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UN & CoE

7 January – France ratifies Third Optional Protocol to the United Nations (UN) Convention on the Rights of the Child (CRC) on a communications procedure

29 January – UN Committee on the Rights of the Child issues its concluding observations on the periodic reports of France and Ireland

January

4 February – Italy ratifies Third Optional Protocol to the UN CRC on a communications procedure

12 February – Luxembourg ratifies Third Optional Protocol to the UN CRC on a communications procedure

February

1 March – Slovakia ratifies Council of Europe (CoE) Convention on the protection of children against sexual exploitation and sexual abuse (Lanzarote Convention)

2 March – Committee of Ministers adopts CoE Strategy for the Rights of the Child (2016-2021)

7 March – CoE Commissioner for Human Rights issues a Human Rights comment on children and women refugees

9 March – UN launches ‘High Time to End Violence against Children’ initiative

March

4 April – CoE Strategy for the Rights of the Child launched in Sofia, Bulgaria

April

2 May – Czech Republic ratifies Lanzarote Convention

16 May – In *Soares de Melo v. Portugal* (72850/14), the European Court of Human Rights (ECtHR) finds a violation of the right to respect for family life (Article 8 of the ECHR) where authorities placed for adoption the applicant’s seven youngest children due to her poverty and refusal to undergo sterilisation

19 May – In *D.L. v. Bulgaria* (7472/14), the ECtHR rules that not providing minors placed in a closed educational institution the possibility to ask for a review of the detention decision under domestic law violates Article 5(4) of the ECHR (right to review of lawfulness of detention), and that blanket and indiscriminate surveillance of the minors’ correspondence and telephone conversations violates Article 8 of the ECHR (respect for correspondence)

May

9 June – UN Committee on the Rights of the Child issues its concluding observations on the periodic reports of Bulgaria, Luxembourg, Slovakia and the UK

June

20 July – Committee on the Rights of the Child issues CRC General comment No. 19 (2016) on public budgeting for the realization of children’s rights (art. 4)

July

August

September

October

22 November – Estonia ratifies Lanzarote Convention

November

6 December – Committee on the Rights of the Child issues CRC General comment No. 20 (2016) on the implementation of the rights of the child during adolescence

December

EU

January

10 February – Communication from the European Commission to the European Parliament (EP) and the Council of the EU on the state of play of implementation of priority actions under the European agenda on migration; includes annex with actions for protecting children in migration

February

March

28 April – EP adopts resolution on safeguarding the best interests of the child across the EU on the basis of petitions addressed to the EP

April

2 May – EP adopts declaration on improving emergency cooperation in recovering endangered missing children and improving child-alert mechanisms in EU Member States

11 May – Council of the EU adopts Directive on procedural safeguards for children suspected or accused in criminal proceedings

18 May – European Commission issues country-specific recommendations to Member States under the European Semester process

19 May – Report from the European Commission to the EP and the Council of the EU on progress made in the fight against trafficking in human beings

May

16 June – Council of the EU adopts conclusion on ‘Combating Poverty and Social Exclusion: an Integrated Approach’

20 June – Council of the EU adopts conclusion on child labour

June

July

August

September

October

November

8 December – Council of the EU adopts conclusions on the Youth Guarantee

16 December – European Commission adopts two reports on the transposition of Directive 2011/93/EU on combating sexual abuse and sexual exploitation of children and child pornography

December

7

Rights of the child



Almost 27 % of children in the EU are at risk of poverty or social exclusion. While this is a slight improvement compared with previous years, the EU 2020 goals remain unreachable. The new EU Pillar of Social Rights could play an important role in addressing child poverty. The adoption of a directive on procedural safeguards for children suspected or accused of crime is expected to improve juvenile justice systems and bring further safeguards for children in conflict with the law. Meanwhile, thousands of migrant and asylum-seeking children travelling alone or with their families continued to arrive in Europe in 2016. Despite EU Member States' efforts, providing care and protection to these children remained a great challenge. Flaws in reception conditions persisted, with procedural safeguards inconsistently implemented, foster care playing only a limited role and guardianship systems often falling short. These realities underscored the importance of replacing the expired EU Action Plan on unaccompanied children with a new plan on children in migration.

7.1. Child poverty rate improves marginally

The risk of poverty or social exclusion remains a reality for a high proportion of children in the EU. According to the latest available Eurostat data, in 2015, 26.9 % of children in the EU-28¹ were at risk of poverty or social exclusion (AROPE).² There was, however, some encouraging news: the percentage dropped slightly – from 27.8 % in 2014. This means that about 890,000 fewer children were at risk of poverty in the EU-28 in 2015 than in 2014.³

Significant variations exist between regions, underlining the urgent need to intensify support for Member States that are lagging behind. As discussed below, the European Semester and various other programmes can facilitate such efforts.

The highest proportions of children at risk of poverty or social exclusion range from 34.4 % in **Spain** up to 46.8 % in **Romania**, with **Bulgaria**, **Greece** and **Hungary** in between. In **Denmark**, **Finland**, the **Netherlands**, **Slovenia** and **Sweden**, meanwhile, fewer than 17 % of children are at risk. In 20 countries, the percentage of children at risk of poverty or social exclusion decreased

between 2014 and 2015. In seven Member States, it increased, most significantly in **Cyprus** and **Lithuania** – by around 4 percentage points. In **Denmark**, **Greece**, **Italy** and **Slovakia**, it increased only slightly – by around 1 percentage point. (Eurostat data for Ireland were not yet available at the time of writing.)

Parents' educational levels strongly affect children's risk of poverty or social exclusion. The higher their educational level, the lower the children's risk.⁴ Children with parents who have completed less than upper secondary education⁵ are about six times more at risk of poverty or social exclusion (65.5 %) than children with parents who completed tertiary education⁶ (10.5 %), and the risk is twice that of those with parents who benefitted from secondary or post-secondary education (30.3 %).⁷

The parents' country of birth also has a strong impact on the risk of poverty: 33.2 % of children whose parents were not born in the country of residence are at risk of poverty, compared with 18.4 % of those whose parents were born in the country of residence.⁸ As the second wave of FRA's European Union Minorities and Discrimination Survey (EU-MIDIS II) on Roma shows, children's ethnic origin also affects access to basic services.⁹ For more information on the situation of ► Roma, see Chapter 4.

The EU 2020 Strategy, adopted in 2010, aims to reduce the number of people in or at risk of poverty and social exclusion by at least 20 million people by 2020. This is far from being reached. Between 2005 and 2015, the percentage of children at risk of poverty or social exclusion in the EU decreased only slightly: from 28.1 % in 2005 to 26.9 % in 2015.¹⁰ As shown in [Figure 7.1](#), trends at the national level have been quite diverse – depending strongly on how Member States have been affected by the economic crisis and/or have been able to respond thereto.

In about one third of the countries, only minor changes can be observed between the situations in 2005 and 2015, increasing or decreasing by at most one percentage point. This is the case in **Belgium, Denmark,¹¹ Finland, Germany, Ireland, Luxembourg, Portugal, Slovenia, Sweden** and the **United Kingdom**. The lack of progress since 2005 is especially worrying in countries that had high rates that year – such as **Belgium** and **Luxembourg** at around 23 %, and **Ireland, Portugal** and the **United Kingdom** at around 30 %.

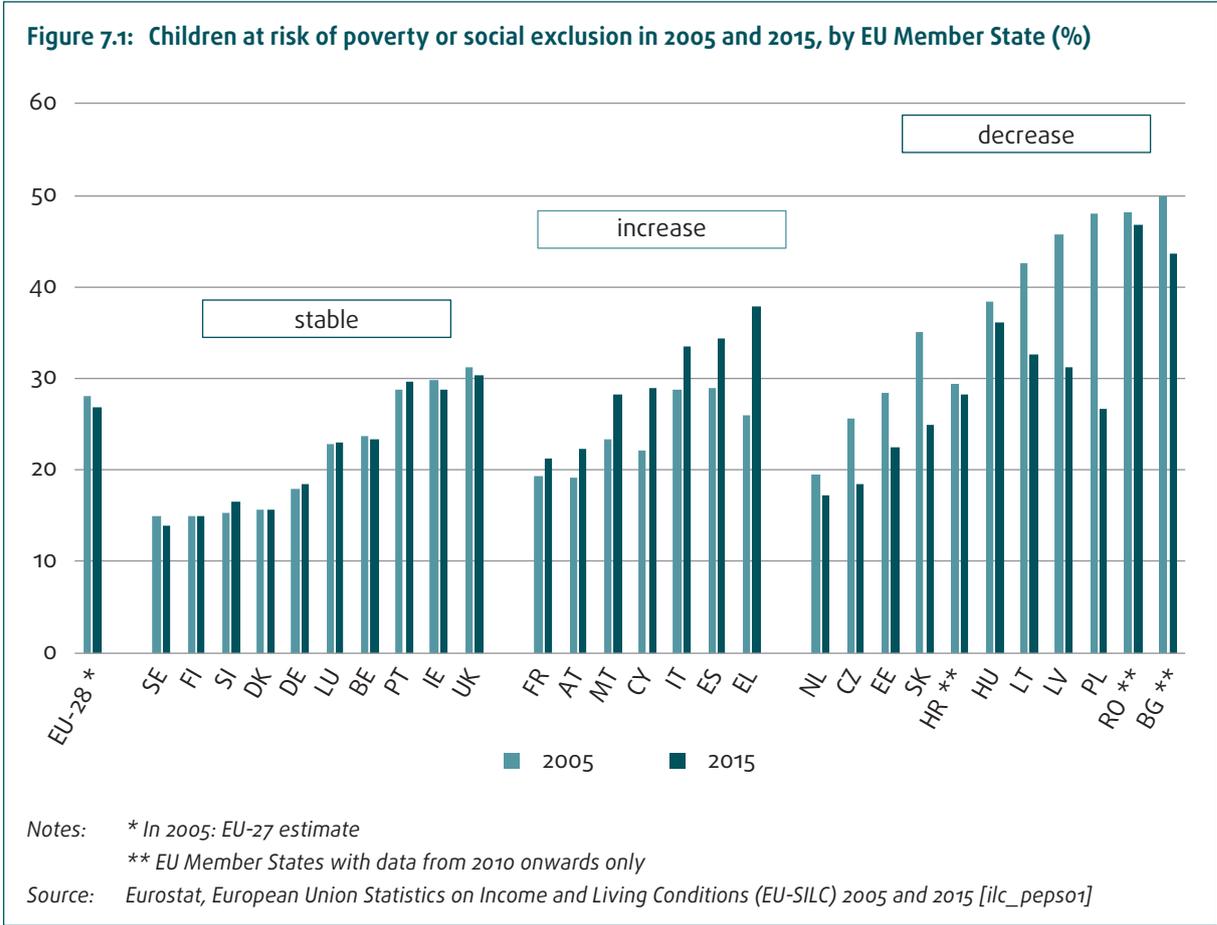
In seven countries, the proportions of children at risk of poverty or social exclusion increased by 2–12 percentage points over time: **Austria, Cyprus, France, Greece, Italy, Malta** and **Spain**. In **Greece**, the increase over the 10-year period in question was around 12 percentage points. In

most cases, this was not a continuous process. In **Austria**, for example, the rate remained at the same level after an initial increase, while **Cyprus** experienced a strong increase only during the second half of the period.

One third of the countries achieved significant reductions in child poverty or social exclusion rates between 2005 and 2015: the **Czech Republic, Estonia, Hungary** and the **Netherlands** – between 1 and 7 percentage points; **Latvia, Lithuania** and **Slovakia** – between 10 and 15 percentage points; and, in particular, **Poland** – with a reduction of 21 percentage points. The risk of poverty or exclusion for children in **Bulgaria, Croatia** and **Romania** also decreased since 2010, the first year for which data are available for these countries.

7.1.1. Tackling child poverty via the European Semester

Understanding the links between economic fluctuations, policy interventions and poverty rates, and how all of these link to the European Semester – the EU’s economic and fiscal policy coordination cycle – requires further analysis.¹² After countries receive country-specific recommendations (CSRs), they present National Reform Programmes (NRPs) the following year, detailing their concrete plans for complying with the CSRs. The links between policy measures included



in NRPs and their impact remain blurry. Moreover, when looking at the CSRs adopted by the Council of the EU for each Member State, it is difficult to identify the rationale based on which countries receive recommendations. As noted in previous FRA Fundamental Rights Reports, the link between national child poverty rates, the CSRs formulated and the measures suggested in national NRPs is not always clear.

The overall number of CSRs adopted by the Council of the EU has decreased over the last few years, including those focusing on children. Figure 7.2 shows an overall decrease in the number of CSRs relating to children between 2014 and 2016. Although child poverty rates remain high, child poverty is the area least reflected in the recommendations given during this period.

In 2016, eight Member States received specific recommendations that directly referred to children: **Bulgaria** (on inclusive education), the **Czech Republic** (on early childhood education and inclusive education), **Hungary** (on inclusive education), **Ireland** (on child care services and child poverty), **Romania** (on inclusive education), **Slovakia** (on child care services, early childhood education and inclusive education), **Spain** (on child care services) and the **United Kingdom** (on child care services). In addition, Italy received a recommendation on the adoption and implementation of the national anti-poverty strategy, but with no reference to children.

A link can indeed be observed between the NRPs presented by Member States during the European Semester process in 2016, and whether or not they received CSRs relating to children in 2015. Some

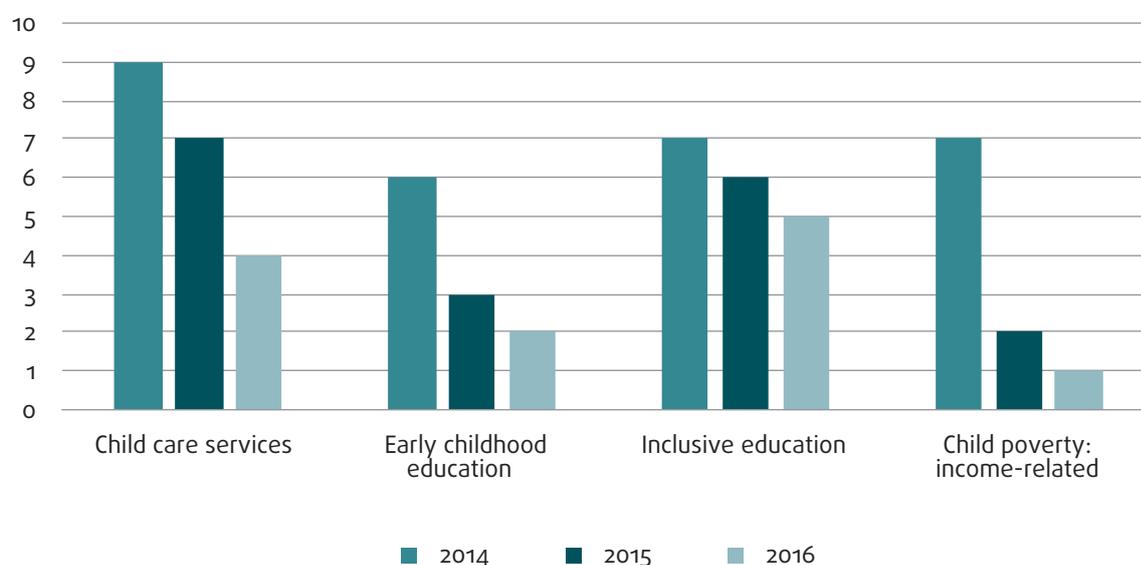
civil society actors¹³ believe, however, that only a few NRPs reflect the principles of the European Commission's *Recommendation on investing in children*,¹⁴ a key policy document.

All 10 Member States with child-related CSRs in 2015 responded with child-related initiatives in their 2016 NRPs. For example, **Austria** received two CSRs on child-care services and inclusive education in 2015.¹⁵ Its 2016 NRP elaborates in detail all the measures taken in this field – ranging from labour law reforms to family allowance increases – and provides specific budget figures.¹⁶

Of the 13 Member States that received no child-related CSRs in 2015, 10 nonetheless made references, to some extent, to child-related initiatives in their NRPs for 2016. For example, **Lithuania's** NRP includes initiatives on deinstitutionalisation and on pre-primary education. Specifically, its NRP states that, in 2016, € 4 million will be allocated to developing an instrument to move children with disabilities and children without parental care from institutional care to family-based services.¹⁷

However, receiving no child-related CSR may lead a country to touch only briefly upon child-related initiatives in its NRP. In **Slovenia**, for example, current and new initiatives mentioned are restricted to promoting the Slovenian language among families with low socio-economic status and migrant backgrounds and social inclusion for vulnerable groups, as well as "establishing a concept for ensuring quality on the level of kindergartens and schools".¹⁸ Since these were not part of the CSRs, there may not be any direct follow up on their execution.

Figure 7.2: Child-related country-specific recommendations, by area and year (number of recommendations)



Source: FRA, 2016 (based on CSRs for 2014, 2015 and 2016)

Given the risk that Member States without child-specific CSRs may not focus on children or identify particular positive policy efforts that target them, it is crucial that – as requested by the European Parliament¹⁹ – the CSRs, and the European Semester as a whole, always and consistently address the situation of children. The European Semester is mainly a macro-economic coordination tool; it should not ignore the social impact on particularly vulnerable groups and children – especially when the Europe 2020 target on poverty reduction is, in contrast to other targets, still far from being reached.

“[The Council] encourages the Member States, taking into account their specific situations, to [...] address child poverty and promote children’s well-being through multi-dimensional and integrated strategies, in accordance with the Commission Recommendation Investing in children.”

Council of the European Union (2016), Council Conclusions ‘Combating poverty and social exclusion: an integrated approach’, 16 June 2016, paragraph 13

A number of developing initiatives could strengthen measures to address child poverty in line with Article 3(3) of the Treaty on the Functioning of the European Union, which identifies the protection of the rights of the child as a general EU objective. In 2016, the European Parliament discussed the Commission’s proposal for the establishment of a Structural Reform Support Programme 2017–2020.²⁰ It has yet to be adopted by the Council, but is expected to improve the use of EU structural funds relating to children. Another important EU initiative that can affect the situation of children is the European Pillar of Social Rights, which details a number of essential principles to support labour markets and welfare systems within the Euro area. The Commission launched a consultation in March 2016²¹ and organised a number of national and European events to exchange views thereon. The first preliminary outline²² of the Pillar of Social Rights does cover the well-being of children, though in a rather fragmented and partial manner, within the chapters on equal opportunities and access to the labour market and on adequate and sustainable social protection. In the consultation, civil society organisations opined that the proposed outline insufficiently considers child rights.²³ For example, the EU Alliance for Investing in Children, a network of European civil society organisations, recommended mainstreaming children’s rights, investing in children, promoting the voice of children and ensuring that children in vulnerable situations are also included in the pillar.²⁴

Including a child rights perspective in national budgets is also highlighted in a new General Comment by the UN Committee on the Rights of the Child on ‘Public budgeting for the realization of children’s rights’, which provides guidance on the interpretation of Article 4 of the Convention on the Rights of the Child (CRC).²⁵ The committee outlines detailed guidance and recommendations on how to promote children’s rights

in relation to each of the four stages of the public budget process: (a) planning, (b) enacting, (c) executing and (d) following up. At every stage, States parties are expected to demonstrate that they have made every effort to mobilise, allocate and spend budget resources to fulfil the economic, social and cultural rights of all children.

“The immediate and minimum core obligations imposed by children’s rights shall not be compromised by any retrogressive measures, even in times of economic crisis.”

United Nations, Committee on the Rights of the Child (2016), General comment No. 19 on public budgeting for the realization of children’s rights (art. 4), paragraph 31

7.1.2. Member State efforts to counter child poverty

Member States continued to develop policies and programmes to combat child poverty and social exclusion. Some go beyond the actions presented in the NRPs, and fall within the framework of the Commission’s *Recommendation on investing in children* and its three pillars: access to adequate resources; access to affordable quality services; and children’s right to participate.²⁶

Relevant legislative and policy changes introduced by Member States throughout the year include two new laws passed in **Portugal** – one on the 2016–2019 major planning targets²⁷ and one on the 2016 state budget.²⁸ The laws aim to allow for: an increase in family allowances and prenatal subsidies, with an additional rise in such subsidies for single-parent families; a reformulation of the income scales to increase the number of families who receive allowances; and activating school social programmes for children and young people living in seriously deprived social and economic conditions. The Portuguese NRP, published in October 2016, also has a strong focus on poverty, children and families.²⁹

National policies regarding children living in poverty have to comply with fundamental rights, as a case involving **Portugal** underlines. In *Soares de Melo v. Portugal*, the European Court of Human Rights (ECtHR) concluded that Portugal violated the right to respect for family life protected by Article 8 of the European Convention on Human Rights.³⁰ The case concerned a family from which seven of a total of 10 children were forcibly taken into care with a view to their adoption because the mother did not provide the children with adequate material living conditions. This case adds to existing ECtHR jurisprudence establishing that poverty as such is not a reason to deprive a child of parental care, and that authorities need to sufficiently support families for them to be able to adequately care for their children.³¹

Romania has one of the highest child poverty rates. In 2016, the government announced an ‘integrated package’ as part of the implementation of the National Strategy on Social Inclusion and the Reduction of

Promising practice

Teaming up with the business sector to tackle child poverty

Involving the business sector in addressing poverty and social exclusion was a key theme at FRA's 2016 Fundamental Rights Forum. Examples of Member States joining forces with businesses to combat child poverty through public-private partnerships include:

In **Italy**, a new law introduced an experimental Fund to Combat Education Poverty (2016–2018) in cooperation with banking foundations. Banks that donate to the fund benefit from tax reductions. The fund will have an annual budget of € 100 million.

Sources: Italy, Law No. 208 on annual and multiannual national budgeting (Legge 2 dicembre 2015, n. 208, Disposizioni per la formazione del bilancio annuale e pluriennale dello Stato, legge di stabilità 2016), 28 December 2015; Decree No. 153 of the Ministry of Labour and Social Policies (Modalità applicative del contributo riconosciuto sotto forma di credito di imposta, in favore delle fondazioni di cui al decreto legislativo 17 maggio 1999, n. 153), 1 June 2016

In **Ireland**, the Department of Children and Youth Affairs in partnership with a private funder, Atlantic Philanthropies, put in place the Area Based Childhood Programme (2013–2017), an innovative prevention and early intervention initiative with a € 34 million investment. It includes targeted interventions to break the cycle of child poverty in disadvantaged areas through services such as community-based prenatal care and education; improving literacy and numeracy; and promoting the mental health and well-being of young people. The effort includes the establishment of a learning group so that lessons learnt from this programme can be 'mainstreamed' in relevant policy and practice throughout Ireland.

For more information, see Atlantic Philanthropies; The Centre for Effective Services (CES), 'Area based childhood programme'

In **Hungary**, the K&H Bank, a financial institution, has implemented a programme to assist children living in poor villages since 2014. Under the programme, K&H has provided healthcare institutions with medical devices to treat children more effectively, organised training programmes on entrepreneurship for children, and equipped kindergartens and elementary schools with sports equipment. The bank published calls for proposals directly addressing local governments and local institutions in poor regions.

For more information, see K&H (2016), '5 dolog, amiről a szegény gyerek álmodik', 28 April 2016

Poverty 2015–2020.³² It is aimed especially at families living in rural communities, poverty 'pockets' and Roma communities. Various services are planned – such as health and education services for children and teenagers, employment programmes for young people and vulnerable adults, and care for dependent adults and elderly people. Notably, the package appears to shift the national focus away from social benefits and towards a more community-based and preventative approach.³³

A network of more than 100 civil society actors praised the **Irish** government for what they consider the first ever family-friendly budget in 2016³⁴ and the very positive number of measures for families and children included in the 2017 budget.³⁵

7.2. Protecting rights of children accused or suspected of crimes

Every year over 1 million children face criminal proceedings in the EU, the European Commission calculates. They form 12 % of the European population facing criminal justice systems each year.³⁶ The minimum age of criminal responsibility varies greatly among Member States, from eight years of age in Scotland to 18 years in Belgium.³⁷

Making justice systems in Europe more child-friendly is a key action point of the EU Agenda on the rights of the child.³⁸ The Council of Europe has provided useful guidance.³⁹ One major milestone of 2016 was the adoption of a new directive on procedural safeguards for children accused or suspected in criminal proceedings.⁴⁰ For more information on access to justice and the rights of suspects and accused persons ► across the EU more generally, see [Chapter 8](#).

7.2.1. New directive enhances protection

The Directive on procedural safeguards for children who are suspects or accused persons in criminal proceedings⁴¹ came into force on 10 June 2016 and has to be incorporated into national law by 11 June 2019. The directive establishes minimum rules on procedural safeguards to ensure fair trials for children. It also aims to enhance Member States' 'mutual trust' in each other's criminal justice systems, prevent juvenile offenders from reoffending, and foster their social integration.

The directive is a legally binding instrument. Its introduction is a welcome development and will help EU Member States implement well-established human rights standards.⁴² The directive will allow individuals to pursue alleged violations of the rights embedded

in it before domestic courts. It also regulates the right to information about proceedings in a comprehensive manner, and so addresses one of the gaps identified in Member States.⁴³ It addresses another identified gap⁴⁴ by requiring specific training or competences of the professionals involved in criminal proceedings with children, including judges, prosecutors and lawyers. The right to an individual assessment is one of the directive's most noticeable provisions. Such an assessment serves to identify the specific needs of a child in terms of protection, education, training and social integration, and could help identify child victims of trafficking or forced criminality, for example.⁴⁵ FRA is exploring this issue in a project entitled 'Return/transfer of children at risk who are EU nationals'.⁴⁶

However, civil society actors contend that the directive falls short in several areas. They consider its language imprecise, allowing for different interpretations and possibly leading to inconsistent applications. Its scope is also considered too limited, in that it introduces certain exceptions relating to minor offences – precisely the kinds of offences that children most frequently commit. Furthermore, the directive applies only to persons who were below 18 at the start of the proceedings, excluding those who were under 18 at the time of the alleged offence and subsequently attained majority.⁴⁷

Various research efforts offer insights that can help Member States develop initiatives to make justice more child-friendly – such as the European Commission's study on children and criminal justice⁴⁸ in the 28 Member States and other research showing the specific vulnerabilities of groups of children, such as Roma children.⁴⁹ In early 2017, FRA published its second report on child-friendly justice, which focuses on the experiences and perspectives of children involved in judicial proceedings as victims, witnesses or third parties in nine EU Member States. It complements FRA's May 2015 report on professionals' experiences and perspectives. Both reports show that the necessary legal framework is usually in place, but that its practical implementation poses difficulties. The reports indicate, for example, that professionals lack the practical tools, protocols and training needed to fully carry out their role. The findings of both reports, and the promising practices presented therein, can help Member States identify barriers, gaps or weaknesses in their respective judicial proceedings, especially in the process of incorporating EU directives into national law.

7.2.2. National developments

Member States introduced several legal and policy changes in 2016 that touched on matters addressed by the Directive on procedural safeguards for children who are suspects or accused persons in criminal proceedings. In addition, several legal decisions issued during the year referred to rights enshrined in the new directive.

Article 5 of the directive stipulates that the holder of parental responsibility for a child accused or suspected in criminal proceedings must be provided, as soon as possible, with the same information that the child has the right to receive pursuant to Article 4. In relation to the parents' right to information, the Supreme Administrative Court of **Bulgaria** ruled that a child may not waive the right to have a holder of parental responsibility informed. The case concerned a child who was detained in a police cell for 24 hours and signed a declaration stating that he did not want any family member or other person to be notified of his detention.⁵⁰ The court concluded that the police authority's obligation to notify parents and provide an attorney were imperative and could not be waived. In October 2016, **Finland** amended the Act on the Treatment of Persons in Police Custody to specify that, if a child is detained, his or her legal guardian has to be informed promptly, unless this conflicts with the child's best interest. Social services shall also be informed.⁵¹

Article 10 of the directive provides that Member States shall ensure that depriving a child of their liberty at any stage of the proceedings is limited to the shortest appropriate time period and imposed as a measure of last resort. It also establishes that detention decisions shall be subject to periodic review, at reasonable time intervals. In *D.L. v. Bulgaria*, the ECtHR ruled against **Bulgaria** for not providing for such review under domestic law. The case concerned a 14-year-old girl placed in a closed boarding school for an indefinite period up to three years, owing to her 'antisocial behaviour'.⁵² For more analysis of European case law on the rights of the child, see FRA's *Handbook on European law relating to the rights of the child*.⁵³

Article 11 of the directive requires Member States to use, where possible, alternative measures to detention. An amendment to the **Austrian** Juvenile Court Act⁵⁴ entered into force on 1 January 2016, establishing that pre-trial detention for child offenders is to be used only in exceptional cases, and is no longer permissible for children suspected of having committed a criminal offence punishable with a fine or imprisonment of up to one year; measures are also in place to encourage replacing pre-trial detention with less severe measures.⁵⁵ **Luxembourg's** legal framework grants extensive powers to the youth tribunal to place children in conflict with the law in institutional care (even abroad),⁵⁶ and to transfer a child to a 'disciplinary institution' if the child behaves 'badly' (*mauvaise conduite*) or acts in a 'dangerous manner' (*comportement dangereux*). It is currently under revision.⁵⁷ Based on existing legislation, 1,354 children were placed in alternative care in 2015⁵⁸ – for various reasons, most not involving conflict with the law – and almost two thirds of them were placed in settings that partly or entirely deprived them of liberty. The national human rights institution in **Luxembourg** adopted an opinion on the proposed bill, expressing great



concern that the current practice of depriving children of their liberty is not used as a measure of last resort, and emphasising the need to revise the existing system.⁵⁹

The UN Global study on the situation of children in detention, commissioned by the UN General Assembly in 2015, is also expected to cover alternatives to detention. It has moved a step forward with the appointment of a Special Rapporteur, who will lead the study.⁶⁰

Promising practice

Municipal support for reintegrating juvenile offenders

In the **Netherlands**, in a joint pilot initiative of the municipality of Amsterdam and the Ministry of Security and Justice, juveniles aged 14 to 23 who face pre-trial detention in a youth detention centre are instead held in a pilot small-scale facility close to their homes. The unit has eight places for boys. Supervision and security are provided 24 hours a day. The pilot project makes it possible for the youngsters to go to school or work and maintain contact with their parents, while working with care professionals to avoid repeat offending. The pilot runs from 16 September 2016 to 1 July 2017. Comparable pilots are being run in Groningen and Nijmegen.

For more information, see the Government of the Netherlands' press release of 5 July 2015

In **Poland**, the municipality of Warsaw joined civil society in an effort to provide support for the reintegration of juvenile offenders after their release from detention centres. The programme was initiated in 2015 to support juvenile offenders with temporary transitional accommodation. Participants can stay up to one year, and receive personal assistance to support their reintegration into education, employment and the family environment.

For more information, see the Warsaw Foundation's webpage

Article 14 of the directive obliges Member States to ensure the protection of children's privacy during criminal proceedings. In relation to the privacy of children in conflict with the law, the District Court of Amsterdam in the **Netherlands** ruled that, in line with a minor's right to privacy, the police or public prosecution may not disclose images or closed-circuit television (CCTV) footage of suspects in the public domain when it is likely that the suspect is a child. In that case, the police, with the permission of the Public Prosecution Service, showed on public television CCTV footage of a young man assaulting an adult. The suspect was subsequently found and arrested. He turned out to be a child, and claimed that his right to privacy, as laid down by Article 40 of the CRC, was violated. The court agreed and reduced his penalty for the crime.⁶¹

7.3. Protecting unaccompanied children poses tremendous challenge

More than 1,166,885 people applied for asylum in the EU in 2016. This included 376,835 children.⁶² In the previous year, more than 1.3 million people sought refuge in EU Member States, 384,935 of whom were children.⁶³ Well-established standards provide that all children are entitled to special care and protection. Unaccompanied children – children who arrive without a parent or other primary caregiver – require special attention, as they face additional risks of exploitation or abuse. This section looks at policies and measures taken by EU Member States to address the situation of unaccompanied children, especially in terms of guardianship and foster care.

For more information on asylum and migration, ► see Chapter 5.

7.3.1. Limited data collection hampers policy initiatives

According to the latest available Eurostat data, 96,465 asylum applications were filed by unaccompanied children in 2015.⁶⁴ Almost 91 % of these applicants were male. This is a large increase from 2014, when asylum applications by unaccompanied children totalled 23,150. In 2015, the five EU Member States that received the highest numbers of asylum applications from unaccompanied children were **Sweden** (35,250 applications), **Germany** (22,255), **Hungary** (8,805), **Austria** (8,275) and **Italy** (4,070).⁶⁵

Data on asylum and migration collected by EU Member States and international organisations are not always comparable and do not effectively illustrate the situation of migrant children, accompanied or not, in the EU. This is also especially true of separated children – children who are accompanied by adults who are not their parents or primary caregivers.⁶⁶ The number of unaccompanied and separated children currently in the EU is higher than the number of asylum-seeking children, since many children are not registered or do not apply for asylum. Identifying and registering vulnerable persons remains a challenge across Member States.⁶⁷

Research carried out for this report revealed no official data on the number of unaccompanied children who do not seek asylum. Research on the issue is generally sporadic.⁶⁸ In **Sweden**, the County Administrative Board of Stockholm published a report on unaccompanied children. It contains some information on children who did not seek asylum but did visit transit accommodation

for rest and food. According to interviews with the children, they place very little trust in the authorities and are aware that their chances of remaining in Sweden are slim.⁶⁹ Meanwhile, UNHCR reported that, between January and September 2016, close to 20,000 unaccompanied children arrived in **Italy**,⁷⁰ but the Italian authorities identified and registered only 14,225 unaccompanied children.⁷¹ Missing Children Europe states that inconsistent data management and collection by Member States generates poor information on the real numbers of unaccompanied children in the EU.⁷² The issue of data on children in the migration context was also discussed at the 10th European Forum on the Rights of the Child, the key European-level event on children's rights, and will be the subject of follow-up actions and recommendations to Member States.⁷³

“Improved data collection and statistics concerning child refugees and migrants will allow for better policy planning, targeted budget allocation and more effective responses. Eurostat, together with other EU institutions and Agencies and in partnership with international organisations including the UN, could develop an enhanced platform towards the provision of such data.”

FRA (2016), *Fundamental Rights Forum 2016, Chair's Statement*, paragraph 25

The EU Charter of Fundamental Rights requires that all children receive the protection and care necessary for their well-being. The EU has developed several legislative instruments relevant to unaccompanied children, including, among others, the recast EU asylum instruments (2011–2013),⁷⁴ the Human Trafficking Directive (2011),⁷⁵ the Return Directive (2008)⁷⁶ and the Reception Conditions Directive (2013).⁷⁷ All of these instruments provide special measures for vulnerable groups, including children in general and unaccompanied and separated children in particular. Article 24 of the Reception Conditions Directive applies to unaccompanied children, harmonising their reception, protection, family reunification and the appointment of a representative.⁷⁸

A Communication from the Commission on the implementation of the European Agenda on Migration touched upon child protection, guardianship and education.⁷⁹ A revision of the Action Plan on Unaccompanied Minors (2010–2014) was announced in 2015, but the plan has not yet been replaced by a new one.⁸⁰ Meanwhile, under the EU Relocation Programme, as of February 2017, only 248 unaccompanied children had been relocated from **Greece** to other EU countries, and one from **Italy**.⁸¹

The ongoing reform of the Common European Asylum System⁸² includes a number of proposals – including regarding the Reception Conditions Directive and the Dublin Regulation – that will affect safeguards established for children. The proposal to review the Reception Conditions Directive includes positive

changes to guardianship systems for unaccompanied children.⁸³ In 2016, FRA published an opinion, at the European Parliament's request, on the impact on children of the proposal for a revised Dublin Regulation. It acknowledges certain progress from a fundamental rights perspective, such as the extended right to information for children. However, it also recommends providing additional guarantees – for example, the appointment of a guardian. The document provides 22 opinions relevant to children, such as on the right to be heard and informed, guardianship, best interests assessments and family unity.⁸⁴

FRA chaired the EU Justice and Home Affairs agencies' network in 2016. The network agreed to strengthen cooperation on implementing EU policies on migration, with a special focus on child protection.⁸⁵ As noted above, the 10th European Forum on the Rights of the Child was devoted to the protection of children in the migration context. Held in late November, it brought together over 300 people working in asylum and migration as well as child protection and child rights, from all EU Member States and Iceland and Norway. A one-day side event on guardianship for unaccompanied children preceded the forum. Formal follow up to the forum will set out EU actions and recommendations to EU Member States on protecting children in the migration context. A group of more than 70 organisations issued a statement proposing seven priority actions, among them the adoption of an EU Action Plan on all refugee and migrant children.⁸⁶

Notwithstanding the existence of relevant measures and legal frameworks, children are often subject to violations of their fundamental rights. FRA continuously reported on this reality in its monthly overviews of the asylum and migration situation, which cover developments in 14 Member States. Such violations include depriving children of liberty in the migration context; this is further dealt with in ► **Chapter 5**. As the CRC Monitoring Committee stated in the context of the closure of the camp known as the Jungle at Calais in France: “The failures regarding the situation of children in Calais are not isolated events but highlight the shortcomings of a migration system built on policies that are neither developed nor implemented with child rights in mind.”⁸⁷

7.3.2. While weaknesses in reception systems persist, some Member States turn to foster care

The CRC, which all EU Member States have ratified, provides that children deprived of their family environment shall be entitled to special protection and assistance by the State.⁸⁸ The UN Guidelines for the alternative care of children⁸⁹ consider family-based settings the preferred option and residential

care facilities the exception.⁹⁰ The UN Committee on the Rights of the Child's General Comment No. 6 on the Treatment of unaccompanied and separated children outside their country of origin provides that mechanisms established under national law to ensure alternative care for unaccompanied or separated children shall also cover such children outside their country of origin.⁹¹

In line with international standards promoting family-based care options, the Reception Conditions Directive stipulates that unaccompanied children shall be placed (a) with adult relatives, (b) with a foster family, (c) in accommodation centres with special provisions for children or (d) in other accommodation suitable for children.⁹² The directive also requires Member States to take measures to prevent assault and gender-based violence, including sexual assault and harassment within accommodation centres.

There are clear weaknesses in the reception system for unaccompanied children. Because there are not enough specialised facilities for unaccompanied children, despite Member States' efforts, children are often accommodated in crowded first reception and transit facilities. Conditions at first reception facilities were reported to be inadequate in almost all Member States covered by FRA's monthly overviews on the asylum and migration situation in 14 Member States.

There is a disconnection between child protection systems and asylum or migration systems. Some accommodation options, care and child protection measures are provided to children without parental care who are nationals of the country but are not equally offered to foreign unaccompanied children. According to the CRC,⁹³ and based on the non-discrimination principle, all children are entitled to the same protection regardless of their migration or residence status. In addition, for asylum-seeking children, Article 22 (2) of the CRC states that an unaccompanied child should be accorded the same protection as any other child deprived of his or her family environment.

Reception is severely flawed, especially in **Greece** and **Italy**,⁹⁴ given the high number of arrivals and the specific situation in the hotspots. FRA's opinion on the fundamental rights situation in the 'hotspots', requested by the European Parliament, outlines various challenges and suggestions in the area of child protection.⁹⁵ (For more information, see [Chapter 5](#).) To address the situation in **Italy**, a new law regulates the minimum standards for first reception centres that provide care for unaccompanied children 24 hours a day, seven days a week.⁹⁶ The new law includes the possibility of creating temporary facilities with up to 50 places. Civil society organisations have criticised this, among other aspects of the new law, for contravening

national frameworks on reception facilities, which promote communities of family-type care or small-scale facilities. They argue that the law could lead to the depersonalisation of relations, preventing the creation of a family-type atmosphere.⁹⁷

The dismantling of the Calais camp in 2016 triggered a lot of media and policy attention. The CRC Monitoring Committee stated that the governments of **France** and the **United Kingdom** fell seriously short of their obligations under the CRC in relation to the Calais camp, where "hundreds of children have been subjected to inhumane living conditions, left without adequate shelter, food, medical services and psychosocial support, and in some cases exposed to smugglers and traffickers".⁹⁸ After the camp's demolition, the **United Kingdom** initiated the development of a strategy to be adopted in 2017.⁹⁹ However, the government's February 2017 announcement regarding the number of children to be accepted in the country prompted expressions of concern, including from the House of Commons.¹⁰⁰

The lack of clear identification and registration procedures is a particular flaw in Member State reception systems. This has often led to children's disappearances, with the consequent risk of abuse, sexual exploitation or trafficking. Children are more likely to go missing from transit and temporary first reception facilities that do not meet child protection standards.¹⁰¹ There is not enough research to provide an overview of how many children on the move go missing, in what phase they do so (first reception, transit, facility at which they applied for asylum), and for what reasons. On one hand, a number of unaccompanied children could be missing but not reported to the police; on the other hand, the absence of a central registry may result in double registrations.¹⁰²

According to Europol, more than 10,000 unaccompanied children went missing in 2015.¹⁰³ Some figures are available for 2016: by September 2016, 427 unaccompanied children had gone missing in **Denmark**,¹⁰⁴ 77 in **Finland**¹⁰⁵ and 6,357 in **Italy**.¹⁰⁶ In February 2016, about 90–95 % of unaccompanied children in **Hungarian** reception centres went missing, as did 80 % of those in **Slovenia**.¹⁰⁷ In January 2016, 4,749 unaccompanied child and adolescent refugees in **Germany** were considered to be missing,¹⁰⁸ of whom 431 were younger than 13. In May 2016, 1,829 unaccompanied minors seeking asylum were registered as missing with the **Swedish** Migration Agency.¹⁰⁹ In **Slovakia**, "[a]lmost all the children placed in foster homes in the past five years have disappeared and no specific effort has been made to find them", the Committee on the Rights of the Child stated in its concluding observations.¹¹⁰

Responding to disappearances presents great challenges; only "27.1 % of the missing unaccompanied migrant children were found in 2015", according to a 2016 report by Missing

Children Europe.¹¹¹ The same NGO suggests that some children leave voluntarily with the aim of reaching another country – where their relatives live, where they know of a well-established community, or where they believe they have a better chance of being granted international protection or the care systems would be better.¹¹²

Establishing foster care programmes for unaccompanied children

Over recent years, Member States have reformed their systems and are developing temporary and long-term family-based care options so that they can use residential care only as a temporary measure for children without parental care. However, in practice these alternative measures apply mainly to children from the host country, and most unaccompanied children in the EU still live in residential care.

Accommodation with a foster family is one of the options for unaccompanied children listed in the Reception Conditions Directive (Article 24(2)). However,

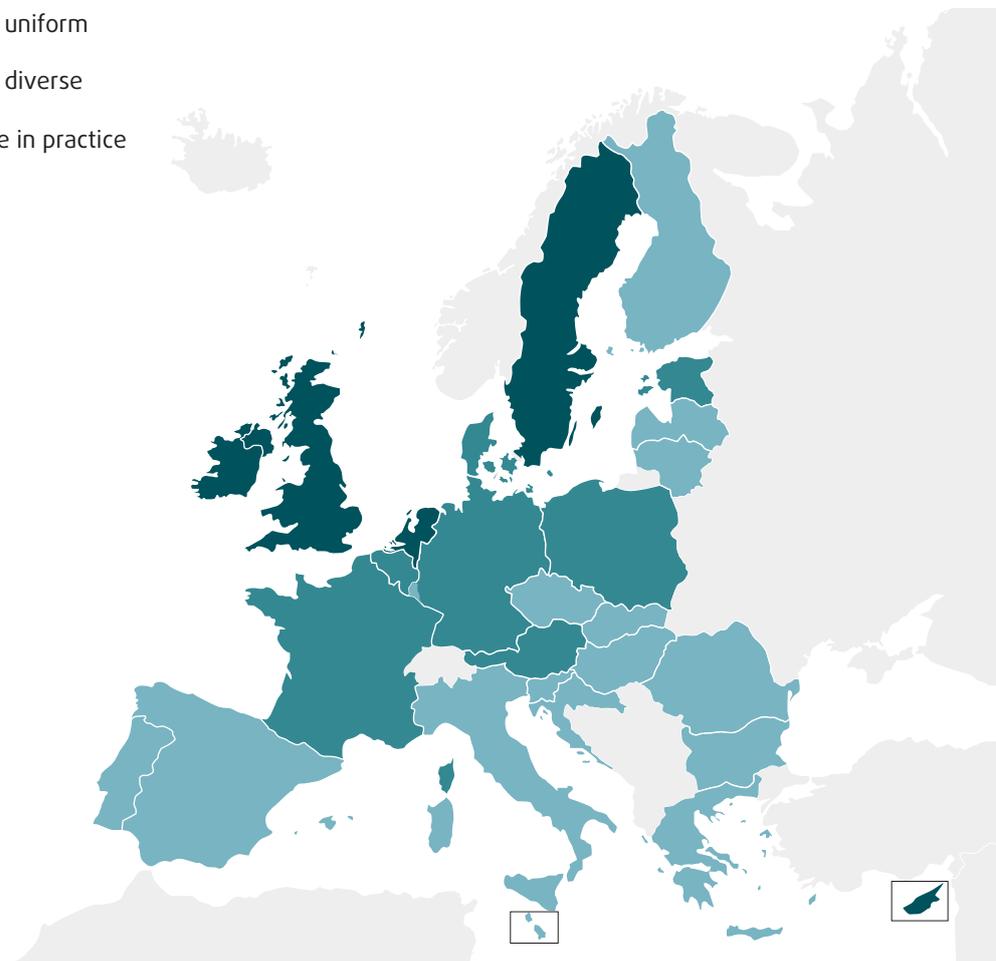
in practice, foster care is available for unaccompanied children in only 12 Member States, as [Figure 7.3](#) shows. Moreover, within some countries, practices are diverse and vary regionally or even locally.

In 16 Member States, foster care for unaccompanied children is not available or the placement of this particular group of children in foster families is extremely rare. For example, in **Greece**, competent national authorities do not provide foster care for unaccompanied children in practice. The NGO METAdrasi has developed a foster care project especially for very young children who are likely to be reunited with their family in another EU Member State. Since February 2016, 13 children have been placed in foster families, and five of them were subsequently reunited with their families in another EU Member State.¹¹³

Some countries are considering establishing foster care, such as Finland and Latvia. In **Finland**, the National Integration Programme for 2016–2019, which is based on the 2011 Integration Act,¹¹⁴ lists among its action points

Figure 7.3: Availability of foster care for unaccompanied migrant children, by EU Member State (December 2016)

- Existing and uniform
- Existing and diverse
- Not available in practice



Source: FRA, 2016



the development of family care for unaccompanied children especially, but not exclusively, under the age of 12. In **Latvia**, the new Asylum Law, which entered into force in 2016, allows the Child Custody Court to place unaccompanied asylum seekers in foster families.¹¹⁵

In the 12 countries that provide foster care, practices are either diverse or uniform. Having diverse practices means that they may vary at regional, local or municipal level, because they are not harmonised nationally. This is the case in **Austria, Belgium,¹¹⁶ Denmark,¹¹⁷ Estonia,¹¹⁸ France,¹¹⁹ Germany¹²⁰ and Poland.¹²¹ Specifically, eight out of nine regions in **Austria¹²²** allow the placing of unaccompanied children in foster families, but in practice foster care works only in some cities. For example, in Vienna, the Fonds Social Vienna, the Vienna City Department for Youths and Family, and SOS Children's Villages launched a joint project to create the possibility for families to host unaccompanied children older than 14, in addition to foster care families for children up to the age of 14.¹²³ By September 2016, almost 130 children had been placed in foster families in Austria.¹²⁴**

While FRA acknowledges the benefit of such efforts, these local and regional initiatives and project-based activities risk lacking sufficient safeguards. They should be the focus of particular attention. Some of these foster care programmes may not be an integral component of the child protection system, and may not observe national standards. In these cases, it becomes even more essential to monitor the services to ensure the children's protection and consideration of their best interests.

Some countries have more uniform systems in place at the national level – namely **Cyprus, Ireland, the Netherlands, Sweden¹²⁵ and the United Kingdom.** In **Ireland**, all newly arriving separated children under 12 years of age are placed in foster care on arrival.¹²⁶ However, according to the Irish Refugee Council, it can take weeks or months for children who are over 12 years old to be placed with foster families. In 2016, 59 out of 101 asylum-seeking unaccompanied children were placed in foster families.¹²⁷ On occasion, children remain in the residential home until the age of 18.¹²⁸ The **Netherlands** implemented a new model of reception, ensuring that all unaccompanied children up to 14 years of age are placed in foster families under the responsibility of the guardianship authority, Nidos, and those older than 14 are given accommodation in small-scale reception centres with 24-hour supervision, run by the Central Agency for the Reception of Asylum Seekers.¹²⁹ In the **United Kingdom**, fostering unaccompanied children requires going through the same process as fostering children who are nationals of the country, which is often quite a lengthy procedure. There is also a major shortage of foster care places.¹³⁰

The Commission addressed the issue of foster care in a rights of the child call for proposals covering guardianship and foster care for unaccompanied children, launched in 2016. In 2017, it will launch a call for proposals covering preparations for leaving/ageing out of care, which includes children in migration in its scope.¹³¹

Promising practice

Promoting alternative care solutions for unaccompanied children

The European Commission, under the European Refugee Fund, co-funded a consortium of NGOs from different Member States to provide research and promote skills in developing family-based care for unaccompanied children. Initial findings provide a very good overview of the different family-based care models in use in the EU. The project also shows that social workers, reception professionals and – sometimes – guardians need training. Guardians are responsible for counselling host families who take care of unaccompanied children. All of these professionals need tools and specialised training on how to work with this group of children and their host families.

Under the Rights, Equality and Citizenship Programme, the EU co-funded a follow-up action project whereby Nidos (the **Netherlands**), in cooperation with Minor N'dako (**Belgium**), Jugendhilfe Süd Niedersachsen (**Germany**), OPU (**Czech Republic**), the **Danish** Red Cross and KIJA (**Austria**), has developed a training programme with supportive and online materials for professionals working with host families who take care of unaccompanied children. The training consists of different modules on recruitment, screening, matching and guidance of the host families. The project runs from 2015 to 2017.

For more information, see Nidos, Reception and living in families – Overview of family-based reception for unaccompanied minors in the EU Member States, February 2015; Alternative Family Care (ALFACA)

Meanwhile, the length and content of training for foster parents varies significantly both within and between Member States, as FRA showed in its mapping of child protection systems in 2015.¹³² Social workers, reception professionals, guardians and foster families need tools and specialised training on how to work with unaccompanied children. A challenge for foster care is the risk of failing to consider the cultural needs of the child and the special support that foster parents might need. Foster families for unaccompanied migrant children should receive information about how to deal with a child who has a different cultural background or has experienced trauma and loss.¹³³

Promising practice

Guiding foster carers on the asylum process

The Fostering Network in the **United Kingdom** launched a guide for foster carers supporting unaccompanied asylum-seeking children. The Fostering Network developed the guide in partnership with the Department for Education and the Refugee Council. It contains up-to-date information about the asylum process for children and provides links to support services. The guide includes an easy-to-understand flow chart of the asylum process, as well as a table that breaks down each stage and what foster carers need to do at each point.

For more information, see the Fostering Network, 'Looking after unaccompanied asylum seeking children in the UK'

7.3.3. Guardianship for unaccompanied children remains inadequate

All children deprived of parental care, including unaccompanied children, should have guardians appointed promptly to safeguard the children's best interests, ensure their overall well-being, facilitate child participation, exercise legal representation and complement the children's limited legal capacity.¹³⁴

The concept of guardian is not clearly defined in EU law. EU directives use different terms, such as guardian, representative or legal representative (Article 24 of the Reception Conditions Directive, Article 25 of the Asylum Procedures Directive, Article 14 of the Anti-Trafficking Directive). The European Commission's 2016 proposal for the revision of the Reception Conditions Directive, however, enhances the concept of guardians for unaccompanied children.¹³⁵ Concretely, the proposal explicitly calls for the appointment of a guardian – instead of a legal representative, whose role is limited to the legal representation of the child in the proceedings. (As is further explained in FRA's opinion on the Dublin Regulation, the role of a guardian is generally broader and extends beyond pure legal representation, including promoting the best interests of the child.¹³⁶) The proposal also specifies that a guardian should be appointed no later than five working days from the moment of application for international protection; ensures vetting of guardians; requires Member States to ensure that a guardian is not in charge of a disproportionate number of children; and obliges Member States to put in place monitoring and complaint mechanisms.¹³⁷ By contrast, the European Commission proposals for a revised Dublin Regulation and for the Asylum Procedures Directive

do not require the appointment of a 'guardian', and refer only to the 'legal representative'.

Despite the migration trends of 2015 and 2016, national-level developments in the area of guardianship proceeded very slowly during 2016. Guardianships for unaccompanied children are not always the same as for children without parental care who are nationals of that Member State, or sometimes, even when they are the same, they do not work for unaccompanied children in practice. Occasionally, guardianship is implemented at a regional or local level, and different approaches may be applied in different parts of the country.¹³⁸

The main challenges outlined in FRA's 2015 report on *Guardianship for children deprived of parental care* persist.¹³⁹ FRA's monthly migration reports for 2016 even point to deteriorations due to the increased number of unaccompanied children. Lengthy appointment procedures and timelines, difficulties in recruiting qualified guardians, a lack of independence and impartiality, and the high number of children assigned to each guardian top the list of challenges.¹⁴⁰

Delays in appointing guardians for unaccompanied children were reported in several Member States in 2016. In some countries, the guardian is appointed immediately and no time elapses between identification of the child and appointment of the guardian – such as in the **Czech Republic**¹⁴¹ and **Ireland**.¹⁴² In other countries it takes longer, often due to the number of arrivals or asylum applications. In **Italy**, unaccompanied children live in emergency shelters for up to six months without having a guardian appointed or receiving any kind of specific assistance.¹⁴³ In **Germany**, in July 2016, the Federal Association for Unaccompanied Minor Refugees published a first evaluation of the implications of a law adopted in October 2015,¹⁴⁴ based on an online survey of 1,400 professionals working with unaccompanied children.¹⁴⁵ The findings show that the appointments of guardians in many cases exceeded the legal time limits provided for by law.

FRA's monthly migration reports also noted the high number of children allocated per guardian in some Member States.¹⁴⁶ This can hinder the functioning of the service and result in insufficient care being provided to the children. For example, in **Sweden**, a person may serve as guardian for up to 30 children.¹⁴⁷ In **Bulgaria**, the number of children per guardian varies, but, at the end of October 2016, about 600 unaccompanied children were assigned to the six directors of the six reception centres. This means that each director is the guardian of about 100 children. In addition, guardians continue to handle the case files of other children who have gone missing but whose files are still not closed.¹⁴⁸

To address some of these challenges, several Member States amended their laws and policies in 2016. For example, in **Cyprus**, the Asylum Law was amended to incorporate the recast Asylum Procedures Directive 2013/32¹⁴⁹ and the recast Reception Conditions Directive.¹⁵⁰ However, the Commissioner for the Rights of the Child has criticised the amendments for lacking a comprehensive and efficient approach to the detention of unaccompanied children, family reunification, asylum application, access to education and guardianship.¹⁵¹

Denmark amended its Family Law in 2016 and changed the body responsible for appointing personal representatives (for asylum-seeking children) and temporary guardians (for unaccompanied children who have been granted a residence permit). The revised legislation provides that an independent authority – the National Social Appeals Board¹⁵² – now appoints guardians instead of a government authority. In **Romania**, the revision of the Law on

Asylum includes new procedures for assigning legal representatives to unaccompanied children.¹⁵³ Two other important amendments include the right of the unaccompanied child to be informed immediately about the appointment of a legal representative and the obligation of the legal representative to act according to the principle of the best interest of the child and to have expertise in this field.¹⁵⁴

Greece lacks an efficient guardianship system, the European Commission concluded in the context of the Dublin Regulation.¹⁵⁵ In response, the Greek government began to reform its guardianship procedure, with the support of Nidos, FRA and other actors. A number of Member States – including **Bulgaria** and **Italy** – assign guardianship tasks to staff members of reception facilities at which children are placed to overcome delays. This raises concerns that guardians may experience conflicts of interest and lack independence and impartiality.¹⁵⁶

FRA opinions

At almost 27 %, the proportion of children living at risk of poverty or social exclusion in the EU remains high. This being the EU average, the proportion is higher in certain Member States and among certain groups, such as Roma children or children with a migrant origin. The Europe 2020 target on poverty reduction is thus still far from being reached. Article 24 of the EU Charter of Fundamental Rights provides that “[c]hildren shall have the right to such protection and care as is necessary for their well-being”. Nonetheless, EU institutions and Member States put little emphasis on child poverty and social exclusion in the European Semester. The EU has taken a number of initiatives that could strengthen Member States’ legislative, policy and financial measures, including the 2013 European Commission Recommendation on ‘Investing in children: breaking the cycle of disadvantage’, the Structural Reform Support Programme 2017-2020 and the adoption of a child-focused European Pillar of Social Rights.

FRA opinion 7.1

The EU should place more emphasis on comprehensively addressing child poverty and social exclusion in the European Semester – making better use of the 2013 European Commission recommendation – as well as in upcoming initiatives, such as the European Pillar of Social Rights. This could include focusing attention in the European Semester on those EU Member States where child poverty rates remain high and unchanged in recent years.

EU Member States, with the support of the European Commission, could analyse and replicate, when appropriate, success factors in laws and economic and social policies of those Member States that managed in recent years to improve the situation of children and their families.

The Directive on procedural safeguards for children who are suspects or accused persons in criminal proceedings is an important milestone in a vital and often contentious field of justice. Existing research, as well as the case law of the European Court of Human Rights (ECtHR) and national courts, highlight the need for special protection measures for children in conflict with the law. FRA research on children and justice shows that the legal framework to safeguard children is usually in place, but that the practical

implementation of such legislation remains difficult, mainly due to a lack of practical tools, guidance or training for professionals.

FRA opinion 7.2

EU Member States should undertake a national review to identify existing practice and barriers, gaps or weaknesses in their respective juvenile justice systems. A plan of action should follow this national review to define policy measures and the required resources for the full implementation of the Directive on procedural safeguards for children who are suspects or accused persons in criminal proceedings. This could include training for judicial actors or the development of practical guidelines for individual assessments and for informing children in an age-appropriate manner.

Migrant and asylum-seeking children continued to arrive in Europe during 2016, alone or together with their families. Evidence collected by FRA shows that, despite Member States’ efforts, there are clear weaknesses in the reception system for unaccompanied children – such as a lack of specialised facilities and crowded or inadequate first reception and transit facilities. Placing unaccompanied children with foster families is not yet a widely used option. Evidence suggests that providing adequate reception conditions is vital to prevent trafficking and exploitation of children, or children going missing. The European Commission has presented a number of proposals to reform the Common European Asylum System, while the 2011-2014 Action Plan on Unaccompanied Minors has not been renewed.

FRA opinion 7.3

The EU should develop an EU action plan on children in migration, including unaccompanied children, setting up clear policy priorities and measures to complement EU Member States’ initiatives.

EU Member States should strengthen their child protection systems by applying national standards on alternative care to asylum-seeking and migrant children, focusing on the quality of care. This should include, as prescribed in the Reception Conditions Directive, placements with foster families for unaccompanied children. Furthermore, Member States should allocate enough resources to the municipal services that provide support to unaccompanied children.

Appointing a guardian for each unaccompanied child remains a challenge, as evidence collected by FRA shows. The main issues relate to lengthy appointment procedures and timelines, difficulties in recruiting qualified guardians, the high number of children assigned to each guardian, and a lack of independence and guarantees of impartiality of guardianship institutions in some EU Member States. The European Commission proposal to review the Reception Conditions Directive includes improvements to guardianship systems for unaccompanied children. The proposal requires appointing guardians who are responsible for looking after the child's best interests in all aspects of the child's life, not just for legally representing them. By contrast, the proposals for a revised Dublin Regulation and Asylum Procedures Directive require only the appointment of a "legal representative", and not of a "guardian".

FRA opinion 7.4

The EU legislator should put forward a coherent concept of guardianship systems with a clear role in safeguarding the best interests of unaccompanied children in all aspects of their lives.

EU Member States should ensure that child protection systems and guardianship authorities have an increased role in asylum and migration procedures involving children. Member States should develop or strengthen their guardianship systems and allocate necessary resources. They should ensure the prompt appointment of a sufficient number of qualified and independent guardians for all unaccompanied children. Finally, they could consider promising practices and existing research and handbooks, such as the European Commission's and FRA's joint Handbook on guardianship for children deprived of parental care, to support this process.

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