

# Right to Justice: Quality Legal Assistance for Unaccompanied Children

## Annex 2 INDICATORS FOR THE GUIDING PRINCIPLES

*This document was produced in the framework of the project “Right to Justice: Quality Legal Assistance for Unaccompanied Children”, coordinated by the European Council on Refugees and Exiles (ECRE), and is an Annex to the comparative report of the project.*

## Introduction

This set of indicators was developed to monitor the implementation of the guiding principles in Annex 1, following the methodology produced by the Office of the United Nations High Commissioner for Human Rights (OHCHR) Indicators.<sup>1</sup> The goal of the indicators is to help measure the application of the guiding principles and their factors in practice at the national level. The indicators can be interpreted and applied in light of the national context whilst retaining the goal of monitoring the impact of the guiding principles. The indicators provide a guide for the collection of quantitative and qualitative data and are not purporting to be a checklist of legislative instruments and practices to be implemented. They should be used in conjunction with the principles.

### OHCHR indicators

The OHCHR indicators are divided into three categories: structural, process and outcome.

- *Structural indicators*: Structural indicators help in capturing the acceptance, intent and commitment of the State to undertake measures in keeping with its human rights obligations.
- *Process indicators*: Process indicators help in assessing a State's efforts, through its implementation of policy measures and programmes of action, to transform its human rights commitments into the desired results.
- *Outcome indicators*: Outcome indicators help in assessing the results of State efforts in furthering the enjoyment of human rights

Structural indicators look at the legal and policy framework, process indicators at how the law and policy are implemented and outcome indicators focus on the impact on unaccompanied children.

As Principles 1 and 2 are overarching in nature, no indicators are provided. Indicators helping to measure the implementation of principle 1 and 2 are encompassed within the indicators for the seven other thematic principles.

- **Principle 1**: Legal assistance for unaccompanied children is provided with the aim of, and in a manner which, fully respects the rights of the child
- **Principle 2**: The provision of legal assistance draws on, and contributes to, the child protection system.

### Principle 3. Prompt and effective access to quality legal assistance is ensured

#### **Structural indicators**

- Statutory provision for the right of unaccompanied children to prompt legal assistance in all asylum and migration procedures
- Statutory provision exempting unaccompanied children from any restrictive admissibility criteria to receive free legal assistance
- Legal obligation for the authorities and the guardians to inform children on their right to legal assistance, in a child friendly way and in a language they understand
- Legal obligation for a legal advisor to be present when a child is being interviewed in administrative or judicial proceedings

---

<sup>1</sup> The three types of indicators and their definition have been taken from OHCHR, [Human Rights Indicators](#), 2012 as it provides a helpful and tested methodology.

### ***Process indicators***

- List of actors responsible for conveying information in an accessible manner on legal assistance to unaccompanied children (e.g. authorities, guardian, social worker)
- Guidance or code of conducts for actors in contact with unaccompanied children (police, state authorities, border authorities, social workers, guardians, legal advisors) on information provision
- List of available child friendly information materials/tools on legal assistance (type, language, year of publication, up-to date and distribution)
- Procedures in place for access to legal assistance by unaccompanied children.
- Procedures in place to allow legal assistance to be tailored to unaccompanied children's needs
- Guidance on the use of referral mechanisms within an integrated child protection system
- Cases postponed or adjourned due to the non-appointment of a legal advisor

### ***Outcome indicators***

- Evidence that unaccompanied children understand their right to legal assistance and how to access it
- Evidence that unaccompanied children are effectively able to access legal assistance
- Evidence that unaccompanied children understand the role of the legal advisor in the procedures
- Proportion and number of unaccompanied children who receive child friendly written materials and leaflets and/or oral information
- Proportion and number of children who receive legal advice (by procedure, stages of the procedures and by whom)
- Proportion and number of unaccompanied children who were represented by a lawyer/legal advisor at hearings or interviews

## **Principle 4. The framework within which legal advisors provide legal assistance enables them to ensure the participation and engagement of unaccompanied child clients.**

### ***Structural indicators***

- Provision guaranteeing effective access to their legal advisors by any unaccompanied child irrespective of the procedure or location
- Obligation to allow sufficient time for legal advisors to meet with their client unaccompanied child before interviews or hearings before authorities or courts

### ***Process indicators***

- Guidance or code of conducts for legal advisors on working with unaccompanied children, including on being accessible, keeping the child informed, ensure the child's participation and their right to be heard is respected
- Guidance or code of conduct for guardians in facilitating the relation and contact between the legal advisor and the child
- Guidance or code of conduct for legal advisors on confidentiality
- Child-friendly materials and methods used by legal advisors to explain the procedure and process
- Code of conduct and/or standards of ethic for legal advisors to act with due diligence and respect deadlines
- Average timeframe within which legal advisors are informed of interviews or hearings
- Evidence that legal advisors feel they have unhindered access to their client or unaccompanied children in need of legal assistance (including in remote locations or closed centres)
- Evidence that legal advisors feel they have sufficient time to meet with their client prior to interviews or hearings

### ***Outcome indicators***

- Evidence that unaccompanied children feel their legal advisor is accessible
- Evidence that unaccompanied children understand the procedure and processes they go through

- and what they can expect
- Evidence that unaccompanied children feel the legal advisor is taking their views into account and respecting them
- Evidence that unaccompanied children feel they can trust their legal advisor
- Proportion and number of unaccompanied children who met with a legal advisor prior to an interview or hearing
- Numbers and proportions of unaccompanied children present/ not present at interviews/hearings even if they were represented (and reasons for not being present)

**Principle 5.** Legal advisors have sufficient time and appropriate resources to prepare and provide quality legal assistance to unaccompanied children

**Structural indicators**

- Legal obligation to allow sufficient time for legal advisors to properly prepare their case and perform what is required (depending on the individual circumstances of the case and specific needs of the client)
- Provision and conditions allowing legal advisors to access external experts (free of charge, or with expenses covered)

**Process indicators**

- Case management system in place to ensure legal advisors have sufficient capacity and time for each unaccompanied child's case
- Minimum and maximum number of unaccompanied children cases each legal advisor can take at a time
- Evidence that legal advisors feel they have sufficient time to prepare the unaccompanied child's case
- Evidence that legal advisors feel their workload was reasonable
- Availability of resource tools and external experts for legal advisors
- Entitlements for legal advisors to request information/advice/opinion from external experts (per type of experts)
- Entitlements for legal advisors to request the translation of documents
- Proportion and number of cases where legal advisors requested information/advice/opinion from external experts (per type of experts) or requested translation of documents
- Proportion and number of cases where legal advisors requested an extension of the time allocated

**Outcome indicators**

- Evidence that unaccompanied children feel their legal advisors had sufficient time to dedicate to their case

**Principle 6.** Legal advisors working with unaccompanied children possess the necessary qualifications, knowledge, skills and attitudes and are fully independent in their function and role.

**Structural indicators**

- Statutory provision on the independence of legal advisors from state or court authorities

**Process indicators**

- Guidance or code of conduct on child friendly legal assistance and how to take special needs of unaccompanied children into account
- Code of conduct or standards on ethics, confidentiality and responsibilities specific to working with unaccompanied children
- Minimum criteria required to advise and represent unaccompanied children (by type of legal advisors)

- Availability of trainings for legal advisors which address knowledge, skills and attitude and the possibility for further continuing professional development
- Proportion and number of legal advisors trained per years (per topic)

#### ***Outcome indicators***

- Evidence that unaccompanied children feel their legal advisors is independent from authorities
- Evidence that unaccompanied children feel legal advisors possess the necessary qualifications to perform quality work

### **Principle 7. Qualified, trained and independent interpreters are available for effective communication between the child and their legal advisors**

#### ***Structural indicators***

- Statutory provision on the right of children to interpretation
- Obligation to provide free interpretation for meetings between the legal advisor and the unaccompanied child
- Statutory provision on the independence of interpreters from state or court authorities

#### ***Process indicators***

- Availability of interpretation service for meetings between the child and their legal advisor
- Code of conduct or ethic for interpreters working with unaccompanied children
- Guidance or code of conduct for legal advisors to ensure interpretation is appropriate and of good quality
- Accreditation system or registry of interpreters qualified to work with unaccompanied children
- Minimum qualifications required for interpreters working with unaccompanied children
- Available trainings for interpreters working with unaccompanied children
- Proportion and number of interpreters trained per years (per topic)
- Mechanism to monitor the quality of services provided by interpreters working with children
- Evidence that legal advisors feel that interpretation for meetings with their client is of adequate quality

#### ***Outcome indicators***

- Proportion and number of cases involving unaccompanied children for which interpretation was provided in meetings between the legal advisor and the child
- Proportion and number of cases of unaccompanied children who requested to change interpreters
- Evidence that unaccompanied children feel that interpretation for meetings with their legal advisors is of adequate quality

### **Principle 8. Independent monitoring and evaluation mechanisms of the quality of legal assistance are established**

#### ***Structural indicators***

- Obligation for legal assistance providers to be subject to peer review or quality assurance systems
- Independent body to monitor state provided legal assistance
- Independent complaint mechanism on legal advisors for unaccompanied children (and their guardians)
- Provision on sanctions and measures to be applied to legal advisors/legal assistance providers in case of breach of the law or code of conduct
- Statutory provision on the right of unaccompanied children to request a change of legal advisor

### ***Process indicators***

- Existence of child protection case review systems that also monitors the provision of legal assistance
- Scope of the monitoring of state provided legal assistance undertaken by the independent body
- Peer review mechanisms in place and proportion of legal advisors involved
- Nature and level of sanctions/measure legal advisors may face
- Proportion and number of legal advisors/legal assistance providers that were reprimanded/penalised/sanctioned
- Existence of child-friendly complaint forms/mechanisms
- Mechanism/procedure for unaccompanied children to choose a legal advisor or request a change

### ***Outcome indicators***

- Evidence that unaccompanied children understand their right to choose a legal advisor and to request a change
- Evidence that children are aware of existing complaint mechanism and their functioning
- Proportion and number of unaccompanied children who made use of the existing complaint mechanism/ who submitted a complaint
- Proportion and numbers of unaccompanied children who choose their own legal advisor
- Proportion and numbers of unaccompanied children who requested a change of legal advisor

**Principle 9.** Sufficient funding is provided to ensure the availability of legal assistance, access to information, training and expertise needed in order to guarantee quality legal assistance

### ***Structural indicators***

- Legal obligation to fund adequately legal assistance for unaccompanied children
- Provision or policy on additional remuneration of legal assistance for unaccompanied children cases (where relevant)

### ***Process indicators***

- Budget allocated to legal assistance to unaccompanied children by the state (for state run programmes, for framework contract with non-governmental organisations or agencies, for project funding related to legal assistance)
- Entitlements for legal advisors to request extension of time/funding allocated per case or task (where relevant)
- Mechanism for legal advisors to request additional time/funding based on the complexity of a case (where relevant)
- Timeframe and average delay for the payment of the remuneration of legal advisors (or their organisations if they are employees)
- Budget allocated for the funding of consultation of experts, expert reports and other resources
- State or projects budget allocated for trainings
- Proportion of cases where travel costs were reimbursed in addition to the standard remuneration (where relevant)
- Evidence that legal advisors feel they were sufficiently remunerated to provide quality assistance and that remuneration is not a deterrent for them to take unaccompanied children cases

