

**Contribution by the Special Representative of the Secretary General on
Migration and Refugees of Council of Europe to the Regional Review of the
Global Compact for Safe, Orderly and Regular Migration in the UNECE Region
(12-13 November 2020)**

The Special Representative of the Secretary General of the Council of Europe has followed closely and participated actively in the consultations of the Global Compact for Safe, Orderly and Regular Migration. The activities undertaken within the human rights protection system of the Council of Europe in the past two years in this field clearly show the added value of the organisation to multilateral efforts.

In the European context, the European Convention on Human Rights establishes the principal human rights standards to be applied in the context of migration. Activities undertaken by the Council of Europe in the field of migration are all guided by these standards, interpreted by the European Court of Human Rights in its jurisprudence (in that context see namely the [Court's guide on case-law concerning immigration](#)). The different instances of the Council of Europe, namely its Secretariat, Parliamentary Assembly (PACE), and the Congress of Local and Regional Authorities, as well as the Commissioner for Human Rights, are all important actors in reinforcing that ECHR standards are upheld for every migrant and refugee within the CoE member states' territory in all stages of migration.

It is important to underline in particular the initiatives undertaken in the context of the Council of Europe [Action Plan](#) on Protecting Refugee and Migrant Children (2017-2019), adopted by the Committee of Ministers in May 2017. The successful implementation of the Action Plan, the standards, policies and actions developed under its framework offer a valuable contribution not only to the Council of Europe's member states, but also to other regions and the international community as a whole seeking to secure the practical implementation of the laudable objectives of the Global Compact on Safe, Orderly and Regular Migration. It is important to note that the Parliamentary Assembly of the Council of Europe is currently working on its own report addressing ["the Role of parliaments in implementing the United Nations Global Compacts for Migrants and Refugees"](#).

In light of the above, and following up on the [Comments on the zero draft plus by the Special Representative of the Secretary General on Migration and Refugees of the Council of Europe in March 2018](#), the present paper aims to provide information on activities undertaken in the framework of the Action Plan over the past two years, which contributes to the implementation of several objectives of the Global Compact for Safe, Orderly and Regular migration.

Objective 3: Provide accurate and timely information at all stages of migration

The European Court of Human Rights has underlined the importance of the provision of information on access to international protection and the applicable procedures, as part of Council of Europe member states' obligations under Articles 2 (right to life) and 3 (prohibition of torture) of the European Convention on Human Rights. As part of the Action Plan's implementation activities, and following the successful launch of a ["Handbook for frontline professionals on how to convey child-friendly information to children in migration"](#) on 18 December 2018 by the Children's Rights Division, the

Special Representative on Migration and Refugees developed a compilation of promising practices on migration-related child-friendly procedures: “[Promoting child-friendly approaches in the area of migration: standards, guidance and current practices](#)”. The compilation, published and launched in December 2019, brings together international and European standards on child-friendly processes in the context of migration with illustrations from practice of the kind of initiatives, programmes and procedures that serve to implement these standards. Structured in four comprehensive themes, the review covers the procedures concerning entrance and identification, child-friendly asylum and migration processes, special protection measures, and durable solutions. Research underpinning this compilation confirms the gap between the standards set by the various instruments and their implementation. The publication was officially launched by the office of the Special Representative on 9 December 2019 in Belgrade, Serbia, jointly with UNICEF.

In parallel, in the framework of the Council of Europe’s programme of Human Rights’ Education for Legal Professionals (HELP), a [new course on refugee and migrant children](#) was launched in co-operation with the UNHCR, in June 2018. The course covers the international legal framework, child-friendly procedures, alternatives to detention, family reunification, social rights and integration, guardianship, and age assessment. The course was developed on the basis of the HELP e-learning methodology and is linked to the [HELP/UNHCR course on asylum and the European Convention on Human Rights](#) and the [HELP course on child-friendly justice](#). Since June 2018 the course has been officially launched in the United Kingdom, Spain, Greece, France, Italy and Turkey. The main target group being lawyers but in Spain and Italy the training course was also launched for judges. National launch events were organised with the support of the UNHCR and national partners. National adaptations and additional language versions in Albanian, Arabic, Azerbaijani, Bulgarian, Croatian, French, German, Greek, Hungarian, Italian, Spanish and Turkish have been added to the HELP platform. Legal professionals outlined the comprehensive approach of the course modules, providing knowledge and skills necessary to protect the human rights of refugee and migrant children.

The above activities undertaken are also relevant to Objective 12 of the GCM, namely to “Strengthen certainty and predictability in migration procedures for appropriate screening, assessment and referral”.

Objective 4: Ensure that all migrants have proof of legal identity and adequate documentation

The Council of Europe has been active on the issue of statelessness for some time and the Action Plan on Protecting Refugee and Migrant Children also included an action aiming at assuring that every child has a nationality. The European Committee on Legal Co-operation (CDCJ) decided at its plenary meeting, on 14-16 November 2018, to carry out, a preliminary review of protocols and procedures used by member states to determine and resolve cases of statelessness, those of migrant children. As a preliminary step to this review, an ad hoc meeting of CDCJ members, national experts and key stakeholders, including the UNHCR, the European Network on Statelessness, the European Union Agency for Fundamental Rights and the European Migration Network, took place on 11-12 June 2019. The outcome of the group’s work was reflected in a [detailed analysis](#), which was presented and examined by the CDCJ at its

94th plenary meeting (13-15 November 2019). As a follow up, an international conference on statelessness is foreseen in the course of 2020-2021 to raise awareness and promote implementation of the Council of Europe standards in the field, and based on the conclusions of the conference, to hold a series of targeted technical meetings on statelessness.

Objective 7: Address and reduce vulnerabilities in migration

The results of the multi-disciplinary activities carried out under the second pillar “*Providing effective protection*” of the Action Plan on Refugee and Migrant Children, ensured new guidelines and guidance, with promising practices and policy advice already contributing to a more effective implementation of human rights in this area.

On 11 December 2019, the Committee of Ministers’ Deputies adopted [Recommendation CM/Rec\(2019\)11 to member states on effective guardianship for unaccompanied and separated children in the context of migration](#). The text outlines key principles with guidelines to translate general provisions into practical legal, policy, institutional and resources arrangements able to secure effective protection for children through guardianship. These concern the appointment of guardians, their role, responsibilities and tasks, access to information and child-friendly complaints mechanisms, institutional measures and co-ordination at national level as well as international co-operation. This recommendation is the first soft law instrument setting out clear standards for effective guardianship. It is intended to guide and support Council of Europe member states in their processes aimed at reinforcing the protection of refugee and migrant children, while taking into consideration the diversity of guardianship models in member states. The text can also serve as inspiration for countries outside Europe.

In the area of age assessment for children in migration, a guide for policy makers on “[Age assessment for children in migration: a human rights-based approach](#)” was also published. The Steering Committee for the Rights of the Child (CDENF), which acts as a pan European platform for regular exchanges of knowledge, good practices and experiences, also continues its work on the preparation of standards on human rights-based age assessment procedures for children in migration aimed at policy makers and professionals, their finalisation is being impacted by the context of the online negotiations.

The Special Representative on Migration and Refugees prepared in 2018-2019 a handbook on standards and good practices to restore family links and reunify refugee and migrant children with their families. The [handbook “Family reunification for refugee and migrant children: standards and promising practices”](#), was launched in July 2020. The handbook focuses on the reunification of families with children, with a particular focus on unaccompanied and separated refugee and migrant children. The purpose of the handbook is to encourage discussions in member states on potential or already existing solutions for obstacles and challenges to restoring family links.

The selected practices focus on making sure beneficiaries understand the process and receive legal counselling and advice, as well as administrative and practical support in dealing with family reunification. Certain initiatives aim to increase the capacity of service providers, such as guardianship services or legal aid providers, to respond to

the increased requests for supporting beneficiaries of family reunification. The selected examples reiterate the need to ensure a multi-disciplinary approach to assessing the case of children, through protocols of co-operation or guidance between professionals, to improve cross border co-operation, to support good case management through more support services for potential beneficiaries and to take a holistic view of the process, including support measures after reunification.

The above activities undertaken are also relevant to Objective 12 of the GCM, namely to “Strengthen certainty and predictability in migration procedures for appropriate screening, assessment and referral”.

Following an urgent monitoring round, on 3 March 2017, the [Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse](#) (“the Lanzarote Convention and Committee”) issued a special report on “[Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse](#)”. The report highlighted situations that expose children affected by the refugee crisis to a risk of sexual exploitation and sexual abuse and recommended how to avoid such risks and protect children, those who are unaccompanied and those who go missing after arrival. Based on information provided by state parties to the Lanzarote Convention, [the Lanzarote Committee adopted on 6 June 2019 an evaluation report](#) of the measures taken following its five “urge” recommendations. The report concluded that 33 European states have complied with all five “urge” recommendations. The Lanzarote Committee notably recommended effectively screening all persons who by their professions have regular contact with children affected by the refugee crisis for convictions of acts of sexual exploitation or sexual abuse of children.

The impact of the Lanzarote Committee’s special report has been to raise awareness of the risks faced by children on the move and to reinforce their protection from sexual abuse and exploitation through concrete recommendations. In addition, the evaluation of how states implemented the recommendations yielded a selection of good practices, which can further inform exchanges of information and experiences.

The Congress of Local and Regional Authorities has developed the [Pact of Towns and Regions to Stop the Sexual Violence against Children](#), inviting local and regional authorities to set up multi-disciplinary child protection centres. Under the Action Plan, in 2017 the Congress organised in Belgrade (Serbia) the second seminar for local government associations focusing on the Pact and mechanisms to protect children affected by the refugee crisis at international and national level. As of 31 December 2019, a total of 80 cities, regions, local government associations and NGOs from 24 countries have signed the Pact.

Anti-trafficking standards and anti-smuggling activities of the Council of Europe are discussed in the context of Objective 9 and 10, below.

Objective 9: Strengthen the transnational response to smuggling of migrants

The Action Plan on Refugee and Migrant Children includes an action on tackling the smuggling of migrant children. Work has intensified in the past two years in Council of Europe’s relevant committee, the European Committee on Crime Problems (CDPC), and resulted in the adoption of an [Action Plan on Fostering International Cooperation](#)

[and Investigative Strategies in Fighting the Smuggling of Migrants](#) in August 2020. The Action Plan is addressed to the governments of all 47 member states of the Council of Europe and aims to help member states foster and improve international co-operation and investigative strategies in fighting the criminal phenomena connected to the smuggling of migrants and to overcome the investigative, prosecutorial and judicial challenges in migrant smuggling-related cases, facilitate the information knowledge and exchange amongst relevant stakeholders and boost co-operation amongst source, transit and destination countries. It establishes five objectives to be covered in the period 2020-22.

Objective 10: Prevent, combat and eradicate trafficking in persons in the context of international migration

In its 6th, 7th and 8th General Reports, covering the year 2016, 2017 and 2018 respectively, [the Group of Experts on Action against Trafficking in Human Beings \(GRETA\)](#) highlighted important gaps in the prevention of child trafficking and the identification and protection of child victims of trafficking. The risks faced by children and young people remain of concern, as child protection systems in many countries are not fit to ensure timely responses to the rights and needs of migrant and asylum-seeking children at risk. [A compendium of good practices in the fight against child trafficking](#) has been developed based on GRETA's evaluation reports. The compendium is intended to provide support to member states in addressing gaps outlined by GRETA when it comes to the identification and assistance of victims of trafficking among migrant and refugee children and the prevention of (re)trafficking.¹

Objective 11: Manage borders in an integrated, secure and coordinated manner

In March 2020, the Special Representative of the Secretary General on Migration and Refugees of the Council of Europe, together with the EU Agency for Fundamental Rights (FRA) published a [note on the main fundamental rights safeguards applicable at their member states' external borders](#). The note aims to support EU and Council of Europe member states in their duties when taking protective measures, including to contain the spread of the Covid-19 virus, and addressing questions related to public order, public health, or national security challenges. The note focuses on questions, such as, among others, on how to respect the principle of non-refoulement, or what can be done to help the most vulnerable, in particular unaccompanied children.

Objective 13: Use immigration detention only as a measure of last resort and work towards alternatives²

The Council of Europe's 2017-2019 Action Plan on Protecting Refugee and Migrant Children includes an action to avoid resorting to the deprivation of liberty of children on the sole ground of their migration status. Much was achieved in the past years in this field by promoting alternatives to immigration detention, as well as by raising

¹ See the European Court of Human Rights, [Guide on Article 4 of the European Convention on Human Rights \(Prohibition of slavery and forced labour\)](#), updated on 31 August 2020 for a Guide to the Court's case law in the specific context of human trafficking

² See the European Court of Human Rights [Guide on the case-law of the European Convention on Human Rights on Immigration](#), Updated on 31 August 2020

awareness about the negative impact of detention on children and by enhancing the monitoring of places where children could be detained.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) strongly advocates for the use of alternatives of detention during its monitoring visits to member states' detention centers. In addition, its [standards on Immigration detention](#) clearly states that “deprivation of liberty under aliens legislation should only be a measure of last resort, after a careful and individual examination of each case”.

In recent years [the Council of Europe Steering Committee for Human Rights \(CDDH\)](#) has completed a considerable work on alternatives to immigration detention and care arrangements for migrant and refugee children.

In 2017, the CDDH published a comprehensive [Analysis on the Legal and practical aspects of effective alternatives to detention in the context of migration](#). Particular attention is paid throughout to the issue of immigration detention of children. The CDDH Analysis highlights, *inter alia*, the legal obligation to provide appropriated care and protection to children on the move through a comprehensive overview of Council of Europe, United Nations and European Union standards. Providing explanations of existing non-custodial alternatives – including central features, potential benefits and drawbacks for each type – the work seeks to support member states in providing appropriate reception and care arrangements to migrant and refugee children instead of resorting to detention. Analysing practical experiences from the field, including various global and regional studies, the CDDH Analysis suggests key essential elements needed to render alternatives effective in practice. These elements include: a) screening and assessment, b) ensuring effective access to information, c) providing access to legal assistance, d) supporting individuals through case management services, e) safeguarding dignity and human rights, f) building trust in asylum and migration procedures. The work of the Special Rapporteur on the human rights of migrants and his position on the immigration detention of children is, *inter alia*, explored and referenced throughout the CDDH Analysis.

In October 2019, the CDDH published a user-friendly and visual [Practical Guide](#) for policy makers, legal professionals and other relevant stakeholders on how to effectively implement alternatives to immigration detention. The Guide complements the CDDH Analysis and provides, *inter alia*, an overview of the existing non-custodial alternatives, including family-based care arrangements for children and certain essential elements that render alternatives effective. The Practical Guide highlights the specific steps to be taken in order to make alternatives to immigration detention effective in particular national context, taking into account existing strengths and capacities.

Building on the work already completed and the Council of Europe priorities in the field, the CDDH is currently working on alternative family-based care arrangements for unaccompanied and separated children in close collaboration with Council of Europe member states and other actors in the field. Family based care has been long promoted as the preferred accommodation option for unaccompanied and separated children and has received increasing interest in recent years. However, despite the numerous benefits of family-based forms of care, not only for unaccompanied and separated children but the community at large, underlying challenges limit their use and

expansion. CDDH work on “*Family Based Care for Unaccompanied and Separated Children*” aims at clarifying key Council of Europe, United Nations and European Union legal standards, practical aspects and examples of family-based care implementation in various countries, thereby supporting Council of Europe member states in meeting their international commitment *vis-à-vis* unaccompanied and separated children. As such, it aims at promoting effective protection systems for children on the move and ensuring that unaccompanied and separated children have access to quality care and support.

The Children’s Rights Division and the Parliamentary Assembly of the Council of Europe (PACE) in co-operation with Defence for Children International Belgium launched on 11 October 2017 a [Guide for Parliamentarians on monitoring places where children are deprived of their liberty](#) on immigration grounds. The guide, developed in the framework of the PACE Campaign to End Immigration Detention of Children, provides practical advice and checklists to enable parliamentarians to conduct visits, to interview detained children and detention staff, and to undertake effective follow-up to their visits. It is available in English, French and Arabic. Several training courses for ombudspersons for children and parliamentarians took place in April and November 2017, and in March 2019. The trainings built on the methodology and guidebooks developed for professionals visiting places where children are deprived of liberty. The sessions conveyed skills for interviewing and visiting children in immigration detention and techniques for effective monitoring. The 2019 training session also included the dimension covered by the handbook on child-friendly information to children in migration. The training triggered interest from representatives of authorities involved in fulfilling the rights of the child in the framework of detention and/or migration. The UNCHR and the European Committee for the Prevention of Torture (CPT) partnered for the organisation of the training sessions. A good geographical representation was achieved with participants from 20 member states and 2 states with observer status. To further raise awareness about the benefits of open residential centres, to learn about non-custodial good practices in care and accommodation of unaccompanied children and to build acquired skills of monitoring, members of parliaments carried visits to several facilities in Europe and beyond.

HELP also developed in 2019 new [e-learning courses on CPT standards](#), including a module on immigration detention. In June 2020 the Council of Europe launched a HELP/UNHCR free online course on [Alternatives to Immigration Detention](#) with the aim of supporting legal and other professionals working on migration.

Objective 16: Empower migrants and societies to realize full inclusion and social cohesion

Inclusive education and active participation in society are essential for the social inclusion of refugee and migrant children and youth who are in Europe, and for this reason, constitute the third main objective of the Action Plan on Refugee and Migrant Children. The initiatives on linguistic integration, recognition of qualifications, leadership academy and integration through sport were supported jointly with [the Council of Europe’s Action Plan on Building Inclusive Societies](#).

In follow-up to previous surveys (2007, 2009 and 2013), the Council of Europe in co-operation with the Association of Language Testers in Europe (ALTE) conducted in

2018 the [survey “Language and Knowledge of Society Policies for Migrants: requirements and learning opportunities”](#), with an extended focus on vulnerable groups, such as children, low-literate migrants, and refugees. The official results of the survey were presented on 16 October 2019 during the [4th intergovernmental conference “Achieving Equal Opportunities for All Migrants Through Learning and Assessment: Language and knowledge of society requirements for migrants in Council of Europe member states”](#).

Work has also intensified in recognizing qualifications. Based on Article VII of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (Lisbon Recognition Convention, ETS 165), which provides for the recognition of qualifications of refugees, internally displaced persons and persons in a refugee-like situation, [the European Qualifications Passport for Refugees \(EQPR\)](#) is a specially developed format and assessment scheme for refugees, even for those who cannot fully document their qualifications. The document provides an assessment of the higher education qualifications, based on available documentation and a structured interview (face-to-face or online interview). It also presents information on the applicant’s work experience and language proficiency. The document provides reliable information for integration and progression towards employment and admission to further studies. The standard format of the EQPR allows its portability and its use across borders in the case its holder moves from one country to another and, thus may remove the need for subsequent host countries to carry out a new assessment, which will result in saving time and efforts for both refugees and host countries but also in saving financial resources necessary in such assessments.

Work undertaking with respect of the EQPR contributes also to Objective 18 of the GCM.

According to the Action Plan refugee and migrant children who remain in Europe have the right to live in dignity and safety with the opportunity to participate in society. The Council of Europe has reviewed its framework on life projects and has adopted a recommendation to support young refugees in transition to adulthood. Measures to enhance media-diversity tools and integration through sports have also been taken.

The Steering Committee on the Right of the Child (CAHENF) undertook a review of the implementation of [Recommendation CM/Rec\(2007\)9 of the Committee of Ministers on life projects for unaccompanied migrant minors](#). In 2018 member states were invited to reply to an online questionnaire on the policy tools in place to implement life projects. In May 2019, the CAHENF took note of the information provided by member states, which revealed that several states are still hosting large numbers of unaccompanied children in need of immediate assistance and access to durable solutions. The CAHENF examined in November 2019 a draft report, building on the replies received and additional sources on the protection and care of unaccompanied children in Europe. Further policy options and follow-up proposals, including the development of relevant training tools, are being discussed in the newly established Steering Committee on Children’s Rights (CDENF).

Based on a draft prepared by the Council of Europe’s Joint Council of Youth, on 24 April 2019, the Committee of Ministers adopted the [Recommendation CM/Rec\(2019\)4 on supporting young refugees in transition to adulthood](#). Even though they are no longer

children, some young refugees who arrived in Europe as children and have since turned 18 are still in need of additional temporary support in order to become autonomous and to integrate European societies. The recommendation advocates for additional temporary support, which could be put in place for young refugees after the age of 18 to enable them to access their rights. It recognises the important role of youth work and of the youth sector in providing such additional support and in promoting better access to rights. It is the first recommendation, which promotes the social inclusion of young refugees. It also tackles risks of radicalisation while building inclusive societies. The recommendation is being implemented within the framework of the Council of Europe [“Youth for Democracy” programme](#).

The Youth Department initiated the project [YOUTH.TOGETHER](#) on the social inclusion of young refugees, addressed the risks of social exclusion and violence that young refugees, especially those in transition to adulthood, are exposed to.

Concluding remarks:

Regional organisations, such as the Council of Europe, are important actors when it comes to the implementation of the Global Compact on Safe, Orderly and Regular Migration. The Special Representative appreciates therefore the opportunity to participate at the Regional Review Conference on 12-13 November 2020, and will continue to engage with and follow the GCM process. He is happy to provide further information on the various different actions of the Council of Europe, either to inform the actionable commitments or as part of a discussion about implementation of the GCM now or in the future, in particular by submitting further contribution to the report of the Secretary General of the United Nations.