

4.6.4. Rights of the child during the asylum procedure

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FRA and the Council of Europe published guidance for border officials and other authorities on protecting children at Europe's borders.^{[1082](#)} A report by Eurochild summarises the needs of children across European countries, including that of children in migration and child applicants and beneficiaries of international protection.^{[1083](#)}

The Finnish Non-Discrimination Ombudsperson recommended for the new government to undertake a comprehensive reform of the Aliens Act. The recommendations suggested, for example, to clearly define in law that the best interests of the child should be prioritised and which processes should be followed. The Ombudsperson highlighted again that the income requirement for family reunification has a negative impact on children who are beneficiaries of international protection.^{[1084](#)}

The Icelandic Law on Foreigners now specifies that authorities are obliged to take into account the minority of an applicant in the assessment of an application for international protection if the child turned 18 after arriving in the country.^{[1085](#)}

In Greece, the General Secretariat of Vulnerable Citizens and Institutional Protection was established within the Ministry of Migration and Asylum, while the Special Secretariat for the Protection of Unaccompanied Minors was abolished.^{[1086](#)} Among other tasks, the General Secretariat contributes to the identification of minors at risk and is responsible for their protection and care. For example, the secretariat launched a new toolkit on best interest procedures, as part of a project implemented with the EUAA and UNHCR.^{[1087](#)} In addition, the multistakeholder National Emergency Response Mechanism continued to operate throughout 2023, and authorities highlighted some of the success stories of support among the several thousands of cases in which the mechanism contributed to the identification and accommodation of unaccompanied children living in precarious conditions.^{[1088](#)} The Network for Children's Rights observed that the online platform of the Asylum Service was often difficult for unaccompanied minors to use and navigate, and it resulted in missing important deadlines and appointments, risking to lose their reception rights.^{[1089](#)}

The Romanian CNRR noted that authorities were not always able to prioritise applications by unaccompanied children, as foreseen in the legislation, due to the increasing number of cases overall and a lack of staff.^{[1090](#)} In Lithuania, the Red Cross Society identified only one case where the best interests of the child were not immediately ensured, but overall the organisation assessed that inter-institutional cooperation to address the needs of minor applicants was improved throughout 2023.^{[1091](#)}

The CGRS in Belgium planned to increase the number of training sessions on minors for protection officers in 2024. In addition, as part of a reform package on migration, the Belgian Council of Ministers approved the creation of a separate residence right for parents when their children qualify for international protection but

they themselves not. These parents currently rely on a humanitarian stay, but this form of residence was not created for this purpose.¹⁰⁹²

The Tribunal of Rome [condemned](#) the national authorities in the case of a minor who was not given access to the asylum procedure and was detained in Italy, before being informally readmitted to Greece. The ECtHR [concluded](#) that a 16-year-old was subjected to collective expulsion from Hungary to Serbia in 2017, even though he expressed his wish to apply for international protection.

The Tribunal of Naples [granted](#) refugee status to a Senegalese minor on the ground of membership of a particular social group of abandoned children who are victims of persecution due to their personal condition.

The CNDA in France confirmed in a series of cases that parents could submit an asylum application for a child born after the parents' request for international protection, while the application was still being examined, and invoke specific fears for the child – such as the risk of being subjected to FGM/C. The court noted that an additional interview needs to be arranged if the child-specific reasons could not be raised during the interview for the original request. Parents can also invoke the child's fears in support of their own appeal.¹⁰⁹³

The UN CRC published its concluding observations on Finland,¹⁰⁹⁴ France,¹⁰⁹⁵ Ireland¹⁰⁹⁶ and Sweden¹⁰⁹⁷ and made recommendations on improving asylum procedures for children.

¹⁰⁸² European Union Agency for Fundamental Rights. (2023, December 18). *Children in migration: fundamental rights at European borders*.

¹⁰⁸³ Eurochild, putting children at the heart of Europe. (November 2023). *Children's Rights: Political will or won't? Eurochild 2023 report on children in need across Europe*.

¹⁰⁸⁴ Non-Discrimination Ombudsman. (2023, April 25). *The rights of the child must be realised in full in matters involving foreign nationals – the Ombudsman's recommendations for improving the status of foreign nationals for the government programme*.

¹⁰⁸⁵ Lög um breytingu á lögum um útlendinga, nr. 80/2016 (alþjóðleg vernd) [Act amending the Act on Aliens, no. 80/2016 (international protection)]. (27 March 2023). <https://www.althingi.is/altext/stjt/2023.014.html>

¹⁰⁸⁶ ????????? ????????? ?? ??????. 77, ??????? ??????????? ??? ??????????? ?????????? – ???????, ??????????? ??? ????????????? ????????? ??? ????????? ????????????? – ?????????? ??????????????, ????????????? ?????????, ????????????????? ????????? [Presidential Decree No 77 Establishment of a Ministry and renaming of Ministries – Establishment, abolition and renaming General and Special Secretariats - Transfer responsibilities, service units, positions personnel and supervised entities., June 27, 2023].

¹⁰⁸⁷ Ministry of Migration and Asylum | ?????????? ?????????????????? ??? ??????. (2023, August 18). *General Secretariat for Vulnerable Persons and Institutional Protection of the Ministry of Migration and Asylum launches new Toolkit on Best Interests Procedures* [Press release].

[1088](#) Ministry of Migration and Asylum | ?????????? ?????????????? ??? ??????. (2023, November 24). ???
?? [Two National Emergency
Response Mechanism success stories] [Press release].

[1089](#) Network for Children's Rights | ?????? ??? ?? ?????????? ??? ??????. Input to the Asylum Report 2024.

[1090](#) Romanian National Council for Refugees (CNRR) | Consiliul Național Român pentru Refugiați. (2023). Input to the Asylum Report 2024.

[1091](#) Lithuanian Red Cross Society | Lietuvos Raudonojo Kryžiaus. Input to the Asylum Report 2024.

[1092](#) European Migration Network. (2023, March 9). *Today, the Council of Ministers approved a first package of reform measures by Secretary of State for Asylum and Migration Nicole de Moor.*

[1093](#) France, National Court of Asylum [Cour Nationale du Droit d'Asile (CNDA)], *N.S. v Office for the Protection of Refugees and Stateless Persons (OFPRA)*, No 22031440 R, 07 March 2023.

[1094](#) United Nations Convention on the Rights of the Child. (2023, November 15). *Concluding observations on the combined fifth and sixth periodic reports of Finland: CRC/C/FIN/CO/5-6.*

[1095](#) United Nations Convention on the Rights of the Child. (2023, December 4). *Concluding observations on the combined sixth and seventh periodic reports of France.*

[1096](#) United Nations Convention on the Rights of the Child. (2023, February 28). *Concluding observations on the combined fifth and sixth periodic reports of Ireland: CRC/C/IRL/CO/5-6.*

[1097](#) United Nations Convention on the Rights of the Child. (2023, March 7). *Concluding observations on the combined sixth and seventh periodic reports of Sweden: CRC/C/SWE/CO/6-7.*