

## **TABLE OF CONTENTS**

A. Introduction	2
1. Separated Children in Europe Programme (SCEP)	2
2. Definition	2
3. Statement of Good Practice	3
4. Abbreviations and Acronyms used for references	3
B. First Principles	7
B 1. Best Interests	7
B 2. Non-discrimination	7
B 3. Right to Participate	8
B 4. Respect for Cultural Identity	8
B 5. Interpretation	9
B 6. Confidentiality	9
B 7. Information	10
B 8. Inter-organisational Co-operation	10
B 9. Staff Training	10
B 10. Durability	11
B 11. Timeliness	11
C. Good Practice	12
C 1. Access to the Territory	12
C 2. Child Victims of Trafficking	13
C 3. Separated Migrant Children	14
C 4. Identification	15
C 5. Family Tracing and Contact	15
C 6. Appointment of a Guardian or Adviser	16
C 7. Registration and Documentation	17
C 8. Age Assessment	18
C 9. Freedom from Detention	18
C 10. Right to Participate	19
C 11. Interim Care – Health, Education and Training	20
C 11.1 Interim Care	20
C 11.2 Health	21
C 11.3 Education, Language and Training	22
C 12. The Asylum or Refugee Determination Process	24
C 12.1 Minimum Procedural Guarantees	25
C 12.2 Criteria for making a decision on a child's application	26
C 13. Durable or Long-term Solutions	28
C 13.1 Remaining in a Host Country/Country of Asylum	28
C 13.2 Family reunification	28
C 13.3 Integration	29
C 13.4 Adoption	30
C 13.5 Identity and Nationality	30
C 13.6 Return to Country of Origin	31
Annex I, Social History	33
Annex II, International and Regional Law, Policy and Guidelines	34
Annex III, References	37

## **A. INTRODUCTION**

### **1. Separated Children in Europe Programme (SCEP)**

The SCEP is a joint initiative of the International Save the Children Alliance and the United Nations High Commissioner for Refugees. The programme is based on the complementary mandates and areas of expertise of the two organisations.

UNHCR's responsibility is to ensure protection of refugee children and those seeking asylum. The International Save the Children Alliance is concerned to see the full realisation of the rights of all children.

The programme aims to realise the rights and best interests of separated children who have come to or across Europe by establishing a shared policy and commitment to best practice at national and European levels. As part of this process the programme is developing partnerships with organisations working with separated children in European countries.

### **2. Definition**

“Separated children” are children under 18 years of age who are outside their country of origin and separated from both parents, or their previous legal/customary primary caregiver. Some children are totally alone while others, who are also the concern of the SCEP, may be living with extended family members. All such children are separated children and entitled to international protection under a broad range of international and regional instruments. Separated children may be seeking asylum because of fear of persecution or the lack of protection due to human rights violations, armed conflict or disturbances in their own country. They may be the victims of trafficking for sexual or other exploitation, or they may have travelled to Europe to escape conditions of serious deprivation. (CRC, Arts. 1 & 22; Hague Convention for the Protection of Children, 1996, Art.6; UNHCR Guidelines, para.3.1; ECRE (Children) paras. 8 & 11; EU Resolution on Unaccompanied Minors, Art. 1(1); Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Art. 2a & 3d; Protocol Against the Smuggling of Migrants by Land, Sea and Air, Art. 14 & 19).

The Separated Children in Europe Programme uses the word “separated” rather than “unaccompanied” because it better defines the essential problem that such children face. Namely, that they are without the care and protection of their parents or legal guardian and as a consequence suffer socially and psychologically from this separation. While some separated children appear to be “accompanied” when they arrive in Europe, the accompanying adults are not necessarily able or suitable to assume responsibility for their care.

“International protection” is necessary because separated children have left their home community and country and have travelled into or across Europe. A solution to their situation is likely to require attention in their home country and current country of domicile. Protection measures consistent with international law, national legislation and human rights standards are therefore essential.

The SCEP currently includes partners in the following European countries: Austria, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and United Kingdom.

### **3. Statement of Good Practice**

The Statement aims to provide a straightforward account of the policies and practices required to implement measures that will ensure the promotion and protection of the rights of separated children in Europe. The Statement is principally informed by the UN Convention on the Rights of the Child (CRC) and two documents: UNHCR's Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum of February, 1997 here referred to as UNHCR Guidelines and the European Council on Refugees and Exiles Position on Refugee Children of November 1996, here referred to as ECRE (Children).

Throughout the Statement are references to relevant international and regional law, policy and guidelines. These are listed in full in Annex II.

This is the third edition of the SCEP Statement of Good Practice (SGP). It should be stressed that this is a living document, which reflects the dynamic progression of human rights protection and issues particularly affecting separated children. The SGP is not an exhaustive listing of standards and good practice, but rather a framework for action and advocacy that we may continue to build upon in the future.

In this regard, several contemporary issues will need to be addressed more directly and comprehensively in future revisions of the SGP. These issues of concern include: advocating for the rights of child soldiers, protecting trafficked children and promoting the socio-economic rights of all separated children including access to vocational training and employment opportunities.

We encourage you to visit our web site for more materials relating to these themes and the protection of the rights of separated children. We also welcome your feedback and comments on the SGP in order to strengthen it and our joint efforts in this field.

### **4. Abbreviations and Acronyms used for references**

1951 Refugee Convention	UN Convention Relating to the Status of Refugees, 1951
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984
CDE	Convention against Discrimination in Education, 1960
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women, 1979

*Statement of Good Practice, 2004*

CERD	International Convention on the Elimination of All Forms of Racial Discrimination, 1965
CoE	Council of Europe
CoE Ministers 91	Committee of Ministers Recommendation No R (91) 11 Concerning Sexual Exploitation, Pornography and Prostitution of, and Trafficking in children and young adults
CoE Ministers 2000	Committee of Ministers Recommendation No R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation
CoE Rec. Training of Officials	Council of Europe Parliamentary Assembly Recommendation 1309 (1996) on the training of officials receiving asylum-seekers at border points
CoE Rec. Airports	Council of Europe Parliamentary Assembly Recommendation 1475 (2000). Arrival of asylum seekers at European airports
CoE Rec. on Expulsion	Council of Europe Parliamentary Assembly Recommendation No 1547 (2002) on Expulsion Procedures in conformity with human rights and enforced with respect for safety and dignity
CoE Young Migrants	Parliamentary Assembly Recommendation 1596 (2003). Situation of Young Migrants in Europe
CRC	UN Convention on the Rights of the Child, 1989
CRS	Convention on the Reduction of Statelessness, 1961
Dublin II	EU Council regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950
ECRE (Children)	European Council on Refugees and Exiles: Position on Refugee Children, 1996
ECRE (Integration)	European Council on Refugees and Exiles: Position on the Integration of Refugees in Europe, December 2002
EU Dir. Family	Council Directive 2003/86/EC on the right to family reunification

*Statement of Good Practice, 2004*

EU Dir. Reception	Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers
EU Res.	EU Resolution on Unaccompanied Minors who are Nationals of Third Countries, 1997
EU Res. Minimum	Council of the EU Resolution on minimum guarantees for asylum procedures, 1995
Hague Convention 1993	Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption, 1993
Hague Convention 1996	Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, 1996
ICCPR	International Covenant on Civil and Political Rights, 1966
ICESCR	International Covenant on Economic, Social and Cultural Rights, 1966
ICRMW	International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 1990
ILO C182	Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, ILO C182, 1999
ISS	International Social Service
OSCE	OSCE Action Plan to Combat Trafficking in Human Beings, Maastricht Ministerial Meeting, 2003
Protocol 1 to CRC	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000
Protocol 2 to CRC	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 2000
Protocol on Trafficking in Persons	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000
Protocol on Smuggling	Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime, 2000
RSICC	Rome Statute of the International Criminal Court, 1998

*Statement of Good Practice, 2004*

UDHR	Universal Declaration of Human Rights, 1948
UN Guidelines on HR & Trafficking	UNHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, E/2002/68/Add.1, 20 May 2002
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNHCR-AP	UNHCR Agenda for Protection, 2002
UNHCR Guidelines	UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum, 1997
UNHCR Handbook	UNHCR Handbook on Procedures and Criteria for Determining Refugee Status, 1992

## **B. FIRST PRINCIPLES**

These are the principles that underpin the Statement of Good Practice and should be born in mind at all stages of care and provision for separated children.

\*\* Please note that most references at their first appearance are accompanied by a text which is only an extract or summary of the relevant article or paragraph. Otherwise the text or a link to it can be found in Annex III at the end of the publication where references are compiled. Those who wish to use articles of law or policy to advocate for the rights of separated children should refer to the complete text of these instruments. \*\*

### **1. Best Interests**

The best interests of children shall be a primary consideration in all actions concerning children.

\* CRC, Art. 3(1): In all actions concerning children... the best interests of children shall be a primary consideration.

\* ECRE (Children), para. 4

\* ICCPR, Art. 24(1): Every child, without any discrimination, is entitled to measures of protection as are required by his status as a minor, on the part of his family, society and the State.

\* ICESCR, Art. 10(3): Special measures of protection are to be taken on behalf of children without discrimination.

\* UNHCR Guidelines, para.1.5

\* UNHCR Handbook, para. 14

### **2. Non-discrimination**

Separated children are entitled to the same treatment and rights as national or resident children. They should be treated as children first and foremost. All considerations of their immigration status should be secondary.

\* CRC, Art. 2: The rights of the CRC apply to all children without discrimination of any kind and irrespective of their parents or their own race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

\* CRC, Art. 22(1): Separated refugee and asylum seeking children are entitled to protection and assistance in order to enjoy the rights in the CRC and in other international human rights or humanitarian instruments to which the States are Parties.

\* CEDAW: This Convention sets out measures to eliminate all forms of discrimination against women and girls.

\* CERD

\* ECHR, Art.14: The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

- \* ECRE (Children), paras. 5-7
- \* ICCPR, Art. 24(1)
- \* ICESCR, Art. 10(3)
- \* ICRMW, Art. 18(1): Migrant workers and members of their families shall have the right to equality with nationals of a State before the courts and tribunals.
- \* Protocol on Trafficking, Art. 14(2): Measures shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons.
- \* Protocol on Smuggling, Art. 19(2): Measures shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are the object of conduct set forth in article 6 of this Protocol.

### **3. Right to Participate**

The views and wishes of separated children should be sought and taken into account whenever decisions affecting them are being made. Measures should be put in place to facilitate their participation in line with their age and maturity.

- \* CRC, Art. 12: The views of children are to be given due weight in relation to their age and maturity and children shall have opportunity to be heard in all proceedings affecting them.
- \* ECRE (Children), paras. 25 & 26
- \* UNHCR-AP, Part III, Goal 6(2): States, UNHCR and partners should set in place measures to ensure that refugee children participate equitably in decision-making in all areas of refugee life, as well as in the implementation of such decisions.
- \* UNHCR Guidelines, paras. 5.14 - 5.15
- \* UNHCR Handbook, para. 41

### **4. Respect for Cultural Identity**

It is vital that separated children be able to maintain their mother tongue and links with their culture and religion. Provision of childcare, healthcare and education should reflect their cultural needs. Care should be taken not to perpetuate those aspects of cultural traditions that are harmful to and discriminate against children. Preservation of culture and language is also important should a child return to their home country.

- \* CRC, Art. 8: Children have the right to preserve or re-establish key elements of their identity.
- \* CRC, Art. 24: Children have the right to the highest attainable standard of health and to facilities for treatment and rehabilitation.
- \* CRC, Art. 30: Children belonging to ethnic, religious or linguistic minorities have the right to enjoy their culture, practice their religion and use their language.
- \* ECRE (Children), para. 39
- \* ICCPR, Art. 27: In States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right to profess and practice their own religion, or to use their own language.



\* ICRMW, Art. 12(1): Migrant workers and members of their families shall have the right to freedom of thought, conscience and religion.

\* ICRMW, Art. 31: States shall ensure respect for the cultural identity of migrant workers and their families and shall not prevent them from maintaining their cultural links with their State of origin.

## **5. Interpretation**

Separated children should be provided with suitably trained interpreters who speak their preferred language whenever they are interviewed or require access to services or legal procedures.

\* CRC, Art. 12

\* CRC, Art. 13: Children have the right to freedom of expression and to seek, receive and impart information.

\* ICCPR, Art. 19: Everyone shall have the right to hold opinions without interference.

Everyone shall have the right to freedom of expression.

\* UNHCR Guidelines, para. 5.13

## **6. Confidentiality**

Care should be taken not to disclose information about a separated child that could endanger the child's family members in her or his home country. The permission of separated children should be sought in an age appropriate manner before sensitive information is disclosed to other organisations or individuals. Information should not be used for purposes other than for those for which it was given.

\* CRC, Art. 16: Children have the right to protection from arbitrary or unlawful interference with their privacy, family, home and correspondence.

\* ECHR, Art. 8: Everyone has the right to respect for his private and family life, his home and his correspondence.

\* EU Res., Art. 3(1): Information on the minor's identity and situation can be obtained by various means, in particular by means of an appropriate interview, to be conducted as soon as possible and in a manner in keeping with his age. In requesting, receiving, forwarding and storing information obtained particular care and confidentiality should be exercised in order to protect both the minor and the members of his family.

\* ICCPR, Art.17: No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

\* ICRMW, Art. 14: No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, correspondence or other communications.

\* UNHCR Guidelines, para. 5.16 & 5.17

## **7. Information**

Separated children should be provided with accessible information about, for example, their entitlements, services available, the asylum process, family tracing and the situation in their country of origin.

\* CRC, Art. 13

\* CRC, Art. 17: States shall ensure that children have access to information from a diversity of international and national sources.

\* CRC, Art. 22(2): States shall co-operate, as they consider appropriate, with efforts by the UN or other IGOs or NGOs in family tracing measures.

\* ECRE (Children), para. 31

\* ICRMW, Art. 33(1)(b): Migrant workers and members of their families have the right to be informed of the conditions of their admission and their rights and obligations.

## **8. Inter-organisational Co-operation**

Organisations, government departments and professionals involved in providing services to separated children should co-operate to ensure that the welfare and rights of separated children are enhanced and protected. A holistic approach should be adopted in trying to meet the interconnected needs of separated children.

\* CRC, Art. 22(2)

\* EU Res., Art. 5(3c&d): The authorities should, with a view to a minor's return, co-operate with international organisations such as UNHCR or UNICEF and, where appropriate, with non-governmental organisations in order to ascertain the availability of reception and care facilities in the country to which the minor will be returned.

\* UNHCR Guidelines, para. 12

## **9. Staff Training**

Those working with separated children should receive appropriate training on the needs and rights of separated children. Immigration or border police staff should receive training in conducting child-friendly interviews.

\* CRC, Art. 3(3): States shall ensure that institutions and services providing protection or care for children meet established standards, inter alia, in the suitability of their staff and competent supervision.

\* CoE Rec. Training of Officials, paras 3 & 4

\* EU Dir. Reception, Art. 19(4): Those working with unaccompanied minors shall have had or receive appropriate training concerning their needs, and shall be bound by the confidentiality principle as defined in the national law, in relation to any information they obtain in the course of their work.

\* EU Res., Art. 4(5): The interview should be conducted by officers who have the necessary experience or training. The importance of appropriate training for officers interviewing unaccompanied minor asylum-seekers should be duly recognised.

\* UNHCR Guidelines, para. 11

## **10. Durability**

Decisions that are taken regarding separated children should take account of, to the greatest extent possible, the long-term best interests and welfare of the child.

\* CRC, Art. 3 (1)

\* CRC, Art. 22 (1)

\* CRC, Art. 22(2)

\* EU Res., Art. 5: Where a minor is not allowed to prolong his stay, the Member State concerned may only return the minor to his country of origin or a third country prepared to accept him, if on arrival therein adequate reception and care are available.

\* UNHCR Guidelines, para. 9

\* UNHCR Handbook, para. 214

## **11. Timeliness**

All decisions regarding separated children should be taken in a timely fashion taking into account the child's perception of time.

\* CRC Art. 3(1)

\* UNHCR Guidelines, paras. 8.1 & 8.5

## **C. GOOD PRACTICE**

The following section sets out good practice with respect to separated children from the point of arrival up until the taking of a long-term decision on a child's future.

### **1. Access to the Territory**

Separated children seeking protection should never be refused entry or returned at the point of entry. They should never be detained for immigration reasons. Neither should they be subjected to detailed interviews by immigration authorities at the point of entry (see paragraph C. 6).

- \* CRC, Art. 6(1): Every child has the inherent right to life.
- \* CRC, Art. 37(b): Children shall not be deprived of their liberty arbitrarily or unlawfully; they shall be detained only as a measure of last resort and separated from adults.
- \* 1951 Refugee Convention:
  - Art. 31: States shall not penalise those who illegally enter or are present in a country if they arrive from a territory where they faced persecution as per Art. 1.
  - Art. 33: States shall not return a refugee to a country where his or her life or freedom is threatened as per Art.1.
- \* CAT, Art. 3. No state shall return a person to a country where he or she is at risk of being tortured.
- \* Dublin II Art. 3(1): Member States shall examine the asylum application of any third-country national who applies at the border or in their territory.
- \* ECHR, Art. 2(1): Everyone's right to life shall be protected by law.
- \* ECHR, Art.3. No one shall be subjected to torture or to inhuman or degrading treatment or punishment.
- \* ECRE (Children), paras. 14 & 15
- \* EU Res. Minimum, para 1: Procedures will comply fully with Art. 1 of the 1951 Convention concerning definition of a refugee and Art. 33 relating to the principle of 'non-refoulement'.
- \* ICCPR, Art. 6(1): Everyone has the inherent right to life, which should be protected by law, and no one shall be arbitrarily deprived of his or her life.
- \* UNHCR Guidelines, paras. 4.1 & 4.2

## **2. Child Victims of Trafficking**

Trafficking in children for the purposes of prostitution, the production of child pornography and other forms of exploitation is a serious problem in Europe. States should take counteractive measures to prevent and stop trafficking by sharing information on trafficking with other states, and ensure that immigration officers and border police are alerted to this problem.

Children are exploited both by those who traffic them and by those who use their services in the country of destination.

The treatment of trafficked children by immigration officers, police, social workers and other practitioners should be governed by child protection principles that should prevail over immigration or crime prevention priorities.

Views and wishes of child victims of trafficking should be sought and taken into account whenever decisions affecting them are being made, also to help their rehabilitation and empowerment.

\*CRC, Art. 34: States shall protect children from all forms of sexual exploitation and abuse.

\* CRC, Art. 35: States shall take all appropriate measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

\* CRC, Art. 36: States shall protect children from all other forms of exploitation prejudicial to their welfare.

\* CRC, Art. 37

\* Protocol 1 to CRC, Art 3: Requires the criminalisation of sexual exploitation of children and trafficking of children for any purpose (organ transplant, adoption, prostitution, child labour).

\* Protocol 1 to CRC, Art 8(1): States shall adopt appropriate measures to protect the best interests of children who are victims of sexual exploitation and trafficking.

\* CEDAW, Art. 6: State Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and the sexual exploitation of women (and girls).

\* CoE Ministers 91

\* CoE Ministers 2000

\* CoE Young Migrants, para. 8

\* Council of the EU: Joint Action to Combat Trafficking in Human Beings and Sexual Exploitation of Children, 24 Feb. 1997

\* Council of the EU: Brussels Declaration on Preventing and Combating Trafficking in Human Beings, May 2003: paras. 9, 12, 13

\* ECHR, Art. 4: No one shall be held in slavery or servitude or subjected to forced labour.

\* ICCPR, Art. 8: No one shall be held in slavery or servitude or forced to perform compulsory labour.

\* ICESCR, Art. 10(3): Children should be protected from economic and social exploitation.

\* ILO C182, Art. 3: The definition of “the worst forms of child labour” includes the sale and trafficking of children.

\* OSCE

\* Protocol on Trafficking in Persons,

Art. 3(a): Trafficking in persons means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or

of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

\* Art. 3(c): The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth in subparagraph (a) of this article.

\* Art. 6: States shall provide assistance and protection to victims of trafficking.

\* Art. 7: Each State Party shall consider permitting victims of trafficking to stay in its territory, temporarily or permanently, in appropriate cases.

\* Art. 9: States shall take various measures to prevent human trafficking and protect victims.

\* Art. 10: Law enforcement, immigration and other authorities shall co-operate by exchanging information regarding trafficking. States shall provide and strengthen training of relevant authorities.

\* Art. 14(2)

\* Protocol on Smuggling, Art. 19

\* UN Guidelines on HR & Trafficking, Guideline 8

\* UNHCR-AP, Part III, Goal 2(2): States should ensure that their own asylum processes are open to receiving claims from individual trafficked persons, including women and girls.

### **3. Separated Migrant Children**

Some separated children travel on their own as migrants seeking relief from situations of poverty, deprivation and hardship. Should they come to the attention of the authorities, separated child migrants should never be removed from the country without a thorough assessment of the situation in their country of origin. They should be entitled to make an asylum application and/or an application for residence. All separated child migrants should have access to child welfare protection, education and health services.

\* CRC Art 2

\* CoE Young Migrants, para. 6

\* ICRMW: This Convention sets out the rights of all migrant workers and members of their families.

\* Protocol on Smuggling, Art. 19(2)

#### **4. Identification**

At ports of entry immigration authorities should put in place procedures to identify separated children and to refer such children to the appropriate child welfare authorities. Where an adult accompanies children, it will be necessary to establish the nature of the relationship between the child and adult. Since many separated children enter a country without being identified as “separated” at ports of entry, organisations and professionals should share information in order to identify separated children and ensure they are given appropriate protection.

Some children become separated after entry into a country (breakdown of family situation, departure of caregiver etc). Immigration and refugee determination authorities should ensure that any change of status resulting from that separation is reflected in their procedures.

\* CRC, Art. 8

\* EU Res., Art. 3(1)

\* UNHCR Guidelines, paras. 5.1 - 5.3 & Annex II

#### **5. Family Tracing and Contact**

Tracing for a child’s parents and family needs to be undertaken as soon as possible, but this should only be done where it will not endanger the child or members of the child’s family in the country of origin. Tracing should be undertaken only on a confidential basis. States and other organisations undertaking tracing should co-operate with UN agencies, the International Committee of the Red Cross Central Tracing agency and International Social Services. Separated children need to be properly informed and consulted about the process and their views taken into account. Where appropriate those responsible for a child’s welfare should facilitate regular communication between the child and her or his family.

\* CRC, Art. 9(3): Children who are separated from their parents have the right to maintain contact with their parents.

\* CRC, Art. 10(1): Applications for family reunification shall be dealt with in a “positive, humane and expeditious manner”.

\* CRC, Art. 10(2): Children whose parents reside in different countries have the right to maintain regular relations with their parents.

\* CRC, Art. 22(2)

\* ECHR, Art. 8

\* ECRE (Children), para. 32

\* EU Dir. Reception, Art. 19(3): Member States, protecting the unaccompanied minor’s best interests, shall endeavour to trace the members of his or her family as soon as possible. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives care must be taken to ensure that the collection, processing and circulation of information is undertaken on a confidential basis, so as to avoid jeopardising their safety.

\* EU Res., Art. 3(3): Member States should endeavour to trace the members of the family of an unaccompanied minor, or to identify the place of residence of the members of the family, regardless of their legal status and without prejudging the merits of any application for residence. Unaccompanied minors may also be encouraged and assisted in contacting the

International Committee of the Red Cross, national Red Cross organisations, or other organisations for tracing of their family members. Confidentiality should be duly respected in order to protect both the minor and the members of his or her family.

\* ICCPR, Art. 23(1): The family is entitled to protection by the state.

\* ICRMW, Art. 44(1): States shall take measures to ensure the protection of the unity of the families of migrant workers.

\* UNHCR Guidelines, para. 5.17

\* UNHCR Handbook, para. 218

## **6. Appointment of a Guardian or Adviser**

As soon as a separated child is identified, an independent guardian or adviser should be appointed - in a long-term perspective - to advise and protect separated children. Regardless of the legal status of this person (e.g. legal guardian, NGO worker) their responsibilities should be as follows:

- to ensure that all decisions taken are in the child's best interests
- to ensure that a separated child has suitable care, accommodation, education, language support and health care provision
- to ensure a child has suitable legal representation to deal with her or his immigration status or asylum claim
- to consult with and advise the child
- to contribute to a durable solution in the child's best interests
- to provide a link between the child and various organisations who may provide services to the child
- to advocate on the child's behalf where necessary
- to explore the possibility of family tracing and reunification with the child
- to help the child keep in touch with his/her family.

In order to ensure necessary protection for separated children, appointments of guardians/advisers should be made within one month of a child being notified to the relevant authorities.

The individuals carrying out these responsibilities may be drawn from a range of specialist backgrounds. However, in order to carry out their role effectively, advisers or guardians should have relevant childcare expertise and an understanding of the special and cultural needs of separated children. They should receive training and professional support, and undergo police reference checks.

\* CRC, Art. 12

\* CRC, Art. 18(2): States shall assist legal guardians to carry out child-rearing responsibilities.

\* CRC, Art. 20(1): Children deprived of their families are entitled to special protection and assistance.

\* CRC, Art. 20(3): The care provided to children deprived of their families shall take account of their ethnic, religious, cultural and linguistic background.

\* CoE Young Migrants, para. 4,vi.

\* ECRE (Children), paras. 16-18

\* EU Dir. Reception, Art. 19(1): Member States shall as soon as possible take measures to ensure the necessary representation of unaccompanied minors by legal guardianship or



representation by an organisation which is responsible for the care and well-being of minors, or by any other appropriate representation. Regular assessments shall be made by the appropriate authorities.

\* EU Res., Art. 3(4&5): Member States should provide as soon as possible legal guardianship, or representation by an organisation which is responsible for the care and well-being of the minor, or other appropriate representation. The guardian should ensure that the minor's needs (for example, legal, social, medical or psychological) are duly met.

\* Hague Convention, 1993

\* Hague Convention, 1996, Art. 3: States where separated children have habitual residence can take measures of protection including guardianship or analogous institutions.

\* Hague Convention, 1996, Art. 6: The Convention applies to separated children who are refugees or internationally displaced due to disturbance occurring in their own country.

\* UNHCR Guidelines, para. 5.7

\* UNHCR Handbook, para. 214

\* UNHCR-AP, Part III, Goal 1(9): States, UNHCR, NGOs and other partners should address the needs of separated children, including their temporary placement in foster families or appointment of State or non-State guardians, and the monitoring of such arrangements.

## **7. Registration and Documentation**

Registration and documentation are essential to protect the long-term interests of separated children. This should be carried out by a “twin-track” interview procedure. Immigration and border police officers should limit their interviews to gathering basic information about the child’s identity. Interviews with immigration authorities should always be carried out in the presence of legal counsel, a guardian or other mandated person.

A complete social history (see Annex I) should be taken by the competent child welfare authority or other designated organisation with care duties towards the child. All those interviewing separated children should have appropriate training and expertise in interviewing separated children.

\* CRC, Art. 8

\* EU Res., Art. 3(1)

\* UNHCR Guidelines, paras. 5.6 & 5.8 - 5.10

## **8. Age Assessment**

Age-assessment includes physical, developmental, psychological and cultural factors. If an age assessment is thought to be necessary, independent professionals with appropriate expertise and familiarity with the child's ethnic/cultural background should carry it out. Examinations should never be forced or culturally inappropriate. Particular care should be taken to ensure they are gender- appropriate.

In cases of doubt there should be a presumption that someone claiming to be less than 18 years of age, will provisionally be treated as such.

It is important to note that age assessment is not an exact science and a considerable margin of error is called for. In making an age determination separated children should be given the benefit of the doubt.

\* 1951 Refugee Convention, Art. 31: Penalties shall not be imposed on asylum seekers who enter a country illegally if they can show good cause for their illegal entrance.

\* ECRE (Children), para. 9

\* EU Res., Art. 4(3): Age assessment should be carried out objectively. For such purposes, Member States may have a medical age-test carried out by qualified medical personnel, with the consent of the minor, a specially appointed adult representative or institution.

\* UNHCR Guidelines, para. 5.11

\* UNHCR Handbook, paras. 196-197

## **9. Freedom from Detention**

Separated children should never be detained for reasons related to their immigration status. This includes detention at the border, for example, in international zones, in detention centres, in police cells, in prisons or in any other special detention centres for young people.

\* CRC, Art. 37(a): Children shall not be subject to cruel, inhuman or degrading treatment.

\* CRC, Art. 37(b)

\* ECHR, Art.3

\* ECHR, Art. 5: Everyone has the right to liberty and security of person.

\* ECRE (Children), para. 20

\* EU Res., Art. 2(3): Unaccompanied minors who must remain at the border until a decision has been taken on their admission or return, should receive all necessary material support and care.

\* ICCPR, Art. 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

\* ICCPR, Art. 9: No one shall be subjected to arbitrary arrest or detention.

\* ICRMW, Art. 16(4): Migrant workers and members of their families should not be subjected individually or collectively to arbitrary arrest or detention.

\* UN Rules for the Protection of Juveniles Deprived of Their Liberty

\* UNHCR-AP, Part III, Goal 1(9)

\* UNHCR Guidelines para. 7.6 & 7.7

## **10. Right to Participate**

The views and wishes of separated children should be sought and taken into account whenever decisions affecting them are being made. Measures should be put in place to facilitate their participation in line with their age and maturity. Separated children are entitled to be heard directly or via a legal representative or guardian/adviser in any legal procedures. Separated children should be enabled and encouraged to voice their views, concerns and complaints regarding their care and guardianship, education, health services and legal representation.

\* CRC, Art. 12

\* CRC, Art. 25: Children who are placed in a care institution have the right to periodic reviews of their circumstances.

\* ECRE (Children) para. 25 & 26

\* UNHCR-AP, Part III, Goal 6(2)

\* UNHCR Guidelines, para. 5.14 & 5.15

## **11. Interim Care – Health, Education and Training**

### **11.1 Interim Care**

Separated children should be found suitable care placements as soon as possible after arrival or identification. Care authorities should conduct a careful assessment of their needs and changes in care arrangements should be kept to a minimum. Regular reviews of care arrangements should be carried out. Siblings should be kept together if it is in the best interest of the child. Where children live with or are placed with relatives, these relatives should be assessed for their ability to provide suitable care and undergo police checks. Separated children over 16 years of age should not be treated as “de facto” adults and placed on their own, without adult support, in hostel or reception centre settings.

Whether they are placed in foster care or in residential settings separated children should be cared for by suitable professionals who understand their cultural, linguistic and religious needs and who have an understanding of those issues that affect separated asylum seeking and migrant children. Those working with separated children should be aware that children are entitled to privacy and to maintain a confidential relationship with their guardian and/or legal representative and any other advocate.

Care workers should help a child develop links with their ethnic community whenever possible.

Child victims of trafficking should not be held in immigration detention in order to protect them from those who have trafficked them. Alternative secure measures such as safe houses should be developed in conjunction with child welfare authorities.

In order to establish safeguards, care workers in reception centres and residential homes need to be made aware of the problem of trafficking of children for the purposes of prostitution or other forms of exploitation.

\* CRC, Arts. 3(3) & 13

\* CRC, Art. 14: Children have the right to freedom of thought, conscience and religion.

\* CRC, Art. 15: Children have the right to freedom of association.

\* CRC, Art. 16

\* CRC, Art. 19: States shall take all appropriate measures to protect children from all forms of physical and mental violence, abuse, negligence, maltreatment or exploitation.

\* CRC, Arts. 20(1), 20(3) & Art. 25

\* CRC, Art. 26: Children have the right to benefit from social security and social insurance.

\* CRC, Art. 27: Children have the right to a standard of living adequate for their physical, mental, spiritual, moral and social development.

\* CRC, Arts. 30, 34, 35 & 36

\* ECHR, Art. 9: Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his or her religion or belief and freedom, either alone or in community with others and in public or private, to manifest his or her religion or belief, in worship, teaching, practice and observance.

\* ECHR, Art. 10: Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

- \* ECHR, Art. 11: Everyone has the right to freedom of peaceful assembly and to freedom of association with others
- \* ECRE (Children), paras. 12 & 19
- \* EU Dir. Reception, Art. 19(2): As far as possible, siblings shall be kept together, taking into account the best interest of the minor and his or her age and degree of maturity. Changes of residence shall be limited to a minimum.
- \* EU Res. Arts. 3(2,4&5) and 4(4): Irrespective of their legal status, unaccompanied minors should be entitled to the necessary protection and basic care in accordance with the provisions of national law. Member States should normally place unaccompanied minors during the asylum procedure with adult relatives, with a foster-family, in reception centres with special provisions for minors or in other accommodation with suitable provisions for minors.
- \* ICCPR, Art. 18(1): Everyone shall have the right to freedom of thought, conscience and religion.
- \* ICCPR, Art. 19
- \* ICCPR, Art. 21: Everyone shall have the right to freedom of assembly with others.
- \* ICCPR, Art. 22: Everyone shall have the right to freedom of association with others.
- \* ICCPR, Art. 24(1)
- \* ICESCR, Art. 9: The States Parties to the present Covenant recognise the right of everyone to social security, including social insurance.
- \* ICESCR, Art. 11(1): The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.
- \* UNHCR Guidelines, paras. 7.1 -7.5

## **11.2 Health**

Separated children should have access to health care on an equal basis with national children. Particular attention should be paid to their health needs arising from previous physical deprivation and ill health, disabilities, and from the psychological impact of violence, trauma and loss as well as the effect of racism and xenophobia that may be experienced abroad. For many separated children access to counselling is vital to assist their recovery.

- \* CRC, Art. 23: Children with disabilities have the right to enjoy a full and decent life and have the right to special care.
- \* CRC, Art. 24
- \* CRC, Art. 39: States shall take measures to promote the physical and psychological recovery and social re-integration of child victims.
- \* CAT, Art. 14: Victims of torture shall be able to obtain redress, compensation and rehabilitation.
- \* ECRE (Children) para. 36
- \* ECRE (Integration), paras 120-133
- \* EU Dir. Reception, Art. 13(2): Member States shall make provisions on material reception conditions to ensure a standard of living adequate for the health of applicants and capable of ensuring their subsistence. Member States shall ensure that standard of living is met in the specific situation of persons who have special needs.

- \* EU Dir. Reception, Art. 17(1): Member States shall take into account the specific situation of vulnerable persons such as minors and unaccompanied minors.
- \* EU Dir. Reception, Art. 18(2): The best interest of the child shall be a primary consideration when implementing the provisions that involve minors.
- \* EU Res., Art. 3(7): Unaccompanied minors should receive appropriate medical care. Special medical or other assistance should be provided for minors who have suffered any form of neglect, exploitation, or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment, or armed conflicts.
- \* ICESCR, Art. 12: The States Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
- \* ICRMW, Art. 28: Migrant workers and members of their families have the right to receive urgent medical care.
- \* UNHCR Guidelines, paras. 7.9 - 7.11

### **11.3 Education, Language and Training**

Separated children should have access to the same statutory education as national children. Schools need to take a flexible, welcoming approach with separated children and provide second language support. In order to preserve their cultural identity separated children should have access to mother tongue teaching. Vocational and professional training should be available to older separated children. It is likely to enhance their life chances if they return to their home country.

- \* CRC, Art. 28: Children have the right to free and compulsory primary education. States shall encourage different forms of secondary education and make them available to all children. Educational and vocational guidance shall be available to all children.
- \* CRC, Art. 29(1c): The aims of education shall be to encourage respect of children's cultural identity, language and values.
- \* CRC, Art. 30
- \* CRC, Art. 32: Children should be protected from economic exploitation and hazardous work.
- \* CDE, Art. 3: States shall take immediate measures to eliminate and prevent discrimination in education.
- \* CERD, Art. 5, e) V
- \* CoE Young Migrants, para. 6.
- \* ECRE (Children), paras. 37-39
- \* EU Dir. Reception, Art. 10(1): Member States shall grant to minor asylum seekers access to the education system under similar conditions as nationals. Member States shall not withdraw secondary education for the sole reason that the minor has reached the age of majority.
- \* EU Dir. Reception, Art. 10(2): Access to the education system shall not be postponed for more than three months from the date the application was lodged.
- \* EU Dir. Reception, Art. 10(3): Where access to the education system is not possible due to the specific situation of the minor, the Member State may offer other education arrangements.

- \* EU Res., Art. 3(6): When assumed that an unaccompanied minor of school age will be staying for a prolonged period, the minor should have access to general education facilities on the same basis as nationals.
- \* European Social Charter, Part I(7): Children and young persons have the right to a special protection against the physical and moral hazards to which they are exposed.
- \* European Social Charter, Part I(9): Everyone has the right to appropriate facilities for vocational guidance.
- \* ICESCR, Art. 13(1): Education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups.
- \* ICRMW, Arts. 43 & 45: Members of the families of migrant workers shall enjoy equality of treatment with nationals in relation to access to education, vocational guidance and training.
- \* UDHR, Art. 26: Everyone has the right to education.
- \* UNHCR-AP, Part III, Goal 6(2): States should accord importance to primary and secondary education for refugees.
- \* UNHCR Guidelines, paras. 7.12 - 7.14

## **12. The Asylum or Refugee Determination Process**

12.(a) Separated children, regardless of age, should never be denied access to the asylum process. Once admitted they should go through the normal procedures and be exempt from alternative procedures including those relating to ‘safe third country’ (admissibility), ‘manifestly unfounded’ (accelerated) and ‘safe country of origin’ and from any suspension of consideration of their asylum claim due to coming from a “country in upheaval”.

\* CRC, Art. 22

\* 1951 Refugee Convention: Article 1 of the Convention makes no distinctions according to age. A person of any age can be recognised as a refugee.

\* Council of the EU Conclusions on countries in which there is generally no serious risk of persecution, 1992

\* Council of the EU Joint Position on the harmonised application of the definition of the term “refugee”. March, 1996

\* Council of the EU Resolution on a harmonised approach to questions concerning host third countries, 1992

\* Council of the EU Resolution on manifestly unfounded applications for asylum, 1992

\* ECRE (Children), para. 22 - 23

\* EU Res., Art. 4(1): Every unaccompanied minor should have the right to apply for asylum.

\* EU Res. Minimum, paras. 26-27: Provision must be made for unaccompanied minors seeking asylum to be represented by a specifically appointed adult or institution. During the interview, unaccompanied minors may be accompanied by that adult or representatives of that institution. When an application from an unaccompanied minor is examined, his mental development and maturity will be taken into account.

\* Protocol Relating to the Status of Refugees, 1967

\* UDHR, Art. 14(1): “Everyone has the right to seek and to enjoy in other countries asylum from persecution.”

\* UNHCR-AP, Part II, Operative Para. 6: State Parties to the 1951 Refugee Convention call upon all states to take measures to strengthen asylum, giving special attention to vulnerable groups, including women and children.

\* UNHCR Guidelines, para.4.1

12.(b) At all stages of the asylum process, including any appeals or reviews, separated children should have a legal representative who will assist the child to make his or her claim for asylum. Legal representatives should be available at no cost to the child and, in addition to possessing expertise on the asylum process, they should be skilled in representing children and be aware of child-specific forms of persecution.

\* CRC, Art. 12

\* CRC, Art. 22

\* ECRE (Children), para. 24

\* UNHCR Guidelines, para. 4.2 & 8.3



## **12.1 Minimum Procedural Guarantees**

12.1.1 Decisions on a child's asylum application should be taken by a competent authority versed in asylum and refugee matters and all legal instruments relating to children's rights. Children who receive a negative first decision should have a right of appeal. Deadlines for appealing should be reasonable. Children's applications should be identified and prioritised so they are not kept waiting for long periods of time.

- \* ECRE (Children), paras. 22, 24 & 28
- \* EU Res., Art. 4(2): Having regard to the particular needs of minors and their vulnerable situation, Member States should treat the processing of their application as a matter of urgency.
- \* EU Res. Minimum, 1995, paras. 26-27
- \* UNHCR Guidelines, paras. 8.1, 8.2 & 8.5

12.1.2 It is desirable, particularly with younger children or children with a disability or those suffering from psychological trauma, that an independent expert carry out an assessment of the child's ability to articulate a well-founded fear of persecution and also to identify any difficulties a child may have in recounting painful incidents or disclosing sensitive information.

- \* EU Res. Minimum, para.27
- \* ECRE (Children), para. 27
- \* UNHCR Handbook, para. 214

12.1.3 Where interviews are required they should be carried out in a child-friendly manner (breaks, non-threatening atmosphere) by officers trained in interviewing children. Children should always be accompanied at each interview by their legal representative and where the child so desires, by other significant adults (social worker, relative, guardian etc). Separated children should be able to provide testimony through a number of different means. These include oral testimony, drawings and writings, video recorded interviews with independent experts and testimony via video-link.

- \* CRC, Art. 3.3
- \* CoE Rec. Airports, para. 10, ii.b.
- \* ECRE (Children), para. 26-27
- \* EU Res., Art. 4(5)
- \* UNHCR Guidelines, paras. 4.2 & 8.4

## **12.2 Criteria for making a decision on a child's application**

12.2.1 The definition of a refugee is applicable to all regardless of age. In seeking durable solutions careful attention should be paid to balancing the principles of family unity with the principle that the best interest of the child is a primary consideration. Authorities should consider the UNHCR Handbook, Guidelines on Protection and Care of Refugee Children and the 1997 Guidelines, specifically:

- the age and maturity of a child and their stage of development
- the possibility that children may manifest their fears differently from adults
- the likelihood that children will have limited knowledge of conditions in their countries of origin
- child-specific forms of human rights violations, such as, but not limited to, recruitment of children into armies, trafficking for prostitution, sexual exploitation, female genital mutilation and forced labour
- the situation of the child's family in their country of origin and, where known, the wishes of parents who have sent a child out of the country in order to protect her or him
- the fact that harmful actions which might be considered as harassment or discrimination when applied to an adult, may constitute persecution when applied to a child
- therefore, in the examination of their claims it may be necessary to have greater regard to certain objective factors, and to determine based upon these factors, whether a child may be presumed to have a well-founded fear of persecution

\* CRC, Arts. 3, 12, 22, 32, 34, 35, 36 & 37

\* CRC, Art. 38: States shall ensure that persons under the age of 15 do not take a direct part in armed conflict.

\* Protocol 1 to CRC

\* Protocol 2 to CRC

\* CAT, Art. 1: the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

\* ECHR, Art. 4(1) and 4(2) 2

\* EU Res., Art. 4(6): When an application for asylum from an unaccompanied minor is examined, allowance should be made for a minor's age, maturity and mental development, and for the fact that he may have limited knowledge of conditions in the country of origin.

\* ICCPR, Art. 8

\* ICESCR, Art. 10(3)

\* ILO C182, Art. 3

\* Protocol 1 Additional to the Geneva Conventions of 12/8/1949, and Relating to the Protection of Victims of International Armed Conflicts:

Art. 77(2): Parties to conflicts must take all feasible measures to ensure that children under 14 do not take direct part in hostilities.

\* Protocol II Additional to the Geneva Conventions of 12/8/1949 Relating to the Protection of Victims of Non-International Armed Conflicts

Art. 4(3): Children under 15 shall not be recruited in the armed forces or allowed to take part in hostilities.

\* Protocol on Trafficking in Persons

\* Refugee Children: Guidelines on Protection and Care, Chapters 8 & 9.

\* RSICC, Art. 8(2)(b)(xxv) and (e)(vii): Conscripting or enlisting children under the age of fifteen years into the national armed forces, armed forces or groups or using them to participate actively in hostilities constitutes a war crime.

\* UNHCR-AP, Part III, Goal 1(2): States and the UNHCR should work together to ensure that authorities take into account gender and age, including forms of persecution which have specific gender and age-related aspects.

\* UNHCR Guidelines, paras. 8.6 - 8.10, 9.7 & 10.4

\* UNHCR Handbook, paras. 203 & 213-219

12.2.2 Separated children who become adults during the course of the asylum process (sometimes called “aged-out”) continue to benefit from the same special procedures as those under 18 years of age. In this regard states should eliminate unnecessary delays that can result in a child reaching the age of majority during the process.

\* ECRE (Children), para. 30

\* UNHCR Guidelines, paras. 5.4 & 10.1

### **13. Durable or Long-term Solutions**

#### **13.1 Remaining in a Host Country/Country of Asylum**

A separated child may be allowed to remain in a host country if one or more of the following conditions apply:

- she or he is recognised as a refugee, as a person in need of protection or granted asylum;
- she or he receives a de facto status or is granted permission to remain for humanitarian or compassionate reasons because it is not safe to return to their country of origin due, for example, to armed conflict and/or the child's parents are not traceable and there is no suitable caretaker in the country of origin or for medical reasons;
- she or he is a victim of trafficking and it is not safe to return to her or his country of origin;
- it is clearly in the child's best interests to remain in the country.

\* CRC, Art. 3

\* ECRE (Children), para.42

\* EU Res., Art. 5(2): As long as return is not possible, Member States should make it possible for the minor to remain.

\* Protocol on Trafficking in Persons, Art 7

\* Refugee Children, Guidelines on Protection and Care

\* UNHCR Guidelines, para. 9.1 & 9.4

#### **13.2 Family reunification**

Separated children seeking asylum or otherwise present in a European state sometimes have family member(s) in other European states. European states should positively and proactively facilitate family reunion for the child in the state where the child's best interests will be met in accordance with safeguards set out in paragraph 13.6.

In any situation regarding a separated child European states should always facilitate family reunification in the country where the child is living if it is in the child's best interests.

Where a separated child has a family member in a third country and both the child and family member wish to be reunited in that country, the child welfare authority should carry out a careful investigation of the suitability of the family member to provide care for the child.

\* CRC, Art. 10(1)

\* CoE Young Migrants, para. 7 vii-ix.

\* Dublin II, Art. 15(3): If the asylum seeker is an unaccompanied minor who has a relative or relatives in another Member State who can take care of him or her, Member States shall if possible unite the minor with his or her relative or relatives, unless this is not in the best interests of the minor.

\* ECHR, Art. 8.1.

\* ECRE (Children), paras. 32, 34 & 35

\* ECRE (Integration), para. 139

\* EU Dir. Family, Art. 10.3(a): If the refugee is an unaccompanied minor, the Member States shall authorise the entry and residence for the purposes of family reunification of first-degree relatives in the direct ascending line.

\* EU Res., Art. 5(3a): The competent authorities should co-operate in re-uniting unaccompanied minors with other members of their family, either in the minor's country of origin or in the country where those family members are staying.

\* Council of the EU Resolution on harmonisation of national policies on family reunification, 3 June, 1993

\* ICCPR, Art. 23(1)

\* ICRMW, Art. 44(1)

\* UNHCR-AP, Part III, Goal 1(2): States should introduce or enhance gender and age-specific safeguards in asylum procedures, with due weight being given to the principle of family unity.

\* UNHCR Guidelines, paras. 5.5, 10.5 & 10.11

### **13.3 Integration**

13.3.1 Once a separated child is allowed to remain, care/welfare authorities should conduct a careful assessment of the child's situation (taking into account her or his age, gender, care history, mental and physical health, education and family situation in the country of origin). In consultation with the child, a long-term placement in the community should then be arranged. This may of course be a continuation of the interim care placement. It is generally desirable that children under 15/16 years of age be cared for in a foster family from their own culture. Older children may prefer/do well in a small group home environment. This should be staffed by properly trained care workers aware of the separated children's cultural needs.

As a matter of principle, siblings should be kept together in the same placement unless they wish otherwise or it is not in their best interests. If a sibling group is living independently, with the oldest taking responsibility, then he or she should be provided with particular support and advice.

Separated children who have reached the age of majority should be offered support via an "after-care" programme, to assist their transition to living independently.

\* CRC, Arts. 13, 14, 15, 16, 19, 20, 25, 26 & 27

\* 1951 Refugee Convention, Art. 21: Housing provision for recognised refugees

\* 1951 Refugee Convention, Art. 23: Provision of "public relief" for recognised refugees

\* 1951 Refugee Convention, Art. 24: Working conditions and social security provisions for recognised refugees

\* ECRE (Children), para. 19

\* EU Res., Art. 4(7): As soon as an unaccompanied minor is granted refugee status or any other permanent right of residence, he or she should be provided with long-term arrangements for accommodation.

\* UNHCR Guidelines, paras. 10.2-10.3 & 10.6 - 10.9

13.3.2 The rights of separated children to education and training, health care, language support (as per paragraph 11.3) and employment should continue on the same basis as available to national children and according to national laws.

Separated children who arrived as minors and were allowed to remain for humanitarian or compassionate reasons or who received any other kind of temporary status expiring at the age of 18, should be treated in a generous manner when they reach age of majority and full regard should be given to their vulnerable status. They should be allowed to remain in the host country.

\* CRC, Arts. 2, 3, 23, 24, 28, 29(1c) & 30

\* CRC, Art. 31: States Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts; State Parties shall respect and promote these rights and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activities.

\* CRC, Art. 39

\* 1951 Refugee Convention, Art. 22: Education rights of recognised refugees.

\* ECRE (Children), paras. 36 - 41

\* ECRE (Integration), paras 103-107

\* UNHCR Guidelines, para. 10.10

#### **13.4 Adoption**

Adoption is rarely, if ever, a suitable option for a separated child. Before adoption can be considered viable or desirable, a rigorous assessment, conducted by an authorised organisation, of the child's family circumstances in the country of origin is essential. Clear procedures are outlined in the recommendation of the Hague Conference on Private International Law.

\* CRC, Art. 21: States obligations with regard to inter-country adoption.

\* Hague Convention 1993

\* Recommendation Concerning the Application to Refugee Children and Other Internationally Displaced Children of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, Oct. 1994

\* UNHCR Guidelines, Paras. 10.4 & 10.8.

#### **13.5 Identity and Nationality**

Separated children who are found to be stateless, should be assisted to acquire nationality.

\* CRC, Art. 7(1): Children have the right to acquire a nationality.

\* 1951 Refugee Convention, Art. 27 & 28: States shall issue identity papers and travel documents to recognised refugees.

\* 1951 Refugee Convention, Art. 34: States shall facilitate the naturalisation of refugees.

\* Convention Relating to the Status of Stateless Persons, 1954, Art. 32: States shall facilitate the naturalisation of stateless persons.

\* CRS

\* ICCPR, Art. 24(3): Every child has the right to acquire a nationality.

### **13.6 Return to Country of Origin**

13.6.1 This is a complex area and detailed guidance is required on the implementation of good practice. A separated child should be returned only if return is considered to be in the best interests of the child. All other considerations such as the fight against illegal immigration should be secondary.

The best way for family reunification and returns to be carried out is on a voluntary basis. Children should be fully informed, consulted and their views taken into account at all stages of the process. The length of time a child has been absent from the country of origin and their age are important factors to consider in this process.

\* CRC, Art. 3

\* Protocol on Trafficking in Persons Definition, Art. 8: States shall facilitate the repatriation of victims of trafficking

\* Refugee Children: Guidelines on Protection and Care, UNHCR, 1994, p. 138-144

\* UNHCR Guidelines, paras. 9.4 & 10-12

13.6.2 Before a separated child can be returned to a country of origin the following should be in place:

- careful assessment is made whether it is safe to return the child to his or her home country, taking into consideration risks of persecution, of being involved in armed conflicts, of violence and abuse, and of being exploited;
- the child's caretaker and guardian/adviser in the host country agree it is in the child's best interests to return;
- a careful assessment is made of the family situation in the home country. It will be necessary to investigate the ability of the child's family (parents or other family members) to provide appropriate care;
- a careful assessment is made of the access to food, housing, health care, education, vocational training and employment opportunities in the home country;
- these investigations should be carried out by a professional and independent organisation (that is different from the body or person(s) making the initial determination on the child's refugee or other claim) and should be objective, non-political and take into consideration the best interests of the child in each case;
- the child's parents, relatives or other adult caretaker agree to provide immediate and long-term care upon the child's arrival in the country of origin. The family's views on the child's return should be investigated and taken into consideration;
- the child is fully informed and consulted at all stages and is provided with appropriate counselling and support; also the child's views on return should be taken into consideration, in accordance with his/her age and maturity;
- prior to the return contact between the child and his or her family is facilitated;
- during the return the child is properly accompanied;

- after the return the well-being of the child should be effectively monitored by appropriate authorities or agencies.

Child victims of trafficking should never be returned to their country of origin without a thorough assessment of the family context and the potential risks of reprisal or re-trafficking, in order to ensure that the child is returning to a safe environment.

Separated children who arrived as minors but who have reached the age of 18 and have not been allowed to remain in the receiving country should be treated as vulnerable and consulted on the conditions required for a successful reintegration into their country of origin.

\* CRC, Art. 3

\* CRC, Art. 5: States shall respect the rights and duties of parents or the extended family to provide the child appropriate direction and guidance

\* CRC, Arts. 6, 12, 19, 20, 24, 27, 28, 34, 35, 36, 37(a), 38 & 39

\* 1951 Refugee Convention, Art. 32(1): States shall not expel a refugee lawfully in their territory.

\* 1951 Refugee Convention, Art. 33

\* CAT, Art. 3

\* CoE Rec. on Expulsion, para. 13.v.h: unaccompanied minors must be treated in accordance with their age, and must immediately be taken charge of by a judge for minors, and have access to independent legal consultation and representation.

\* CoE Young Migrants, para. 7, x

\* ECRE (Children), paras. 33 & 42

\* EU Res., Art. 5

\* UNHCR-AP, Part III, Goal 2(7): States, working in consultation with relevant intergovernmental organisations, should develop strategies to promote return and readmission of persons not in need of international protection, in a humane manner and in full respect for their human rights and dignity, without resort to excessive force, and in the case of children, taking due account of their best interests.

\* UNHCR Guidelines, paras. 9.4, 9.5, 10.5, 10.12 - 10.14



## **ANNEX I**

### **SOCIAL HISTORY**

Re. paragraph C7 above, the following information should be gathered about a child by an organisation with responsibility for caring for the child:

1. Family information (in the country of origin and elsewhere)
  2. Information on non-family members important to the child
  3. Circumstances when the child was found/identified
  4. Information concerning the child's separation from the family
  5. Information about the child's life before and since the separation
  6. Child's physical condition, health and past medical history
  7. Educational background (formal and informal)
  8. Present care arrangements
  9. Child's wishes and plans for the future
  10. Preliminary assessment of the child's mental and emotional development and maturity
  11. Age assessment
- (UNHCR Guidelines, para. 5.9)

## **ANNEX II**

### **INTERNATIONAL AND REGIONAL LAW, POLICY AND GUIDELINES**

#### **1. International Instruments on Children's Rights and Protection**

- Convention for the Protection of Minors, 1961
- Convention on the Civil Aspects of International Child Abduction, 1980
- Hague Conference on Private International Law
- Hague Convention on Jurisdiction, Applicable Law, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, 1996
- Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption, 1993
- ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, C182, 1999
- Optional Protocol on the Involvement of Children in Armed Conflict, 2000
- Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, 2000
- Recommendation Concerning the Application to Refugee Children and Other Internationally Displaced Children of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, Hague Conference On Private International Law, Oct. 1994
- UN Convention on the Rights of the Child, 1989
- UN Rules for the Protection of Juveniles Deprived of Their Liberty, 1990
- UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), 1985

#### **2. International Law**

- Convention against Discrimination in Education, 1960
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984
- Convention on the Elimination of all Forms of Discrimination Against Women, 1979
- Convention on the Elimination of all Forms of Racial Discrimination, 1965
- Convention on the Reduction of Statelessness, 1961
- Convention relating to the Status of Stateless Persons, 1954
- International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 1990
- International Covenant on Civil and Political Rights, 1966 (and Optional Protocol)
- International Covenant on Economic, Social and Cultural Rights, 1966
- Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, Arts. 77 and 78
- Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, Art. 4
- Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime, 2000
- Protocol relating to the Status of Refugees, 1967
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, 2000
- Rome Statute of the International Criminal Court, 1998
- UN Convention against Transnational Organized Crime, Palermo, 2000
- UN Convention relating to the Status of Refugees, 1951
- Universal Declaration of Human Rights, 1948

#### **3. European Instruments**

- European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1987
- European Convention for the Protection of Human Rights and Fundamental Freedoms (and Protocols), 1950

- European Convention on the Adoption of Children of 24/04/67
- European Convention on the Exercise of Children's Rights of 25/01/96
- European Convention on the Legal Status of Children Born out of Wedlock of 15/10/75
- European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children of 20/05/80
- European Social Charter, 1961

#### **4. European Union Legislation on Asylum and Immigration**

- Charter of Fundamental Rights of the European Union, December 2000
- Council Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third country nationals
- Council Directive 2001/55/EC of 20 July 2000 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting balance of efforts between Member States in receiving such persons and bearing the consequences thereof
- Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers
- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification
- Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, 2003 (Dublin II)
- Council Regulation (EC) No 2725/2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention
- European Commission Communication on the Management of External Borders of the Member States of the EU, May 2002
- European Convention on the Gradual Abolition of Controls at the Common Frontiers, 1985 (Schengen Agreement)
- Framework Decision on the fight against trafficking in human beings, Sept 2002
- Plan to combat illegal immigration and trafficking in human beings, Council of EU, June 2002
- Schengen Implementation Convention, 1990

#### **5. UNHCR Guidelines and UNHCR Executive Committee**

- Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum, 1997
- Handbook on Procedures and Criteria for Determining Refugee Status, 1992.
- Refugee Children: Guidelines on Protection and Care, 1994
- Refugee Resettlement: An International Handbook to Guide Reception and Integration, Chapter 3.3, Investing in the Future: Refugee Children and Young People, 2002
- UNHCR Agenda for Protection, 2002
- UNHCR Executive Committee Conclusion No. 47 (1987) on "Refugee Children"
- UNHCR Executive Committee Conclusion No. 59, (1989) on "Refugee Children"
- UNHCR Executive Committee Conclusion No. 84, (1997) on "Refugee Children and adolescents"
- UNHCR Executive Committee Conclusion No. 88, (1999) on "Protection of the Refugee's Family"
- UNHCR Guidelines on Exclusion, 1996
- Working with Unaccompanied Children: A Community-based Approach, 1996

#### **6. UN Declarations, Resolutions and Guidelines**

- Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with special reference to Foster Placement and Adoption Nationally and Internationally, 1986
- Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live, 1985
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992
- UNHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, E/2002/68/Add.1, 20 May 2002

- UNHCHR Sub-Commission on Human Rights resolution 2002/51 on Traffic in women and girls

#### **7. European Union Resolutions and Recommendations**

- Brussels Declaration on Preventing and Combating Trafficking in Human Beings, Council of the EU, 29 Nov 2002, JAI 280, SOC 572
- Conclusions on countries in which there is generally no serious risk of persecution, Council of the EU, 1992
- Conclusions on reception conditions for asylum seekers, Council of the EU, Sept 2000
- Council Decision on monitoring the implementation of instruments adopted concerning asylum, Council of the EU, June 1997
- Joint Action to Combat Trafficking in Human Beings and Sexual Exploitation of Children, Council of the EU, Feb. 1997 (97/1 54/JHA)
- Joint position of 4 March 1996 defined by the Council on the basis of Article K.3 of the Treaty on European Union on the harmonized application of the definition of the term 'refugee' in Article 1 of the Geneva Convention of 28 July 1951 relating to the status of refugees (96/196/JHA)
- Resolution on burden-sharing with regard to the admission and residence of displaced persons on a temporary basis, Council of the EU, Sept 1995
- Resolution on a harmonised approach to questions concerning host third countries, Council of the EU, 1992
- Resolution on manifestly unfounded applications for asylum, Council of the EU, 1992
- Resolution on Minimum Guarantees for Asylum Procedures, Council of the EU, June 1995
- Resolution on the harmonisation of national policies on family reunification, Council of the EU, June 1993
- Resolution on unaccompanied minors who are nationals of third countries, Council of the EU, June 1997 (97/C 221/03)

#### **8. Council of Europe Resolutions and Recommendations**

- Committee of Ministers Recommendation No R (91) 11 Concerning Sexual Exploitation, Pornography and Prostitution of, and Trafficking in, children and young adults
- Committee of Ministers Recommendation No R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation
- Final Declaration of 7<sup>th</sup> Conference of Ministers responsible for Migration Affairs, Sept 2002
- Parliamentary Assembly Recommendation 1237 (1994) on the situation of asylum-seekers whose asylum applications have been rejected
- Parliamentary Assembly Recommendation 1309 (1996) on the training of officials receiving asylum-seekers at border points
- Parliamentary Assembly Recommendation 1327 (1997) on the protection and reinforcement of the human rights of refugees and asylum-seekers in Europe
- Parliamentary Assembly Recommendation 1475 (2000). Arrival of asylum seekers at European airports
- Parliamentary Assembly Recommendation 1547 (2002) on Expulsion Procedures in conformity with human rights and enforced with respect for safety and dignity
- Parliamentary Assembly Recommendation 1577 (2002), Creation of a charter on clandestine migration
- Parliamentary Assembly Recommendation 1596 (2003). Situation of Young Migrants in Europe

#### **9. OSCE Documents**

- OSCE Action Plan to Combat Trafficking in Human Beings, Maastricht Ministerial Meeting, 2003

#### **10. European Council on Refugees and Exiles Positions**

- European Council on Refugees and Exiles: Position on Refugee Children, 1996
- European Council on Refugees and Exiles: Position on the Integration of Refugees in Europe, December 2002

## **ANNEX III**

### **REFERENCES USED**

Starting with the Convention on the Rights of the Child and additional protocols, afterwards by abbreviations used and accompanied by extracts of the relevant article/paragraph or link to text.

#### **CRC, UN Convention on the Rights of the Child, 1989**

Art. 2(1): States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2(2): States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Art. 3(1): In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Art. 3(3): States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Art. 5: States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Art. 6(1): States Parties recognize that every child has the inherent right to life.

Art. 7(1): The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

Art. 8(1): States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

Art. 8(2): Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Art. 9(3): States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests. 4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Art. 10(1): In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

*Statement of Good Practice, 2004*

Art. 10(2): A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Art. 12(1): States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

Art. 12(2): For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Art. 13(1): The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

Art. 13(2): The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Art. 14(1): States Parties shall respect the right of the child to freedom of thought, conscience and religion.

Art. 14(2): States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

Art. 14(3): Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Art. 15(1): States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

Art. 15(2): No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Art. 16(1): No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

Art. 16(2): The child has the right to the protection of the law against such interference or attacks.

Art. 17: States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

(a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29; (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources; (c) Encourage the production and dissemination of children's books; (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or

*Statement of Good Practice, 2004*

who is indigenous; (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Art. 18(2): For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

Art. 19(1): States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Art. 19(2): Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Art. 20(1): A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

Art. 20(3): Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Art. 21: States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary; (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin; (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption; (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it; (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Art. 22(1): States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

Art. 22(2): For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall

*Statement of Good Practice, 2004*

be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Art. 23(1): States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

Art. 23(2): States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

Art. 23(3): Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

Art. 23(1): States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Art. 24(1): States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

Art. 24(2): States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality; (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care; (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution; (d) To ensure appropriate pre-natal and post-natal health care for mothers; (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents; (f) To develop preventive health care, guidance for parents and family planning education and services.

Art. 24(3): States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

Art. 24(4): States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Art. 25: States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Art. 26(1): States Parties shall recognize for every child the right to benefit from social security, including social insurance and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.



*Statement of Good Practice, 2004*

Art. 26(2): The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Art. 27(1): States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

Art. 27(2): The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

Art. 27(3): States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

Art. 27(4): States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Art. 28(1): States Parties recognize the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:  
(a) Make primary education compulsory and available free to all; (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child and take appropriate measures such as the introduction of free education and offering financial assistance in case of need; (c) Make higher education accessible to all on the basis of capacity by every appropriate means; (d) Make educational and vocational information and guidance available and accessible to all children; (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

Art. 28(2): States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

Art. 28(3): States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries

Art. 29(1c): States Parties agree that the education of the child shall be directed to: The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own

Art. 30: In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Art. 31(1): States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

Art. 31(2): States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

*Statement of Good Practice, 2004*

Art. 32: States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

Art. 34: States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials.

Art. 35: States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Art. 36: States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Art. 37(a): States Parties shall ensure that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

Art. 37(b): States Parties shall ensure that no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

Art. 38: States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

Art. 39: States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

**Protocol 1 to CRC, Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, 2000**

Art 3: Requires the criminalization of sexual exploitation of children and trafficking of children for any purpose (organ transplant, adoption, prostitution, child labour).

Art 8(1): States shall adopt appropriate measures to protect the best interests of children who are victims of sexual exploitation and trafficking.

**Protocol 2 to CRC, Optional Protocol on the Involvement of Children in Armed Conflict, 2000**

Link: <http://www.unhcr.ch/html/menu2/6/protocolchild.htm>

**1951 Refugee Convention**

Art. 31: States shall not penalise those who illegally enter or are present in a country if they arrive from a territory where they faced persecution as per Art. 1 *and* Penalties shall not be imposed on asylum seekers those who enter a country illegally if they can show good cause for their illegal entrance.

Art. 33: States shall not return a refugee to a country where his or her life or freedom is threatened as per Art.1.

**CAT, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984**

Art. 3: No state shall return a person to a country where he or she is at risk of being tortured.

**CERD, Convention on the Elimination of all Forms of Racial Discrimination, 1965**

Link: [http://www.unhchr.ch/html/menu3/b/d\\_icerd.htm](http://www.unhchr.ch/html/menu3/b/d_icerd.htm)

**CoE Ministers 91, Council of Europe Committee of Ministers Recommendation No R (91) 11 Concerning Sexual Exploitation, Pornography and Prostitution of, and Trafficking in, children and young adults**

Link: <http://cm.coe.int/ta/rec/1991/91r11.htm>

**CoE Ministers 2000, Council of Europe Committee of Ministers Recommendation No R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation**

Link: <http://cm.coe.int/ta/rec/2000/2000r11.htm>

**CoE Rec. Airports, Council of Europe Parliamentary Assembly Recommendation 1475 (2000). Arrival of asylum seekers at European airports**

Link: <http://assembly.coe.int/Documents/AdoptedText/TA00/EREC1475.htm>

**CoE Rec. Training of Officials, Council of Europe Parliamentary Assembly Recommendation 1309 (1996) on the training of officials receiving asylum-seekers at border points**

Link: <http://assembly.coe.int/Documents/AdoptedText/ta96/EREC1309.htm>

**CoE Young Migrants, Council of Europe Parliamentary Assembly Recommendation 1596 (2003). Situation of Young Migrants in Europe**

Link: <http://assembly.coe.int/Documents/AdoptedText/ta03/EREC1596.htm>

**Council of the EU: Brussels Declaration on Preventing and Combating Trafficking in Human Beings, May 2003**

Link: [http://europa.eu.int/eur-lex/en/dat/2003/c\\_137/c\\_13720030612en00010009.pdf](http://europa.eu.int/eur-lex/en/dat/2003/c_137/c_13720030612en00010009.pdf)

**Council of the EU Conclusions on countries in which there is generally no serious risk of persecution, 1992**

No link

**Council of the EU Joint Action to Combat Trafficking in Human Beings and Sexual Exploitation of Children, 24 Feb.1997**

Link: [http://ue.eu.int/ejn/data/vol\\_b/5\\_actions\\_communes/coopera\\_judiciaire/1-063-04031997-2-6-en.html](http://ue.eu.int/ejn/data/vol_b/5_actions_communes/coopera_judiciaire/1-063-04031997-2-6-en.html)

**Council of the EU Joint Position on the harmonised application of the definition of the term "refugee" March, 1996**

Link:

[http://europa.eu.int/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31996F0196&model=guichett](http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31996F0196&model=guichett)

**Council of the EU Resolution on a harmonised approach to questions concerning host third countries, 1992 – No link**

**Council of the EU Resolution on manifestly unfounded applications for asylum, 1992**

No link

**Council of the EU Resolution on harmonisation of national policies on family reunification, 3 June, 1993**

No link

**CRS, Convention on the Reduction of Statelessness, 1961**

Link: <http://www.unhcr.md/article/convstateless61.htm>

**ECHR, European Convention for the Protection of Human Rights and Fundamental Freedoms (and Protocols), 1950**

Art.3. No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Art. 4: No one shall be held in slavery or servitude or subjected to forced labour.

Art. 8.1: Everyone has the right to respect for his private and family life, his home and his correspondence.

**ECRE (Children), European Council on Refugees and Exiles: Position on Refugee Children, 1996**

Link: <http://www.ecre.org/positions/children.pdf>

**ECRE (Integration), □ European Council on Refugees and Exiles: Position on the Integration of Refugees in Europe, December 2002**

Link: <http://www.ecre.org/positions/integ02.pdf>

**EU Res., Resolution on unaccompanied minors who are nationals of third countries, Council of the EU, June 1997 (97/C 221/03)**

Art. 2(3): Unaccompanied minors who, pursuant to national provisions, must remain at the border until a decision has been taken on their admission to the territory or on their return, should receive all necessary material support and care to satisfy their basic needs, such as food, accommodation suitable for their age, sanitary facilities and medical care.

Art. 3(1): Member States should endeavour to establish a minor's identity as soon as possible after arrival, and also the fact that he or she is unaccompanied. Information on the minor's identity and situation can be obtained by various means, in particular by means of an appropriate interview, which should be conducted as soon as possible and in a manner in keeping with his age.

The information obtained should be effectively documented. In requesting, receiving, forwarding and storing information obtained, particular care and confidentiality should be exercised, in particular in the case of asylum seekers in order to protect both the minor and the members of his family. This early information may in particular enhance the prospects of reunification of the minor with his family in the country of origin or a third country.

Art. 3(2): Irrespective of their legal status, unaccompanied minors should be entitled to the necessary protection and basic care in accordance with the provisions of national law.

Art. 3(3): Member States should, with a view to reunification, endeavour to trace the members of the family of an unaccompanied minor as soon as possible, or to identify the place of residence of the members of the family, regardless of their legal status and without prejudging the merits of any application for residence. Unaccompanied minors may also be encouraged and assisted in contacting the International Committee of the Red Cross, national Red Cross organizations, or other organizations for the purpose of tracing their family members. Particularly, in the case of asylum seekers, whenever contracts are made in the context of tracing family members, confidentiality should be duly respected in order to protect both the minor and the members of his family.

Art. 3(4&5): For the purposes of applying this Resolution, Member States should provide as soon as possible for the necessary representation of the minor by: (a) legal guardianship, or (b) representation by a (national) organization which is responsible for the care and well-being of the minor, or (c) other appropriate representation.

*Statement of Good Practice, 2004*

Where a guardian is appointed for an unaccompanied minor, the guardian should ensure, in accordance with national law, that the minor's needs (for example, legal, social, medical or psychological) are duly met.

Art. 3(6): When it can be assumed that an unaccompanied minor of school age will be staying in a Member State for a prolonged period, the minor should have access to general education facilities on the same basis as nationals of the host Member State or alternatively, appropriate special facilities should be offered to him.

Art. 3(7): Unaccompanied minors should receive appropriate medical treatment to meet immediate needs. Special medical or other assistance should be provided for minors who have suffered any form of neglect, exploitation, or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment, or armed conflicts.

Art. 4(1): Every unaccompanied minor should have the right to apply for asylum. However, Member States may reserve the right to require that a minor under a certain age, to be determined by the Member State concerned, cannot apply for asylum until he has the assistance of a legal guardian, a specifically appointed adult representative or institution.

Art. 4(2): Having regard to the particular needs of minors and their vulnerable situation, Member States should treat the processing of asylum applications by unaccompanied minors as a matter of urgency.

Art. 4(3): (a) In principle, an unaccompanied asylum-seeker claiming to be a minor must produce evidence of his age. (b) If such evidence is not available or serious doubt persists, Member States may carry out an assessment of the age of an asylum-seeker. Age assessment should be carried out objectively. For such purposes, Member States may have a medical age-test carried out by qualified medical personnel, with the consent of the minor, a specially appointed adult representative or institution.

Art. 4(4): Member States should normally place unaccompanied minors during the asylum procedure: (a) with adult relatives, (b) with a foster-family, (c) in reception centres with special provisions for minors, or (d) in other accommodation with suitable provisions for minors, for example such as to enable them to live independently but with appropriate support. Member States may place unaccompanied minors aged 16 or above in reception centres for adult asylum seekers.

Art. 4(5): (a) During any interview on their asylum application, unaccompanied minor asylum-seekers may be accompanied by a legal guardian, specially appointed adult representative or institution, adult relative or legal assistant. (b) The interview should be conducted by officers who have the necessary experience or training. The importance of appropriate training for officers interviewing unaccompanied minor asylum-seekers should be duly recognized.

Art. 4(6): When an application for asylum from an unaccompanied minor is examined, allowance should be made, in addition to objective facts and circumstances, for a minor's age, maturity and mental development, and for the fact that he may have limited knowledge of conditions in the country of origin.

Art. 4(7): As soon as an unaccompanied minor is granted refugee status or any other permanent right of residence, he should be provided with long-term arrangements for accommodation.

Art. 5: Where a minor is not allowed to prolong his stay in a Member State, the Member State concerned may only return the minor to his country of origin or a third country prepared to accept him, if on arrival therein - depending on his needs in the light of age and degree of independence - adequate reception and care are available. This can be provided by parents or other adults who take care of the child, or by governmental or non-governmental bodies.

Art. 5(2): As long as return under these conditions is not possible, Member States should in principle make it possible for the minor to remain in their territory.

Art. 5(3a, c & d) The competent authorities of the Member States should, with a view to a minor's return, cooperate: (a) in re-uniting unaccompanied minors with other members of their family, either in the minor's country of origin or in the country where those family members are staying; (c) with international organizations

such as UNHCR or UNICEF, which already take an active part in advising governments on guidelines for dealing with unaccompanied minors, in particular asylum-seekers; (d) where appropriate, with non-governmental organizations in order to ascertain the availability of reception and care facilities in the country to which the minor will be returned.

**EU Res. Minimum, Council of the EU Resolution on minimum guarantees for asylum procedures, June 1995**

para. 1: Asylum procedures will be applied in full compliance with the 1951 Geneva Convention, and the 1967 New York Protocol relating to the Status of Refugees and other obligations under international law in respect of refugees and human rights. In particular, the procedures will comply fully with Article 1 of the 1951 Convention concerning the definition of a refugee, Article 33 relating to the principle of 'non-refoulement' and Article 35 concerning cooperation with the Office of the UNHCR, including the facilitation of its duty of supervising the application of the Convention.

para 26: Provision must be made for unaccompanied minors seeking asylum to be represented by a specifically appointed adult or institution if they do not have capacity under national law. During the interview, unaccompanied minors may be accompanied by that adult or representatives of that institution. These persons are to protect the child's interests.

para. 27: When an application for asylum from an unaccompanied minor is examined, his mental development and maturity will be taken into account.

**Hague Convention, 1993, Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption, 1993 and the associated Recommendation on the Application of the Convention to Refugee Children**

Link: <http://www.hcch.net/e/conventions/menu33e.html>

**Hague Convention, 1996, Hague Convention on Jurisdiction, Applicable Law, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, 1996**

Link: <http://www.hcch.net/e/conventions/menu34e.html>

**ICCPR, International Covenant on Civil and Political Rights, 1966 (and Optional Protocol)**

Art. 8: No one shall be held in slavery or servitude or forced to perform compulsory labour.

Art. 19: Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression.

Art. 23(1): The family is entitled to protection by the state.

Art. 24(1): Every child, without any discrimination, is entitled to measures of protection as are required by his status as a minor, on the part of his family, society and the State

**ICESCR, International Covenant on Economic, Social and Cultural Rights, 1966**

Art. 10(3): Special measures of protection are to be taken on behalf of children without discrimination *and* Children should be protected from economic and social exploitation.

**ICRMW, International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 1990**

Art. 44(1): States shall take measures to ensure the protection of the unity of the families of migrant workers.

**ILO C182, ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, C182, 1999**

Art. 3: The definition of "the worst forms of child labour" includes the sale and trafficking of children.

**Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime, 2000**

Art. 19(2): The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are the object of conduct set forth in article 6 of this Protocol. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

**Protocol on Trafficking in Persons, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, 2000**

Art. 7: Each State Party shall consider permitting victims of trafficking to stay in its territory, temporarily or permanently, in appropriate cases.

Art. 14(2): The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

**Protocol Relating to the Status of Refugees, 1967**

Link: <http://www.unhcr.ch>

**Recommendation Concerning the Application to Refugee Children and Other Internationally Displaced Children of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, Hague Conference On Private International Law, Oct, 1994**

Link: <http://www.hcch.net/e/conventions/annexa33e.html>

**Refugee Children: Guidelines on Protection and Care, UNHCR, 1994**

Link: <http://www.separated-children-europe-programme.org/Global/framed.asp?source=Documents/Eng/Legislation/RefugeeChildren.pdf>

**UN Guidelines on HR & Trafficking, UNHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, E/2002/68/Add.1, 20 May 2002**

Link: [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.2002.68.Add.1.En?Opendocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.2002.68.Add.1.En?Opendocument)

**UN Rules for the Protection of Juveniles Deprived of Their Liberty, 1990**

Link: <http://www.un.org/documents/ga/res/45/a45r113.htm>

**UNHCR-AP, UNHCR Agenda for Protection, 2002**

Part III, Goal 1(9): States, UNHCR, NGOs and other partners should address the needs of separated children, including their temporary placement in foster families or appointment of State or non-State guardians, and the monitoring of such arrangements *and* States should explore appropriate alternatives to the detention of asylum-seekers and refugees, and abstain, in principle, from detaining children.

Part III, Goal 6(2): States, UNHCR and partners should set in place measures to ensure that refugee children participate equitably in decision-making in all areas of refugee life, as well as in the implementation of such decisions *and* States should accord importance to primary and secondary education for refugees.

**UNHCR Guidelines, Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum, 1997**

Link: <http://www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=MEDIA&id=3d4f91cf4&page=publ>

**UNHCR Handbook, Handbook on Procedures and Criteria for Determining Refugee Status, 1992**

Link: <http://www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=MEDIA&id=3d58e13b4&page=publ>