that there could be safety risks for children in the context of reception. This means that you should make sure the unaccompanied children are staying at a safe place. A place with physical safety does not automatically qualify as a safe place; it has to offer enough social and emotional safety to allow for the adequate development of the child.

The communication from the European Commission on protection of children in migration ⁽³⁶⁾ calls for the establishment of internal child safeguarding policies in all organisations and bodies interacting with children, including reception facilities. An internal safeguarding or child protection policy is a set of internal rules that make it clear what an organisation or group will do to keep children safe.

An initial assessment should take place on arrival in order to find the best possible housing for an unaccompanied child. Comprehensive assessments should be ongoing and multidisciplinary. You as a guardian should also be involved and duly informed by the authorities. Changing accommodation should be kept to a minimum and should only occur if it is in the child's best interests ⁽³⁷⁾.

When unaccompanied children are provided with accommodation in institutions, these facilities must be adapted to the specific needs of the children and be staffed with personnel qualified to consider children's needs. Reception spaces for children should be age, gender and diversity sensitive, with appropriate recreational and learning opportunities. You as a guardian must be informed about health conditions and should follow together with a health

⁽³⁶⁾ European Commission, [Communication from the Commission](#) to the European Parliament, The protection of children in migration, 12 April 2017, COM(2017) 211 final.

⁽³⁷⁾ Article 24(3) RCD.

professional the health condition of the child when needed. You should be in regular contact with reception staff in order to understand if specific needs arise for the child and cooperate together to address them.



Related publications and tools

Consult the EUAA's [Tool for the Assessment of Reception Conditions](#) to assess the adequate standards of living for unaccompanied children and the related EASO, [Guidance on Reception Conditions for Unaccompanied Children: Operational standards and indicators](#), December 2018

The EUAA's [Let's Speak Asylum portal](#) – the portal of reference for information providers and professionals designing communication and information provision activities in the field of asylum and reception.

For facilities at or near borders, see also FRA, [Initial-Reception Facilities at External Borders: Fundamental rights issues to consider](#), March 2021.

3.2. Immigration detention

Children, including unaccompanied and separated children, should in principle not be detained for immigration related purposes, irrespective of their legal/migratory status or that of their parents. United Nations and Council of Europe initiatives work towards ending immigration detention of children ⁽³⁸⁾.

The detention of children is set out in EU law only 'as a measure of last resort', applicable in exceptional cases only if 'less coercive alternative measures cannot be applied effectively' ⁽³⁹⁾. Referring specifically to unaccompanied children, the RCD states that they 'shall be detained only in exceptional circumstances. All efforts shall be made to release the detained unaccompanied minor as soon as possible' ⁽⁴⁰⁾.

There is strong evidence that detention has a profound and negative impact on children's health and development and can undermine their psychological and physical well-being and compromise their cognitive development. Children held in detention are at risk of suffering depression and anxiety, and frequently exhibit symptoms consistent with post-traumatic stress disorder such as insomnia, nightmares, and bedwetting ⁽⁴¹⁾.

⁽³⁸⁾ FRA, [European legal and policy framework on immigration detention of children](#), June 2017, Chapter 2. 'The right to liberty and security'.

⁽³⁹⁾ Article 11(2) RCD.

⁽⁴⁰⁾ Article 11(3) RCD.

⁽⁴¹⁾ For more information on the negative effects of detention on children, see the Inter-Agency Working Group to End Child Immigration Detention, [Ending Child Immigration Detention](#), 2016 and Alice Farmer, 'The impact of immigration detention on children' in *Forced Migration Review*, 44, Refugee Studies Centre, Oxford Department of International Development, University of Oxford, September 2013.

In the exceptional circumstances when a decision to detain children is considered, alternatives to detention must always be explored, giving priority to family-based alternative care options or other suitable alternative care arrangements, as determined by the competent authorities. The RCD enumerates the most common non-custodial alternatives to detention, such as regular reporting to the authorities, the deposit of a financial guarantee, or the obligation to stay at an assigned place that should be laid down in national law ⁽⁴²⁾. The list is not exhaustive and other alternatives and more tailored measures may be applied considering the specific situation of children ⁽⁴³⁾.

If, in exceptional cases, a child is deprived of liberty, the following guarantees must be respected ⁽⁴⁴⁾:

- detention should be for the shortest possible period of time ⁽⁴⁵⁾;
- a detention order should be issued in writing and must state the reasons in fact and in law on which it is based ⁽⁴⁶⁾;
- all efforts must be made to release the detained children (including unaccompanied children) and place them in a suitable accommodation ⁽⁴⁷⁾;
- detained children must have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age ⁽⁴⁸⁾;
- detained children must never be detained in prison accommodation and they must be accommodated separately from adults ⁽⁴⁹⁾;
- standards of living must be adequate for the child's physical, mental, spiritual, moral and social development ⁽⁵⁰⁾;
- the detained children should have access to effective remedies and free legal representation ⁽⁵¹⁾.

In addition, specific provisions are dedicated to unaccompanied children:

- all efforts shall be made to release the detained unaccompanied child as soon as possible ⁽⁵²⁾;
- children must be accommodated, as far as possible, in institutions staffed with personnel and facilities suitable for the needs of their age group ⁽⁵³⁾;

⁽⁴²⁾ Article 8(4) RCD.

⁽⁴³⁾ For examples and best practices of alternatives to detention, see the International Detention Coalition's Alternatives to Detention Database available at: <https://database.idcoalition.org/>.

⁽⁴⁴⁾ Articles 9-10 RCD.

⁽⁴⁵⁾ Article 11(2) RCD.

⁽⁴⁶⁾ Art 9(2) RCD.

⁽⁴⁷⁾ Article 11(2) RCD.

⁽⁴⁸⁾ Article 11(2) RCD.

⁽⁴⁹⁾ Article 10(3) RCD.

⁽⁵⁰⁾ Article 23(1) RCD.

⁽⁵¹⁾ Article 5(4) of the European Union, [Charter of Fundamental Rights of the European Union](#), 26 October 2012, 2012/C 326/02.

⁽⁵²⁾ Articles 9(1) and 11(3) RCD.

⁽⁵³⁾ Article 11(3) RCD.

- finally, detention should not prevent the appointment of a legal guardian to guarantee the lodging of an application ⁽⁵⁴⁾.

Your role as a guardian

In cases of detained children, guardians may be proactive in supporting the child in the nomination of a lawyer or a legal representative. The guardian should request confirmation from the authorities that an individualised assessment defining the best interests together with all the relevant circumstances was carried out prior to the imposition of detention measures, that this measure is a measure of last resort, and no other alternative, non-coercive measure is available.

You as the guardian, together with the lawyer or legal representative, should carefully evaluate any decisions to detain the unaccompanied child, the length of the detention and review the conditions of their detention and the child's well-being.

⁽⁵⁴⁾ One relevant legal reference can be found in the recitals of the RCD, which sets out minimum standards for the reception of applicants. Recital 9 RCD emphasises the importance of appointing a legal guardian for unaccompanied minors. While this reference does not explicitly address the issue of detention, it underscores the importance of appointing a legal guardian to protect the rights of the child.

4. The examination phase

Once the registration of the application for international protection is finalised, the authorities will examine the application. The aim of the examination phase is to determine whether the applicant qualifies for international protection, i.e. refugee status or subsidiary protection.

The examination must be concluded as soon as possible, within 6 months of the lodging of the application or from the moment of the effective transfer of an applicant to the responsible Member State within the Dublin procedure. Under specific conditions, the general time limit of 6 months can be extended to 15 months, 18 months and 21 months ⁽⁵⁵⁾.

The examination process includes the following steps:

- admissibility stage (not compulsory);
- personal interview;
- decision making;
- notification.

4.1. Admissibility stage (not compulsory)

The introduction of an admissibility stage is not compulsory.

The admissibility stage aims to determine whether an application will or will not be examined on the substance, meaning on the reasons the person left their country and applied for international protection. Admissibility is a preliminary examination conducted to decide if an application can be admitted or not.

There are five reasons the authorities might decide to conduct an admissibility examination ⁽⁵⁶⁾.

- International protection has already been granted in another Member State.
- The first country of asylum ⁽⁵⁷⁾ concept is applicable. A first country of asylum is either the country in which the applicant was granted refugee status which is still valid, or a country in which the applicant enjoys sufficient protection, including protection from *refoulement*, and provided that the applicant will be readmitted to that country.
- The safe third country concept ⁽⁵⁸⁾ is applicable. A safe third country is a country that is safe ⁽⁵⁹⁾, and a country to which the applicant, despite not being a citizen of that country, has a meaningful connection.

⁽⁵⁵⁾ Articles 31(3), (4) and (5) APD.

⁽⁵⁶⁾ Article 33(2) APD.

⁽⁵⁷⁾ Article 35 APD.

⁽⁵⁸⁾ Article 38 APD.

⁽⁵⁹⁾ In accordance with the criteria laid down in Article 38(1) APD.

- The application is a subsequent application ⁽⁶⁰⁾, with no new elements or findings.
- A dependant of the applicant lodges an application, after they have initially consented to have their case be part of an application made on their behalf, and there are no facts relating to the dependant's situation that justify a separate application.

The admissibility examination requires an admissibility interview ⁽⁶¹⁾, except when it is considered a subsequent application ⁽⁶²⁾. The applicant has the right to an effective remedy against an admissibility decision ⁽⁶³⁾. For further details, refer to your national legislation.

Your role as a guardian

As a guardian, you should familiarise yourself with the national legislation and whether admissibility grounds are laid down in the legislation and potentially applicable to the child you are representing.

If an admissibility procedure is carried out, you should support the authorities and the child in order to facilitate the process. As a guardian, you should make sure the admissibility procedure considers the special circumstances of the unaccompanied child you are representing and any special needs the child might need, such as a particular date and time for the interview, interpretation services or others.

If an admissibility interview takes place, you will prepare the child for the interview, and provide sufficient information so that the child understands the purpose of the procedure and can feel at ease. You should accompany the child to the interview.

In addition, you should liaise with the legal advisor, if one has been already appointed, including for a possible appeal in case a negative admissibility decision.

4.2. The personal interview

The right to a personal interview

To ensure a fair procedure, it is essential that the applicant is given the opportunity to explain ⁽⁶⁴⁾, face-to-face and without interference, the reason(s) they had to leave their country and why they are unable or unwilling to return to their country of origin or country of habitual residence.

The APD lays down that the applicant must be given the opportunity to participate in a personal interview on the substance of their application before the authorities make a decision on their application ⁽⁶⁵⁾.

⁽⁶⁰⁾ Article 33, point (d) APD.

⁽⁶¹⁾ Article 34(1) APD.

⁽⁶²⁾ Article 42(2) APD.

⁽⁶³⁾ Article 46(1), point (a)(ii) APD.

⁽⁶⁴⁾ Article 12 CRC.

⁽⁶⁵⁾ Article 14(1) APD.

The interview may be omitted only in very limited circumstances, meaning when ⁽⁶⁶⁾:

- the authority is able to make a positive decision regarding refugee status only on the basis of the evidence available;
- or
- the applicant is unfit or unable to be interviewed due to circumstances beyond their control.

The interview must be conducted by qualified and trained personnel, with the assistance of an interpreter (if necessary) and gender issues should be taken into account during the interview. This includes that the applicant may request the interviewer and interpreter to be the same or a different sex to them. The personal interview must be conducted in accordance with the principle of confidentiality ⁽⁶⁷⁾.

Interviews with children should be conducted in a child-appropriate manner as children may not be able to articulate their claim in the same way as adults ⁽⁶⁸⁾. It is possible that the child might not have made the decision themselves to leave the country of origin and might not even understand the circumstances of why they had to leave. Depending on their age, background and experiences, including trauma, children may have difficulties recounting what they have experienced. They also may feel lack of trust or fear towards the authorities due to their experiences in flight or in the countries of transit. On account of all this, children might not even know whether they could face persecution or serious harm if they were to return to their country.

It is possible that the authorities may decide to suspend or postpone the personal interview under various circumstances. Such situations may include, but are not limited to, the following:

- more time is needed due to an uncertain situation in the country of origin which is expected to be temporary or further documentation is needed to assess the claim;
- the child is unable to attend the personal interview due to health-related issues;
- there are communication problems with the interpreter.

Should any of these situations or other justifiable circumstances arise, in accordance with the established practices of your national authorities, the interview will be rescheduled, and you will receive notification of the new date accordingly.

Your role as a guardian

Before the interview

The law provides that the invitation for the interview (or hearing) is usually communicated in written form to the child and the guardian. Where the child appears to be deeply traumatised

⁽⁶⁶⁾ Article 14(2) APD.

⁽⁶⁷⁾ Article 15(2) APD.

⁽⁶⁸⁾ Article 15(3), point (e) APD.

or unable to express themselves, the interview may be harmful for the child or hinder their recovery. In these cases, the interview should not take place or should be postponed until the child is fit to be interviewed.

As a guardian, you could suggest to the asylum authorities to either speed up the procedure or postpone the personal interview. This will allow the child more time to rest and recuperate as well as prepare for the interview and adjust to their environment before continuing with the procedure.

It is important that you guide the child in preparing for the interview and understanding what can be useful in relation to their reasons for fleeing, their travel and their personal story. You should tell the child about the type of information authorities will be asking. This can include information on the child's journey, reasons for claiming asylum, who is putting them in danger in their country of origin, information about their family as well as things that are difficult to talk about, such as experiencing or witnessing traumatic situations and medical or psychological problems.

Once the child has understood what the interview is about, it is important to explore if the child has the possibility to safely collect missing information or potential documentation to support their claim, without putting themselves at risk. You need to evaluate if it is safe and in the best interests of the child to contact family members in the country of origin. They might have the possibility to send documents via post or simply to support the child to collect/confirm information on dates regarding certain events or facts that could be important to share with the authorities.

In addition, you should explain to the child how the interview takes place, where and how to reach the location, the setup of the rooms, who will be present during the interview, how long it will take, what is expected of the child, the dress code and any other aspect. You should answer any questions the child might have.

During the interview

As a guardian you should consider the following points during the interview.

- The interviews are not public. Of course, you as a guardian should be present during the interview with the child. There will be an interpreter at the hearing who speaks the language indicated in the lodging phase and interprets what is being said.
- You have a key role to play in ensuring the interviewer considers the best interests of the child. The child should feel at ease. The competent case officer and interpreter should have a particularly proactive and empathetic attitude.
- Information and questions should be phrased in a simple, straightforward, and clear manner. The child's understanding needs to be confirmed, as some children might fear figures of authority, not dare to ask questions, or not admit they do not understand due to their age, cultural background or psychological state.

- Explain and remind the child (in a manner that a child can understand) that the interviews are governed by the principle of confidentiality and carefully explain any limitations to confidentiality and exceptions.
- In cases where the child has experienced trauma, they may not be willing or able to express any feelings or to share their story. Expert interviewers should be sought to use alternative methods and to provide counselling or to refer the child to the adequate support. You can ask for a postponement of the hearing if there are health concerns, which must be certified, or for any other serious reasons.
- Child-appropriate interviewing techniques should be used that are adapted to the child's age and level of maturity.
- Give children the right to ask questions and seek consent prior to sharing information with other actors such as to refer their case to other services.
- In cases where the child can be accompanied to the interview by a trusted adult in addition to you as the guardian, the child needs to choose the person and consent to their presence.
- If the child wishes, the interviews with the child should be conducted whenever possible by a case officer and interpreter of the same or different sex of the child. In order to do this, the child should be informed about and offered this possibility.
- If, due to the specific circumstances or needs of the child (period of school or vocational education examinations or a particularly stressful time for the child), the interview cannot be conducted or needs to be rescheduled/adjusted. All efforts should be made to adapt the interview to the needs of the child.
- Help the interviewers and interpreters identify and use the most appropriate methods to communicate with children with disabilities, prioritising inclusion and accessibility.

When recording the interview

A record for each personal interview is taken ⁽⁶⁹⁾ to allow the Member State to have access to the applicant's statements for further examination but also as a guarantee to ensure fairness, effectiveness and objectivity.

The record can be made in two different forms ⁽⁷⁰⁾:

- a detailed report, containing all substantive elements;
- or
- a word for word transcript.

In addition, Member States may also make an audio(visual) recording of the personal interview. The report of the personal interview must contain all details and statements of the applicant and must be objective, neutral and impartial.

⁽⁶⁹⁾ Article 17 APD.

⁽⁷⁰⁾ Article 17(2) APD.

Both you and the child must be informed of the content of the report or transcript (if needed with the assistance of an interpreter) and be given the opportunity to make comments (e.g. at the end of the personal interview), before being requested to confirm the record ⁽⁷¹⁾.

Depending on the national context, the guardian might be allowed to make comments/remarks at the end of the personal interview. Check your national legislation to see if this is the case in your national context and use this opportunity if there is a need.

After the interview

As a guardian, you should meet with the child after the interview to discuss how the child felt about the interview, whether they felt able to share all the relevant information, or whether there are additional aspects that the child felt they could not share. As a guardian, you can ask for the child's consent to update the authorities on any new information you might receive.

Inform the child about the expected waiting time for a decision to be issued. You should also explain the potential outcomes of the decision. This will help the child to manage their expectations and be prepared once the decision is notified. The child should be aware that in case of a rejection, an appeal should be submitted within the timeframe laid down in the APD.

4.3. Decision-making process and notification

Following an appropriate examination of the application, the determining authority is obliged to issue a decision on the substance of the application, which can lead to granting international protection (either refugee status or subsidiary protection status) or to a negative decision (inadmissible, rejection or exclusion).

Assessment of the application

The examination must be carried out and taken objectively, impartially and individually ⁽⁷²⁾.

The assessment is conducted based on the child's statements (oral and written) and the available documents, as well as on country of origin information ⁽⁷³⁾ and potentially other pieces of evidence (e.g. expert reports, medical and psychological reports). Country of origin information refers to information about countries of origin or habitual residence for stateless applicants, as well as countries of transit or return and the socio-economic, legal, political, human rights, conflict, and humanitarian situation in that country or those countries at a given time. Authorities can use it to corroborate or refute the statements of the child.

Types of decision

The first instance decision of an application for international protection is either:

⁽⁷¹⁾ Article 17(3) APD.

⁽⁷²⁾ Article 10(3), point (a) APD.

⁽⁷³⁾ The EUAA country of origin information reports are available at <https://coi.euaa.europa.eu/>.

- to grant refugee status;
- to grant subsidiary protection;
- to reject the application.

The determining authority will always first examine whether the applicant qualifies for refugee status and, if not, whether the applicant is eligible for subsidiary protection ⁽⁷⁴⁾.

Depending on national legislation, the determining authority may recognise another form of national protection based on humanitarian grounds.

Notification of the decision

The child must be notified of the decision in a reasonable time ⁽⁷⁵⁾ and in a language that they understand or are reasonably supposed to understand ⁽⁷⁶⁾. The notification might be sent to you as the guardian of the child.

Form of the decision

Decisions are individual ⁽⁷⁷⁾ and always given in writing ⁽⁷⁸⁾.

If the decision is negative or grants subsidiary protection (and hence has rejected the application for refugee status), it must include the following:

- factual and legal grounds for the decision;
- written instructions and procedural steps on how to appeal this decision ⁽⁷⁹⁾.

The steps following the first instance decision

If the decision grants refugee status or subsidiary protection, the child has access to a number of rights and this might have an impact on the child's accommodation and other entitlements ⁽⁸⁰⁾.

If the decision is negative, the child has the right to appeal against that decision ⁽⁸¹⁾. The child may also appeal against a decision granting subsidiary protection if they consider they should have been granted refugee status.

Your role as a guardian

Once the decision is communicated to you and the child, you should accompany the child to make the notification of the decision as smooth as possible. First of all, you should meet the child to read the decision together and explain all consequences.

⁽⁷⁴⁾ Article 10(2) APD.

⁽⁷⁵⁾ Article 12(1), point (e) APD.

⁽⁷⁶⁾ Article 12(1), point (f) APD.

⁽⁷⁷⁾ Article 10(3), point (a) APD with a possible exception laid down in Article 11(3) APD.

⁽⁷⁸⁾ Article 11(1) APD.

⁽⁷⁹⁾ Article 11(2) APD.

⁽⁸⁰⁾ EUAA-FRA, [Practical Tool for Guardians – Introduction to international protection](#), 2023.

⁽⁸¹⁾ Article 46 APD.

If the decision is positive, and grants refugee status or subsidiary protection, you will discuss what implications this might have for the child, for example whether their accommodation will have to change.

Depending on the national context, a different guardian might be appointed for the follow-up, and you will no longer represent the child. In this case, you should make sure to hand over all the information to the new guardian, in agreement with the child.

A long-term plan for a 'durable solution' in the best interests of the child is necessary for every child. Such a solution should consider the immediate and the long-term needs of the child but also address the whole spectrum of considerations relevant for the particular situation of that individual child. For example, once the child is granted refugee status, it might be in their best interests to apply for family reunification. Through family reunification the child could apply to reunite and bring their parents to where the child is residing. You should make sure a lawyer provides assistance in the family reunification application.

As the guardian, you should be involved in all decisions made by the authorities about the life of the children you represent. You should make sure that the children are consulted and participate in deciding about their future.

If the decision is negative, you will have to support the child in going through this difficult process. The negative decision will be a moment of disappointment and loss of hope for the child. Be patient and empathic and show understanding. You should ensure the child is safe and prevent any risks for the child, such as the use of drugs or getting involved in criminal activities as a consequence of the frustration. The child might need psychological support and you should help them in accessing mental health services.

With a negative decision, the child might also consider going missing and trying to reach another country. You should explain all the risks of such a decision as well as the legal consequences.

If the decision is negative or grants subsidiary protection, but not refugee status, you and the child, with the support of the lawyer, might opt to appeal the decision. See Chapter [5. 'Appeal against a negative decision'](#) for effective remedies.

5. Appeal against a negative decision

The applicant has the right to appeal a decision granting subsidiary protection (since such a decision means a rejection of granting refugee status) and against any negative decision at first instance ⁽⁸²⁾, meaning:

- a **rejection**: a decision that considers there are no founded reasons in the story of the child to grant refugee status;
- an **exclusion decision**: if the authorities concluded that there are serious reasons for considering that a child – who has reached minimum age for criminal responsibility – committed, for example, war crimes or a serious non-political crime outside the country in which the child is seeking asylum (or, in the case of subsidiary protection, that they constitute a danger to the community or the security of the Member State) ⁽⁸³⁾.
- a **decision** considering an application inadmissible, as detailed in Section [4.1](#). 'Admissibility stage (not compulsory)'.

The effective remedy is made in the form of an appeal before a court or tribunal. The appeal must be exercised within a defined time limit, this time limit and related modalities are set by national law, all the information needed to exercise the access to effective remedies procedure should be written in the decision.

The remedy provides for a full examination of both facts and points of law, including, where applicable, an examination of the international protection needs. A key guarantee for the applicant is the right to a fair and public hearing ⁽⁸⁴⁾.

Member States must lay down reasonable time limits and other necessary rules for the applicant to exercise their right to an effective remedy ⁽⁸⁵⁾. Refer to your national legislation to verify the applicable time limits and all other details.

⁽⁸²⁾ Article 46 APD.

⁽⁸³⁾ The exclusion grounds for refugee status and subsidiary protection as laid down in [Directive 2011/95/EU](#) of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011) are similar and stem from the provisions of Article 1F of the 1951 UN General Assembly, [Convention relating to the status of refugees](#), Geneva, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137 and the [Protocol Relating to the Status of Refugees](#), 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267. It should be noted, however, that the exclusion grounds laid out in Directive 2011/95/EU for refugee status (Article 12) and subsidiary protection (Article 17) are not exactly the same. Article 17(1) removes some of the requirements for serious crimes (Article 17(1)(b)) and introduces additional exclusion grounds (Article 17(1)(d) and Article 17(3)) for subsidiary protection. For further guidance, see the EASO, [Practical Guide: Exclusion](#), January 2017.

⁽⁸⁴⁾ As laid down in both Article 47 of the European Union, [Charter of Fundamental Rights of the European Union](#), 26 October 2012, 2012/C 326/02 and Article 6 of the Council of Europe, [European Convention for the Protection of Human Rights and Fundamental Freedoms](#), as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5.

⁽⁸⁵⁾ Article 46(4) APD.

Member States are obliged to ensure that free legal assistance and representation is granted on request in the appeals stage ⁽⁸⁶⁾.

Your role as a guardian

In your role as a guardian, and in the event of a negative decision regarding the child's application to international protection, you should ensure that the child receives appropriate support.

The appeal must be lodged within a defined **time limit and as the guardian you should pay attention to these deadlines.**

Your responsibility as a guardian during the appeal stage includes the following elements.

- Ensure a lawyer is appointed (if not done so before) and discuss with the child and the lawyer any additional information that could be added to the appeal. It is a good practice for the guardian to be present during the first meetings between the child and the lawyer.
- Discuss with the child and the lawyer any additional information that could be added to the appeal; supporting the child in finding the documentation or contacting the family, if safe and in the best interests of the child.
- Ensure the lawyer is adequately following the case and respecting all timelines.
- Follow up with the child to make sure you answer any pending questions or address any issues the child might be experiencing.

⁽⁸⁶⁾ Article 20 APD.

6. What can you do when something is not going as expected?

There might be situations where the situation is not going as expected. The child may be displaying challenging behaviour and your communication with the child might be difficult. The personal interview might be delayed, or the child has other immediate needs related to health, protection or safety that might affect the timing of the interview or your work with the child.



Reminder

Children are overall very resourceful and resilient. With empathy and support, children can overcome many challenges. Providing them with daily routines and meaningful activities including education, vocational skill training or work (depending on the age) while they wait for the decision on their application can greatly benefit their sense of well-being, which is needed to ensure their meaningful cooperation in the procedures.



Related resources

FRA e-learning courses, 2022, available at: <https://e-learning.fra.europa.eu/>

Below you can find some common situations and what you as the guardian can do to handle them.

Mistrust by the child towards the authorities and their guardian

Some children may be more vulnerable because of their relative immaturity, dependency and developmental needs. Other children may have matured rapidly due to their life experiences and be resilient in many aspects. Children may not trust people and this will depend heavily on their background and personal experiences, particularly those they might have suffered during the flight, including traumas.

Children moving from a country to another might become more distrustful of adults due to their life experiences. The fact that the child had to go through the experience of escaping the country of origin and the migratory process alone can have a strong negative impact on the well-being of the child. The absence of parental support or caregivers during this emotionally and physically stressful period makes children especially vulnerable.

The children arriving in Europe have often experienced trauma and violence not only in their country of origin but also during flight and upon arrival. Some may have also had difficult

experiences with authorities, or people they perceive to be in a position of authority, in the past. They therefore find it hard to believe that there are officials that care for them. It will be important for you not to take it personally or be offended if they have a distant or cold reaction to you. Sometimes their past experiences might make it hard for them to manage emotions such as fear, anger or sadness.

Children might show their frustration, fear and anxiety in different ways. While some might act out and appear to be aggressive others might withdraw and refuse to engage. The fact is that in most cases these are normal reactions to the abnormal events experienced.

Creating a trusting and positive relationship with a child is crucial to providing meaningful support. This will take time. It is also important that all other professionals working with the child develop positive relationships with them. Understanding and respecting a child's opinion, strengths, needs and goals is crucial to developing a positive relationship. This trust-based relationship will help you and other authorities in making decisions according to the best interests of the child. Allowing the child to feel in charge through their participation in the decision-making process will help them to be more engaged.

Substance abuse

Some children might find it hard to cope with their current reality, being separated from family or having lost some family members. They might struggle with the new way of life in Europe and the loss of their social network(s). They might struggle to cope with trauma and the fact that their dreams of going to school or working and earning money is not materialising.

Indications of drug or alcohol abuse may be signalled by the child no longer showing up to appointments, appearing withdrawn, quiet, sleepy or the opposite, agitated, easily irritated and/or more aggressive than usual. A lack of hygiene might be another sign or a change in sleeping and eating patterns. When you see the child changing or have noticed them engaging in substance abuse, find the time to speak to the child and continue developing a trusting relationship. You can also support the child in reaching out to services working with substance abuse.

Risk of trafficking and disappearance

Children, including unaccompanied and separated children, are at a higher risk of trafficking. As a guardian, you are in a position to initiate and promote an assessment with the competent authorities of the particular situation of the child you are representing. This assessment should include the risk of the child going missing in the days after which the child is placed in your care. This risk assessment should identify any immediate safety risks as well as threats to the child's safety and how to mitigate such risks, for example by referring the child to a protective shelter or similar.

The cooperation and involvement of child protection services as well as international organisations and civil society organisations with child protection expertise will facilitate the child's access to the appropriate services and support when needed.

In the event of a child's disappearance, it is your responsibility as a guardian to inform the law enforcement authorities as soon as possible. Additionally, national authorities can register the disappearance in the relevant international and national databases, including the Schengen Information System established by Regulation (EU) 2018/1862 ⁽⁸⁷⁾, the Interpol notices and the database of the EU's agency against international and organised crime (Europol). Where it is likely that the missing child has crossed borders, law enforcement officers should introduce an alert in the Schengen Information System.

The Schengen Information System allows officers to insert not only 'reactive' alerts about children who have gone missing but also 'preventive' alerts on different situations, such as:

- children at risk of abduction by a parent, a family member or a guardian;
- children at risk of being taken abroad unlawfully or who need to be prevented from travelling to protect them from the risk of falling in the hands of traffickers or from being made to participate actively in hostilities.



Related video

EUAA, [Animation on safety rules for accompanied and unaccompanied children](#), 2023.

⁽⁸⁷⁾ [Regulation \(EU\) 2018/1862](#) of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU, (7.12.2018, OJ L 312).

Annex 1. Additional resources

EUAA

Access to the asylum procedure and registration

- EUAA, [Practical Guide on Information Provision – Access to procedure](#), February 2023.
- EASO, [Practical Guide on Registration – Lodging of applications for international protection](#), December 2021.

Examination of the application

- EUAA, [Practical Guide on Political Opinion](#), December 2022.
- EUAA, [Practical Guide – Interviewing applicants with religion-based asylum claims](#), November 2022.
- EASO, [Guidance on Membership of a Particular Social Group](#), March 2020.
- EASO, [Practical Guide: Qualification for international protection](#), April 2018.
- EASO, [Practical Guide: Evidence assessment](#), March 2015.
- EASO, [Practical Guide: Personal interview](#), December 2014.

Child-related resources

- EASO animations on:
 - [Age assessment for children](#), 2021.
 - [Age assessment for practitioners](#), 2020.
- EASO, [Practical Guide on Best Interests of the Child in Asylum Procedures](#), 2019.
- EASO, [Practical Guide on Family Tracing](#), March 2016.
- EUAA-FRA, Practical tools for guardians series on the following topics:
 - [temporary protection for unaccompanied children fleeing Ukraine](#), November 2022;
 - [introduction to international protection](#), October 2023;
 - [transnational procedures](#), 2023.

Reception

- EUAA, [Let's Speak Asylum Platform](#), 2023.
- EASO, [Guidance on Reception Conditions for Unaccompanied Children: Operational standards and indicators](#), December 2018.

FRA

FRA, [Guardianship for unaccompanied children - A manual for trainers of guardians](#), 1 March 2023.

FRA, [Handbook on European law relating to the rights of the child – 2022 edition](#), 13 April 2022.

FRA e-learning materials, 2022, available at: <https://e-learning.fra.europa.eu/>.

FRA, [Guardianship systems for unaccompanied children in the EU: developments since 2014](#), 15 February 2022.

FRA, [Initial-Reception Facilities at External Borders: Fundamental rights issues to consider](#), March 2021.

FRA and the Council of Europe, [Fundamental rights of refugees, asylum applicants and migrants at the European borders](#), 2020.

FRA, [Handbook on European law relating to asylum, borders and immigration - Edition 2020](#), 17 December 2020.

FRA, [Right to information – Guide for authorities when taking fingerprints for EURODAC](#), December 2019.

FRA, [Age assessment and fingerprinting of children in asylum procedures – Minimum age requirements concerning children’s rights in the EU](#), 2018.

FRA and the European Commission, [Guardianship for children deprived of parental care](#), 26 June 2014.

European Guardianship Network

European Guardianship Network, [7 EGN Standards for the delivery of guardianship to unaccompanied children](#), 2022.

European Guardianship Network, [Children on the Move – A guide to working with unaccompanied children in Europe](#), February 2021.

European Guardianship Network, [Pilot Assessment System for Guardianship](#), September 2019.

UNHCR

UNHCR, [Technical Guidance: Child friendly procedures](#), 2021.

UNHCR, [*Best Interests Procedure Guidelines: Assessing and determining the best interests of the child*](#), May 2021.

UNHCR, [*Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1\(A\)2 and 1\(F\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*](#), 22 December 2009, HCR/GIP/09/08.

International Organization for Migration

International Organization for Migration, [*Caring for unaccompanied migrant children – A foster carer training manual*](#), 2022.

International Organization for Migration, 'Trafficking in persons: Protection and assistance to victims'. A self-paced, e-learning course available in [E-Campus](#).

Council of Europe

Council of Europe, [*Recommendation CM/Rec\(2022\)22*](#) of the Committee of Ministers to member States on human rights principles and guidelines on age assessment in the context of migration and its Explanatory Memorandum, adopted 14 December 2022.

Council of Europe, [*Recommendation CM/Rec\(2019\)11*](#) of the Committee of Ministers to member States on effective guardianship for unaccompanied and separated children in the context of migration, adopted 11 December 2019.

Council of Europe, [*How to convey child friendly information to children in migration: A Handbook for frontline professionals*](#), December 2018.

List of figures

Figure 1. The key stages of the asylum procedure.....	8
Figure 2. Phases of the access to the asylum procedure	14
Figure 3. Time limits for accessing the procedure as laid down in Article 6 APD	18



Publications Office
of the European Union

