

Please cite as: EUAA, '1. Information, participation and representation of unaccompanied children' in *Guidance reception unaccompanied children*, January 2022.

1. Information, participation and representation of unaccompanied children

Introductory remarks

The provision of information in this document refers to information in the framework of the RCD.In line with Article 5 RCD, MS shall inform unaccompanied children, within a reasonable time not exceeding 15 days after they have lodged their application for international protection, of at least any established benefits and of the obligations with which they must comply relating with reception conditions.

It is noted that in some MS the provision of such information may also fall under the responsibility of the reception authorities.Therefore, and in line with its thematic scope, this guidance focuses on standards for information provision in relation to reception conditions.

In order to avoid language barriers and communication problems, information shall be provided in a language that unaccompanied children understand.So as to avoid overburdening unaccompanied children with extensive information at the reception intake, the provision of information may take place in a time- or phase-specific manner, in line with the individual child’s needs and according to their maturity.In response to the special reception needs identified, 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, inter alia, psycho-social counselling and different types of assistance ranging from orienting unaccompanied children on how to access public services to cultural mediation and orientation, conflict solving as well as guidance on how to deal with specific situations and the next steps to take.MS are encouraged to establish timelines outlining the type of information to be provided to unaccompanied children at the national level, while taking into account the overall maximum of 15 days prescribed in Article 5 RCD.

Article 12 CRC and Article 24 EU Charter require that children’s views are considered and acted upon, according to their age and maturity. The CRC encourages adults to listen to the opinions of children and involve them in decision-making.The right to be heard applies to all the children capable of forming their own views regardless of their age, thus hearing the child’s views would not be limited to a specific age since the understanding and capacity of the child to form and express their views is not always linked to their chronological age.The maturity of unaccompanied children needs to be assessed individually by a child psychologist or social

workers experienced in working with children [(18)].This assessment will be of help when adapting the language for the provision of information to unaccompanied children and for verifying their understanding.Additionally, in order to empower children to express their views, procedures need to be adapted.

Ensuring that the views of the child are given due weight in all decisions concerning them is not a guarantee that all decisions will always be conform to the views expressed by the child.Where this is not the case, the reasons should be properly explained to the children.

Due to the vulnerability of unaccompanied children, the prompt appointment of a representative is one of the most important measures to be taken to protect unaccompanied children.Representatives play a crucial role in guaranteeing access to the rights and in safeguarding the interests of all unaccompanied children, including those not applying for asylum.They can help build trust with the unaccompanied children and ensure their wellbeing, including for integration, in cooperation with other actors.

So far, there is no uniform definition of the term ‘representative’ available across the MS.The role, the qualifications and the understanding of the competences of representatives vary from one MS to another [(19)]. In some MS, the term in use is ‘guardian’ and they may have a similar or different role; in others both figures may coexist with different roles. Article 2(j) RCD defines the representative as ‘a person or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied minor in procedures provided for in this Directive with a view to ensuring the best interests of the child and exercising legal capacity for the minor where necessary’.

According to Article 24 RCD, MS ‘shall as soon as possible take measures to ensure that a representative represents and assists the unaccompanied minor to enable him or her to benefit from the rights and comply with the obligations provided for’ in the RCD.The representative shall perform their duties in accordance with the principle of the best interests of the child, as prescribed in Article 23(2) RCD, and shall have the necessary expertise to that end.

According to the EU asylum acquis, one of the main responsibilities of MS, in order to address this inherent vulnerability and to fulfil the right to family unity, is to adopt the necessary measures to trace the family members of unaccompanied children and reunify children with their family members when it is found to be in the best interests of the child.

Apart from the aforementioned representation, the best interests of unaccompanied children should also be protected by the appointment of appropriate staff (e.g.care/social workers, etc.) responsible for the reception and care of unaccompanied children.As recommended in the Communication on the protection of children in migration, all organisations (including reception facilities) that work with children should have in place internal child safeguarding policies (i.e.a set of internal rules on how to vet, recruit and train staff who will deal with children, how to monitor their interaction with children, and how to deal with complaints and implement disciplinary sanctions where needed).

Legal references – Information, participation and representation

- Article 2(j) RCD: Representative
- Article 5 RCD: Information
- Article 23 RCD: Minors
- Article 24(1) RCD: Unaccompanied minors
- Article 12 CRC: Respect for the views of the child

(18) UN Committee on the Rights of the Child, *General Comment No. 12 (2009) on the child's right to be heard.*
(19) Communication from the Commission to the European Parliament, the Council of the European Economic and Social Committee of the Regions, *The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016,* 19 June 2012, COM(2012) 286 final.

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