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Legal framework and general principles

The protection of unaccompanied children is covered by a range of rights at the international, regional and national level.

Legal framework for the reception conditions for unaccompanied children		
United Nations Convention on the Rights of the Child	**European Union law**	**Member States' legal and policy framework**

Figure 1. Legal framework.

Under international law, the main legal instrument on the protection of children is the CRC.Relevant General Comments of the Committee on the Rights of the Child in relation to unaccompanied children are, inter alia and beyond, those mentioned above with regard to the principle of the best interests of the child:

- General Comment No.6 (2005) on the Treatment of Unaccompanied and Separated Children outside their Country of Origin;
- General Comment No.13 (2011) on the right of the child to freedom from all forms of violence.

The Council of the European Union and the representatives of the governments of the MS adopted the Conclusions on the protection of children in migration (16) to reaffirm that children in migration have the right to be protected, in line with relevant provisions of EU law, including the EU Charter, and with international law on the rights of the child.

The Communication on the Protection of Children in Migration sets out a range of actions to be taken into account or better implemented by the EU and its MS in order to ensure effective protection of all migrant children and calls for the need to step up actions cutting across all stages of migration (17). MS are encouraged to, inter alia:

- ensure that individual gender- and age-sensitive vulnerability and needs assessments of children are carried out upon arrival and taken into account in all subsequent procedures;
- ensure that all children have timely access to healthcare (including preventive care) and psychosocial support, as well as to inclusive formal education, regardless of

status;

- ensure that a range of alternative care options for unaccompanied children, including foster/family-based care, are provided;
- integrate child protection policies in all reception facilities hosting children, including by appointing a person responsible for child protection;
- ensure that an appropriate and effective monitoring system is in place with regard to reception of children in migration.

Reception Directive (2013/33/EU) CHAPTER IV Provisions for vulnerable persons			
Article 21 General principle	**Article 22 Assessment of the special reception needs of vulnerable persons**	**Article 23 Minors**	**Article 24 Unaccompanied minor**

Figure 2. Legal framework under the RCD.

The RCD ensures that a standard level of reception conditions is guaranteed to all children. Article 21 RCD defines special categories of vulnerable applicants for international protection (including unaccompanied children) and obliges states to take into account the specific situation of these vulnerable persons.Article 22 RCD provides for the assessment of the special reception needs of vulnerable persons. Article 23 RCD seeks to ensure the child's best interests are taken as primary consideration. Article 24 RCD establishes rules for the reception and treatment of unaccompanied children.

Besides the principle of the best interests of the child, the following principles are integral to the standards and indicators included in this document and should be observed in the provision of reception conditions in national system:

- **Transparency and accountability**: the provision of reception conditions should be based on transparent and fair rules and decision-making procedures.Without prejudice to the relevance of involving additional actors for the implementation of specific tasks in national reception systems (e.g.NGOs, private sector, etc.), the overall responsibility to achieve the highest levels of transparency and accountability lies with the respective reception authority.
- **Confidentiality**: in applying the standard and indicators in this guidance, confidentiality rules provided for in national and international law are respected in relation to any information obtained by those working with unaccompanied children in the course of their work.
- **Participation**: in line with Article 18(8) RCD, and in order to respect children's participation rights under the EU Charter and the CRC, reception authorities are strongly encouraged to facilitate the participation and engagement of all unaccompanied children in the management of material and non-material aspects of reception conditions.

- **Non-discrimination**: equal access to reception conditions shall be provided to all unaccompanied children without discrimination.

(16) Council of the European Union, *Council Conclusions on the Promotion and Protection of the Rights of the Child*, 3 April 2017, Doc.7775/17; Council of the European Union, *Council Conclusions of the European Union and the representatives of the governments of the Member States on the protection of children in migration*, 8 June 2017, Doc.10085/17.
(17) European Commission, *Communication from the Commission to the European Parliament, The protection of children in migration*, 12 April 2017, COM(2017) 211final, Section 4, p.8ff.

Previous Home Next

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