

UNACCOMPANIED & SEPARATED CHILDREN IN EUROPE

Ensuring their best interests – from principle to practice

Unaccompanied minor: foreigner or child?

International conference organized by

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unite for
children

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Outline

- I. Children & migration globally: facts & figures
- I. The best interests principle: from theory to practice
(*Safe & Sound*)
- I. Ongoing refugee and migrant crisis: challenges and opportunities

I. Children & migration globally:



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I. The basics

- Child migration is here to stay
- Children migrate out of a combination of factors: structural; individual agency; family dynamics
- Disproportionate impact of conflict on children
 - 15% of international migrants are under 20
(UNICEF & UN/DESA 2012 estimates)
 - 51% of registered refugees are under 18
(UNHCR data)

I. The bigger picture

1. Migration does not only impact children who move
 2. 63% of migrant children live in developing countries
 3. Limited opportunities for regular migration at basis of mixed-migration flows
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1. Other corridors with increasing numbers of UASC:
 - Central America → US (68,000 UASC in FY 2014)
 - Bay of Bengal (Rohingya)

I. Challenges around data collection

1. Disaggregation by 5-year age groups (no data on migrant children under 18 as per CRC)
1. Data on UASC scarce & unreliable (asylum claims as proxy)
1. Only anecdotal information about rights violations and access to services in receiving states

II. Best interests: from principle to practice



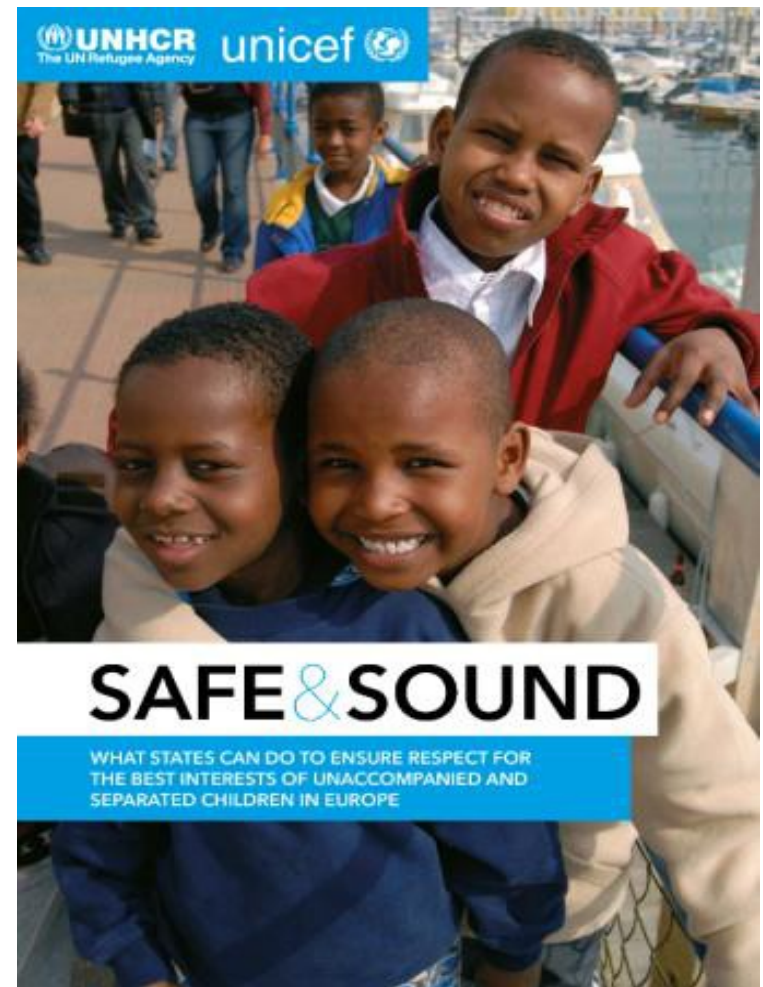
II. The potential of the CRC

- Virtually universal ratification (196 UN Member States)
- Inclusive set of rights for each child under a State's jurisdiction without discrimination
- 4 guiding principles
 - Non-discrimination (art. 2)
 - Best interests of the child (art. 3)
 - Right to life, survival & development (art. 6)
 - Respect for the views of the child (art. 12)

II. Safe & Sound

What's Safe & Sound?

- UNICEF & UNHCR collaboration
- Launched in Oct 2014
- Aimed at supporting EU & EFTA Member States in operationalizing the best interests principle for UASC



II. Safe & Sound (cont.)

Premises

- UASC entitled to special protection (deprived of family environment)
- UASC pose specific challenges to States resources; international obligations; coordination
- Builds on recent efforts at regional and national level
- No perfect set of standards... but a lot of good practices across Europe to build upon

II. Safe & Sound (cont.)

Operationalizing the best interests principle

- A three-fold concept
 1. Substantive right
 2. Legal principle
 3. Rule of procedure (applies to action affecting children as a group and individual children)
- The greater the impact a decision will have on the child, the greater the safeguards (important decisions only *after* formal BID)

Best interests principle

Article 3.1. CRC

Actions affecting
all children or
groups of children

Measures of a general
nature that inform
and affect the best
interests process for
individual children

Legislation

Policy

Procedures

Resource allocation

Actions affecting individual children

Measures to identify the best interests of the unaccompanied child

Best interests assessments (BIA)

For all actions affecting
individual unaccompanied
and separated children as
part of a continuous process,
e.g. safe accommodation
and care, age assessments
where necessary, family
tracing, appropriate health
and educational provision

Process planning

To decide which
international protection or
immigration process is in the
best interests of the child

Best interests determination (BID)

A formal procedure to
determine a durable
solution for the individual
unaccompanied or
separated child, addressing
the child's care needs and
protection needs resulting
in a recommendation
regarding, e.g. integration,
a third-country solution or
return to a country of origin
or habitual residence in the
child's best interests

BIA safeguards

Examples:

- Provision of a representative/ guardian
- legal advice/ representation
- access to complaints mechanism
- interpreter
- child-friendly interviews to ensure a child's best interests are a primary consideration
- child participation

Additional BID safeguards

Examples:

- written reasoned recommendations
- joined file
- multidisciplinary
- independent decision-making and an appeals /review mechanism

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graph TD; A[Decisions regarding appropriate asylum/immigration procedure and other actions, including needs assessments and provision of services, in child's best interests] --> B[Application for international or other forms of protection (or single procedure)]; A --> C[No application for international protection]; B --> D[International protection granted]; B --> E[Residence granted on other grounds]; B --> F[No residence granted]; C --> F; D --> G[DURABLE SOLUTION followed up and monitored]; E --> G; F --> H[Local integration]; F --> I[Return and reintegration]; F --> J[Third country solution];
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The flowchart illustrates the asylum procedure in the UK. It begins with 'Process Planning', which leads to 'Decisions regarding appropriate asylum/immigration procedure and other actions, including needs assessments and provision of services, in child's best interests'. This decision leads to either 'Application for international or other forms of protection (or single procedure)' or 'No application for international protection'. The application path leads to three possible outcomes: 'International protection granted', 'Residence granted on other grounds', or 'No residence granted'. The 'No application' path also leads to 'No residence granted'. All three outcomes ('International protection granted', 'Residence granted on other grounds', and 'No residence granted') lead to a 'DURABLE SOLUTION followed up and monitored'. The 'No residence granted' outcome also leads to three possible outcomes: 'Local integration', 'Return and reintegration', or 'Third country solution'.

Process Planning

Decisions regarding appropriate asylum/immigration procedure and other actions, including needs assessments and provision of services, in child's best interests

Application for international or other forms of protection (or single procedure)

No application for international protection

Possible outcome

International protection granted

Residence granted on other grounds

No residence granted

DURABLE SOLUTION followed up and monitored

Local integration

Return and reintegration

Third country solution

- Facilitate the child's participation in line with age and maturity

Key features in the process of identifying a durable solution:

- Multi-disciplinary
- Holistic
- Impartial and independent
- Written, reasoned decisions, appealable where national legislation foresees this

- Assign an interpreter, representation/guardian
- Provide legal advice or representation
- Facilitate the child's participation in line with age and maturity

- Multi-disciplinary
- Holistic
- Impartial and independent
- Written, reasoned decisions, appealable where national legislation foresees this

II. Safe & Sound (cont.)

Practical challenges for policymakers and practitioners

1. UASC fall under jurisdiction of several authorities & systems
2. Need to establish mutual trust (child most relevant source of information)
3. Time dimension
4. Detention: alternatives that are non-custodial and community-based

II. Child Notices

- Child-focused Country of Origin reports
- **Albania, Guinea, Morocco, Sudan & Afghanistan**
- Collaboration UNICEF Netherlands, Belgium & Sweden
- Analysis of legislation, policies and practices & living conditions of children (education, health care, protection, conflict, juvenile justice, trafficking, etc.).

III. Refugee & migrant crisis



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III. Challenges

- Discrimination (Syrians vs. non-Syrians; UASC vs. children with their parents)
- UASC: in countries with largest numbers of children on the move, it is very difficult to apply *Safe & Sound*
 - EU Member States acting outside Dublin framework
 - In some countries no functional asylum, immigration & protection systems
 - High speed & numbers make family tracing and identification of durable solutions virtually impossible
 - UASC refuse to be registered & reluctant to share information
 - Child victims of trafficking with asylum claims not properly identified

III. Opportunities

- Engaging migrant & non-migrant children and youth in receiving communities (integration & social inclusion start now)
- UNICEF initiatives
 - ✓ Child Friendly Cities
 - ✓ Child Rights Education
 - ✓ Example: UNICEF Ireland workshop module <https://www.unicef.ie/itsaboutus/>

III. Opportunities (cont.)



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View our latest workshop on the current refugee and migrant crisis. It gives students an opportunity to discuss life as a refugee through a child's perspective.



**GLOBAL
GOALS**



**PROTECT
THE
PLANET**



**SUSTAINABLE
LIVING**

III. Opportunities (cont.)

Children on the Move

IT'S ABOUT US



Aim: To explore the lives of “people on the move”, refugees and migrants



Objectives: Young people will...

- Learn about “people on the move”, refugees, migrants, asylum seekers and displaced people.
- Explore their attitudes and build an understanding of what life is like for people forced to flee their homes.

Background Resources and Links:

[Understanding Syria: From Pre-Civil War to Post-Assad](#)- Article by The Atlantic

[Melissa Fleming: How to help refugees rebuild their world](#)- TED talk

You will need: Picture handouts and cut up question sheets

Teacher’s Note: Many people including children are talking about the refugee & migrant crisis currently unfolding in Europe. This workshop aims to give a brief introduction to children’s lives from the perspective of a refugee or migrant. It can be helpful for children to have time to discuss this over two class periods. Some of the content can be upsetting so it is important to prepare the children ahead of the lesson and give them time to discuss their feelings or views on the matter especially if there are asylum seekers or refugee children in your class.



View:



Thank you

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