

ENOC statement on the protection of the rights of children fleeing the war in Ukraine

24 June 2022

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Introduction

The escalation of the military invasion of Ukraine by the Russian Federation on 24th February 2022 has caused devastating human losses, including the killing of hundreds of children, as well as a humanitarian crisis which accounts for millions of children who find themselves across international borders.¹ While it is commendable that the EU has responded with unprecedented and immediate measures, such as the activation of the Temporary Protection Directive² along with Operational Guidelines³ to support Member States in applying the Directive, there are still real challenges to ensure that the rights of children fleeing the war in Ukraine are respected, protected and fulfilled.

All children affected by the war in Ukraine are in an extremely vulnerable situation. They have been deprived of their homes, separated from their families, especially fathers, older brothers or uncles, and forced to bear the direct consequences of the war, including bomb explosion and physical and sexual violence.⁴ In addition, there are groups of children who deserve special attention and protection in light of the enhanced risk of violence, abuse, exploitation and trafficking they face. These are groups of children who suffer multidimensional vulnerabilities, such as children from institutional care and children who arrive at the European borders unaccompanied or separated from their families or carers.

In this respect, the recommendations below are informed by the expertise and national experiences of the Independent Children's Rights Institutions members of the Network who

¹ UNICEF [press release statement](#) 06 May 2022.

² [EU Temporary Protection Directive \(Directive 2001/55/EC\)](#).

³ [EU Commission Operational Guidelines](#).

⁴ UNICEF [press release statement](#) 06 May 2022.

identified particularly sensitive junctures for the protection of the rights of children fleeing the war in Ukraine.

We call on:

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REGISTRATION OF CHILDREN

The European institutions and all reception states to:

- **Establish** and implement a compulsory, uniform, effective and fast registration system at the borders with neighbouring states and in all reception states.⁵ Emphasis should be placed, in particular, on children's reliable registration regardless of their status (accompanied or unaccompanied/separated). The registration mechanism must be in compliance with children's rights, including children's right to identity (Article 8, UNCRC) and privacy (Article 16, UNCRC). The objective of the registration should uphold data protection principles and be aimed at the protection of children's rights, including the best interests of the child at risk;⁶
- **Nominate** a national contact point and ensure effective coordination between national contact points across EU and Ukrainian authorities;⁷
- **Disseminate** information for Ukrainian nationals on how to register at their Embassy or Consulate of Ukraine and encourage them to register themselves and their children with Consular authorities;
- **Ensure** that unaccompanied or separated children are identified during registration and immediately referred to the competent State/Child Protection/Welfare services;
- **Inform** Ukrainian diplomatic and consular offices about cases of unaccompanied or separated children;

⁵ See also the [Open Letter](#) co-signed by ENOC and the Vice-President of the European Parliament and EP Coordinator on Children's Rights on the protection of unaccompanied and separated children and children in institutional care fleeing from Ukraine to the European Union.

⁶ CRC and CMW joint General Comment n° 3 and 22, par. 17, 32, 34, 42.

⁷ See Article 27 of the Council Directive 2001/55/EC of 20 July 2001 activated by the Council Implementation Decision (EU) 2022/382.

- **Consider** the set-up of a separate registration/record for UAM/separated/foster care/orphan children.

EMERGENCY RESPONSE FOR UNACCOMPANIED/SEPARATED CHILDREN;

Reception states to:

- **Provide** unaccompanied children with accommodation arrangements that are in accordance with International and European Standards;⁸
- **Ensure** that care arrangements provided to unaccompanied children by private citizens be temporary and that all the preconditions provided under Article 21 of the UNCRC Convention as well as other relevant international instruments⁹ are fully respected in the context of inter-country adoption;
- **Temporary halt** intercountry adoption so as to give priority to family tracing with a view to avoiding further or permanent separation of children from their parents and families against their best interests;¹⁰
- **Ensure** that best interests assessments be conducted (Article 3, UNCRC).

GUARDIANSHIP

Reception states to:

- **Ensure** that guardians are appointed as soon as unaccompanied or separated children are identified;¹¹

⁸ See, for instance, Article 20 and 22 of the UNCRC; Committee on the Right of the Child, General Comment no.6 on Treatment of unaccompanied and separated children outside their country of origin, para 39-40, 2005. European Parliament resolution of 7 April 2022 on the EU's protection of children and young people fleeing the war in Ukraine ([2022/2618\(RSP\)](#)).

⁹ See, in particular, the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Inter-Country Adoption and its 1994 Recommendation concerning the application to Refugee and other Internationally Displaced.

¹⁰ European Parliament resolution of 7 April 2022 on the EU's protection of children and young people fleeing the war in Ukraine ([2022/2618\(RSP\)](#)). See also: The Hague Conference, "[The Implementation and Operation of the 1993 Hague Intercountry Adoption Convention Guide No.1:GUIDE TO GOOD PRACTICE](#)"- ANNEX 10 UNICEF'S POSITION ON INTERCOUNTRY ADOPTION STATEMENT 2007.

¹¹ Committee on the Right of the Child, General Comment no.6 on Treatment of unaccompanied and separated children outside their country of origin, para 33, 2005.

- **Ensure** that, in the assessment of the best interests of the child, the assigned guardian takes into account the child's right to identity, including birth registration, name, nationality and family relations (Article 8, UNCRC) with a view to consider the child's return to Ukraine;
- **Ensure** that, in the case of separated children, guardianship is assigned to the accompanying adult family member or non-primary family caretaker unless it is against the best interests of the child (i.e., the accompanying adult has abused the child). If a child is accompanied by a non-family adult or caretaker, suitability for guardianship must be closely assessed and dependant on specific requirements, (i.e., necessary skills to properly perform guardianship duties, appropriate training etc.). If such a guardian is suitable and willing to provide day-to-day care, but unable to appropriately represent the child's best interests in all spheres and at all levels of the child's life, supplementary measures (such as the appointment of an adviser or legal representative) must be secured;¹²
- **Provide**, in all cases, that unaccompanied or separated children be given access to free of charge and a qualified legal representative;¹³
- **Ensure** that, if difficulties arise in the establishment of guardianship arrangements on an individual basis in light of the large-scale emergency, the rights and best interests of separated children be safeguarded and promoted by States and organisations working on behalf of these children;¹⁴
- **Provide** relevant information, support (including psychological) and/or training to appointed guardians, while ensuring regular monitoring of the quality of the exercise of guardianship to ensure that the best interests of the child are being

¹² Committee on the Right of the Child, General Comment no.6 on Treatment of unaccompanied and separated children outside their country of origin, para 34, 2005.

¹³ Committee on the Right of the Child, General Comment no.6 on Treatment of unaccompanied and separated children outside their country of origin, para 69, 2005.

¹⁴ Committee on the Right of the Child, General Comment no.6 on Treatment of unaccompanied and separated children outside their country of origin, para 38, 2005.

represented throughout the decision-making process and, in particular, to prevent abuse;¹⁵

- **Conduct** age assessment procedures in compliance with international standards, including relevant jurisprudence of the United Nations Committee on the Rights of the Child.¹⁶

RECEPTION & LIVING CONDITIONS

Reception states to:

- **Ensure** suitable temporary accommodation for children and their families as well as unaccompanied children. While many families fleeing the war in Ukraine are currently living with relatives and friends, availability of suitable temporary accommodation is problematic particularly as the numbers of refugees increase and current living arrangements breakdown;
- **Provide** long-term suitable accommodation for those fleeing the war in Ukraine. State authorities must ensure that suitable accommodation is available for families. Accommodation in hotels or large reception centres should not be used as a substitute long-term accommodation;
- In cases where children are accommodated with a sponsor, **undertake** robust safeguarding checks on the sponsor and the suitability of his/her provided accommodation;
- **Guarantee** the provision of the highest attainable standard of health care (Article 24, UNCRC) by providing availability of, *inter alia*, preventive screening, vaccination, emergency medical care, mental health services including by increasing hospitals' capacity, already under pressure as a result of the Covid 19 pandemic;

¹⁵ Committee on the Right of the Child, General Comment no.6 on Treatment of unaccompanied and separated children outside their country of origin, para 35, 2005.

¹⁶ See, *inter alia*, C.O.C. v. Spain ([CRC/C/86/D/63/2018](#)); S.M.A. v. Spain ([CRC/C/85/D/40/2018](#)); N.B.F. v. Spain ([CRC/C/79/D/11/2017](#)); M.B.S. v. Spain ([CRC/C/85/D/26/2017](#)).

- **Ensure** that children or families fleeing the war in Ukraine are not denied access to healthcare. Any barriers to access (i.e., medical charges, immigration status etc.), should be promptly identified, addressed and removed (Article 24, UNCRC);
- **Provide** psychological support for children and their families fleeing Ukraine by strengthening existing hotlines and access to regular psychological service providers, and developing new forms of psychological support specifically designed for dealing with trauma of war;
- **Provide** immediate access to free of charge formal and non-formal education to all children fleeing the war from early years (day care for babies, kindergarten, pre-school) to high school, including in first reception centres; such education shall be directed, *inter alia*, to the development of the child's personality, talents and abilities and to the respect for the child's parents, cultural identity, language and values (Article 29 UNCRC);
- **Provide** tools and guidance to educational staff on how to ensure that language barriers of Russian/Ukrainian speaking children are removed and children's adaptation to the community, including to the school system, is promoted. At the same time, it is critical that children are provided access to learning materials in Russian/Ukrainian, including e-learning and in person teaching in schools and that barriers to access those materials (i.e., laptops, internet connected devices etc.) are swiftly removed. This is critical in order to **facilitate** children's return and re-integration in Ukraine once the war has ended;
- **Ensure** that children fleeing the war in Ukraine have access to a standard of living that is adequate to their physical, spiritual, moral and social development (Article 27 UNCRC) including through the provision of social support services (i.e., child benefits, additional benefit for disabled children, birth child benefits etc.), free school meals and school supplies assistance (Article 26, UNCRC);
- **Set up** efficient administrative and operational coordination between the different actors involved in the reception of children and families fleeing the war in Ukraine.

CHILD FRIENDLY PROCEDURES

Reception states to:

- **Ensure** that child friendly and age-appropriate reception procedures are guaranteed for all children;
- **Provide** clear and comprehensive information on children's human rights and the support that the temporary protection status confers to them. Such information shall be provided in a language they can understand, through trauma-sensitive processes adapted to their age and maturity, with support from appropriately trained staff;
- **Ensure** a thorough risk and needs assessment for every arriving child.

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CHILD SEXUAL EXPLOITATION AND TRAFFICKING

Reception states to:

- **Ensure** efficient monitoring systems of new arrivals by different transport means;
- **Allow** unaccompanied children to be directly assigned to the country they wish to reach so as to minimise the risk of sexual exploitation and trafficking (Article 19, 34, 35, UNCRC);
- **Strengthen** existing mechanisms for bringing children into care and safeguarding procedures to minimise the risk of child trafficking and exploitation (Article 34,35 UNCRC);
- **Request** residents offering to host or hosting families and adults with children at their home to declare their offers at a coordination platform set in place by the governments;
- **Encourage** Member States to follow the guidance of relevant bodies on the protection of children in migration from sexual abuse and exploitation, including the Committee of the Parties to the Convention on the Protection of Children against

Sexual Exploitation and Sexual Abuse¹⁷ and the Group of Experts on Action against Trafficking in Human Beings.¹⁸

FINANCIAL AND MATERIAL ASSISTANCE TO FIRST RECEPTION COUNTRIES

European Institutions to:

- **Provide** emergency financial assistance to first reception states in priority, and to other hosting states in a second phase.

Reception states and European institutions to:

- **Overcome** obstacles blocking and/or delaying the financial assistance required to address the emergency needs.

While we call on reception countries and EU institutions to implement the abovementioned recommendations to protect the rights of children fleeing the war in Ukraine, we also reaffirm the absolute importance of **ensuring** no discrimination on the levels of support provided to children, based on their or their parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status (Article 2, UNCRC). To this end, all children on the move, seeking international protection within EU borders, should be entitled to the same support (i.e., housing, healthcare provision, financial support etc.) and standards of protection as children fleeing the war in Ukraine.

Finally, we received disturbing reports of numerous episodes of ethnic discrimination against Russian and Russian-speaking children, as well as Roma children fleeing the war in

¹⁷ See: Committee of the Parties to the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse (LANZAROTE COMMITTEE), [Statement on protecting children from sexual exploitation and sexual abuse resulting from the military aggression of the Russian Federation against Ukraine](#), T-ES(2022)06_en, 10 March 2022.

¹⁸ See: Group of Experts on Action against Trafficking in Human Beings (G R E T A), [Guidance Note on addressing the risks of trafficking in human beings related to the war in Ukraine and the ensuing humanitarian crisis](#), GRETA(2022)09, 4 May 2022.

Ukraine, including harassment, attacks and mobbing. We thus **call** on national and European authorities to duly investigate on these matters and strongly condemn such episodes as they do not correspond to European values and human rights principles, as pointed out in the recent Statement of the Advisory Committee on the Framework Convention for the Protection of National Minorities.¹⁹

¹⁹ Council of Europe, [Statement of the Advisory Committee on the Framework Convention for the Protection of National Minorities on the Russian aggression against Ukraine](#), 20 May 2022.