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2. Special needs and safety risks

Introductory remarks

Unaccompanied children are one category of applicants with special needs in a state of particular vulnerability and therefore require specific and appropriate care, guidance and protection. Each unaccompanied child has the right to be protected against all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse. The reception and guidance of unaccompanied children should be set up in such way that special needs such as intensive (24 hour) guidance, special child friendly medical and psychological assistance or specific reception facilities related to age, gender or threat are responded to and that safety risks are tackled and kept to a minimum (Article 19(1) CRC).

Based on the RCD, MS must, inter alia, conduct individual assessments carried out in different phases after arrival in order to identify and cover the special needs and safety risks of vulnerable persons.

Within the group of unaccompanied children, some children may require further special support that is based on specific special needs in order to enable them to benefit from their rights and benefits under the RCD on equal footing.

Unaccompanied children are particularly vulnerable when it comes to unsafe situations. In addition to the demand for special needs, attention should be paid to possible safety risks for this group. This means that professionals always need to ascertain whether 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 that allows for the standard development of the child.

The RCD does not provide more details on what this safety should be. The Communication from the Commission on protection of children in migration (21) does call 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. Risk assessment aims at effectively preventing harm to the child by planning for and mitigating risk factors, and to ensure the care and protection of unaccompanied children in the context of reception.

The intention behind the assessment of safety risks is to ensure that unaccompanied children are provided with proper guidance and reception facilities. In this way, unaccompanied children are protected from dangers that threaten their well-being and development in the present and future. Staff working with unaccompanied children, i.e. all persons who are in direct contact with unaccompanied children in a reception context, should be aware and able to identify special needs and risks. Indications of special needs and risks should be recorded as soon as possible upon detection and this information should be communicated to the relevant stakeholders in order to provide the necessary guarantees (special needs and safety measures) and support (cf. Chapter 5. Staff, Standard 25).

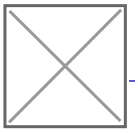
Furthermore, MS have an obligation to assess, indicate and address the special needs and risks of unaccompanied children within a reasonable period of time after lodging an application for international protection, and to ensure that identification is also possible at a later stage in case vulnerabilities are not apparent at an earlier stage. For this reason, qualified reception staff should be trained (cf. Chapter 5. Staff, Standard 24) in order to assess special needs and risks.

One important aspect is the need to ensure that referral mechanisms in MS are functioning properly in order to communicate special needs and risks in an efficient manner. Without prejudice to the principle of confidentiality, national authorities should take a multidisciplinary approach in identification of special needs and safety risks and share the relevant information. For example, where first-contact officials, such as border guards, have noted that the child has special needs, these should be communicated to the reception authorities in order for them to ensure the necessary guarantees as soon as possible. On the other hand, those working with unaccompanied children on a daily basis would often be in a position to observe the applicants for international protection over a longer period and to build trust. This would allow them to effectively identify special needs and risks, which may not be initially apparent. To the extent that this information also concerns potential special procedural needs, it is crucial that the reception authority would be able to communicate it to the determining authority.

Some examples of special reception guarantees are indicated in the different chapters of this guidance. For a more comprehensive guidance and a practical tool in this regard, it can be referred to the EASO Tool for Identification of Persons with Special Needs (EASO IPSN Tool) (22).

Legal references – Identification, assessment and response to special needs

- Article 18(4) RCD: Take appropriate measures to prevent assault/GBV.
- Article 18 (9a) RCD: Assessment of specific needs
- Article 22 RCD: Assessment of special reception needs
- Article 25 RCD: Victims of torture and violence
- Article 3(3) CRC: Standards established by competent authorities
- Article 19 CRC: Protection from all forms of violence

(21) European Commission, Communication from the Commission to the European Parliament, *The protection of children in migration*, 12 April 2017, COM(2017) 211 final.

(22) EASO, Tool for Identification of Persons with Special Needs, available at https://ipsn.easo.europa.eu/