

Towards a Child Rights-based Assessment Tool to Evaluate National Responses to Migrant and Refugee Children

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Office of Research - Innocenti Discussion Paper
DP 2018-04 | December 2018

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The Office of Research – Innocenti receives financial support from the Government of Italy, while funding for specific projects is also provided by other governments, international institutions and private sources, including UNICEF National Committees.

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For readers wishing to cite this document, we suggest the following form: Byrne K., *Towards a Child Rights-based Assessment Tool to Evaluate National Responses to Migrant and Refugee Children* Innocenti Discussion Paper 2018-04, UNICEF Office of Research - Innocenti, Florence.

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A SHIFTING PARADIGM

The exponential rise in the number of children seeking asylum in Europe in 2015 clearly caught European child rights actors and agencies by surprise and exposed significant flaws in the national child protection systems of some of the world's most advanced economies.¹ Faced with the challenges presented by the arrival of such a huge number of vulnerable children, new relationships between migration, asylum and child protection actors evolved rapidly, if somewhat sporadically, at the local, national and European level. Child protection agencies have, by and large, left their migration counterparts to lead the protection responses to migrant and refugee children while offering training, guidance, support and access to services. Migration agencies have in turn adopted child rights concepts and incorporated them into their practice. The nature of the partnership is still evolving, but a new discourse has developed that puts child rights at the core of migration and asylum policy and practice. In April 2017, for instance, The European Commission introduced a policy to guide European Union (EU) Member States in addressing the rights and needs of all children on the move, which links migration, asylum and child protection and shifts the focus from unaccompanied and separated children (UASC) to cover children migrating on their own and with their families.²

GUIDANCE, GUIDELINES AND GOOD PRACTICE

One concrete outcome of this evolving discourse is the development of a multitude of guidance, guidelines and good practice models aimed at facilitating a child rights-based approach to the protection of migrant and refugee children. A literature review undertaken by the author in June 2017 covered almost 40 documents published since 2000 to offer guidance on various aspects of work with migrant and refugee children. The EU has issued guidance to Member States on several child migration topics, and at least 20 discrete publications,³ from a range of agencies, have been published to outline, identify and/or promote good practice with migrant and refugee children since the United Nations High Commissioner for Refugees (UNHCR) and UNICEF released *Safe and Sound* in 2014.⁴ The Council of Europe alone published four good practice guides in 2017, but many other agencies have also produced guidance in relation to migrant and refugee children.⁵ For instance, UNHCR, together with UNICEF and the International Rescue Committee, published *The Way Forward to Strengthened Policies and Practices for Unaccompanied and Separated Children in Europe* in July 2017, to supplement and to some extent update *Safe and Sound*.⁶

1 United Nations Children's Fund, *Uprooted. The Growing Crisis for Refugee and Migrant Children*, UNICEF, New York, 2016.

2 European Commission, Communication from the Commission to the European Parliament and the Council, The protection of children in migration, Brussels, 12 April 2017.

3 This represents only the sample known to the author. The figure is probably far higher and no disrespect is intended to any agency, author or publication not considered in this paper. See Annex 1 for a full list of the publications considered.

4 United Nations High Commissioner for Refugees and United Nations Children's Fund, *Safe and Sound. What States can do to ensure respect for the best interests of unaccompanied and separated children in Europe*, UNHCR/UNICEF, 2014.

5 Congress of Local and Regional Authorities, 'From reception to integration: the role of local and regional authorities facing migration', Session report, Council of Europe, Strasbourg, 28 March 2017; Costello, C., et al., 'Realising the right to family reunification of refugees in Europe', Issue paper, Council of Europe Commissioner for Human Rights, Strasbourg, 2017; Lanzarote Committee, *Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse*, Special report, Adopted by the Lanzarote Committee on 3 March 2017, Council of Europe, Strasbourg, 2017; Wenke, D., *Age Assessment: Council of Europe member states' policies, procedures and practices respectful of children's rights in the context of migration*, Council of Europe, Strasbourg, September 2017.

6 United Nations High Commissioner for Refugees, *The Way Forward to Strengthened Policies and Practices for Unaccompanied and Separated Children in Europe*, UNHCR/United Nations Children's Fund/International Rescue Committee, 2017.

Although these many publications do not share a consistent format and are often aimed at different audiences, together they constitute a body of good practice related to children on the move. They include research studies, mapping exercises and case studies as well as specific guidance or guidelines. Some focus on policy, some on practice. Others simply explore child rights principles as they relate to migration, or describe models of good practice. Most focus on a specific aspect of the asylum process, like age assessment, or a particular category of migrant child. Unaccompanied and separated minors seem to be disproportionately represented in terms of guidelines and good practice models compared to other groups of disadvantaged migrant children. Although the majority of the documents promote a child rights-based approach, children's voices are noticeably absent – *The Way Forward* is a notable exception,⁷ as is the European Union Agency for Fundamental Rights study, *Separated, asylum-seeking children in European Union Member States*.⁸ Also, gender analysis is typically not emphasized, despite the recommendation in the Inter-Agency Standing Committee guidance issued in 2015,⁹ and strong cases made at the European level for more gender-sensitive responses to migration issues.¹⁰

All of these publications have helped to shift the focus of national responses from migration to child rights – by identifying the potential risks to children, by establishing the validity of the United Nations Convention on the Rights of the Child as the ultimate standard of practice, and by providing clear frameworks of good practice for hard-pressed practitioners in the field. Many of the documents have focused attention on areas of concern that were not previously mainstreamed in child protection thinking. For instance, the Access Info Europe/Global Detention Project 2015 study and Missing Children Europe's 2016 *SUMMIT Report* not only raised awareness of the extent of rights violations amongst Europe's young migrant population, but also outlined models of response.¹¹ The disparate subject matter and intended audiences of the various guidance documents inevitably give the appearance of a certain degree of disconnect between them. Taken together, however, they have contributed significantly to bridging the gap between migration and child rights actors that existed prior to 2015. Although there is still a need to map through a child lens areas of terra incognita that remain in the vast and complex terrain of migration policy and practice, the body of available guidelines has provided a working outline for child rights actors and identified numerous pathways to better practice, both of which can bring about real benefits for children.

7 Ibid.

8 European Union Agency for Fundamental Rights, *Separated, asylum-seeking children in European Union Member States, Comparative Report*, Publications Office of the European Union, Luxembourg, 2011.

9 Inter-Agency Standing Committee, *Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action. Reducing risk, promoting resilience and aiding recovery*, IASC, Geneva, 2015.

10 See, for instance: Shreeves, R., 'Gender aspects of migration and asylum in the EU: An overview', Briefing paper, European Parliamentary Research Service, March 2016; Fry, H., 'A Gender Sensitive Response to the Migrant and Refugee Influx in Europe is Needed', Gender Balance Report, Organization for Security and Co-operation in Europe Parliamentary Assembly, June 2016.

11 Access Info Europe and Global Detention Project, *The Uncounted: The Detention of Migrants and Asylum Seekers in Europe*, AIE/GDP, 2015; Shalev Greene, K., and F. Toscano, *SUMMIT Report: Best practices and key challenges on interagency cooperation to safeguard unaccompanied children from going missing*, Missing Children Europe, 2016.

MOVING FROM SUPPORT TO OVERSIGHT

What is needed now, is for all of these disparate guidance documents to be pulled together into a single, unified conceptual framework that can facilitate good governance, accountability and transparency in national responses, and ensure a full-on, child rights-based approach to the protection of migrant and refugee children at all levels. Inevitably, the public and professional priority in the first two years since the arrival of so many child migrants in 2015 has been to operationalize an adequate and sufficient response to meet the children's immediate needs. Child protection actors and agencies have been a key element of that response – but just one element of it. As the reality sinks in that this is not a short-term crisis, and that tens of thousands of children face months – possibly years – of in-country waiting for an asylum decision, there will be an even greater demand for child protection agencies to take the lead in developing responses in line with their statutory responsibilities for care and protection of vulnerable children.¹² This will require child protection agencies and their professional staff to take on stronger programme design, oversight and monitoring roles than they have typically adopted to date. This in turn calls for a coherent framework of child rights-based standards, principles and indicators, to enable monitoring and evaluation across the full scope of national migration, asylum, health, education and social protection systems. It is hoped that the current patchwork of standards set by the existing guidance documents can provide the core of such a framework.

Although many of the existing publications were not designed primarily to guide monitoring or evaluation, they have established standards in certain practice areas, although this has been patchy – some areas are covered extensively, others not at all. Inevitably, a lot of the guidance deals with asylum processes, a topic that would have been unfamiliar to most child protection professionals prior to 2015. Far less consideration has been given to migrant children's access to health, education, housing or social benefits. Even within the asylum system, some components, such as age assessment, have received detailed attention, while other equally vital stages have been covered only in general guidance – for example, in relation to applying the best interests principle – if at all. This is not an attempt to rank the value of particular guidance or guidelines, but simply to point out the need to link existing guidelines, and extend their reach, to ensure that good practice is applied coherently and consistently at every stage of what can be a lengthy, complex and distressing process for a child.

Many of the guidelines, particularly the earlier ones, relate only to unaccompanied minors and their recommendations need to be extrapolated to all migrant children. Guidelines generally reflect discourses and perspectives at the time of their publication, but it has taken too long to move beyond *Safe and Sound's* focus on UASC and acknowledge that a child rights-based approach has to promote and protect the rights of all migrant children – accompanied and unaccompanied. A child rights-based approach also has to acknowledge the importance of process as well as substance, and ensure that principles like child participation and gender sensitivity are reflected in monitoring and evaluation mechanisms and in programme implementation. This again points to the value of cross-referencing the various guidance documents.

12 The average processing time for a UASC asylum application in Sweden in 2017 was 578 days, and statistics from the Swedish Migration Agency and Norway indicate that the time taken to process a UASC asylum application is in fact longer than for an adult asylum application. This is according to respondents quoted in: Byrne, K., and C. Hansen, *Protected on Paper? An analysis of Nordic country responses to asylum-seeking children*, UNICEF Office of Research - Innocenti, Florence, March 2018 (hereafter referred to as the Nordic study). Available at: <www.unicef-irc.org/publications/940-protected-on-paper-an-analysis-of-nordic-country-responses-to-asylum-seeking-children.html>, accessed 12 July 2018. The average processing of an asylum application (whole population) in Sweden is 496 days. 'Asylum Decisions, First Time Applications, Swedish Migration Agency, 2017.' Stockholm, 2018. Migrationsverket, 'Statistics', last updated 29 January 2018, <www.migrationsverket.se/English/About-the-Migration-Agency/Facts-and-statistics-/Statistics.html>, accessed 3 February 2018. In Norway, the average processing time (whole population) was circa 420 days before 2015. See: Weiss, Nerina, et al., *Opphold i asylmottak: Konsekvenser for levekår og integrering* Fafo report 2017:07. Fafo, 2017, pp. 33–35

Cross-referencing – and extending and expanding – the guidance documents will also help to ensure the consistent and coordinated application of good practice in law, policy and practice. It is generally acknowledged in other child-related fields that all three elements must be aligned to achieve maximum protection of child rights. Experience to date seems to indicate that the same is true in relation to children on the move. Practice in many countries does not meet the good practice standards guaranteed under national law; in other countries, good practice on the ground appears to have no basis in law or policy and relies solely on the goodwill of local authorities and/or professionals. Neither situation truly represents a child rights-based approach.

Guidance documents must also be expanded to ensure that they can be applied across all of the various levels of organizational response. As most guidelines aim to improve practice in the field, they have tended to prioritize practice at the operational level while (usually) acknowledging the need for greater alignment with child rights principles at strategic and governance levels. Time and resource constraints have undoubtedly restricted the development of guidelines aimed specifically at senior management and decision makers, although the Council of Europe has published guidelines aimed at local and regional decision makers.¹³ The Council also produced a further publication in 2018 to assist local decision makers with a limited background in child rights to translate the child rights-based approach into practical action for migrant children at the local level.¹⁴

Finally, existing guidelines need to be reviewed, and future guidelines developed, within an agreed and overarching child rights framework. This should be built upon the Convention on the Rights of the Child definition of a child rights approach:

A child rights approach is one which furthers the realization of the rights of all children as set out in the Convention by developing the capacity of duty bearers to meet their obligations to respect, protect and fulfil rights (art. 4) and the capacity of rights holders to claim their rights, guided at all times by the rights to non-discrimination (art. 2), consideration of the best interests of the child (art. 3, para. 1), life, survival and development (art. 6), and respect for the views of the child (art. 12). Children also have the right to be directed and guided in the exercise of their rights by caregivers, parents and community members, in line with children's evolving capacities (art. 5). This child rights approach is holistic and places emphasis on supporting the strengths and resources of the child him/herself and all social systems of which the child is a part: family, school, community, institutions, religious and cultural systems.¹⁵

¹³ 'From reception to integration'.

¹⁴ Council of Europe, 'Refugee children and minors in Europe: the role and responsibilities of local authorities', Session report, Adopted by the Current Affairs Committee of the Congress of Local and Regional Authorities on 18 October 2017, Strasbourg, 2017.

¹⁵ United Nations Committee on the Rights of the Child, General comment No.13: The right of the child to freedom from all forms of violence, 18 April 2011, CRC/C/GC/13, para. 59.

DEVELOPING AN ANALYTICAL FRAMEWORK

While all of the guidelines reviewed took an overtly child rights-based approach, there were clearly different interpretations, emphases and levels of commitment to the concept, which were sometimes attributable to national or professional contexts. To establish any kind of useful evaluative framework, it must be explicitly underpinned by an agreed understanding of the approach that is acceptable to the major stakeholders, from which should flow a set of agreed minimum standards that are adaptable to local contexts but clearly linked to international standards.

The analytical framework adopted by the Social Affairs Committee of the Council of Europe in October 2017 could serve as a starting point.¹⁶ This framework is particularly appropriate as it is aimed at neither migration professionals nor child rights experts, but rather at the officers and agents of local and regional authorities across Europe who have limited knowledge or understanding of migration or child rights law. Many such individuals have found themselves suddenly faced with enormous responsibility for the protection and support of newly arrived families, often with only limited resources available to them.

The framework aims to help define the parameters of the policies, strategies, actions and activities that must be developed at the local level to meet a municipality's responsibilities to migrant and refugee children (accompanied or unaccompanied). It is not presented as a set of minimum standards, but rather as a child rights-oriented framework for the design, development and implementation of law, policies, practice and services. It is intended to support and assist local managers and practitioners to achieve good practice by moving towards an explicit child rights-based approach when designing, managing or implementing policies, strategies or programmes for migrant children in their care. The basic premise of the framework is that the child rights orientation of any policy, strategy or programme can be judged in terms of how it translates into practice on the ground the four principles underlying the Convention on the Rights of the Child (non-discrimination; best interests of the child; life, survival and development; and child participation). This can be assessed on the basis of how far the policy, strategy or programme is:

- (i) **Child-centred:** The recommendation of the United Nations Committee on the Rights of the Child that "a child is first and foremost a child, whatever the condition he or she may find himself or herself in" stipulates that the best interests of the individual child should always be the primary factor influencing legislative, policy and service responses to migrant and refugee children.¹⁷ This is central to the difference between the child rights approach and a migration approach, which assigns entitlement by legal status and can thus be subject to rapid change as the child passes through the asylum system. This recommendation therefore needs to be at the heart of best interests assessments such as Best Interests Determinations.

But the best interests principle also means recognizing the heterogeneous nature of migrant and refugee flows. Newly arrived children in Europe come from different ethnic,

¹⁶ Developed by the author as a contribution to 'Refugee children and minors in Europe', adopted by the Current Affairs Committee of the Congress of Local and Regional Authorities on 18 October 2017. The final document was released in 2018: Council of Europe, 'Unaccompanied refugee children: the role and responsibilities of local authorities', Session report, Adopted on 28 March 2018, Strasbourg, 2018, available at: <<https://rm.coe.int/unaccompanied-refugee-children-current-affairs-committee-rapporteur-na/1680791c99>>, accessed 15 July 2018.

¹⁷ As outlined in: Committee on the Rights of the Child, 'Report of the 2012 Day of General Discussion on the Rights of All Children in the Context of International Migration', Background paper, Geneva, 2012.

- religious, cultural, social and economic backgrounds, and will vary in terms of age, gender, capacity, language, educational achievement, health and all of the other variables that distinguish one child from another. Their entitlements are the same and they may share common needs, but programme responses must be flexible enough to respond appropriately to every child. One size will definitely not fit all when it comes to migrant children, and responses that rely on arbitrarily grouping children by age, gender or legal status are unlikely to achieve international quality standards.
- (ii) **Equitable:** The non-discrimination principle stipulates that all children in country should enjoy full access to their rights, irrespective of the child's (or parent's) race; colour; sex; language; religion; political or other opinion; national, ethnic or social origin; property; disability; birth or other status. Authorities should therefore try to provide the same access to entitlements and services for migrant and refugee children as is enjoyed by nationals, and strive to reduce barriers that restrict equal access, e.g. language, location. This may not be possible in the immediate aftermath of an influx of new families or unaccompanied minors, but every programme response should aim for this ideal. Equivalence or distance from parity with local children is an essential evaluation criterion in any measurement of the quality of responses in relation to migrant and refugee children.
- (iii) **Inclusive:** 'Integration' in the context of migration tends to be viewed as possible only after the achievement of a long-term residential status. It should not be confused with 'inclusion', which should apply to every child as part of the child rights-based approach. In line with the non-discrimination, best interests, right to life and child participation principles, national and local authorities should adopt an inclusive approach towards all children for the duration of their stay in country, regardless of their legal status. In practice, this should mean that national and local responses aim to facilitate rapid referral to, and acceptance by, mainstream health, education and family support services, rather than create or support parallel systems, structures or services that segregate migrant and refugee children.
- (iv) **Participative:** Involving children as far as possible in decision-making at the individual, family, organization and policy level is not only key to realizing their rights, but also enables more effective and efficient action. Child participation involves providing mechanisms to allow children and young people to make their opinions heard and, more importantly, ensuring that due weight is given to their opinions when making decisions that affect them.

MOVING FROM UNDERPINNING PRINCIPLES TO PRACTICAL INDICATORS

While the analytical framework provides a supporting structure to help shape programme design and evaluation, it was never designed as an evaluation tool. The literature review, covering some 40 titles, that underpinned the development of the framework, did uncover evaluation models of varying quality and relevance, as well as implicit indicators in many areas. Originally, these were grouped under nine domains: asylum; education; health; housing; social protection; child protection; access to justice; child participation; and gender. As the review progressed, however, housing and social protection were dropped owing to a lack of material; access to justice was incorporated into child protection; and child participation and gender were recognized as cross-cutting themes. It was also recognized that guidelines generally omit assessment of the general operating environment, even though this is a key factor in terms of how law and policy are interpreted and how practice is actually implemented on the ground.

A new domain was therefore added and an evaluation matrix was devised based on the finalized five domains: general context; asylum processes; education; health; and child protection. This basic framework drew on indicators that had been taken from the literature review and subsequently adapted into sets of questions assigned to the different domains. Although the individual questions do not enable quantitative measurement in a domain or sub-domain, responses to clusters of questions can indicate to what extent a specific activity or service adopts a child-centred, equitable, inclusive and participative approach. Taken together, as a matrix, they enable a child rights-based evaluation of both the social, institutional, organizational and policy frameworks that determine asylum-seeking children's protective environment, and of practice at strategic and operational levels.

Box 1. Assessment domains and sub-domains

General context	Asylum processes and procedures	Education	Health	Child protection
Leadership/ownership	Arrival and registration	General context	General context	Guardianship
Governance	Age assessment	Early childhood education	Emergency health care	Family contact/tracing
Access to justice	Asylum application processes	Basic education	Family contact and reunification	Trafficking
Child participation	Reception	Support services	Mother and child health	Children missing from the asylum system
Best interests of the child	Integration	Secondary/vocational education and training	Adolescent health care	Children in detention
	Returns	Accreditation	HIV	
			Mental health	
			Sexual and reproductive health	

CONCLUSION AND RECOMMENDATIONS

Participation in a review of law, policy and practice relating to asylum-seeking children in the Nordic States between August and December 2017 provided an opportunity to refine the analytical framework and expand the indicator baseline to facilitate deeper analysis of the rights orientation of individual activities as well as the wider framework of national responses.¹⁸ Migration experts working on the Nordic study were able to review the framework, and feedback was also invited from the UNICEF National Committees in Denmark, Finland, Iceland, Norway and Sweden.

Having been adapted for use as a questionnaire in the Nordic countries, the analytical framework satisfactorily demonstrated the relevance of its assessment criteria and the value of evaluating national responses to refugee and migrant children within a coherent, comprehensive and child-focused framework, rather than through individual examination of its discrete elements. The questionnaire proved too long for direct use as a single interview schedule, however. At present, the framework comprises more than 250 questions spread across 5 domains, which in turn collectively encompass 30 sub-domains. Including housing and social protection, two important domains that are currently omitted, would add considerably more questions. Feedback from the National Committees in particular led to a culling of some indicators and the rearrangement and retrenchment of the sub-domains to provide a tighter framework for use in the field. The need for a stronger practical field focus also led to a review of the indicators through the lens of the United Nations Committee on Economic, Social and Cultural Rights' criteria of availability, accessibility, acceptability and quality.¹⁹

Piloting during the Nordic study fieldwork does, however, seem to indicate that the framework works best as an assessment framework that can be adapted to local contexts and circumstances but still stitches together a number of individual evaluation processes. It can thus provide a comprehensive but detailed assessment of the entire national response as it affects vulnerable children. The child rights-based approach could also be strengthened further by extending the child participation and gender sensitivity elements and by directly linking the evaluation domains with the Convention on the Rights of the Child and its associated protocols, general comments and so on. The process and format that Defence for Children International used to develop guidelines for monitoring the situation of children in detention offers a highly recommended model to follow.²⁰ Explicit alignment with the Convention might also enable the framework's more rapid expansion and adjustment in line with general comments and concluding observations, e.g. the November 2017 joint comments from the Committee on the Rights of the Child and the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families.²¹ These recent comments raise questions (not yet addressed)

18 *Protected on Paper?* Op cit

19 Committee on Economic, Social and Cultural Rights, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant), 11 August 2000, E/C.12/2000/4, quoted in Spencer, S., and V. Hughes, *Outside and In: Legal Entitlements to Health Care and Education for Migrants with Irregular Status in Europe*, Centre on Migration Policy and Society, University of Oxford, Oxford, July 2015.

20 Grandfils, S. et al., *Practical Guide: Monitoring places where children are deprived of liberty*, Defence for Children International (Belgium), Brussels, 2016.

21 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child, Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration, CMW/C/GC/3-CRC/C/GC/22, 16 November 2017, available at <www.refworld.org/docid/5a1293a24.html>, accessed 15 July 2018; Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child, Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, CMW/C/GC/4-CRC/C/GC/23, 16 November 2017, available at <www.refworld.org/docid/5a12942a2b.html>, accessed 15 July 2018.

around monitoring States parties' efforts to ensure that detention is used only as a measure of last resort, and then for the shortest possible period, in light of the Committees' stipulation that immigration detention is never justified for children.

The potential for contested interpretations of the framework's criteria illustrates the need for wider consultation on the framework's format and status. The absence of any indicators related to housing and social protection has already been noted, but it must also be acknowledged that the indicators chosen are by no means agreed, and the terminology, indicators, domains and format all might well be disputed. There has been no formal process of inter-agency consultation or indeed any significant consultation on the framework within UNICEF or with any other agency at all. The framework presented here is not intended as the final version, however, and it is hoped that this paper will serve as a starting point for inter-agency discussion and consultation – rather than as a blueprint. An evaluation tool that enables the assessment of every aspect of the migrant child's experience is essential to ensure a genuine and holistic child rights-based approach by every agency at all times, and to prevent the kind of 'quality lottery' that migrant and refugee children endure at present in most countries. The need for the consistent application of an agreed inter-agency analytical framework to underpin monitoring and evaluation will become clearer as national child protection agencies assume a stronger leadership and oversight role in national migration responses. We hope this paper will facilitate the development of such a framework sooner rather than later.

ANNEX 1. REFERENCES

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ANNEX 2.1. INDICATOR CHECKLIST: GENERAL CONTEXT

a. Ownership/leadership

1. Who has primary responsibility for the child in country – child services/asylum service/both/other?
2. Who is the (perceived) lead agency in relation to child asylum seekers?
3. Does responsibility for the child transfer from central to local authorities? If so, does it transfer from one sector to another at the same time?
4. Are there legal distinctions between categories of children based on age, gender and legal status?
5. Does the constitution or national law clearly and explicitly assign precedence to the Convention on the Rights of the Child?
6. Are migrant and asylum-seeking children explicitly prioritized in all relevant national sectoral strategies and local action plans?

b. Governance and oversight

1. Is there an overall multi-sectoral board accountable to parliament or government for asylum-seeking children?
2. What mechanisms/structures/systems/procedures are in place to ensure multi-sectoral cooperation at the national, local and district level?
3. Are all bodies, agencies, facilities and personnel dealing with asylum-seeking children subject to oversight by a children's ombudsperson and/or other international human rights mechanisms?
4. Are all facilities and services dealing with asylum-seeking children open to public scrutiny and accountability? Do they produce regular reports and accounts?
5. Are all institutions, bodies, facilities, staff and personnel working with asylum-seeking children subject to oversight and quality control by the national and local child protection and/or child welfare body?
6. Are all data related to asylum-seeking children available under national freedom of information acts and policies?
7. Is there a specific non-governmental organization or civil society organization dedicated to advocating for children in asylum?

c. Access to justice

1. Are all asylum-seeking children provided with information on their rights and entitlements, and how to access them, in a child-friendly, gender-sensitive and culturally appropriate way?
2. Are children automatically assigned a legal representative? By whom? When?
3. Are children entitled to legal advice and support free of charge at all stages of the asylum process?

4. What processes and decisions are subject to judicial review, sanction or appeal? Are children allowed to initiate a court review or appeal, and are they provided with the necessary support and assistance to do so?
5. Are guardians/representatives independent of the asylum service?
6. Are there clear and explicit protocols around confidentiality, and are they made clear to children?
7. Can children initiate legal action, appeal or review independently of their appointed guardian or representative? Will they receive legal assistance to do so?
8. Do all asylum processes, services and facilities have child-friendly complaint mechanisms?

d. Child participation

1. Does the child have the right to be heard at every stage of the asylum process? What mechanisms are available to support them to speak and to ensure that they are heard? Are there different mechanisms depending on the child's age, maturity and capacity?
2. Can children speak independently or must they speak through their guardian/representative? What happens when the child and her or his guardian/representative are not in agreement?
3. Are children consulted in relation to any and all best interests assessments (BIAs) and Best Interests Determinations (BIDs)?
4. Do children and all relevant agencies have access to interpreters trained in communicating with children?
5. What weight is assigned to children's views, opinions and expressed preferences in decision-making? What criteria are used to assess the child's potential level of understanding and capacity?
6. Are all assessments and decisions about the child documented and shared with the child and her or his carer/guardian/representative?

e. Best interests of the child

1. Does national law mandate that the best interests of the child should be the determining factor in all decisions relating to a child?
2. Are there agreed national formats for BIAs and BIDs?
3. Are these formats in line with the recommendation of the Committee on the Rights of the Child General Comment No. 14 (2013) – i.e., are the child's best interests examined and determined in each *individual case* in light of the *specific circumstances* of each child or each group of children, and related to the *individual characteristics* of the child or group of children concerned, including the *social and cultural context* in which the child or group of children find themselves?
4. Are all BIAs and BIDs multi-sectoral? What mechanisms are in place to ensure a multi-sectoral assessment?
5. How are children supported to feed into BIAs and BIDs?
6. Are BIAs or BIDs mandatory at key points in the asylum process? What are these key points?

7. Are the following elements always considered in BIAs: the child's views; the child's characteristics; preservation of the family environment and the child's relationships; care, protection and safety of the child; the child's vulnerability; the child's right to be heard; and the child's right to education?
8. Are there staff who are available and trained to undertake BIAs and BIDs?

ANNEX 2.2. INDICATOR CHECKLIST: ASYLUM PROCESSES

a. Arrival and registration

1. Have the police and border guards received training in how to approach and identify unaccompanied and separated children (UASC) and how to communicate with children?
2. Is a child protection actor/body present at the first point of contact?
3. Is an interpreter/cultural mediator always present at the first point of contact?
4. Is child-friendly material on the country, the asylum process and the child's rights available at the first point of contact?
5. Do governmental or non-governmental organizations (NGOs) make outreach screening teams available to police/border guards as soon as potential UASC are identified?
6. Are clear protocols and procedures in place to identify and refer UASC to child protection services?
7. Is there a discrete child-friendly path to registration for UASC that keeps the child separate from adults and facilitates rapid referral to child protection services?
8. How long does it take to refer a child to child protection services?
9. When is a guardian appointed?
10. When is a legal representative appointed?
11. Who appoints and employs guardians/legal representatives?
12. When is a best interests assessment undertaken? Who conducts it?
13. Is there a local NGO or independent body that monitors the treatment of UASC?
14. Are all UASC registered individually in a national/regional/European database?
15. If so, what details are recorded? Do these details facilitate family reunification/tracking in case of disappearance?

b. Age assessment

1. Are age assessment procedures and standards harmonized across countries?
2. Is age assessment conducted only where there is reasonable doubt about a young person's age?

3. Where there is reasonable doubt at the point of arrival, is a preliminary age assessment conducted immediately by a child protection actor through a cultural mediator, using the statements of, and documentation presented by, the young person?
4. If a second age assessment is required, does it use a holistic and multidisciplinary (medical, social, cultural, psychological) methodology?
5. Are age assessment procedures child-sensitive, rights-based and carried out with due diligence?
6. Do the procedures promote the best interests of the child and contribute care and support for the young person's development and her/his transition into independent life, regardless of whether the individual remains in the country of arrival, is transferred or resettled, or returned to her/his country of origin?
7. Do the procedures and outcomes safeguard the human rights of the young person irrespective of rigid age limits?
8. What medical procedures are used?
9. Is age assessment undertaken only as part of a Best Interests Determination (BID)?
10. Are age assessment procedures integrated into social welfare and child protection systems that ensure the human rights of children, adolescents and young people young adults?
11. Are age assessment procedures separate from the asylum process?
12. Is the child's permission required for age assessment or for any and all procedures within it?
13. Is a guardian's permission required? Can a guardian override the child's decision in relation to age assessment?
14. Is the child entitled to refuse age assessment or an age assessment procedure? Is she or he made aware of her or his right to refuse?
15. What inference can be drawn from a refusal to cooperate with age assessment? Can a refusal affect the child's asylum application?
16. Are the decision to conduct age assessment and the results of age assessment subject to judicial review or appeal? Are free legal advice and support available to allow the child to bring such a review or appeal to court?
17. Do those who are assessed to be young adults benefit from support and aftercare services according to their individual needs and specific vulnerabilities?
18. How is the child escorted to and from the age assessment and where does it takes place?
19. Is age assessment conducted only by trained and experienced professionals?
20. Is an interpreter, cultural mediator or guardian always present during age assessment?
21. Has there been a recent review of age assessment procedures, involving feedback from children? Have children's recommendations been acted on?

c. Asylum application

1. When can a child apply for asylum – at registration/within 24 hours/later?
2. Is a guardian and/or legal representative appointed to assist an unaccompanied or otherwise vulnerable child with her or his application? By whom?

3. Is legal advice and/or support available to the child at every stage of her or his asylum application?
4. Do children receive priority processing over adult asylum applicants?
5. Is a guardian/legal representative/interpreter available to the child at every interview?
6. Are asylum staff trained in interviewing/communicating with children?
7. Is every child entitled to be heard in every interview or hearing separate from her or his parent/guardian/legal representative? How is this achieved?
8. What weight is given to the child's opinions and wishes? What criteria are used to measure her or his capacity and maturity?
9. Does the asylum process recognize child-specific forms of persecution?
10. How much weight is given to the child's needs when making asylum decisions about families?
11. Are all decisions related to the child's asylum application documented and shared with the child and/or her or his guardian/legal representative?
12. Is the child entitled to judicial review of asylum decisions and/or the asylum application process?

d. Reception

1. Who has responsibility for the provision of reception facilities? Who manages/runs reception centres?
2. Are reception centres subject to independent oversight, public scrutiny and accountability? Are there unannounced inspections? Do centres produce annual reports?
3. Are complaints mechanisms accessible to the child, independent of her or his guardian and/or legal representative? Do children have access to external complaints mechanisms, ombudspersons, courts and/or independent legal advice and support?
4. Who is eligible for placement in a reception centre? What are the conditions for staying there? Are minimum/maximum time limits observed?
5. Are there defined standards for reception facilities? Who defined them? Are they defined at the national, regional or local level? Are standards defined in law, policy, regulations or a contract?
6. What criteria define the standards? Are these standards equivalent to those in other children's residential facilities?
7. Are accommodation facilities for children/families separate from those for the general population?
8. What professional staff are on site – nurse/teacher/care worker/social worker/others? Are they suitably qualified and experienced? What is the ratio of staff members to children?
9. What services do facilities provide on site – medical/education/early childhood care and development/counselling/phone/computers? Who provides them?
10. Can residents access local public services? How far away is the nearest town? Is transport available?
11. Do residents receive a daily/weekly allowance?

12. Is the centre open/closed/locked? Do residents have keys? Are there restrictions/constraints on leaving/travelling outside of the centre? What security measures are in place?

e. Integration

1. What conditions favour a successful asylum application for a child?
2. Must a formal BID be considered before making a final decision on the asylum application of a child (accompanied or unaccompanied)?
3. Do BIDs always include an analysis of potential integration options?
4. Is a formal, documented and resourced integration plan put in place for every child who is granted asylum? If so, who is responsible for its implementation, monitoring and oversight?
5. Is the integration plan reviewed regularly?

f. Returns

1. Are child-specific forms of persecution considered under the assessment of risk and *refoulement*? How is risk assessed in relation to children?
2. How are the options available to children on return or transfer to a third country assessed – family/guardian/institution? Who makes these assessments?
3. Is the child consulted during these assessments and, if so, how much weight is given to her or his opinions?
4. Has UNICEF made country assessments available?
5. Are negative asylum decisions always open to judicial review?
6. Is legal assistance available to children/families to appeal a refusal of asylum?
7. Do children always receive written notice of negative asylum decisions with written information about their right to appeal and other relevant details about the process?
8. Who informs the child about a negative decision?
9. Is a scheme of voluntary repatriation available? What support does it offer?
10. What time/resources are available to the child/family to arrange return?
11. Do return arrangements take account of school/exam schedules?
12. Under what conditions can a child/family be detained for return purposes?
13. Who accompanies a child on her or his return?
14. Is there any kind of follow-up after return? Are the conditions of return reviewed/verified?

ANNEX 2.3. INDICATOR CHECKLIST: EDUCATION

a. General context

1. Is the right to basic education for all children enshrined in national law?
2. Are migrant and asylum-seeking children recognized as a particularly vulnerable group in national strategies and prioritized in national/local action plans?
3. Is there a clear, explicit firewall between education and asylum services?
4. Have additional resources been allocated to local education authorities for outreach and support services for asylum-seeking children?
5. Are local education services underpinned by the principles of inclusive education?
6. Are all services provided sufficiently gender-sensitive to encourage and support women's and girls' participation in education and training?
7. Are teachers and educators trained in the principles and practices of inclusive education?

b. Early childhood education

1. Is one year of early childhood education (ECE) compulsory for all children?
2. Are there sufficient quality ECE facilities to meet demand?
3. Are asylum-seeking children entitled to an ECE place on the same basis as other children, or are there specific conditions or criteria that they must meet?
4. Are asylum-seeking children entitled to attend community-based ECE facilities or are they confined solely to reception-based facilities?
5. Are ECE programmes and facilities in reception centres required to meet the same standards and curricula, and are they subject to the same quality control and oversight, as community-based services?

c. Basic education

1. Are asylum-seeking children entitled to, and expected to complete, basic education as laid down in national law, or do specific conditions, restrictions or criteria apply, e.g. residence, status of asylum application, expected time frame in country time frame?
2. Are asylum-seeking children entitled to attend local schools?
3. Do they have to attend preparatory courses or classes? Are such classes held in local schools or in reception centres? Are the classes subject to the same quality standards, curricula and oversight as local schools? Who is responsible for the provision of the classes – education or migration authorities/non-governmental organizations/contractors?
4. Is there a nationally accepted model of integrating non-national children into local schools, and do all schools have access to appropriate support services as required?
5. Are children subject to return eligible to attend school? Are exam schedules factored into return planning?

6. How is education provided to children in detention? Are education services in detention centres held to the same quality standards, curricula and oversight as mainstream education services?
7. Does professional and in-service teacher training include modules on teaching migrants and/or children in detention?

d. Support services

1. What support services are available to schools and education centres to support the integration of asylum-seeking children?
2. What resources are available to families to support the full integration of asylum-seeking children into education?
3. Does the range of models and services available enable the development of individual support plans tailored to specific children?

e. Secondary/vocational education and training

1. Are asylum-seeking children allowed/supported to attend school beyond the compulsory age limit?
2. Are asylum-seeking children allowed/supported to attend vocational education and/or training?

f. Accreditation

1. Are procedures in place to speedily accredit children's learning in their home country?
2. Are procedures in place to speedily accredit teacher qualifications in the refugee population?
3. Do learning support models draw on skills and experience in the refugee population?
4. Has UNICEF produced Child Notices of the countries of origin or mapped their education and schooling systems?

ANNEX 2.4. INDICATOR CHECKLIST: HEALTH

a. General context

1. What is children's entitlement to health care under national law?
2. What are asylum seekers' rights to health care under national law?
3. What is asylum-seeking children's entitlement to health care under national law?
4. Are asylum-seeking children/unaccompanied minors entitled to the same access to national health systems and services as other children?
5. Is there a clear, explicit firewall between health and asylum services?
6. Are migrant and refugee children prioritized as vulnerable groups under national health strategies and national/local health plans?
7. What does the initial health assessment on registration entail?

b. Emergency health care

1. Are all asylum seekers entitled to emergency health care and medical treatment on the same basis as citizens?
2. Are the services covered by emergency care explicitly and consistently defined across all local health areas?
3. Are these services adequately publicized and explained to all asylum seekers, including children?
4. Is emergency medical treatment provided free of charge, and are adequate mechanisms in place for health professionals and agencies to recoup costs?
5. Are birth, prenatal and post-natal care covered under emergency services?

c. Mother and child health

1. Are asylum-seeking mothers and children automatically enrolled in the national mother and child health service?
2. Are they entitled to the same package of care as nationals enrolled in the mother and child health service?
3. What efforts are made to establish children's vaccination status and to bring them up to date if necessary?
4. Are asylum seekers provided with adequate and up-to-date health records in an approved and agreed format?

d. Adolescent health

1. Are adolescents provided with separate health care and health care information?
2. Are appropriate facilities, with suitably trained interpreters, available for medical examinations, treatment and consultations with adolescents and young people?
3. Are guidelines in place to structure and facilitate separate, culturally sensitive medical treatment for adolescents and young people?

e. HIV

1. Is HIV assessment offered as part of the initial health check?
2. Is HIV treatment available as part of the package of health care entitlements?
3. Are asylum seekers provided with appropriate information and advice about HIV and their entitlements to care and treatment at initial registration?
4. Is it clear and explicit that HIV status does not influence the final decision on an asylum application?

f. Mental health

1. Are all asylum seekers entitled to access mental health services on the same basis as nationals?
2. Have health authorities strengthened and extended mental health services to cope with the inflow of asylum seekers?
3. Is mental health assessment offered as part of the initial health check?
4. Is mental health treatment available as part of the package of health care entitlements?
5. Are asylum seekers provided with appropriate information and advice about mental health and their entitlements to care and treatment at initial registration?
6. Is it clear and explicit that mental health status does not influence the final decision on an asylum application?
7. Are there sufficient suitably qualified and experienced staff available to provide appropriate mental health services to asylum-seeking children?
8. Have mental health services developed appropriate outreach and support services for asylum-seeking children and their families?

g. Sexual and reproductive health

1. Is sexual and reproductive health (SRH) assessment offered as part of the initial health check?
2. Is SRH treatment available as part of the package of health care entitlements?
3. Are asylum seekers (including young people) provided with appropriate information and advice about SRH and their entitlements to care and treatment at initial registration?
4. Are asylum seekers provided with appropriate opportunities and support to discuss incidents of sexual and gender-based violence, and offered appropriate referral and treatment as part of the initial health assessment?

h. Participation

1. Are children and young people provided with interpreters/cultural mediators during medical assessments?
2. Are clear guidelines in place as to when and how children will be facilitated to make their own medical decisions without parental/guardian permission?

ANNEX 2.5. INDICATOR CHECKLIST: CHILD PROTECTION

a. Guardianship

1. Is there a state guardianship service for all children? Is it used for migrant and refugee children?
2. Has the guardianship service in country been expanded/adapted/developed in view of the inflow of refugee children?
3. Who is responsible for governance, accountability, supervision, management and oversight of the guardianship service – independent institution/child protection service/migration or asylum service?
4. Is the guardian's primary role as legal representative/carer in loco parentis/both?
5. When is the guardian appointed – arrival/registration/application/later?
6. Does the child have a say in choosing her or his guardian?
7. Do guardians adopt a holistic rights-based approach to their responsibilities? Is there a code of good practice?
8. To how many children can one guardian be appointed?
9. Are guardians professionals/volunteers/a mix of both?
10. Is there a firewall between the guardian and the asylum service?
11. Are clear vetting, recruitment, management, support, supervision and training mechanisms and resources in place?
12. What is the focus of training? Is it regular/mandatory?
13. Is a mechanism in place to link guardians across local/national borders?
14. How do guardians link with other professionals?
15. Are interpreters/cultural mediators part of the guardianship team?
16. What mechanism is available to resolve disputes between the child and her or his guardian? Is a complaints mechanism available to the child?

b. Family contact/tracing

1. Is sufficient relevant information sought in the initial interview, in an effective, child-friendly way, to enable maximum support for family tracing and family contact?
2. Is supporting contact between the child and his or her family prioritized by all agencies during the identification/registration phase? Do all agencies prioritize establishing, maintaining and supporting contact between the child and his/her family during the identification/registration phase?
3. Are all reception centres equipped with the necessary equipment, facilities and staff to support contact between the child and his/ her family?
4. Is a specific agency/professional appointed to undertake family tracing?
5. Is the child consulted before attempts are made to trace her or his family?

6. Is family reunification always considered to be in the child's best interests? Are there clear guidelines as to when this is, or is not, the case?
7. When family tracing is assessed to be in the child's best interests, yet the child refuses to agree to it, is the child's decision respected?
8. Are there clear guidelines as to when professionals/agencies can override the child's wishes in this respect?
9. Does a refusal to cooperate with family tracing affect the child's asylum application?
10. Is the child informed in a child-friendly manner and in a language she or he understands about the process and purpose of tracing and restoring family links?
11. Is ongoing counselling available to help the child review and revise her or his decision should she or he decline the initial offer of assistance?

c. Trafficking

1. Is there a common agreed definition of trafficking?
2. Is a specific national framework/structure/system in place to address trafficking? Is there an agreed action plan? How does it tie in to the asylum process?
3. Are all asylum-seeking children assessed as potential victims of trafficking? Are common criteria used?
4. What extra safeguards/services are available to child victims of trafficking?
5. Is an expedited asylum application process available to child victims of trafficking?
6. What mechanisms exist to ensure a coordinated, cohesive response to victims of trafficking? Are these identical to/aligned with similar mechanisms for asylum-seeking children? If not, how do they coordinate?
7. How many child victims of trafficking were identified in the past 12 months among migrant and refugee children?

d. Children missing from the asylum system

1. Have the Missing Children Europe (MCE) 'Recommended principles to guide actions concerning children on the move and other children affected by migration²²' been accepted and implemented in country?
2. Is the term 'missing child' defined in legislation in accordance with MCE categories?
3. Is there a specific legal category of 'missing unaccompanied migrant child'?
4. Is there a national/local body to coordinate the response to a missing child? Are all stakeholders represented? Who leads it?
5. Is there a specific inter-agency protocol or response framework?
6. Is there a 116 000 telephone hotline in country?

²² Shalev Greene, Karen, and Federica Toscano, SUMMIT Report: Best practices and key challenges on interagency cooperation to safeguard unaccompanied children from going missing Missing Children Europe, 2016 at <http://missingchildreurope.eu/Portals/0/Docs/Best%20practices%20and%20key%20challenges%20for%20interagency%20cooperation%20to%20safeguard%20unaccompanied%20children.pdf>

7. What is the timeline for reporting missing unaccompanied and separated children (UASC)?
8. How does it compare with the timeline for nationals?
9. Is there a waiting period?
10. Must other criteria be met before action is taken e.g. formal asylum application; prior search by care staff?
11. Who takes responsibility for following up on missing UASC?
12. What specific investigative procedures are followed?
13. Do they align with MCE good practice?
14. Who is responsible for the geographical coordination of missing children cases?
15. Who is responsible for issuing public communications about cases, and are the necessary protocols and safeguards in place?
16. What is the timeline for escalating action to the national/regional/international level?
17. Are clear, agreed and appropriate procedures in place for entering Article 32 alerts in the SIS II Schengen database system?
18. What are the criteria/timelines for closing an investigation?
19. Is there a consistent, coherent format for recording data about missing children that is aligned with MCE principles and recommended European Union indicators?
20. Is a national report on missing children issued annually?
21. Are sufficient mechanisms/resources in place at registration stage to identify unaccompanied minors (UAMs) who are likely to go missing, and to respond appropriately?
22. Does the information collected at registration facilitate tracing if the child goes missing?
23. Are facilities/procedures in place in registration centres to reduce the risk of disappearance?
24. Is there a clear understanding of the distinctions between 'protective environments' and 'detention'?
25. Do UAMs receive sufficient appropriate information and support to encourage them to stay?
26. Are registration/reception/care models being developed to encourage children to stay?

e. Children in detention

1. Is there an agreed and comprehensive definition of what constitutes 'detention' that encompasses all forms of incarceration, confinement, housing, reception/transit centres and any other accommodation where an individual is physically prevented from leaving?
2. Does the national legal and policy framework explicitly prohibit the detention of children in any circumstances?
3. Is current legislation being amended in light of the Committee on the Rights of the Child General Comment No. 23, which stipulates that the possibility of detaining children as a measure of last resort is not applicable in immigration proceedings?

4. If detention is allowed in exceptional circumstances, does the law explicitly specify that it can only be used as a *measure of last resort* and for the *shortest possible period*?
5. Are these terms defined in law and enforced in practice?
6. Does the detention of a child require judicial approval?
7. Is the detained child entitled and enabled to access legal advice and assistance?
8. Does the child have access to independent complaints and/or monitoring mechanisms or actors?
9. Is the child and/or her or his guardian allowed and enabled to appeal against detention?
10. What efforts are made to ensure and enable the fastest possible release of children from detention and their placement in some other form of appropriate accommodation?
11. Are alternative reception/care arrangements available and appropriate?
12. If so, are they used appropriately?
13. If not, are they being developed?
14. Are child-sensitive screening and referral services in place that enable children to be referred to relevant child protection institutions, services and assistance?
15. Are regulations in place to ensure that children are never detained with adults, and that appropriate education, health and welfare services, facilities and personnel are available in all facilities where children are detained?
16. Are all staff in such facilities adequately qualified, experienced, trained and supported to work with vulnerable children?
17. Are all such facilities governed, supervised and overseen by the national child protection service and its local agents and officers?
18. Do such facilities provide the same level and standard of care as alternative facilities for children in care?
19. Are all such facilities subject to independent inspection, scrutiny and oversight, including by the ombudsperson for children or equivalent office?
20. Are the facilities open to scrutiny by civil society actors and agencies?
21. Do all such facilities produce public reports annually?
22. Does the state compile and make public detailed and comprehensive statistics on immigration-related detention, employing an agreed definition of detention and including:
 - names and addresses of detention centres, along with a description of the type of facility
 - number of migrants and asylum seekers held in each detention facility
 - number of detained minors, with discrete and disaggregated data on both accompanied and unaccompanied minors
 - data disaggregated by grounds for detention for each detention centre, with specific detail on grounds for detention of asylum seekers and minors
 - data disaggregated by gender
 - data disaggregated by nationality, if possible

- data on the range of lengths of detention and average length of detention for each facility
 - actual number of individuals placed in detention in any reporting period
 - frequency and length of detention for each individual
 - disaggregated data on the number of people placed in immigration-related detention, including asylum seekers and those awaiting return
 - disaggregated data on the number of accompanied and unaccompanied minors in detention and the locations where they are held
23. Are the data updated and made public on a regular basis, including the names and addresses of detention centres and the number of migrants and asylum seekers held in each detention facility?
24. In states where prisons, police stations or other facilities are used to detain asylum seekers, is information on these facilities included and does this stipulate whether immigration detainees are kept separate from other categories of detainees at each facility?

