

Promoting and Protecting the rights of children in migration through the MFF 2021-2027

Position
paper



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Save the Children Europe works in Brussels to ensure European Union policies and funding have a lasting and positive impact on children's lives. We focus on making sure the EU fights child poverty in Europe and in developing countries, responds to humanitarian crises and protects children in conflict, invests in health and education, and protects the rights of children in migration. <https://www.savethechildren.net/what-we-do/advocacy/save-children-europe>



The Terre des Hommes International Federation is a network of ten national organisations working for the rights of children and to promote equitable development without racial, religious, political, cultural or gender-based discrimination. <https://www.terredeshommes.org>



The Initiative for Children in Migration is an existing informal collaboration between migration, asylum and child protection actors from European and national levels deeply involved in joint advocacy work around EU law and policy concerning children in migration. <https://www.childreninmigration.eu>

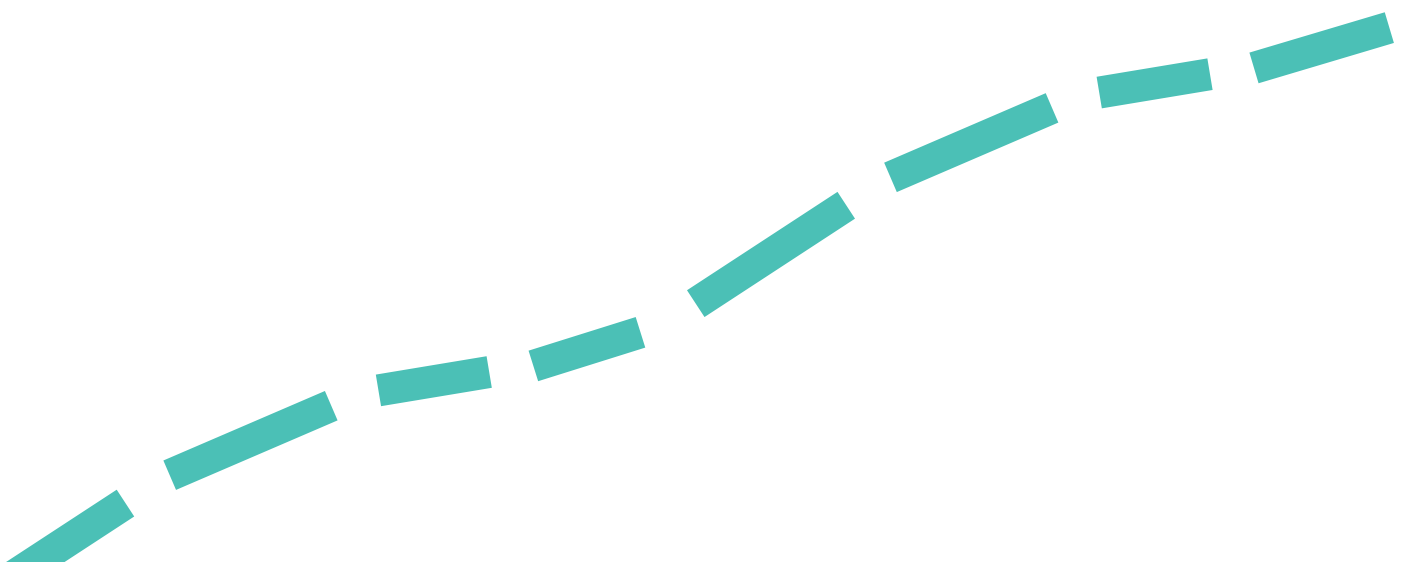


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I. Introduction

Migration can be an empowering experience for children and a driver of inclusive economic and social development. However, children in migration often face discrimination, violence, abuse, exploitation and trafficking. They risk being socially excluded, detained, or accommodated in harmful segregated reception centres, detention centres, and camps along their journeys.¹

Furthermore, children in migration often have limited or no access to mainstream services, such as education, healthcare, legal representation, and child-friendly information. As of 2017, across the globe approximately 30 million children left their country of birth, including 12 million refugee children.²

In 2015-2016, there was a five-fold increase in the number of children that moved across international borders on their own compared with the same number in 2010-2011.³

However, while migration is growing at global level, migration to the EU has considerably decreased to pre-2015 levels. In 2018, approximately 141,500 refugees and migrants arrived in Europe of which 34,200 were children.⁴

Children are also one of the primary groups seeking international legal protection in the European Union registering 209,756 asylum claims in 2017 alone.

All children, regardless of their or their parents' migration or residency status, are entitled to all rights articulated in the *United Nations Convention on the Rights of the Child (CRC)*, the most-widely ratified international human rights instrument.⁵

This includes the convention's core principles of non-discrimination;⁶ the best interests of the child;⁷ the right to life, survival and development;⁸ and respect for the views of the child.⁹

The CRC also stipulates that all measures should be taken to ensure that children can stay with their parents or caregivers when it is in their best interests.¹⁰

All EU Member States have ratified the United Nations Convention on the Rights of the Child (CRC). Furthermore, the EU has committed to promote and protect the rights of the child in its internal and external actions¹¹ and to act in line with international law, including the provisions of the CRC and its Optional Protocols.¹²

In 2017, the European Commission (EC) issued the **Communication on the Protection of Children in Migration** as the first comprehensive policy approach to protect all children in migration.

The Communication calls on the EU and its Member States to step up efforts to address unsafe migration and protect children along migratory routes; ensure swift and comprehensive identification and protection; provide adequate reception in the EU (including through family-based and community-based care for unaccompanied and separated children); ensure swift and effective access to status determination procedures; and ensure durable solutions, such as integration in a Member State, return to the country of origin, resettlement or reunification with family members in a third country. Best interests determination should be carried out in all cases.¹³

The Council Conclusions on the protection of children in migration (June 2017) encourage Member States to take or implement actions, as appropriate, to protect children at all stages of migration, building on the Commission Communication on the protection of children in migration, and report on implementation of these actions.¹⁴

In May 2018, the European Parliament adopted a Resolution on the protection of children in migration setting out a number of recommendations, including related to non-discrimination, funding, and the use of infringement proceedings against Member States violating children's rights through immigration detention.¹⁵

In addition, the EU and its Member States have committed to realise the **2030 Agenda for Sustainable Development (2030 Agenda) and its Sustainable Development Goals (SDGs)**. Several SDG targets are directly related to the CRC, as the 2030 Agenda is anchored in international human rights standards, and many other targets are critical to advancing children's rights.

For example, the 2030 Agenda aims at reducing poverty (SDG 1) and inequalities (SDG 10), ending hunger (SDG 2), promoting good health and well-being (SDG 3), advancing inclusive and quality education (SDG 4), gender equality (SDG 5), ending abuse, exploitation, trafficking and all forms of violence against and torture of children (SDG 16), and eliminating the worst forms of child labour (SDG 8.7).

As the EU Member States, the European Parliament (EP) and EC are currently negotiating the Multi-annual Financial Framework (MFF) 2021-2027, **we urge EU leaders and institutions to ensure that the next MFF will contribute to protecting and promoting the rights of all children in migration, in line with EU and international law and with the aim of leaving no one behind.**

The Multi-annual Financial Framework (MFF) should contribute to reducing the risks they face at different stages of the migratory journey: in their country of origin, along the migratory routes, and in the country of destination.¹⁶

General principles for the MFF to promote and protect the rights of children in migration:

1. **Promote and protect the rights of all children in migration regardless of their or their parents' or family members' migration or residency status and at all stages of migration**, in line with the provisions of the CRC, its Optional Protocols, other international human rights treaties,¹⁷ EU law and the EC Communication for the protection of children in migration;
2. Uphold and operationalise the principle of the **best interests of the child** as a primary consideration in all actions and decisions concerning children at all times, including by supporting best interest assessment and determination processes;
3. Ensure that migrant children are treated first and foremost as children,¹⁸ and have full and non-discriminatory access to mainstream services such as formal and non-formal education, healthcare - including mental and psychosocial support - social protection, adequate accommodation and care arrangements at all stages of migration. Targeted services should be provided to address specific needs of children in vulnerable situations;
4. Respond in a **child, age and gender sensitive manner** to the **specific vulnerabilities and needs of children in migration**, including unaccompanied or separated children, child victims of trafficking and children in irregular situations;
5. Invest in alternatives to detention, both for unaccompanied children and children in families and help end the practice of detention of children in migration – which is never in their best interests¹⁹ – by refraining from supporting such schemes;²⁰
6. Advance the right to community-inclusion and promote the transition from institutional to family- and community-based care for children in migration;
7. Support the development, monitoring and evaluation of child safeguarding policies and procedures at all levels of governance, with particular attention to authorities and professionals in direct contact with children;
8. Ensure that all children are heard and participate in decision-making which affects them individually as per their right, and ensure that their voices guide programming;
9. Contribute to the implementation of the 2030 Agenda and its SDGs, as well as the Global Compact for Safe, Orderly and Regular Migration (GCM) and Global Compact on Refugees (GCR).

2. Asylum and Migration Fund

Background

Under the proposal of the European Commission, the total budget for the Asylum and Migration Fund (AMF) would be €10.415 billion. This constitutes a significant increase from the €3.137 billion which was allocated for the current Asylum Migration and Integration Fund (AMIF) 2014-2020.²¹

The AMF has three specific objectives: (i) to develop and strengthen the Common European Asylum System (CEAS); (ii) to support legal migration, including integration; and (iii) and to contribute to countering irregular migration.

It was also proposed that responsibility for long-term integration measures would move from the AMIF to the European Social Fund+ (ESF+).

A fixed amount of €5 million will be allocated to EU Member States, in addition to an amount based on a distribution key reflecting the spending priorities of member states, according to the following proportion: 30% based on investments in asylum, 30% on legal migration and integration, and 40% on returns.

Needs and pressures which may arise in the field of migration are meant to be addressed through a thematic facility, initially managed by the Commission. However, the Commission proposal did not oblige Member States to allocate specific amounts to address the three specific priorities identified by the Fund.

The AMF is the only domestic fund focused on asylum and migration and should primarily fund measures to improve asylum systems in the EU, legal migration, and the reception and integration of third country nationals, including children.

The report adopted by the European Parliament (EP)²² proposes that the AMF should contribute to the access of children in migration to essential services that will support them both during reception and integration.

In addition, the EP proposed to re-introduce the definition of an ‘unaccompanied minor’, to strengthen child protection systems both in EU Member States and third countries and to promote the development of effective alternatives to both detention and institutional care.

Finally, both the EP and the Council of the European Union have proposed that the AMF should continue to support both short-term and long-term integration, returning its title to the Asylum Migration and Integration Fund (AMIF).

Recommendations on the AMF

Against this background, we recommend that the AMF regulation should:

1. Support the EU and Member States to promote and protect the rights of **all children in migration**²³ **in full compliance with the United Nations Convention on the Rights of the Child** (CRC), and in line with the EC Communication on the protection of children in migration, the **Global Compact for Safe, Orderly and Regular Migration (GCM) and Global Compact on Refugees (GCR)**.
2. Support the EU and Member States to ensure all children in migration can access **durable solutions**²⁴ that ensure their long-term protection and fulfilment of their rights. All decisions concerning solutions should be made on a case-by-case basis and must be grounded in the best interests and rights of the child concerned.
3. Introduce the definition of an ‘**unaccompanied child**’, to ensure that the fund contributes to the protection of this group of children in migration while at the same time ensuring that children who migrate with their families have equal access to services and assistance.

4. Ensure the provision of **material aid and assistance, psychosocial and mental health support at the border, and adequate reception conditions**, to ensure an adequate standard of living that supports the child's physical, social, and mental development.

5. **Invest in alternatives to detention**, for unaccompanied children and children in families and help end the practice of detention of children in migration, by refraining from supporting such schemes.

6. **Advance the right to community-inclusion** and promote the transition from institutional to family- and community-based care for all children in migration, including unaccompanied and separated children as well as children with their families. This would require the introduction of alternatives in line with the **UN Guidelines for the Alternative Care of Children**.²⁵

7. Ensure that any engagement with third countries should include the strengthening of national child protection systems, rather than setting up separate facilities for children.

8. Ensure a minimum allocation of resources to asylum and integration priorities, through the establishment of specific thematic concentrations. A minimum percentage of the **AMF should be allocated to strengthening, developing and implementing the CEAS, to supporting legal migration, and to supporting integration measures**.

9. Introduce the **Partnership Principle**, in line with the EP report, to ensure meaningful participation of Civil Society Organisations (CSOs), including youth organisations, and local authorities in designing, implementation and monitoring and evaluation of AMF-supported projects.

3. Common Provisions Regulation

Background

The European Commission's proposal for a Common Provisions Regulation (CPR) sets out common provisions for seven shared management funds: the European Regional Development Fund (ERDF), the Cohesion Fund (CF), the European Social Fund+ (ESF+), the European Maritime and Fisheries Fund (EMFF), the Asylum and Migration Fund (AMF), the Internal Security Fund (ISF), and the Border Management and Visa Instrument (BMVI).

During the funding period 2014-2020, the introduction of **ex-ante conditionality 9.1**²⁶ in the CPR ensured that when ESF and European Regional Development Fund (ERDF) are used for the transition from institutional to family- and community-based care, they are used according to the particular EU Member State's national strategic policy framework for poverty reduction and active inclusion.²⁷

The European Commission's proposal for the 2021-2027 CPR has strengthened these ex-ante conditionalities, now called 'enabling conditions'. More specifically, **enabling condition 4.3** recommends that the rights of children growing up in poverty, children in migration, and children in the alternative care system will be addressed in national strategic policy frameworks on poverty reduction and social inclusion. Under enabling condition 4.3, civil society actors are invited to participate in the design, implementation, monitoring, and evaluation of these national policy frameworks.

Recommendations on the CPR

Against this background, we recommend that the CPR:

1. States that EU funds are used in full compliance with the United Nations Convention on the Rights of the Child.
2. States that EU Funds do not support any actions that lead to social exclusion or segregation of children such as detention or placement in institutional facilities.
3. Amend the enabling condition 4.3 on national strategic policy frameworks so that it includes references to **family-based care** and states the development of these frameworks to ensure the rights of all children, **including children in migration**, are protected.
4. Integrates the **Horizontal Enabling** conditions on UN Convention on the Rights of Persons with Disabilities (UNCRPD) and the EU Charter of Fundamental Rights and includes the EP's proposal on including a specific Horizontal Principle on non-discrimination.
5. Includes the **Partnership Principle** as a key feature in the implementation of the CPR in a manner that advances the involvement of regional, local, and other public authorities, civil society, including youth organisations, and social partners.
6. Is aligned with the ESF+ proposal and allows Member States to allocate an appropriate percentage of resources from the CPR for the administrative capacity-building of social partners and civil society organisations who work with children in migration.

4. European Regional Development Fund

Background

The European Regional Development Fund (ERDF) aims to strengthen economic and social cohesion in the EU by ‘correcting imbalances between its regions’.²⁸ In particular, the ERDF allocates funding across key priority areas, including: innovation and research, the digital agenda, support for small- and medium-sized enterprises (SMEs), and the low-carbon economy.

The European Commission (EC) proposal for the 2021-2027 ERDF specifically identifies as a priority ‘increasing the socioeconomic integration of marginalised communities, migrants and disadvantaged groups, through integrated measures including housing and social services’.

At the same time, the proposal of the European Parliament (EP) advances additional priorities in the ERDF. In particular, the EP proposes that ‘the funds should promote the transition from institutional care to family and community-based care, in particular for those who face multiple discrimination’.

Under Article 6 on ‘Exclusion Criteria’ of the ERDF and the Cohesion Fund, the EP proposed that none of these funds should support ‘investments in the construction of institutional care facilities that segregate or infringe on personal choice and independence’.²⁹

Accordingly, investments under the ERDF, in conjunction with the European Social Fund+ (ESF+), should contribute to promoting social inclusion of children in migration, to fighting poverty, and to raising children’s quality of life in line with the obligations of the United Nations Convention on the Rights of the Child (CRC).

Recommendations on the ERDF

Against this background, we recommend that the ERDF:

1. Is used to promote equal opportunities for all, and to contribute to the implementation of the CRC and the EC Communication of the protection of children in migration.
2. Contains firm commitments to advance the right to community-inclusion and to promote the transition from institutional to family- and community-based care for children in migration.
3. Supports Member States in increasing infrastructural investments such as housing and social services in communities hosting large proportions of third country nationals so that both host communities and migrants receive the support they need.
4. Specifically states under Article 6 on Exclusion Criteria that ERDF and the Cohesion Fund should not be used for the building of institutional care settings.

5. European Social Fund+

Background

Under the European Commission proposal, the European Social Fund (ESF), the Youth Employment Initiative (YEI), the Fund for European Aid to the Most Deprived (FEAD), the Employment and Social Innovation (EaSI) Programme and the Health Programme will be merged into the European Social Fund+ (ESF+) under the next MFF.³⁰

In addition, it is proposed that integration measures for third country nationals that are currently funded through the AMIF will be provided through the ESF+ for the next funding period.

The proposed ESF+ will seek to support EU Member States in implementing the European Pillar of Social Rights (the Pillar). The text of the regulation should clearly indicate that the ESF+ will contribute to implementing the whole Pillar, including 'Chapter III Social protection and inclusion' and that includes Principle 11 Childcare and the support to children.

The implementation of the Pillar will only be partial if EU institutions and Member States take action primarily on the principles of the Pillar relating to fair working conditions; these are very important but go hand in hand with ensuring social protection and inclusion.³¹

For children, proposed investment priorities will focus on ensuring equal access to and completion of quality and inclusive education and training, in particular for disadvantaged groups; advancing the social integration of people at risk of poverty or social exclusion, including children and the most deprived; and addressing material deprivation through food and/or basic material assistance to the most deprived.

The European Parliament's report on the ESF+ proposes to allocate €5.9 billion of the total amount to the establishment of a Child Guarantee in view of the persistently high level of child poverty and social exclusion in the Union.

In 2017, 24.9% children in the EU were at risk of poverty or social exclusion.³² The Child Guarantee will support children in vulnerable situations, including children in migration by ensuring that they have access to free healthcare, free education, decent housing, adequate nutrition, and free early childhood education and care.³³

Recommendations on the ESF+

Against this background, we recommend that the ESF+ regulation should:

1. Be implemented in compliance with the United Nations Convention on the Rights of the Child (CRC), including CRC General Comment Number 19 on Public Budgeting for the Realisation of Children's Rights; the 2013 EC Recommendation Investing in Children: Breaking the Cycle of Disadvantage; and the European Union Charter of Fundamental Rights.
2. Include clear references to contributing to the implementation of the 2030 Agenda and its SDGs.³⁴
3. Include children and migrants in the definition of 'most deprived persons'.
4. Include eradicating child poverty as a general objective of the ESF+.
5. Include the target group of children as one of the common output indicators of the Fund so that the number of children benefitting from the ESF+ can be measured.
6. **Further increase the earmarking for social inclusion to 30%.** This would be in line with EU Member States' current practices³⁵ and would contribute to advance efforts to reduce poverty and inequality, including for children in migration.

7. Specify that actions implemented with 30% of the ESF+ should primarily aim to: **enhance access to affordable, sustainable and high-quality services; promote the social inclusion of all children and families experiencing poverty;** and combat discrimination based on racial or ethnic origin, religion or belief, disability, age, legal status, gender identity, sexual orientation.

8. **Earmark 4% of the ESF+ resources for addressing material deprivation,** including for children in migration, in addition to the 30% earmarking for social inclusion.

9. **Earmark 5% (€5.9 billion) of the ESF+ for the implementation of the Child Guarantee** to tackle the multidimensional aspects of child poverty.

6. The Neighbourhood, Development and International Cooperation Instrument

Background

In June 2018, the European Commission presented its proposal for the Neighbourhood, Development and International Cooperation Instrument (NDICI) Regulation. The NDICI will group together all the current EU instruments for development cooperation including the European Development Fund (EDF) and Development Cooperation Instrument (DCI) among other instruments.³⁶

The NDICI will be the only instrument dedicated to the implementation of EU development cooperation policy, which aims at reducing – and in the long-term eradicating – poverty,³⁷ tackling inequalities, discrimination and realising the 2030 Agenda and its SDGs in order to leave no one behind.³⁸ These goals should be clearly stated as objectives of the NDICI.

The realisation of children's rights goes hand in hand with achieving the Sustainable Development Goals (SDGs). In some developing countries, children represent up to 50% of the population.³⁹ The future of these countries largely depends on untapping the potential of current and next generations of children and youth. The NDICI should therefore prioritise investment in children and young people, and especially those in the most vulnerable situations, such as children in migration.

During the 2014-2020 programming period, up to 47% of all EU official development assistance has directly or indirectly contributed to promoting children's rights in 142 countries by strengthening basic services, such as education, health, sanitation, hygiene and nutrition, child protection, and to a lesser extent by promoting child participation.⁴⁰

The Commission proposes that 20% of the NDICI envelope should contribute to social inclusion and human development, including gender equality and women's empowerment. The European Parliament proposes to strengthen this provision stating that **at least 20%** of the NDICI should be dedicated to human development and social inclusion with a **priority for health, education, nutrition and social protection, in particular for women and children.**

According to the Commission's proposal, 10% of the NDICI budget will be dedicated to 'addressing the root causes of irregular migration and forced displacement and to supporting migration management and governance including the protection of refugees and migrants' rights'. If 10% of the NDICI envelope will support actions addressing root causes of migration, it is essential that **child-specific drivers of migration**⁴¹ are also taken into account.

Examples of child-specific drivers are: violence in the home or in their communities; lack of access to essential services; lack of adequate nutrition; lack of accessible quality education; the threat of child marriage and other forms of gender-based violence; discrimination; poverty; conflicts and instability in their countries of origin; separation of family members; climate change, disaster, drought or famine; trafficking and other forms of exploitation and abuse.

The migration earmarking of the NDICI should also contribute to **promoting safe and legal migration** across partner countries and strengthening **cross-border child protection cooperation.**

Recommendations on the NDICI

Against this background, we recommend that the NDICI regulation should:

1. Be firmly grounded in international human rights law and treaties, including the United Nations Convention on the Rights of the Child (CRC), and in line with EU legal and policy commitments,⁴² such as the Global Compact for Safe, Orderly and Regular Migration (GCM) and Global Compact on Refugees (GCR), to ensure a strong human rights-based approach.

2. Include poverty eradication, fighting inequality, and the achievement of the SDGs among its objectives.

3. Stipulate that **at least 20%** of the NDICI envelope is invested in **human development and social inclusion** to promote access to education, health – including sexual and reproductive health – nutrition and social protection, **for all children, including migrant and refugee children.**

4. Remove the 10% benchmark for addressing the root causes of irregular migration and forced displacement and to supporting migration management and governance. Failing this, set a dedicated **maximum of 10%**. Objectives related to the EU's domestic migration agenda should not be covered by the NDICI.

External spending on migration should be preceded by **do-no-harm assessments** focusing on conflict sensitivity and **human rights impact**. NDICI actions should be implemented in full respect of the principle of policy coherence for development.

5. Outline that **any migration-related action supported by the NDICI must be human-rights compliant** and especially child-rights compliant by upholding the principle of the best interests of the child and should respond to the specific vulnerabilities and needs of all children in migration, including unaccompanied or separated children, child victims of trafficking and children in irregular situations. In particular, the NDICI should contribute to:

- **identifying durable solutions** for children in migration that are in the best interest of the child, including supporting safe, sustainable, and child-rights compliant (re)integration programming.

- strengthening cross-border cooperation of child protection authorities along key migratory routes to provide a continuum of protection, care and services for children in communities of origin, transit and destination, while safeguarding their personal data.

6. Ensure that **no NDICI-funded actions result in detention of children along migration routes.**

7. Ensure that **children in migration and young people are heard and participate in decision making** which affects them and **empower** them to meaningfully participate.

8. Be implemented in line with the Busan principles for Development Effectiveness,⁴³ **without any condition requiring partner countries to cooperate with the EU in migration management.** This requires that NDICI-funded actions are designed along needs identified by and agreed upon with partner countries, with the **active and meaningful participation of civil society organisations.**

Endnotes

- 1 Initiative for children in migration, Fulfilling the rights of migrant children in EU external action. Available at <http://childreninmigration.eu/Fulfilling>
- 2 United Nations Children's Fund (UNICEF). (2018). Children on the move: Key facts and figures. Data brief. Available at: <https://data.unicef.org/resources/children-move-key-facts-figures/>
- 3 Ibid.
- 4 The United Nations High Commissioner for Refugees (UNHCR). (2018). Global Trends: Forced Displacement in 2018. Available at: <https://www.unhcr.org/5d08d7ee7.pdf>
- 5 UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations. Available at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx/>
- 6 CRC, art. 2.
- 7 CRC, art. 3.
- 8 CRC, art. 6.
- 9 CRC, art. 12. Also, Committee on the Rights of the Child, GC No. 12. The right of the child to be heard (2009), particularly section C.9, "In immigration and asylum proceedings", paras. 123 and 124.
- 10 CRC, arts. 3, 8, 9.1, 10.16.
- 11 European Union, Consolidated Versions of the Treaty on European Union, (13 December 2017), article 3. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:l2012P/TXT>
- 12 Joint General Comments 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 (2017) and 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 (2017). 'These joint general comments provide authoritative guidance on legislative, policy and other appropriate measures that should be taken to ensure full compliance with the obligations under the Conventions to fully protect the rights of children in the context of international migration' Joint General Comment No. 3, para. 7.
- 13 European Commission. (2017). Communication on the Protection of Children in Migration. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf
- 14 Conclusions of the Council of the European Union and the representatives of the governments of the Member States on the protection of children in migration, 8 June 2017.
- 15 European Parliament, 3 May 2018, Protection of children in migration European Parliament resolution on the protection of children in migration (2018/2666(RSP)).
- 16 Disclaimer: discussions on the 2021-2027 MFF and on the specific funding instruments presented in this paper are ongoing. Therefore, information in this paper is subject to change.
- 17 Including the Convention relating to the Status of Refugees (1951), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 18 Resolution 12/6 of the UN Human Rights Council (Human rights of migrants: migration and the human rights of the child, 12 October 2009, para. 1 (a)) underlines "that the international legal framework for the protection of the child applies irrespective of his/her migration status and that of his/her parents or family members, and calls upon States to respect and ensure the protection of the human rights of every child within their jurisdiction, without discrimination of any kind". The Recommended Principles and Guidelines on Human Rights at International Borders (UN doc. A/69/ CRP.1, 23 July 2014) emphasise (Principle 6) that "States shall ensure that children in the context of migration are treated first and foremost as children and ensure that the principle of the child's best interest takes precedence over migration management objectives or other administrative considerations".
- 19 See the Joint General Comment No. 4 of the CMW and No. 23 of the CRC in the context of International Migration: States parties', para. 5 "the detention of any child because of their or their parents' migration status constitutes a child rights violation and contravenes the principle of the best interests of the child." See also Committee on the Rights of the Child, report of the 2012 day of general discussion, para. 78. See also the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37, annex), in particular principle 21, para. 46, and guideline 21.
- 20 Initiative for Child Rights in the Global Compacts, Let's Work to End Child Immigration Detention, 11th EU Forum on the rights of the child 7-8 November 2017, Brussels. Available at https://destination-unknown.org/wp-content/uploads/JointStatement_Child_Immigration_Detention_EN.pdf
- 21 Dalli, H. (2018). The Migration, Borders and Security Cluster of The 2021-2027 MFF. Available at: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/627158/EPRS_BRI\(2018\)627158_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/627158/EPRS_BRI(2018)627158_EN.pdf)
- 22 European Parliament, 13 March 2019, European Parliament legislative resolution of 13 March 2019 on the proposal for a regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund (COM(2018)0471 – C8-0271/2018 – 2018/0248(COD)). Available at https://www.europarl.europa.eu/doceo/document/TA-8-2019-0175_EN.html?redirect
- 23 Including children seeking international protection or better opportunities, travelling with or without family members, etc.
- 24 Initiative for Children in Migration, Durable Solutions, 'Finding a durable solution means identifying a country in which children have a right to reside and live their lives. A durable solution is one that fulfils the best interests of the individual child in the long term and is sustainable and secure from that perspective. A secure and long-term residence status is vital to ensure that children in migration access all of their rights, including their rights to well-being and development. A durable solution may involve integration in the country of residence or resettlement or reunification with family members in the country of origin or in a third country. Available at <http://childreninmigration.eu/Durable-solutions>

- 25 Including housing and small-scale infrastructure in the community addressing the needs of families with children, as well as the provision of quality family- and community-based care for unaccompanied children that are integrated into existing national child protection systems in accordance with international standards. The UN Guidelines for the Alternative Care outlines the types of alternative care; including kinship care, foster care, other forms of family-based or family-like placements; supervised independent living arrangements for children.
- 26 Ex ante conditionalities are one of the key elements of the cohesion policy reform for 2014-20. They were introduced for the European Structural and Investment Funds (ESI Funds) to ensure that the necessary conditions for the effective and efficient use of ESI Funds are in place. For more information, see here: https://ec.europa.eu/regional_policy/en/policy/what/glossary/e/ex-ante-conditionalities
- 27 Opening Doors for Europe's Children Campaign (2018). Maintain, Strengthen, Expand: How the EU can Support the Transition From Institutional to Family- and Community-Based Care in the Next Multiannual Financial Framework. Available at: <https://www.openingdoors.eu/resources/post-2020-eu-budget/>
- 28 European Commission. (2019). European Regional Development Fund Introduction. Available at: https://ec.europa.eu/regional_policy/en/funding/erdf/
- 29 On the Proposal for a Regulation of the European Parliament and of the Council on the European Regional Development Fund and on the Cohesion Fund (2019). Available at: http://www.europarl.europa.eu/doceo/document/A-8-2019-0094_EN.html
- 30 European Commission. (2018) [Proposal for a Regulation of the European Parliament and of the Council on the European Social Fund Plus \(ESF+\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2018:382:FIN) COM/2018/0382. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2018:382:FIN>
- 31 European Commission. (2019): European Pillar of Social Rights. Available at: https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en
- 32 The European Commission defines the At Risk Of Poverty or social Exclusion (AROPE) indicator as the share of the population in at least one of the following three conditions:
1. at risk of poverty, meaning below the [poverty threshold](#)
 2. in a situation of [severe material deprivation](#)
 3. living in a household with a very [low work intensity](#).
- In 2017, an estimated 24.9 % of children in the EU-28 were AROPE compared with 23.0 % of adults (18–64) and 18.2 % of the elderly (65 or over). Eurostat. (2019). Children at risk of poverty or social exclusion. Available at: https://ec.europa.eu/eurostat/statistics-explained/index.php/Children_at_risk_of_poverty_or_social_exclusion
- 33 Eurochild. (2019). Child Guarantee: An EU That Helps to Fight Child Poverty. Available at: https://www.eurochild.org/policy/library-details/article/child-guarantee-an-eu-that-helps-fight-child-poverty/?no_cache=1
- 34 ESF+ could support Member States to reduce poverty (SDG 1) and inequalities (SDG 10), to promote good health and well-being (SDG 3), to advance inclusive and quality education (SDG 4) and gender equality (SDG 5), and finally, to end abuse, exploitation, trafficking and all forms of violence against and torture of children (SDG 16.2). For more information see: World Health Organisation (WHO). (2019). The Millennium Development Goals. Available at: https://www.who.int/topics/millennium_development_goals/about/en/
- 35 In 2014–2020, at least 20% of the total European Social Fund (ESF) resources in each Member State were allocated to the thematic objective of 'promoting social inclusion, combating poverty and any discrimination'; however Member States used more than 25% of the ESF for programming on social inclusion and poverty reduction, thus demonstrating that additional investments are required to meaningfully advance the social inclusion of children, including children in migration. For more information, see: European Commission. (2019). European Social Fund. Available at: https://ec.europa.eu/regional_policy/en/funding/social-fund/
- 36 Proposal for a Regulation of the European Parliament and of the Council Establishing the Neighbourhood, Development and International Cooperation Instrument. (2018). Available at: [http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2018/0460/COM_COM\(2018\)0460_EN.pdf](http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2018/0460/COM_COM(2018)0460_EN.pdf)
- 37 Treaty on the Functioning of the European Union (2018), article 208. Available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX-:12008E208:EN:HTML>
- 38 Joint Statement by the Council and the Representatives of the governments of the Member States meeting within the Council, the European Parliament and the European Commission, The New European Consensus on Development (2017). Available at: https://ec.europa.eu/europeaid/policies/european-development-policy/european-consensus-development_en/
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- 40 Novak, A. (2018). EU 4 Children, Overview of EU Operational Support to Children's Rights.
- 41 These issues can drive parents to migrate with their offspring, drive children to migrate by themselves or drive parents to send their child to migrate ahead of them.
- 42 Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union. (2018). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012M%2FTXT>. European Commission. (2015). EU Action Plan on Human Rights and Democracy 2015-2019. Available at: https://ec.europa.eu/anti-trafficking/eu-policy/action-plan-human-rights-and-democracy-2015-2019_en. European Commission. (2017). New European Consensus on Development - 'Our world, our dignity, our future'. Available at: https://ec.europa.eu/europeaid/new-european-consensus-development-our-world-our-dignity-our-future_en. European Commission. (2017). European Union Guidelines on the Promotion and Protection of the Rights of the Child. Available at: https://ec.europa.eu/anti-trafficking/eu-policy/guidelines-promotion-and-protection-rights-child-2017_en
- 43 Global Partnership for Effective Development Co-operation. (2011). Busan Partnership Agreement, outlining the Busan Principles for Development Effectiveness: the ownership of development priorities by developing countries; the focus on results; inclusive development partnerships; and transparency and accountability. Available at: <http://effectivecooperation.org/about/principles/>

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