

Strengthening current data on refugee and migrant children at EU-level

UNHCR and UNICEF's suggestions for eight priority areas and related recommendations

On 12 April 2017, the European Commission (EC) issued a *Communication on the Protection of Children in Migration* (hereafter “the EC Communication”).¹ In the Communication, the EC and European Union (EU) agencies committed to launching consultations on possible improvements to current data collection at EU-level relating to children in migration. The EC also encourages EU Member States (MS) to enhance collection of more disaggregated data and statistics on children in migration.

On 10 July 2017, UNHCR and UNICEF, together with the International Rescue Committee, released the Roadmap *The Way Forward to Strengthened Policies and Practices for unaccompanied and separated refugee and migrant children in Europe*.² The Roadmap underlines the relevance of data for protection-oriented programming purposes. On 15 February 2018, Eurostat, IOM, OECD, UNHCR and UNICEF released *Call to Action: Protecting children on the move starts with better data* (hereafter “the *Call to Action*”),³ where they warned that gaps in data covering refugees, asylum-seekers, migrants and internally displaced populations are endangering the lives and well-being of millions of children on the move. In particular, the *Call to Action* noted that enhanced data collection and provision at EU-level would enable an effective assessment of gaps in protection systems and the fulfilment of child rights. This would also support evidence-based EU policy analysis and development, in order to address the key protection- and integration-related issues concerning children in migration.

Accordingly, UNHCR and UNICEF set out the recommendations below. Recommendations are made with respect to data on refugee and migrant children. However, if implemented, they will *a fortiori* benefit adults as well.

UNHCR and UNICEF hope that these recommendations can be taken into account by the EC when elaborating the 2018 report on the statistics compiled pursuant to Regulation (EC) No 862/2007 on Community Statistics on Migration and International Protection⁴ (hereafter “the Migration and Asylum Statistics Regulation”) and their quality, as well as when assessing the implementation of the recommendations contained in the EC Communication one year after its adoption.

In addition to being grateful to be able to be involved in some related discussions and working groups, UNHCR and UNICEF acknowledge and welcome the significant efforts already made by the EC, Eurostat, EU Agencies and EU MS to improve data collection and provision, including as part of the Working Group on Asylum and Managed Migration Statistics. UNHCR and UNICEF note in particular

¹ European Commission, *Communication from the Commission to the European Parliament and the Council, The protection of children in migration*, COM(2017) 2011 final, Brussels. 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.

² UNHCR, UNICEF, International Rescue Committee, *Discussion Paper on a Possible Way Forward to Strengthened Policies and Practices for Unaccompanied and Separated Children*, 10 July 2017. available at: <https://data2.unhcr.org/ar/documents/download/53109>.

³ Eurostat, IOM, OECD, UNHCR and UNICEF, *A call to action: Protecting children on the move starts with better data*, February 2018. Available at: https://data.unicef.org/wp-content/uploads/2018/02/Migration_advocacy_brief.pdf.

⁴ European Parliament and Council, *Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers*, 11 July 2007. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32007R0862>.

that work may already be ongoing to address some of these recommendations, including with a view to further disaggregating data and expanding data collection.

UNHCR and UNICEF also stand ready to assist EU institutions, agencies and MS in implementing these recommendations.

I. General considerations

UNHCR and UNICEF recognize that implementation of some of their recommendations may be limited by relevant legislative frameworks, including the Migration and Asylum Statistics Regulation. Also, for their recommendations to offer the best prospect for impact on child protection and well-being, data collection at the EU-level should adhere to recent global guidance and recommendations on refugee⁵ and migration statistics,⁶ including commitments made by all EU MS in the 2016 New York Declaration.⁷ UNHCR and UNICEF therefore recommend:

- Revising the Migration and Asylum Statistics Regulation, including to ensure adherence to recent global guidance and recommendations on refugee and migration statistics.

In the meantime, and without prejudice to any voluntary data collection, the current Migration and Asylum Statistics Regulation provides an important binding framework for the collection of disaggregated data on refugee and migrant children. It is therefore key that data be reported in a quality and timely manner. In that context, UNHCR and UNICEF recommend:

- Improving compliance with existing reporting requirements as per the current Migration and Asylum Statistics Regulation.

It is also key to ensure that the situation of children, including unaccompanied and separated children is effectively reflected through a better dissemination and analysis of data which includes child-specific datasets. UNHCR and UNICEF therefore recommend:

- Creating more child-specific datasets to allow for a more targeted dissemination and better analysis of data for policy and practice improvements.

In addition to Eurostat, several EU Agencies, including the European Asylum Support Office (EASO) and the Fundamental Rights Agency (FRA) are collecting data on asylum and migration. At times, data on the same issue is collected and published by several of these EU actors. In that context, to avoid straining national administrations, facilitate dissemination and ensure consistency, UNHCR and UNICEF recommend to the EC to:

- Identify a leading EU actor in the collection of a specific type of data, as well as to ensure that, when the same type of data is collected by several EU actors, that the definitions used are fully aligned.

Finally, and mindful of the fact that personal data protection and confidentiality is a fundamental right, provided to people irrespective of their nationality or residence, with special safeguards for children, UNICEF and UNHCR recommend in the above exercises, existing EU acquis on data protection is strictly adhered to and, if necessary, strengthened.

⁵ Expert Group on Refugee and Internally Displaced Persons Statistics, *International Recommendations on Refugee Statistics*. Available at: <http://ec.europa.eu/eurostat/documents/7723677/8307029/International-Recommendations-on-Refugee-Statistics.pdf/4c2fdd5c-abd1-4960-a89b-09f06fec9d64>.

⁶ See United Nations Expert Group Meeting, Improving Migration Data in the Context of the 2030 Agenda. Available at: https://unstats.un.org/unsd/demographic-social/meetings/2017/new-york--egm-migration-data/EGM%20Recommendations_FINAL.pdf.

⁷ UN General Assembly, *Resolution adopted by the General Assembly on 19 September 2017, New York Declaration for Refugees and Migrants*, paragraph 40, A/RES/71/1, New York. Available at: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/1.

II. Eight suggested priority areas and related recommendations

1. Enhancing the understanding of the protection situation of refugee and migrant children

Children, who represent a large share of the total number of asylum-seekers in the EU, are a vulnerable category of persons with specific protection needs. Specific risks include, but are not limited to, trafficking, abuse and exploitation. This speaks to the need for better evidence on the situation of child asylum-seekers, the types of procedures they are undergoing, as well as the decisions they receive on their asylum claims. In its Communication, the EC indicated that data on children in migration is still very fragmented, not always disaggregated by age and sex and not always comparable, making children and their needs "invisible". The EC further noted that only data on the number of children who apply for asylum are collected in a coordinated manner and that more detailed data on all children in migration are needed to inform policy development and better targeted support services and to plan for contingencies.

In that context, UNHCR and UNICEF recommend:

- Collecting data on refugee and migrant children by year of birth rather than age group.
- Providing data on asylum applications lodged by unaccompanied and separated children as frequently as for other categories, namely on a monthly basis.
- Disaggregating data on pending asylum applications by date on which the application was lodged, with a break down by age, sex, citizenship/statelessness and family status of children (unaccompanied and separated children or children in families).
- Disaggregating data on Dublin procedures by age, sex, duration of the procedure, and family status of children (unaccompanied and separated children or children in families).
- Disaggregating negative asylum decisions by grounds for rejection (rejection on the merits or rejection as inadmissible), age, sex and citizenship/statelessness.
- Collecting data on asylum decisions taken in accelerated procedures, disaggregated by age, sex and citizenship/statelessness and family status of children (unaccompanied and separated children or children with families).
- Collecting data on decisions on asylum applications taken in border procedures, disaggregated by age, sex and citizenship/statelessness and family status of children (unaccompanied and separated children or children with families).
- Collecting data on beneficiaries of international protection in the EU, disaggregated by age, sex, citizenship/statelessness, type of protection status (refugee status or subsidiary protection) and family status of children (unaccompanied and separated children or children with families).

2. Supporting a better understanding of the situation of highly vulnerable children

Refugee and migrant children with specific needs, who fall under the highly vulnerable category according to the needs assessment, require targeted programs and policies, specific procedural and reception arrangements, as well as the provision of services.

In that context, UNHCR and UNICEF recommend:

- Collecting data on refugee and migrant children with specific needs/vulnerabilities (disabilities, married, trafficked) disaggregated by age, sex, citizenship/statelessness, asylum status ("applicant", "beneficiary of refugee status", "beneficiary of subsidiary protection", "other").

- Collecting data on number of children referred by responsible authorities to child protection services, disaggregated by age, sex, citizenship/statelessness.
- For a refugee or migrant child married underage, further disaggregating data on where the child was married (“country of origin”, “country of asylum”, “other”) and at what age.

3. Improved evidence on guardianship systems

Strengthened, effective and protective guardianship can ensure that children can effectively access their rights, and that the best interests of the child are a primary consideration in all decisions concerning them, including in asylum procedures and the identification of sustainable solutions for them. However, quantitative evidence on guardianship systems is lacking.

In that context, UNHCR and UNICEF recommend:

- Collecting data on share of unaccompanied and separated children who had a guardian appointed within one month after the child is identified as unaccompanied and separated.⁸
- Collecting data on the average number of unaccompanied and separated children per guardian, with data on the minimum and maximum number of unaccompanied and separated children per guardian.

4. Towards ending immigration detention of children

In the New York Declaration, the EU and its MS committed to work towards ending immigration detention of children. The Fundamental Rights Agency published a report on the European legal and policy framework on immigration detention of children⁹, outlining the main fundamental rights safeguards provided for in EU and human rights law to prevent unlawful and arbitrary detention. In order to measure progress towards that objective, UNHCR and UNICEF strongly recommend the collection of statistics on migration detention of children. This data will be critical for the EC and other stakeholders to quantify the use and current extent of immigration detention of children, to monitor the situation and inform future policies.

In that context, UNHCR and UNICEF recommend:

- Collecting data on the number of refugee and migrant children detained disaggregated by location (type of detention facility, e.g. immigration detention centres, police stations, border facilities, containers, jails), age, sex, citizenship/statelessness, grounds for detention,¹⁰ average length of detention, maximum length of detention, and whether children were detained with or without parents.
- Collecting data on refugee and migrant children placed in non-custodial settings, disaggregated by age, sex, citizenship/statelessness, family status (unaccompanied or separated child or child in family), and type of appropriate care arrangements (e.g. in the national/local alternative care system, in family-type care with their own family, in community care in appropriate care arrangements).

5. Assessing migrant and refugee children’s integration

Integration is essential for refugee and migrant children. Accordingly, it is important to standardize indicators on integration, so that they are comparable and enable an assessment of the success of integration efforts across countries. It is also crucial to produce statistics that accurately reflect the integration of refugee and migrant children, in order to maximise positive integration outcomes.

⁸ More granular reporting timeframes would be helpful and should ultimately be aligned with the requirements of the Common European Asylum System.

⁹ Fundamental Rights Agency, *European Legal and Policy Framework on Immigration Detention of Children*, 2017. Available at: http://fra.europa.eu/sites/default/files/fra_uploads/fra-2017-immigration-detention-children_en.pdf.

¹⁰ Including if the ground relates to the migration status of the child.

In that context, UNHCR and UNICEF recommend:

- Expanding data collected on refugee and migrant populations, which is used to monitor integration (e.g. by means of investing in specific surveys or using larger sample sizes for the refugee and migrant population in existing surveys).
- Using the same indicators as the host population, in line with the recommendations provided by the Expert Group on Refugee and IDP Statistics (EGRIS)¹¹ and the global recommendations of the United Nations Expert Group Meeting on Improving Migration Data in the Context of the 2030 Agenda,¹² in agreement with the EC's recommendations.
- Disaggregating data on persons at risk of poverty by age, sex, citizenship/statelessness, ethnicity and family status (unaccompanied and separated children or child in family).
- Disaggregating data on population statistics by educational attainment ("less than primary", "primary", "lower secondary" and "upper secondary").
- Collecting data on school dropout rates, disaggregated by citizenship/statelessness and country of birth of parents.

6. Ensuring the best interests of children in return procedures

Where a child is in an irregular situation, return is one of the durable solutions that can be considered taking the best interests of the child as a primary consideration. Appropriate safeguards need to be in place for the return of such children, including unaccompanied and separated children. Accordingly, it is key to have a better understanding of the extent to which children are subject to return procedures, as well as whether returns are voluntary or forced returns in compliance with a return order/decision under the Return Directive.¹³

In that context, UNHCR and UNICEF recommend:

- Disaggregating data on return (third-country nationals ordered to leave and third country nationals returned following an order to leave) by age and sex, with a specific dataset for unaccompanied and separated children. For third-country nationals returned following an order to leave, further breaking down the data depending on whether the person departed voluntarily or was removed, in accordance with the Return Directive, and by type of country of return (country of origin or other country). Both datasets for unaccompanied or separated children or children otherwise considered at risk within their families should also be disaggregated by whether the decision on return was based on a best interest determination (BID).
- Collecting data on (assisted) voluntary return, disaggregated by sex, age, citizenship/statelessness and country to which the person is returned, with a specific dataset for unaccompanied and separated children.
- Collecting data on the length of stay in the EU country before return, disaggregated by sex, age, citizenship/statelessness, with a specific dataset for unaccompanied and separated children.

7. A clearer overview of the availability of safe and legal pathways

Resettlement and family reunification with family members in the EU are key safe and legal pathways, enabling refugees to find a durable solution. Accordingly, more information is needed to have a clearer overview of the availability of these pathways for children. In addition, in line with the commitments made by EU MS in the New York Declaration to expand the number and range of legal pathways available

¹¹ Ibid

¹² Ibid

¹³ European Parliament and Council of the European Union, *Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals*, 16 December 2008. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:en:PDF>.

for refugees, it is key that EU data reflects also other forms of admission than resettlement and family reunification.

In that context, UNHCR and UNICEF recommend:

- Collecting data on the resettlement of children considered to be at risk, including unaccompanied and separated children, with disaggregation by age, sex and citizenship/statelessness.
- Disaggregating data on permits issued for family reunification with a beneficiary of international protection by age, and family status (unaccompanied and separated children or children in family).
- Collecting data also on other forms of admission than resettlement and family reunification, with disaggregation by age, sex, citizenship/statelessness and form of admission (e.g. humanitarian corridor, private sponsorship).

8. Strengthening the identification of stateless children

Stateless persons, including children, among the refugee and migrant populations in Europe often remain unidentified as such. This is problematic because statelessness may affect a person's asylum claim, as well as his or her access to protection on grounds of his/her statelessness, only where appropriate. As acknowledged by the EC in its Communication, children who are stateless, due for example to birth to stateless parents or due to gender discrimination in nationality laws in their mother's country of nationality, may be difficult to identify as such, and hence delay their status determination in the EU. Additionally, statelessness needs to be taken into account when considering return possibilities.

In that context, UNHCR and UNICEF recommend:

- Ensuring that additional efforts are made so that possible stateless persons, including children, are identified and reported under the "stateless" category, and not as persons of "unknown citizenship".
- Collecting data on the number of stateless children who have made asylum applications.
- Collecting data on the number of stateless children who have applied for statelessness determination in countries where such procedures are in place.

III. Going beyond data collection

UNHCR and UNICEF would like to seize this opportunity to identify key elements beyond the statistics system that will help improving the protection of children in migration. UNHCR and UNICEF are particularly pleased with the recommendations provided by EGRIS on refugee statistics, namely to:

- Improve the capacity of statistical units responsible for producing refugee and migrant statistics in both Ministries and national statistical offices.
- Advocate to review national statistical legislation to meet international recommendations, and to remove legal barriers to data sharing between agencies, in line with relevant data-protection agreements.
- Improve the environment for data sharing in terms of the interoperability of data platforms between agencies and communication channels between relevant stakeholders, as well as for greater use of and access to data.