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# Terminology

**A** * **B** * **C** * **D** * **E** * **F** * **G** * **H** * **I** * **J*** **K*** **L*** **M** * **N** * **O** * **P** * **Q** * **R** * **S** * **T** * **U** * **V** * **W** * **X** * **Y** * **Z**

### *Age assessment*

Age assessment is the process by which the authorities seek to estimate the chronological age, or range of age, of a person in order to establish whether an individual is a child or an adult

### *Best-interests interview(s)*

Best-interests interviews refer to interviews with the child, the child's guardian or any other person responsible for the care and protection of the child. Some Member States might conduct more than one dedicated interview with a child. These interviews are conducted for the purpose of assessing the child's best interests on an ongoing basis. They may be separate or part of the personal interview or any other interview (family tracing interview/vulnerability assessment interview, etc.). Conducting such interviews should be informed by the fact that assessing an individual child's best interests is a continuous process and not a one-off exercise. Taking the best interests of the child as a primary consideration is integral to all decisions and proceedings, including interviews. It can be updated and reviewed.

### *Best-interests assessment and determination*

As the Convention on the Rights of the Child Committee (CRC Committee) authoritatively interprets BIA: is a unique activity that should be undertaken in each individual case […] consists in evaluating and balancing all the elements necessary to make a decision in the specific situation for a specific individual child or group of children.
[…] The 'best-interests determination' describes the formal process with strict procedural safeguards designed to determine the child's best interests on the basis of the best-interests assessment (11)

### *Child/minor*

In EU legislation, the terms 'child' and 'minor' are used to refer to any person below 18 years of age. It is to be noted that the EU asylum acquis uses the term 'minor', which is equivalent to 'child' as used in this guide given that its subject matter, notably 'best interests of the child', is a principle of public international law stemming from the UN Convention on the Rights of the Child (CRC).

### *Children at risk*

Refers to any child who may be facing a particular risk, regardless of the family composition/situation; the child may be unaccompanied, separated or accompanied by their

parents. Risks the child may face could include, but are not limited to, physical and mental harm, sexual and gender-based violence and other forms of abuse or exploitation, forced and early marriage, female genital mutilation/cutting (FGM/C), mental health issues, risk of self-harm/suicide, etc.
Children at risk includes child victims of THB or at risk of it, survivors of serious forms of psychological, physical or sexual and gender-based violence, including FGM/C, forced and early marriage, and other forms of abuse or exploitation, child heads of households, stateless children, adolescent mothers, children who have been part of armed groups, children suffering from serious illnesses, children with mental health issues, etc.

### *Child victims of trafficking (or at risk of being trafficked)*

Refers to any child for whom there is a reasonable-grounds indication for believing that they might have been trafficked even when exploitation has not occurred yet (12). Child victims or potential victims of trafficking are entitled to assistance and support taking into account their special circumstances

### *Dublin III Regulation and Dublin implementing regulation procedural guarantees*

Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (14). The Dublin III Regulation refers to procedural guarantees such as the appointment of a representative and their access to all relevant documents, amongst others (15)

### *Family*

The term family should be interpreted in a broad sense to include biological, adoptive or foster parents, siblings or where applicable, the members of the extended family or community (16)

### *Family tracing*

The search for family members (including relatives or former caregivers of unaccompanied children) with the purpose of the restoration of family links and family reunification when this is in the best interests of the child (17)

### *Guardian/representative*

The use of the terms guardian, representative and legal representative is inconsistent or varying in the international/EU framework. Throughout the practical guide, the terms ‘guardian/representative’ will be used together.

- A **guardian** is an independent person who safeguards a child’s best interests and general well-being, and to this effect complements the limited legal capacity of the child. The guardian acts as a statutory representative of the child in all proceedings in the same way that a parent represents his or her child.
- A **representative** is defined as ‘a person or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied [child] in [international protection] procedures … with a view to ensuring the best interests of the child and exercising legal capacity for the [child] where necessary. […]’ (20) The role of the representative differs from that of the legal representative, who is a legal adviser or

qualified lawyer/legal professional ‘who provides legal assistance, speaks on behalf of the child and legally represents him or her in written statements and in person before asylum or other legal proceedings as provided in national law’ (21)

### *Procedural safeguards and guarantees*

Procedural guarantees are specific support measures put in place in order to create the conditions that are necessary for persons with special needs to have effective access to procedures and present the elements needed to substantiate their application for international protection. They enable applicants with special needs to benefit from their rights and comply with their obligations under the asylum procedures directive (APD (recast)) (22)
In the Dublin III Regulation, ‘procedural safeguards’ refer to the provisions related to the appeal. CRC General Comment No 14 lists both guarantees as defined above, as well as procedural safeguards such as the right to be heard and the right to appeal.
Relative
The child’s adult aunt, uncle or grandparent present in the territory of a Member State, regardless of whether the child was born in or out of wedlock or adopted as defined under national law (23) If formally appointed by a relevant authority, in this guide they are also referred to as caregiver (24)

### *Separated child*

A child who has been separated from all ‘adults responsible for him/her whether by law or by the practice of the Member State concerned’ but not necessarily from other relatives. These may, therefore, include a child accompanied by other adult family members or relatives (25). The term is not featured in the current EU asylum acquis In EU asylum acquis, separated children fall under the unaccompanied children category.

### *Unaccompanied child*

A child who arrives on the territory of the Member State unaccompanied by an adult responsible for them whether by law or by the practice of the Member State concerned, and for as long as they are not effectively taken into the care of such a person/adult; it includes a child who is left unaccompanied after they have entered the territory of the Member State (26)

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(9) EASO, Practical guide on age assessment, 2018; EMN Glossary, "age assessment", accessed 23 January 2020; For more information on BIC and age assessment see also CRC Committee, General comment No 6 (2005) Treatment of unaccompanied and separated children outside their country of origin, 1 September 2005, CRC/GC/2005/6, section V.A, para. 31(i).
(10) BID is outside the scope of this practical guide.
(11) CRC Committee, General comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), 29 May 2013, CRC /C/GC/14.
(12) Trafficking in human beings (THB) remains a highly profitable form of serious and organised crime, explicitly prohibited in the EU Charter of Fundamental Rights, specifically Article 5, as well as Articles 79 and 83 of the Treaty on the Functioning of the European Union. Article 2 anti-trafficking directive provides the definition of the offence of THB, including with specific reference to child victims. Child trafficking for sexual

exploitation, with victims being predominantly girls, and forced criminality is reported to be on the increase. The migration crisis has been exploited by trafficking networks to target the most vulnerable, in particular children, and there are general concerns of an increasing risk of trafficking for sexual exploitation. See Report from the Commission to the European Parliament and the Council on the progress made in the fight against trafficking in human beings, 19 May 2016, COM(2016) 267 final (Progress report); Europol, Situation Report: Trafficking in human beings in the EU, 765175, February 2016 (Situation Report).

(13) See Articles 13-16 anti-trafficking directive; For an overview of the EU rights of the victims of THB see European Commission, The EU rights of victims of trafficking in human beings, 2013.

(14) Dublin III Regulation

(15) Article 6(2) Dublin III Regulation.

(16) CRC Committee, General comment No 6 (2005) Treatment of unaccompanied and separated children outside their country of origin, 1 September 2005, CRC/GC/2005/6, Recital 19 QD (recast).

(17) CRC Committee, General comment No 6 (2005) Treatment of unaccompanied and separated children outside their country of origin, 1 September 2005, CRC/GC/2005/6; Article 6(4) Dublin III Regulation and provisions of Article 24(3) RCD (recast) and QD (recast); See also EASO, Practical Guide on Family Tracing, 2016.

(18) For further guidance on terminology see FRA, Handbook on Guardianship for children deprived of parental care, June 2014, pp. 14-15.

(19) CRC Committee, General comment No 6 (2005) Treatment of unaccompanied and separated children outside their country of origin, 1 September
2005, CRC/GC/2005/6; UN General Assembly, Guidelines for the Alternative Care of Children: resolution/adopted by the General Assembly, 24 February 2010, A/RES/64/142; FRA, Handbook on Guardianship for children deprived of parental care, June 2014 systems provides guidance on how to establish and run national guardianship systems, and it points to the main tasks that a guardian should carry out. The notion of guardian in UN documents is broader than that in EU acquis

(20) Article 2(n) APD (recast) and Article 2(j) RCD (recast).

(21) FRA, Handbook on Guardianship for children deprived of parental care, June 2014.

(22) Recital 29 and Article 2(d) APD (recast).

(23) Article 2(h) Dublin III Regulation.

(24) Without prejudice to Member States considering caregiving a task of an institution, a shelter administrator and other actors beyond relatives. In some Member States, a caregiver is a person/institution in charge of the daily care of the child, i.e. accommodation, food, taking to school, etc.

(25) CRC Committee, General comment No 6 (2005) Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6, section III, para. 8.

(26) Article 2(e) RCD (recast); Article 2(m) APD (recast); Article 2(l) QD (recast); Article 2(j) Dublin III Regulation; Article 2(f) family reunification directive;
CRC Committee, General comment No 6 (2005) Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6, section III, para. 7; See also UNHCR and Unicef, Safe and Sound: what States can do to ensure respect for the best interests of unaccompanied and separated children in Europe, 2014, p. 22.

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