



Updated 26 February 2018

“Unlocking the door to access to rights for children affected by migration”

Draft Concept note

**Handbook on child-friendly information and child-friendly procedures
for children in migration**

Background

The Council of Europe is committed to assisting member States build strategies to respond to problems affecting refugee and migrant children, especially unaccompanied and separated children. . [The Council of Europe Strategy on the Rights of the Child \(2016-2021\)](#) identifies child friendly justice for all children as a priority area for tackling the compelling challenges to children’s rights in the 47 member States. [The Council of Europe Action Plan on Protecting Refugee and Migrant Children in Europe \(2017-2019\)](#) was adopted to ensure access to rights and child-friendly procedures, provide effective protection and enhance the integration of children who remain in Europe.

In this context the Children’s Rights Division will develop a handbook on promoting child-friendly information for refugee and migrant children on access to rights and relevant procedures, including good practices.

Aim:

The Handbook is aimed supporting States by equipping stakeholders to provide child-friendly and appropriate information to children in migration about access to rights and relevant procedures.

Objectives:

- To recall that State Authorities are obliged to adapt information and procedures to the specific needs and vulnerabilities of children affected by migration;
- To provide a roadmap for stakeholders on how to communicate with children about their rights through child-friendly information and how to ensure procedures are child-friendly;
- To increase State authorities capacity to implement their obligations to ensure that information and procedures are child-friendly and to facilitate implementation of these obligations;

- To increase capacity among stakeholder's to communicate with children in a child-friendly way about their rights and the procedures affecting them;
- To enable stakeholders to empower children to take decisions and participate in the procedures they undergo;
- To increase use of good practices of child-friendly information and child-friendly procedures among stakeholders across the Council of Europe;

Implementation:

A working group of five national experts will draft the handbook. The working group will hold two meetings of two days in Strasbourg provisional dates:

- 9-10 April 2018;
- 24-25 May 2018.

Methodology:

Explore what constitutes child-friendly information and child-friendly procedures, what rights are involved and who is concerned.

Consult stakeholders and children about the right to information and child-friendly information through discussions at a roundtable, child consultations and a call for examples of good or promising practices.

Ensure that the handbook reflects the realities faced by professionals who encounter children in migration in member States by consulting national practices through a call for good and promising practices and lessons learned.

Mainstream good or promising practice throughout the handbook by giving examples and information to illustrate how to implement the theory in practice, examples will be gathered at the roundtable, through child consultations and via an open call for examples of good and promising practices.

Include tables and graphics to summarise key points to ensure the handbook is user friendly and ensure ownership and sustainability of the handbook.

Include fact sheets for use by professionals when communicating with children about a given procedure to directly implement the principles and guidance set out in the Handbook. They will be in a child friendly format that is easily adaptable to national information for use by professionals to support their communication with children in migration in a wide range of settings.

Human Resources:

The Council of Europe will work with five national experts in the form of a working group. Experts may be natural persons or representatives of legal persons and will be selected on the basis of their knowledge of children's rights, immigration and refugee law and child-friendly justice principles.

The experts will be required to attend both working groups and contribute substantively to the drafting of the handbook. The working groups shall take place in English without interpretation. Experts shall draft the handbook in English.

Outline – to be revised and adapted by the working group:

Introduction

The main aim of this handbook is to equip professionals and volunteers who interact with migrant and refugee children to communicate with them in a child-friendly way about their rights and the procedures affecting them.

About the handbook:

What is Child-friendly information and child-friendly procedures and which rights are concerned by these obligations?

The handbook concerns professionals and volunteers working with refugee and migrant children; policy makers who can influence procedural rules.

The importance of child-friendly information is illustrated by the fact that if children receive adequate information that is adapted to their age and maturity, in a language that they understand and that is gender and culture sensitive, the procedures that affect them will become to a certain degree much more child-friendly.

The right to information is an on-going right, children should receive information promptly and at every appropriate stage of the procedure.

Why should States ensure that procedures and information are child-friendly?

This chapter will explore the sources of justification of the right to Information and right to be heard and to have their views taken into account in accordance with their age and maturity. Without respect for these rights the child cannot effectively access their rights (effective remedy, social rights, procedural rights, apply for asylum, residence, family reunification...).

Relevant standards: Children's Rights and Principles and Human Rights applicable to Children (including UNCRC, ECHR, Lanzarote Convention, Istanbul Convention, Anti-Trafficking Convention...).

Key principles and rights include: best interests, non-discrimination, right to development (life free from violence), right to express views freely and participate in decisions affecting them, right to an effective remedy, right to a life free from violence

Specific rights (applicable in all Council of Europe member States including: European Convention of Human Rights and UNCRC) including: right to seek asylum, *non-refoulement*, family reunification, right not to be detained solely on the basis of their migration status,

1. Access to rights: How to make information child-friendly:

This chapter will explore the golden rules that any professional who comes into contact with a refugee or migrant child can apply to the information they give to the child.

Child-friendly justice guidelines: Information and procedures must be adapted to a child's age, maturity, language, gender and culture.

Special attention to access to information: adapting modalities of communicating to reach unaccompanied, separated or accompanied girls in particular;

Provisions on information extend to substantive rights, procedures and complaints mechanisms.

Children first and foremost children.

Taking children seriously: migrant and refugee children have the same rights to be informed, to give informed consent, to be taken seriously by adults when they ask for help, as children who are nationals.

Information must be on-going, not just given once. Good practice examples: interviews at key stages of procedure to give information orally to explain written information summarised in a leaflet.

- i) special attention to child's gender (adapting information to girls, adapting distribution of information to girls, married girls);
- ii) special attention to specific vulnerabilities (including adapting information to unaccompanied children, children suffering from psycho-social disabilities), LGBTI Children, children with disabilities);
- iii) special attention to adapt information to child victims of violence (including victims of trafficking, victims of sexual abuse and exploitation, domestic abuse, violence, police violence, violence at the borders);
- iv) Guardians as a vehicle of information.

2. Access to rights: How to make procedures child-friendly:

This chapter will explore the ways in which procedures must be adapted to children (child-friendly justice guidelines):

- Child-friendly information and advice about procedures;
- Access to court and to procedures (legal counsel and representation);
- Right to be heard;
- Avoiding undue delay;
- Organisation of procedures: child-friendly environment and child-friendly language;
- Communication of decisions/judgements in child-friendly language.

Who must implement these standards to render procedures child friendly?

Border guards, police and security forces, child protection agencies, detention and reception staff, guardians, medical staff, social workers, civil servants, asylum authorities,

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- ii) special attention to specific vulnerabilities (including adapting information to unaccompanied children, children suffering from psycho-social disabilities), LGBTI Children, children with disabilities);
- iii) special attention to adapt information to child victims of violence (including victims of trafficking, victims of sexual abuse and exploitation, domestic abuse, violence, police violence, violence at the borders);
- iv) Guardian's role in child-friendly procedure.

A. Access to rights: Urgency principle is a key element of child-friendly procedures

A prompt and fair decision is in the best interests of the child. Urgency principle applies to the access to the procedure and to the length of the decision making process.

Urgency principle in the context of:

- Right to claim asylum and child-specific grounds;
- Access to suitable accommodation, healthcare and education (to avoid destitution);
- Age assessment;
- Appointment of a guardian including temporarily pending age assessment decision;
- Family reunification;
- Access to territory and legal status (border procedures, transit zones, expulsion, deportation).

B. Right to be heard: Child participation in decisions affecting them corollary to information

The Right to be heard, participation, consent (limited legal capacity: role of guardian to consent on child's behalf).

It is not enough simply to inform the child of their rights and the procedures. Children have the right to participate in procedures affecting them, their opinions should be given due weight according to their age and maturity.

C. Right to an effective remedy

Right extends to failure by the State to inform the child in a child-friendly way of their rights and of the procedures affecting them and of the remedies available (ECHR jurisprudence: Rahimi);

To be effective a remedy must be child-friendly: information, procedure, proceedings and decision (child-friendly justice guidelines).

3. Child-friendly information and procedures to prevent victimisation

This chapter will explore the relationship of trust between the child and the authorities or a person of trust who can help protect the child or refer the child to a relevant authority.

A. Legal Obligations

- Prevent trafficking;
- Prevent violence, sexual violence, abuse ;
- Prevent gender specific violence: forced and early marriage, forced child pregnancy.

B. Ethical Considerations

- Non-discrimination, Cultural barriers, (social reactions to victims);
- Detention (including de facto detention);
- Accommodation, guardians, child-care (married girls).

C. Good practices

D. How to

4. Child-friendly information and procedures *en route* to and through Europe

This chapter will explore the role of information for children during their journey to Europe and one in Europe as they move between member States.

A. Legal Obligations

- Best interests;
- Family reunification, Family reunion, Dublin, Relocation;
- Detention (including de facto detention).

B. Ethical Considerations

- Best interests of the child;
- Informing children of the differences between law and practice;
- information and advice about procedures, time-lines, likely outcomes, children who are 17 and who risk ageing-out before the procedure is completed.

C. Good practices

D. How to

5. child-friendly information and procedures on arrival (legal status)

This chapter aims to explore the role of the information for children to access their rights and procedures once they arrive in a member State.

A. Legal Obligations

- Best interests;
- Asylum (child-specific grounds);
- Residence applications (child-specific residence applications: family permit, sports).

B. Ethical Considerations

- Psychological effects of immigration procedures on child.

C. Good practices

D. How to

6. Child-friendly information and procedures in host countries (including social rights)

This chapter will explore the role of information on access to rights and procedures once the child has arrived in a host State including for the integration of the child.

A. Legal Obligations

- Age assessment
- Guardianship
- Access to social rights (health, education, accommodation)

B. Ethical Considerations

- Best interests of the child v States' interest in strict immigration controls.
- Transition to adulthood and integration,

C. Good practices

D. How to

Annex: Fact sheets: how to do child-friendly information and procedures in key procedures (registration asylum or immigration procedure, identification/age assessment, detention/effective remedies, guardianship... other fact sheets as per WG discussion?) each factsheet to include a section non right to an effective remedy, adapted information to vulnerabilities of child including gender.

Annex: guide or template for creation of own child friendly material that can be downloaded from internet and filled in with national helplines?

Annex: leaflets are not enough... links to online multimedia resources. links to good practices as selected by the working group?