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2.5 Establishment of the facts, documenting the best interests, family unity

Establishment of the facts

Where possible, the responsible officer should actively seek to obtain information from relevant sources for the purpose of assessing the child's best interests in the asylum procedure appropriately. With due consideration to data protection and confidentiality, and where this is in line with the safety and protection of the child, those knowledgeable of the child's situation, such as persons of trust, guardian/representative, current caregiver, social workers at the reception centre, teacher, etc. should be contacted. Those working with children must, at the same time, be aware that children are entitled to privacy and to maintain a confidential relationship with their guardian, legal representative and any other advocate.

If actors knowledgeable about the child's situation are asked to share information with asylum authorities for the purpose of deciding on the asylum application, they have to be guided by the BIC as these are different processes with different objectives.

The responsible officer should ensure that all relevant information on the child is available to the authorities in charge of deciding on the best interests of the child in a specific situation. All relevant elements should be appropriately analysed before making a recommendation or decision. It is important to take into account any cultural and family background relevant to best interests without making assumptions on the child's situation. The child and/or guardian should always be given opportunity to provide further details.

Documenting the best interests of the child

When any asylum official starts working on a child's case, a number of issues that will remain relevant throughout the entire asylum procedure and beyond should be documented. All elements of the BIC process should be analysed and evidenced for a consistent continuous assessment. All relevant issues should be documented, for example, in the general case management system, relevant databases, paper reports in the file, or using electronic templates and checklists.

This should include information on the child's family situation; relationship with the current caregiver, guardian/representative, or foster family. For unaccompanied and separated children, it should include the reasons for separation from family, location of family members, siblings or relatives; considerations of getting in contact with the family; and any possible information on Dublin where relevant. It should clearly indicate how the recommendation has been reached

where initiating restoring contacts with the family is considered safe for the child and the family, and in the child’s best interests.
The information used, as well as the findings and recommendations should be documented and reported, in accordance with data protection regulations (64), for the purpose of referral and implementation of the recommendations. It should be noted, that the responsible official should assess if there should be exceptions made as to the parents’ right to see documents or particular information concerning their child, depending on the age of the child and the matter, i.e. violence, abuse or other risks issues. When it comes to applicable safeguards and guarantees, it is important to highlight the linkages between the APD (recast) and the RCD (recast). One aspect of assessing BIC in a holistic manner is that, when conducting it at an early stage, information and evidence on possible issues of both procedural and reception needs will be collected and documented.

Respecting family unity

During the asylum procedures, it should be ensured that the concept of family unity is respected, unless concerns for the child’s well-being or safety would indicate otherwise. The child should be given the members or relatives or the imminent arrival of family members or relatives in another EU+ State (65) This information should be assessed appropriately. In the cases of separated children, (family) links must be verified and assessed, in order to identify potential risks.
As far as possible, siblings shall be kept together, taking into account the best interests of the child concerned and, in particular, their age and degree of maturity. Changes of residence of unaccompanied children shall be limited to a minimum.

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