



DURABLE SOLUTIONS AND THE BEST INTERESTS OF THE CHILD IN THE CONTEXT OF RETURN PROCESSES

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INTRODUCTION

In line with the UN Convention on the Rights of the Child and the EU Charter on Fundamental Rights, states are obliged to consider, as a primary consideration, the best interests of each child in every decision affecting them – including decisions on return.¹ The framework integrating the best interests of the child principle into EU policy has been strengthened (see box on page 11), together with recognition that considering the best interests of the child in the case of migrant and refugee children is crucial to finding a durable solution² for them. However, there remain critical gaps in implementing these legal and political commitments in practice for children.

This brief provides an overview of what is needed and why it is necessary. It explains key steps to implement specific procedures and return processes that respect the rights of the child. It provides a summary of key child rights concerns in current practice, drawing directly on children's experiences and includes some practical examples of how some EU member states are taking steps to improve procedures to better protect children.

KEY MESSAGES

- The precondition to any return of a child – whether the child is unaccompanied, separated or within a family - is that their best interests have been examined and return is found to be in their best interests. This requires specific procedures to be implemented in every decision-making process that could lead to the return of a child, before a return decision is issued.
- Many children in return procedures have not had proper consideration of their individual situation and best interests. They may have a right to residence in the country based on human rights law, or otherwise be able to regularise their status.
- Investing in good quality decision-making, prior to issuing return decisions, would vastly reduce the number of unenforceable return decisions.
- Robust procedures with proper procedural safeguards to ensure due process, as well as implementation through voluntary departure with appropriate and child-specific reintegration assistance, are the cornerstones of an effective and sustainable return policy.
- Finding a durable solution in the best interests of the child creates the environment for children to reach their full potential.

A BEST-INTERESTS PROCEDURE TO IDENTIFY A DURABLE SOLUTION: SIX KEY STEPS

To determine whether return to a child's country of origin³ is in a child's best interests, there needs to be individual and robust procedures which examine the best interests of the child. The United Nations Committee on the Rights of the Child has reiterated that general immigration control interests cannot take precedence over the child's human rights.

More detailed "**Guidance to respect children's rights in return policies and practices: Focus on the EU legal framework**."⁴ has been developed by United Nations agencies, intergovernmental organisations and child rights organisations.⁵ The guidance explains how the best interests of the child principle should be implemented, through a procedure to examine the best interests of the child and identify a durable solution, before issuing a return decision; possible outcomes of the procedure; and how to implement a decision when return is found to be in the best interests of the child. Some highlights are summarised below in six key steps.

1 Scope and timing

Develop and establish a procedure to determine the best interests of the child and identify a durable solution for them, whether they are within a family or they are an unaccompanied or separated child, as soon as possible after their identification in the country. This best-interests procedure should be launched whenever authorities:

- identify a child, family or parent with underage children on the territory, as irregularly present, or
- issue a final negative decision on an application for international protection or residence in the country, or withdraw or decide not to renew an existing residence permit to a child, family, or parent with underage children on the territory.

A return decision should only be issued if the procedure concludes that return is in the best interests of the child.

2 Key safeguards

In designing and carrying out the procedure, formal and specific safeguards to ensure that the best interests of children are properly examined are needed. In particular, the procedure must have the following characteristics:

- **Formal, individual** procedure examining all aspects of their situation.
- **Independent and impartial**, with child protection actors - with no conflict of interests with the protection of the child (e.g. immigration control interests that could conflict with the interests of the child) - having decision-making power.
- **Multi-disciplinary** – meaningfully involves the child's legal representative, parents, guardian, child protection actors, and others as needed.
- **Views of the child** heard and duly considered throughout the whole process.
- **Information** in a language and manner that children can understand provided, together with counselling, and support.
- **Independent, free and quality legal assistance made accessible for children** throughout the whole process.
- **Documentation** provided to the child and family members to prove they are in the procedure and to enable them to gain access to services.

- All possible durable solutions considered -settling and (further) integrating in the country of current residence, returning to and reintegrating in the country of origin, or moving to and integrating in a third country (e.g. for family reunification purposes), not contingent on existing residence and/or resettlement schemes.
- Discussion with the child, parents, legal representatives and guardian, and a detailed plan regarding the durable solution identified developed.
- Decision with reasons documented and subject to appeal with suspensive effect.

3 Information about the child's situation

In-depth information needs to be collected in order to examine the best interests of the child and the durable solution that will best support their development. The extent will depend on the complexity of the case, but proactive efforts are required. Factors include, for example:

- the child's individual needs, personal characteristics which can lead to discrimination or particular needs or risks to the child (e.g. sexual orientation and gender identities and expression, disability, belonging to a minority/ethnic group), nationality or lack of nationality, and views.
- the family situation (e.g. where caregivers are, the quality of the relationships between the child and caregivers), appropriate care arrangements. (Note: safeguards are needed before proceeding with family tracing.⁶)
- the child's level of integration in the country of residence (e.g. the length of residence, social network, their language skills, enrolment in school, vocational training, etc.)
- the environment and conditions in the country of origin, in particular in relation to physical, material, psychosocial and legal safety.⁷ This includes access to education and services, including health care, in the country of origin.

4 Voluntary departure with assistance prior to departure and for reintegration

If return is identified as in the child's best interests, the decision should be implemented through voluntary departure, with child-specific and targeted assistance, to ensure that the return is actually in the best interests of the child. Cooperation with relevant agencies in the country of return is necessary to ensure reintegration arrangements are in place, funded, and accessible without further administrative requirements.

With counselling and support, the timing and other aspects of return should be as consensual as possible, allowing families to prepare and enabling children to have uninterrupted access to education, by organising departure at the end of the school term or year. For unaccompanied children, involvement of the guardian, and formal transfer of care and custodial responsibility – to the identified appropriate care arrangements – are also crucial.

If another durable solution is identified as in the best interests of the child, this should be implemented.

5 Procedural and operational safeguards if voluntary departure does not occur

If voluntary departure does not occur as planned, procedural and operational safeguards must be followed and ensured, before deciding whether to proceed with removal, and during the operationalisation of such a decision.

The same decision-makers who were involved in the best-interests procedure should review the situation, and consider in particular: why the voluntary departure period failed, if there have been any changes to the circumstances underlying the decision that return is in the best interests of the child, and the views of the child and other actors. Depending on the child's individual situation, this may result for instance in an extended period of voluntary departure.

⑥ Essential safeguards and reintegration requirements if considering removal

Decision-makers should only consider removal as a measure of last resort when it is clearly in the best interests of the child. In such cases they need to assess and ensure that both the essential operational safeguards, and stipulated return and reintegration conditions and assistance, are available and in place and followed in order to ensure children are only returned in accordance with their best interests.

As in the case of voluntary departure, this includes immediate access to appropriate accommodation, and support for basic needs and health care including psycho-social care where needed; and following the individual care plan for the child's sustainable reintegration: support for swift school enrolment, financial and social support, targeted measures to protect the child against all forms of violence and to ensure access to justice. The removal decision must also be subject to appeal with suspensive effect.

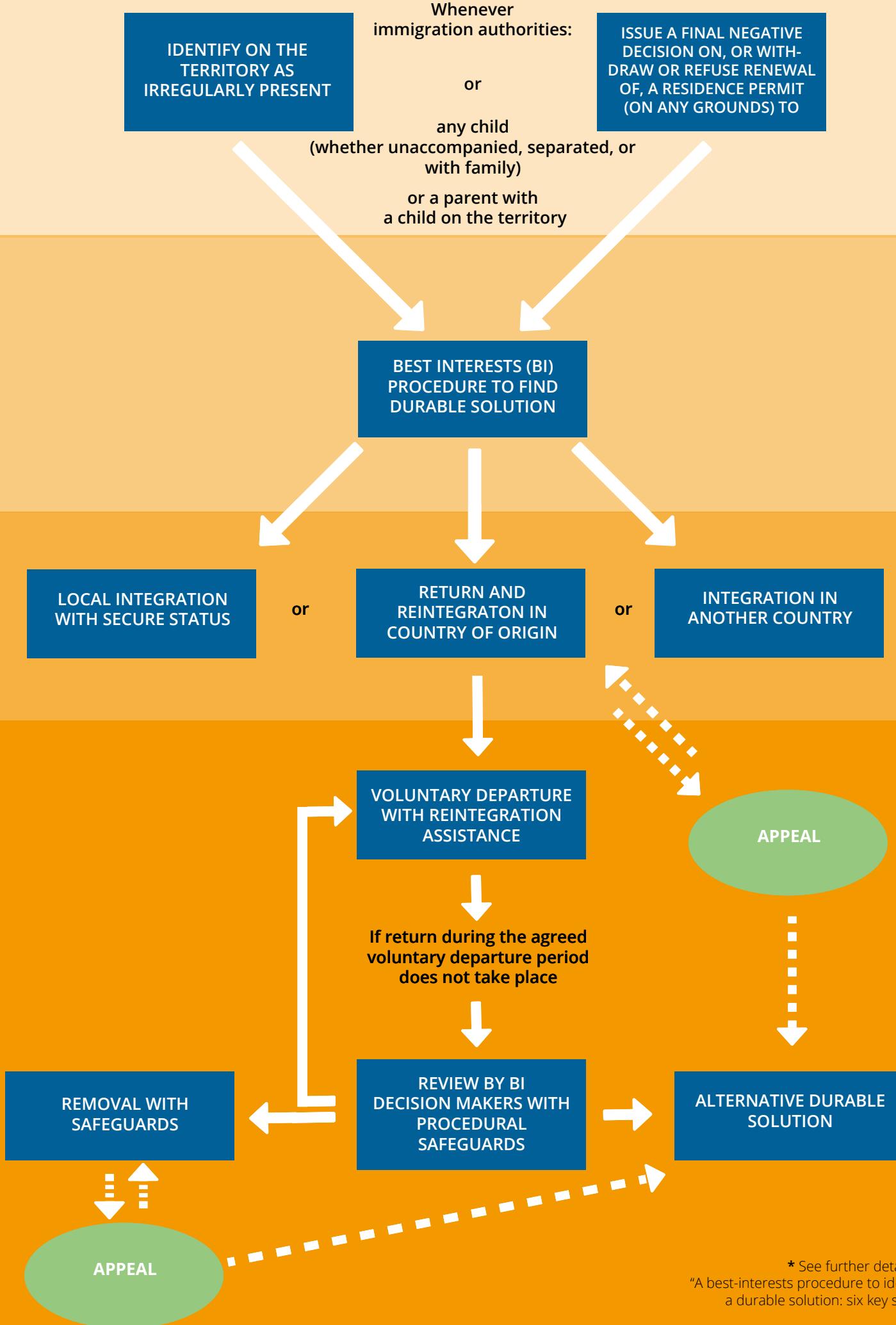
Some of the essential operational safeguards include:

- **Information and preparation**, including regarding scheduling of removals (no apprehensions in the middle of the night, carried out at a time and place that ensures the welfare and safeguarding of children, with reasoning justified in operational plans) and scheduling of removals (ensuring uninterrupted access to education, etc.);

- No immigration detention;
- No separation of children from their parent(s);
- No use of force, physical restraints or other forms of coercion;
- Escorts that are trained in child rights and protection, wearing plain clothes with unique identifiers, and include a child protection specialist;
- Independent return monitors;
- Child-specific needs during the journey catered to;
- Separate areas for children and families; and
- Effective complaints mechanisms.

At all stages of the procedure, the child and/or family should receive information in a language and manner they can understand, and have access to free quality legal assistance. They should be able to avail themselves of pathways to regular status to which they may be entitled according to national law, including international protection procedures, statelessness determination procedures, and other status determination procedures. It should also be possible for families to voluntarily return including through assisted voluntary return and reintegration programmes.

STEPS FOR THE PROCEDURE AND IMPLEMENTATION WHEN RETURN IS A DURABLE SOLUTION IN THE BEST INTERESTS OF THE CHILD



The following are crucial from the outset of the procedure:

- ✓ Anyone claiming to be a child should be treated as such (unless and until - if necessary - a multi-disciplinary and non-invasive age assessment finds them to be an adult)
- ✓ Child-friendly information.

It should always be possible - at any time during the process - for the child and/or family to apply for residence status under other mechanisms (including international protection procedures) or participate in assisted voluntary return and reintegration (AVRR) programmes.

Essential characteristics of the best interests procedure to find a durable solution:

- ✓ Aims to identify a durable solution (considering all options)
- ✓ Formal, individual procedure examining all aspects of the child's situation
- ✓ Independent and impartial - decision-makers with no conflict of interests with rights of the child
- ✓ Multi-disciplinary (child protection actors, legal representative, parents, guardian, others as needed)
- ✓ Views of the child duly heard and considered throughout
- ✓ Child-friendly information, counselling, support
- ✓ Legal assistance
- ✓ Documentation during the procedure (no enforcement actions against the child or family members) and access to services
- ✓ Whichever durable solution, discussion and development of plan
- ✓ Leads to reasoned, documented decision with right to appeal with suspensive effect.

The decision must result in the necessary steps to implement the identified durable solution for the child:

- ✓ Integration or reintegration in another country would usually be for family reunification purposes.

If return is found to be in the best interests of the child, it must be implemented through voluntary departure with reintegration assistance. Essential measures at this stage include:

- ✓ Support and counselling
- ✓ Timing and other aspects of return as consensual as possible (with plenty of time to prepare and ensuring uninterrupted access to education)
- ✓ Assistance and cooperation with relevant actors to ensure the conditions for return as a durable solution in the best interests of the child are met.*

If return during the agreed voluntary departure period does not take place - in order to proceed in the best interests of the child - the review should consider:

- Why voluntary departure period failed
- Any changes to circumstances underlying the decision that return is in best interests
- Views of the child and other actors
- Whether the essential safeguards are in place to consider removal.

If the decision-makers consider removal as a measure of last resort, they need to assess and ensure that both the essential operational safeguards, and the stipulated return and reintegration conditions and assistance, are available and in place. Some of the essential operational safeguards include:

- ✓ Information, preparation, support and assistance
- ✓ No immigration detention
- ✓ No force or physical restraints
- ✓ No family separation
- ✓ Several other measures.*

CHILD RIGHTS CONCERNS IN CURRENT PRACTICES

Direct experience and reports from UNICEF,⁸ IOM,⁹ Save the Children,¹⁰ ECRE¹¹ and PICUM,¹² among others, have documented violations of children's rights in the implementation of return policies across Europe. Recent changes to European return policy pose serious risks of increasing the prevalence of such violations.¹³

Decision-making

Procedures and practices for the issuing of return decisions or orders to leave the territory, as well as removal orders, vary across Europe.

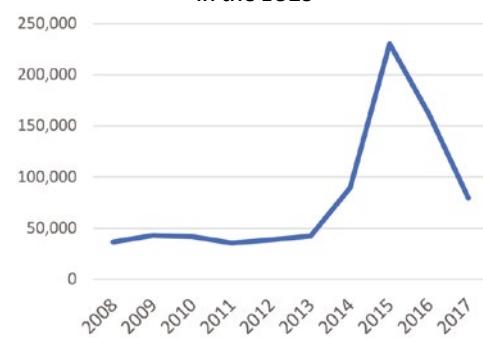
However, a near-constant feature is that a full individual assessment of the person's situation has not been carried out. A person may be refused a work permit or international protection, and this does not usually include an assessment of whether there are human rights reasons, or practical barriers, which would prevent their return to their country of origin. Nor is this assessment carried out before a return decision is issued. The person might also have other possibilities to regularise their status under existing schemes, which they could apply for.

How many children are affected?

There are no reliable estimates of the number of irregularly resident children in Europe, and extremely limited data regarding the returns of children. There is data on the number of children (persons under 18) that have been found to be irregularly present in the 28 EU member states (Eurostat).¹⁴

Member states also provide data on returns. However, this is not disaggregated, so it is not possible to know how many children have been involved in voluntary departure and removals.

Children found to be irregularly present in the EU28



This means that there are people who have a return decision, or an order to leave the territory, who have human rights grounds to remain in the country, including on the basis of the principle of non-refoulement, the prohibition of torture and inhuman and degrading treatment, and the right to private and family life, among others.¹⁵ Appeals are the only way for them to have these grounds considered, and their human rights protected. This raises significant risks of human rights violations, and places unnecessary burden on justice systems. It is also counterproductive from the perspective of return management and increases rates of unenforceable return decisions.

Children are impacted by this situation even more than adults. Children's status is usually dependent on their parents' status. Although decision-makers are obliged to consider the best interests of the child when making decisions affecting them, there is a clear lack of procedures to genuinely examine the child rights impacts of decisions on granting, refusing or withdrawing status. Further, attention to the child's individual situation, including child-specific risks, is rarely adequate in examination of claims for international protection of families.

All this creates a situation where children are not currently provided a fair procedure and rely on appeals to have their best interests properly considered. Some have the right to reside in their country of residence or would otherwise be able to regularise their status,¹⁶ but they have been issued a return decision and risk removal in violation of their rights.

There are also few opportunities for children to access status that is long-term and secure, both when they are children and at age 18.

Experiences of return

The harm that the current practices have is both clear and substantial. Even when no removal is planned, children express regular feelings of anxiety and fear of apprehension and deportation, or family separation

through the arrest and deportation of a parent or sibling. The threat and risk of removal has negative impacts on health, well-being, access to services and engagement with authorities, including care and reception arrangements for unaccompanied children.

For those that actually experience removal, it can be a traumatic event. They often involve night-time raids by uniformed personnel, minimal time for families to collect their belongings, including paperwork related to children's education and health, expose children to experience and/or witness violence involving parents or siblings, and administrative detention or long waits at collection centres and/or airports. When occurring during the school year, children's education is also interrupted.

Even a few years of residence are formative in the development of children and young people and can make a significant impact on their adaption to and integration into another country. Often the country of return is not considered by the child as their 'home', and they have been forced to move away from their homes, friends, schools and communities. Some do not speak the language of the country of return, or have never been to the country or region to which they have been sent. Some face discrimination and bullying, as well as reduced access to essential services including education and health care.

Few reintegration programmes focus on the specific social, educational or health needs of children returned and there is a lack of independent monitoring of outcomes. Agreed reintegration assistance is not always made available in practice, and there are critical gaps in providing information to children, family tracing and ensuring that families have accommodation and unaccompanied children are properly received on arrival.

These experiences during childhood can also have longer-term impacts on cognitive, psychosocial and physical development, as well as education and employment prospects.

In their own words...

At 4-5 in the morning the police came to arrest us. They broke two of my ribs. One police officer held my hands, the other kneeled on top of me and hit me. – Dren

They came at 2 at night. They knocked on the door as hard they could. I thought they would break the door. Nobody asked us if we wanted to leave. But they didn't come just that night of our deportation but many times. The migration officers confused our surnames with other families. – Edita

The memories keep coming back. I dream often about the police coming to our house to take us away. Each time I think about it, I start to cry. Then I only think about killing myself. I would love to open my head and get rid of all these memories and thoughts. But that's impossible.
– Marigona

My mother tongue is German and my home is Goppingen. I really don't understand why they brought me here.
– Sedat

Coming back to Nigeria was very traumatic, the weather was unfriendly, the environment was so strange and I can hardly sleep at night, I felt ill time without number. Thanks to my mum for always caring for me. I missed my school and friends a lot and I hope to see them one day. - Empress

Quotes taken from PICUM 'Hear Our Voices' (2016) and UNICEF 'Silent Harm' (2012)

There is little post-return monitoring, but findings from studies carried out by UNICEF¹⁷ and Save the Children¹⁸ among children repatriated to Kosovo and to Afghanistan respectively, included the following:

Children repatriated to Kosovo:

- 1 in 3 children had symptoms for post-traumatic stress disorder (PTSD), 44% of clinical depression and 26% thought about suicide.
- 1 in 3 families had re-migrated within a year due to discrimination in access to services, lack of housing or income.

Children returned to Afghanistan:

- 3 in 4 children said they did not feel safe during the return process, with more than half reporting instances of coercion or violence, including some who reported having returned voluntarily.
- Nearly half arrived in Afghanistan alone or accompanied by police.
- Only three children had received a specific reintegration plan.
- Three quarters could not rule out migrating again the following year.
- Whereas 45 of the 53 children had attended school in Europe, only 16 had since returning to Afghanistan. Three quarters cited education as their greatest need.
- Almost 1 in 5 children said someone had tried to recruit them to fight in combat, commit acts of violence or engage with an armed group after returning.

NOTEWORTHY PRACTICES

Many aspects of the best-interests procedure to identify a durable solution described are in place or being developed in some countries. Some examples of these promising policies and practices are highlighted in this section.

Recent EU policy direction on children in migration underlines the need for procedures to find durable solutions in the best interests of the child¹⁹

European Commission Communication on the protection of children in migration, April 2017:

"Durable solutions are crucial to establish normality and stability for all children in the long term. The identification of durable solutions should look at all options, such as integration in a Member State, return to the country of origin, resettlement or reunification with family members in a third country. It is essential that a thorough best interests' determination be carried out in all cases."

"Where it is in their best interests, children should be returned to their country of origin or reunited with family members in another third country. Decisions to return children to their country of origin must respect the principles of non-refoulement and the best interests of the child, should be based on a case-by-case assessment, and follow a fair and effective procedure guaranteeing their right to protection and non-discrimination."

Council Conclusions on the protection of children in migration, June 2017:

"Underline that the best interests of the child must be a primary consideration in all actions or decisions concerning children and in assessing the appropriateness of all durable solutions; resettlement, integration or return depending on their specific situation and needs".

EU Return Handbook, 27 September 2017:

The Return Handbook underlines the importance of durable solutions, and includes recommendations on how best-interests procedures should be designed and implemented, with reference to unaccompanied children. Similar emphasis is made in this guidance document from the European Commission, developed in consultation with member states and stakeholders, on the need for children to be heard, for an individual assessment to be carried out in a multi-disciplinary way, and involving the child's guardian and/or the competent child protection authority (see p. 44-45).

Some countries' legal frameworks include specific safeguards against some children being forcibly returned when not in their best interests

EU law requires the best interests of the child principle to be applied across the issuing of return decisions and implementation.²⁰ This needs to be translated into specific legal safeguards and procedures for ensuring that return is in the best interests of the child, a step some countries have taken.

Half of the EU member states²¹ plus Norway report having legal or policy provisions mandating the obligation to assess the best interests of the child before issuing a return decision for unaccompanied children.²²

In Italy, for unaccompanied children, the law²³ provides that "assisted and voluntary return" may be decided by a Juvenile Court, when family reunification in the country of origin or a third country is in the child's best interests, after listening to the child and guardian's opinion and taking into consideration the results of social assessment of the family situation in the country of origin or third country and the situation of the child in Italy. Children cannot be deported, without prejudice to their right to follow their parents if the latter are deported and except for reasons related to public order and state security.²⁴ In practice, this does mean some undocumented families are deported, but there are some legal safeguards.²⁵

Swedish Migration Agency and municipalities cooperate to provide better information to children and support to prepare for return

The Swedish Migration Agency is running a project from August 2017 to June 2020 together with some municipalities, aimed at making the return process for unaccompanied children more sustainable, through improved information, coordination and training.²⁶

Whereas almost all unaccompanied children were given permanent status in Sweden previously, an increasing number receive negative decisions or only temporary status.

The project builds coordination with the people at municipal level who are involved in the care of

unaccompanied children, including guardians. It builds a common platform of knowledge on the laws and regulations, procedures, roles, and possible outcomes, as well as what is in the best interests of the child, through training and support resources including web-based education; support material, tutorials and manuals for professionals; a digital platform and conferences.

This is to improve the information about the procedure provided to the child from an early stage, as well as encourage support and preparation for a possible return decision and to build a future in the country of origin.

UK Family Returns Process includes detailed and documented steps, each with specific safeguards for children

Following the UK government's commitment to end detention of children for immigration purposes in 2010, a new process for family returns was developed.²⁷ Families enter the process after their appeal rights have been exhausted or they indicate that they want to return voluntarily. The process does not revisit the return decision, but seeks to increase family take up of voluntary return and Assisted Voluntary Return (AVR); ensure that any enforcement action takes into account the welfare of children and the wider family; better prepare families for return and give them the opportunity to take responsibility for their return; and give families the opportunity to make further representations and seek judicial reviews before enforcement action commences.

There are three main steps of the process:

- “assisted return”, where the family is provided some support to return;
- “required return”, where the flights are booked for them and transport to the airport can be provided, but they still go as a member of the public; and
- “ensured return”, where everything is arranged and the family is escorted.

While several elements of the process and practice should be improved from a child rights perspective, and the lack of independent advice for families on AVR is a significant problem, there are aspects of the procedure that prioritise the best interests of the child, including:

- Implementation by a specialised and dedicated team of family engagement managers, working closely with enforcement officers.
- Preference for “assisted return”, with some financial assistance and support to make travel arrangements available:
 - Contact with the family’s doctor – a medical consent form is provided for each family member, on the basis of clear information on how the information will be used – to know about any health concerns and needs and support follow up.

➤ Provision of child-specific information to the parents, to help them explain the process to their child; engagement with the child if they participate in meetings with the family engagement manager.

➤ If the process continues to “ensured return”:

➤ An individual return plan is developed, which includes, for example, how the best interests of the child are being duly considered; how the welfare needs of each family member will be managed; details of each stage of return, from arrest to arrival, including timings and routes; operational considerations, including around personal effects, baggage and pets; and individual contingency plans.

➤ This plan is referred and discussed with the Independent Family Returns Panel (IFRP) together with the family’s immigration history and other relevant information (e.g. school, health or social services records). The IFRP consists of experienced professionals from a range of backgrounds, including child safeguarding experts. They make recommendations to the Home Office on how to best safeguard and promote the welfare of the children in every family returns case. No action can be taken until advice from the IFRP has been received. There is a presumption that the IFRP’s advice will be accepted, and it reports publicly on any cases where it has not been.

➤ The family is escorted from their home address if possible. However, detention of up to 72 hours²⁸ immediately before departure is still used in some cases. A recent inspection report of family detention at Tinsley House Immigration Removal Centre found that the arrest, detention and attempted removal of families from the UK was harmful to children and often ineffective, with 80% of families later released.²⁹

CONCLUSION

A number of measures are urgently needed to better protect children's rights in the context of return policy and practice. A robust and systematic best-interests procedure – as soon as possible after identification and before a return decision is issued – is critical to improve decision-making procedures, to meet child rights obligations and better use state resources.

This procedure summarized here ensures that children are only returned after a fair procedure finds it is a durable solution in their best interests. It also includes

procedural and operational safeguards and assistance, to make sure when return is found to be in the child's best interests, the decision is implemented in the most appropriate way, so return remains in their best interests in practice.

Several aspects are already in place or under development at EU policy level or in different member states, providing a solid basis for reform of policy and practice.

Endnotes

- 1 In this briefing, the following terminology is used in line with the Return Directive: **Return**: a broad term to refer to state policies and processes related to the return and removal of non-nationals, as well as when a person or family decide to return to their country of origin or habitual residence entirely of their own accord; **Voluntary departure**: compliance with an obligation to leave the territory on the basis of a return decision/removal order issued to a third country national irregularly staying on the EU territory. This is accordance with the definition in the Return Directive rather than an indication that departure in this case is entirely voluntary. In the procedure described, it always includes return and reintegration assistance, in the best interests of the child; Removal: the enforcement of an obligation to return in accordance with a return decision/removal order issued to a third country national irregularly staying on the EU territory. **The guidance reflects minimum standards. National legal frameworks with wider guarantees, including around rights to reside and non-expulsion, should be taken into account and the relevant standards should be applied on national and local level whenever they are higher than those set out in this guidance.**
- 2 Durable solutions may involve settling and (further) integrating in the country of current residence, returning to and reintegrating in the country of origin, or moving to and integrating in a third country (usually for family reunification purposes). Consequently, the identification of a durable solution should be based on a comprehensive approach, having reviewed the different possible options to identify which would best promote the best interests of the individual child.
- 3 On a case by case basis, country of origin can also mean country of habitual residence, which is generally understood as a country where the migrant has permanent residence and access to livelihood opportunities.
- 4 UNICEF, the UN Human Rights Office (OHCHR), IOM, Save the Children, PICUM, ECRE and Child Circle, [Guidance to respect children's rights in return policies and practices: Focus on the EU legal framework](#), 2019.
- 5 UNICEF, the UN Human Rights Office (OHCHR), IOM, Save the Children, PICUM, ECRE and Child Circle.
- 6 Family tracing should only be done by qualified actors following a best interests' assessment to ensure restoring contact would not be contrary to a child's best interests, and with the child's informed consent (or in certain circumstances, an individual with parental authority). Where family has been traced, to decide whether family reunification is in the child's best interests, it is necessary for child protection actors to assess, whenever possible through a family assessment, whether the family is willing and able to receive the child and provide suitable immediate and long-term care and take into consideration both the child's and the family's views on reunification.
- 7 Save the Children, [From Europe to Afghanistan, experiences of child returnees](#), 2018.
- 8 See for example: UNICEF, [Children's rights in return policy and practice in Europe - A discussion paper on the return of unaccompanied and separated children to institutional reception or family](#), 2015; Verena Knaus et. al (2012) [Silent Harm: A report assessing the situation of repatriated children's psycho-social health](#), UNICEF Kosovo & Kosovo Health Foundation.
- 9 See e.g. IOM [Addressing the Needs of Unaccompanied Minors \(UAMs\) in Greece](#), 2015 or IOM, [Egyptian Unaccompanied Migrant Children: A case study on irregular migration](#), 2016.
- 10 See e.g. Save the Children, [From Europe to Afghanistan, experiences of child returnees](#), 2018.
- 11 See e.g. ECRE and Save the Children, [Comparative Study on Practices in the Field of Return of Minors](#), December 2011.
- 12 See for example: PICUM, [Untold Stories: Immigration Detention and Deportation](#), 2017; PICUM, [Hear our voices: Undocumented Children and Young People Share their Stories](#), 2016; PICUM Position paper on EU Return Directive, April 2015.; PICUM, [Protecting undocumented children-Promising policies and practices from governments](#), 2015.
- 13 See for example "New European Union returns policies put children at risk" a joint press release from UNICEF, IOM, OHCHR, Save the Children, PICUM, the End Child Detention Campaign and IDC in response to the [European Commission Communication on more effective return policy – a renewed action plan](#), 2 March 2017 (COM(2017) 200 final) and [European Commission Recommendation on making returns more effective](#), 7 March 2017 (C(2017) 1600 final). Many of the measures contained in the Recommendation were also included in the European Commission [proposal to recast the Return Directive](#), 12 September 2018 (COM(2018) 634 final).
- 14 Eurostat, Third country nationals found to be illegally present - annual data (rounded) [migr_eipre] 01-05-2019, EU28, Less than 18 years. EU level data on migration is regulated by Regulation 862/2007 on Community statistics on migration and international protection, 11 July 2007. This regulation has recently been revised and adopted; the agreed text has not yet been published in the Official Journal.

- 15 See for instance examples from Austria, Finland, Netherlands, Portugal and Spain in OHCHR and DLA Piper, [Admission and stay based on human rights and humanitarian grounds: a mapping of national practice](#), December 2018.
- 16 PICUM, [Executive Summary of the Manual on regularisations for children, young people and families](#), 2018.
- 17 Verena Knaus et. al, [Silent Harm: A report assessing the situation of repatriated children's psycho-social health](#), UNICEF Kosovo in cooperation with Kosovo Health Foundation, March 2012. See also Verena Knaus, [No Place to Call Home: Repatriation from Germany to Kosovo as seen and experienced by Roma, Ashkali and Egyptian children](#), UNICEF Kosovo, August 2011; Zevulun, D., Post, W. J., Zijlstra, A. E., Kalverboer, M. E., & Knorth, E. J. (2017), [Migrant and asylum-seeker children returned to Kosovo and Albania: Predictive factors for social-emotional wellbeing after return](#), Journal of Ethnic and Migration Studies, 1-23.
- 18 Save the Children, [From Europe to Afghanistan, experiences of child returnees](#), 2018.
- 19 See also the EU Action Plan on unaccompanied minors (2010-2014) and the EU Anti-Trafficking Directive.
- 20 In particular: EU Charter of Fundamental Rights (Article 24), EU Return Directive (Article 5 and 10).
- 21 Austria, Belgium, Czech, Estonia, Spain, Finland, Hungary, Latvia, Lithuania, Luxembourg, the Netherlands, Slovenia, Sweden, and Poland.
- 22 European Migration Network, [Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway](#), 2018.
- 23 Law on "Protection Measures for Unaccompanied Minors" ([law n. 47/17](#)).
- 24 Italian Immigration Act ([law n.286/98](#); Article 19 comma 2 (a)).
- 25 Deportation decisions for adults can be appealed before the Justice of Peace, which is the lowest judicial authority in the Italian judicial hierarchy (Italian Immigration Act ([law n.286/98](#); Article 13). They should consider the best interests of the child. However, appeals are often refused if there has been a previous order to leave the territory that has not been followed or in case of a criminal record.
- 26 For more information, see European Migration Network, [Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway](#), 2018.
- 27 For more information, see Home Office, Removals, Enforcement and detention General Instructions: [Family returns process \(FRP\) Version 4.0](#).
- 28 This can be extended up to a maximum of 7 days with ministerial authorization.
- 29 HM Chief Inspector of Prisons, [Report on an unannounced inspection of Family detention, Tinsley House Immigration Removal Centre](#), April 2018.

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