

# Council of Europe Consultation Group on the Children of Ukraine (CGU)



**Compendium on  
transnational procedures and co-operation**

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# **COUNCIL OF EUROPE CONSULTATION GROUP ON THE CHILDREN OF UKRAINE (CGU)**

## **Compendium on transnational procedures and co-operation**

Prepared by:  
Aude Fiorini and Peter McEleavy

February 2025

*The opinions expressed in this document are the responsibility of the author(s)  
and do not necessarily reflect the official policy of the Council of Europe*

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## Users guide for Compendium

### • What is this Compendium?

This compendium is a collection of concise yet detailed information on: ‘laws’ governing the responsibilities of Council of Europe (CoE) member States (CoE host States) on the one hand, and Ukraine on the other, as well as the jurisdiction of competent authorities over children of Ukraine in different situations. The ultimate aim is to make the legal framework more accessible, enhancing cooperation between the Central Authorities.

This Compendium concentrates on cross-border situations. However, it does not, extend to adoption issues or cover substantive guardianship questions. For further information on adoption of children of Ukraine please see: [Information Note Responding to Adoption Initiatives During the War in Ukraine](#). Given the vast volume of international law and standards, it was agreed at the CGU Dialogue Group on Transnational Procedures and Cooperation meeting on 11 June 2024 that in order to achieve an appropriate balance between accessibility, coverage and practicality, a selection of instruments and additional materials had to be made.

### • Who is this Compendium for?

The aim has been to create a user-friendly document accessible to a wide range of target audiences, comprising **central authorities, legal professionals, case workers, and child protection authorities**.

### • How is this Compendium structured?

The Compendium consists of two parts:

- **Part I** identifies instruments governing the responsibilities of States, focusing on the international human rights relevant to internationally displaced children of Ukraine. In this part a thematic structure has been used, examining the rights of children and responsibilities of States based on different statuses of children (as right holders, as (potential) victims of crime and as migrants).
- **Part II** focuses on private international law instruments directly relevant to questions of jurisdiction to take measures in respect of children of Ukraine and communication between Central Authorities. In this part a practical structure has been used, setting out common scenarios and identifying the legal issues arising therefrom and the relevant instruments. In addition to core legal instruments, links are provided to a selection of additional materials to provide further insight and assistance to users.

### • When are the instruments listed in this compendium to be used?

Not all the instruments listed in the compendium apply in all States and in all situations. EU legislation only applies in Member States of the EU. International instruments are only applicable in States that are parties to them and, where necessary, have implemented them in accordance with their constitutional framework.

Where a State/jurisdiction is bound by / has given effect to, the instruments listed, the rights referred to in **Part I** are overarching and applicable in all situations arising on the territory of that State/jurisdiction. The instruments referred to in **Part II** apply *only if, additionally, the matter at stake falls within their territorial, material, and personal scope*. This is to be determined on a case-by-case basis and is not discussed in this Compendium.

*Users are also directed to similar sources for further information:*

- *Child Circle/UNICEF, Fulfilling the Rights of Children Without Parental Care Displaced from Ukraine – [Compendium or Law and Guidance](#) (2023);*
- *Child Circle/UNICEF, Fulfilling the Rights of Children Without Parental Care Displaced from Ukraine – [An analysis of international and European law](#) (2023).*

## KEY TERMS AND DEFINITIONS

According to the Council of Europe Recommendation CM/Rec(2019)11 On Effective Guardianship For Unaccompanied And Separated Children In The Context Of Migration:

- “**child**” refers to any human being below the age of 18 years;
- “**unaccompanied child**” refers to a child who has been separated from both parents and other relatives and is not being cared for by an adult who, by law or custom, is responsible for doing so;
- “**separated child**” refers to a child who has been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members;

According to the 1996 Hague Child Protection Convention:

- “**jurisdiction**” refers to the power of a particular state’s judicial or administrative authorities to take measures concerning the protection of children.

According to the United Nations Convention on the Rights of the Child:

- “**best interests of the child**” must be a primary consideration in all actions concerning the child, taking into account all relevant factors such as the child's physical and emotional health, educational needs, family environment, and their views and preferences;
- “**right to participate**” entails that children can express their views, feelings, and wishes in all decisions affecting them, and to have their views considered and given due weight, according to their age and maturity.



## Part I - RESPONSIBILITIES OF STATES

### A. CHILDREN ARE PERSONS and RIGHT HOLDERS

Children are holders of rights recognised in universal<sup>1</sup> and regional<sup>2</sup> human rights instruments. They are holders of all fundamental rights as humans as well as rights aimed at addressing their specific characteristics as children. States parties to human rights instruments are to respect and guarantee these rights to all children within their jurisdiction. The recognition of individual rights leads to negative or positive obligations on the part of States.

#### a. Core International and Regional Instruments on Fundamental Rights

The following instruments are the most relevant to the human rights protection of the internationally displaced children of Ukraine adopted by the UN, Council of Europe and European Union. For full lists of human rights instruments, see the links provided in the footnotes 1 and 2.

United Nations	Council of Europe	European Union
<ul style="list-style-type: none"><li>➤ <a href="#">United Nations Convention on the Rights of the Child (CRC) (1989)</a></li><li>➤ <a href="#">Optional Protocol to the Convention on the Rights of the Child on a communications procedure (A/RES/66/138, 2011)</a></li></ul>	<ul style="list-style-type: none"><li>➤ <a href="#">European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (ETS No. 005, 1950)</a></li><li>➤ <a href="#">European Social Charter (ESC) (Revised, ETS No. 163, 1996)</a></li></ul>	<ul style="list-style-type: none"><li>➤ <a href="#">EU Charter of Fundamental Rights (EU Charter) (2000)</a></li></ul>
Fundamental and overarching rights and principles of particular note to children of Ukraine include:		
<ul style="list-style-type: none"><li>➤ Prohibition of Discrimination (Art 2 CRC, Art 14 ECHR &amp; Protocol 12, Art 21 EU Charter)</li><li>➤ Best Interests Principle (Art 3 CRC, Art 24(2) EU Charter)</li><li>➤ Right to Participation &amp; Right to be Heard (Art 12 CRC, Art 24(1) EU Charter)</li><li>➤ Right to Maintain Contact (Art 9 CRC, Art 24(3) EU Charter)</li><li>➤ Right to Private and Family Life (Art 8 ECHR)</li></ul>		

<sup>1</sup> [List](#) of core UN international human rights instruments.

<sup>2</sup> [List](#) of EU acquis and add this link: ANNEX to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Putting Children's Interests First: a Communication accompanying the Commission Recommendation on Integrated Child Protection Systems, COM(2024) 188 final ([2c17a092-757b-4765-a694-423abf9ae4a0\\_en \(europa.eu\)](#))

## b. Additional Materials

### 1. Overarching Principles

United Nations	Council of Europe	Inter-institutional
<ul style="list-style-type: none"> <li>➤ <a href="#">General Comment No. 12 of the CRC</a> on the right of the child to be heard (CRC/C/GC/12, 2009)</li> <li>➤ <a href="#">General Comment No. 14 of the CRC</a> on the right of the child to have his or her best interests taken as a primary consideration (CRC/C/GC/14, 2013)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Recommendation on the participation of children and young people under the age of 18</a> (CM/Rec(2012)2 (2012)</li> <li>➤ <a href="#">Handbook on children's participation for professionals working for and with children</a> (2020)</li> <li>➤ <a href="#">Guidelines for developing a National Children's Participation Strategy</a> (2023)</li> </ul>	<ul style="list-style-type: none"> <li>➤ FRA &amp; CoE <a href="#">Handbook on European law relating to the rights of the child</a> (2022)</li> </ul>

### 2. Child protection

United Nations	Council of Europe	European Union
<ul style="list-style-type: none"> <li>➤ <a href="#">Guidelines for the Alternative Care of Children</a> (A/RES/64/142, 2009)</li> <li>➤ <a href="#">Children without parental care</a> (A/RES/74/133, 2020)</li> <li>➤ <a href="#">Rights of the child: realizing the rights of the child and family reunification</a> (A/HRC/RES/49/20, 2022)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Recommendation on the rights of children living in residential institutions</a> (CM/Rec(2005)5, 2005)</li> <li>➤ <a href="#">Recommendation on children's rights and social services friendly to children and families</a> (CM/Rec(2011)12, 2011)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Recommendation on developing and strengthening integrated child protection systems in the best interests of the child</a> (EU 2024/1238, 2024)<sup>3</sup></li> </ul>

### 3. Access to justice

United Nations	Council of Europe	European Union	Interinstitutional
<ul style="list-style-type: none"> <li>➤ <a href="#">General Comment No. 24 of the CRC</a> on children's rights in the child justice system (CRC/C/GC/24, 2019)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice</a> (2010)</li> <li>➤ <a href="#">European Agreement on the Transmission of Applications for Legal Aid</a> (ETS No. 092, 1977)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Directive 2002/8/EC</a> to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes (2002)</li> </ul>	<ul style="list-style-type: none"> <li>➤ FRA &amp; CoE <a href="#">Handbook on European law relating to access to justice</a> (2016)</li> </ul>

<sup>3</sup> For an overview of the state of child protection systems in EU Member States, see [Mapping](#) Child Protection Systems in the EU – Update 2023.



## B. RIGHTS OF CHILDREN AND RESPONSIBILITIES OF STATES IN THE CONTEXT OF MIGRATION

Children on the move may be both vulnerable as children and as migrants. This section contains references to primary instruments laying out international migration frameworks and associated rights and resources clarifying and reinforcing the position of migrant children.

### a. Core International and Regional Instruments on Overarching Principles and Procedures

United Nations	Council of Europe	European Union	Other
<ul style="list-style-type: none"> <li>➤ <a href="#">1951 Convention relating to the Status of Refugees and its 1967 Protocol</a></li> <li>➤ <a href="#">1954 Convention relating to the Status of Stateless Persons</a></li> <li>➤ <a href="#">1961 Convention on the Reduction of Statelessness</a></li> <li>➤ <a href="#">New York Declaration for Refugees and Migrants (A/RES/71/1, 2016)</a></li> <li>➤ <a href="#">UN Global Compact on Refugees (2018)</a></li> <li>➤ <a href="#">UN Global Compact for safe, orderly and regular Migration (2018)</a></li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">European Agreement on Transfer of Responsibility for Refugees (ETS No. 107, 1980)</a></li> </ul>	<p><i>Those fleeing Ukraine have a right to temporary protection in the EU if they fall within the scope of the Temporary Protection Directive as introduced by the Implementing Decision 2022/32 (Art 2). They may still apply for asylum at any time.</i></p> <p><b>Temporary Protection</b></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Directive 2001/55/EC</a> on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences (TPD) (2001)</li> <li>➤ <a href="#">Council Implementing Decision (EU) 2022/382</a> establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (2022)</li> <li>➤ <a href="#">Council Implementing Decision (EU) 2024/1836</a> of 25 June 2024 extending temporary protection as introduced by Implementing Decision (EU) 2022/382 (2024)</li> </ul> <p><b>Migration and Asylum</b></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Directive 2003/86/EC</a> of 22 September 2003 on the right to family reunification (2003)</li> <li>➤ <a href="#">Regulation (EC) 810/2009</a> establishing a Community Code on Visas (2009)</li> <li>➤ <a href="#">Directive 2011/95/EU</a> on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Chişinău Agreement</a> of Cooperation of States Members of the Commonwealth of Independent States on the Return of Minors to their State of Residence (2002)</li> </ul>

		<p>subsidiary protection, and for the content of the protection granted (recast) (2011)</p> <ul style="list-style-type: none"> <li>➤ <a href="#">Directive 2013/32/EU</a> of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) (Asylum Procedures Directive) (2013)</li> <li>➤ <a href="#">Directive 2013/33/EU</a> of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast) (Reception Conditions Directive) (2013)</li> <li>➤ <a href="#">Regulation (EU) 603/2013</a> on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast) (2013)</li> <li>➤ <a href="#">Regulation (EU) 604/2013</a> establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (Dublin III) (2013)</li> </ul>	
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**Important to note for EU member States:** A set of new rules managing migration and establishing a common asylum system was adopted by the EU in the spring of 2024. The Pact on Migration and Asylum will enter into force in 2026.

- [Directive \(EU\) 2024/1346](#) of the European Parliament and of the Council of 14 May 2024 laying down standards for the reception of applicants for international protection;
- [Regulation \(EU\) 2024/1347](#) on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, amending Council Directive 2003/109/EC and repealing Directive 2011/95/EU of the European Parliament and of the Council;
- [Regulation \(EU\) 2024/1348](#) establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU;
- [Regulation \(EU\) 2024/1349](#) establishing a return border procedure and amending Regulation (EU) 2021/1148;
- [Regulation \(EU\) 2024/1350](#) establishing a Union Resettlement and Humanitarian admission framework, and amending Regulation (EU) 2021/1147;
- [Regulation \(EU\) 2024/1351](#) on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013;
- [Regulation \(EU\) 2024/1352](#) amending Regulations (EU) 2019/816 and (EU) 2019/818 for the purpose of introducing the screening of third-country nationals at the external borders;
- [Regulation \(EU\) 2024/1356](#) introducing the screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817;
- [Regulation \(EU\) 2024/1358](#) on the establishment of ‘Eurodac’ for the comparison of biometric data in order to effectively apply Regulations (EU) 2024/1351 and (EU) 2024/1350 of the European Parliament and of the Council and Council Directive 2001/55/EC and to identify illegally staying third-country nationals and stateless persons and on requests for the comparison with Eurodac data by Member States’ law enforcement authorities and Europol for law enforcement purposes, amending Regulations (EU) 2018/1240 and (EU) 2019/818 of the European Parliament and of the Council and repealing Regulation (EU) No 603/2013 of the European Parliament and of the Council [Eurodac Recast];
- [Regulation \(EU\) 2024/1359](#) addressing situations of crisis and *force majeure* in the field of migration and asylum and amending Regulation (EU) 2021/1147.

## b. Additional Materials

### 1. Overarching Principles

United Nations	Council of Europe	European Union	Inter-institutional and Other
➤ <a href="#">Joint General Comment No. 4 (2017) of the CMW and No. 23 (2017) of the CRC</a> on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination	<ul style="list-style-type: none"> <li>➤ <a href="#">Commissioner for Human Rights Recommendations on Realising the right to family reunification of refugees in Europe (2017)</a></li> <li>➤ <a href="#">Action Plan on Protecting Vulnerable Persons in the Context of Migration and</a></li> </ul>	➤ <a href="#">Commission Communication on Operational Guidelines for the implementation of Council Decision 2022/382 establishing the existence of a mass influx of displaced persons from Ukraine within the</a>	<ul style="list-style-type: none"> <li>➤ FRA &amp; CoE <a href="#">Joint Note Fundamental rights of refugees, asylum applicants and migrants at the European borders (2020)</a></li> <li>➤ FRA &amp; CoE <a href="#">Joint Note European Standards on Legal Remedies, Complaints Mechanisms and</a></li> </ul>

<p>and return (CMW/C/GC/4 - CRC/C/GC/23, 2017)</p> <p>➤ <a href="#">Joint General Comment No. 3 of the CMW and No. 22 of the CRC in the context of International Migration: General principles (CRC/C/GC/22 - CMW/C/GC/3, 2017)</a></p> <p>➤ <a href="#">UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees (1979, reissued 2019)</a></p> <p>➤ <a href="#">UNHCR Executive Committee, Conclusion on Children at Risk no. 107 (LVIII, 2007)</a></p> <p>➤ <a href="#">HCR/GIP/09/08 Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees (2009)</a></p> <p>➤ <a href="#">Committee on the Rights of the Child Report of the 2012 Day of General Discussion on the Rights of all Children in the Context of International Migration – Recommendations</a></p>	<p><a href="#">Asylum in Europe (2021-2025)</a></p> <p>➤ <a href="#">Recommendation on Protecting the rights of migrant, refugee and asylum-seeking women and girls (CM/Rec(2022)17, 2022)</a></p> <p>➤ <a href="#">Recommendation and Explanatory Memorandum on Human rights principles and guidelines on age assessment in the context of migration (CM/Rec(2022)22, 2022)</a></p> <p>➤ <a href="#">Age Assessment For Children In Migration - A guide for policy makers (2019)</a></p> <p>➤ <a href="#">Your Rights in Age Assessment Process Information for children in migration (2019)</a></p>	<p><a href="#">meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (2022/C 126 I/01) (2022)</a></p> <p>➤ <a href="#">FRA The Russian aggression against Ukraine – Displaced children finding protection in the EU - Bulletin 3 (2023)</a></p> <p>➤ <a href="#">FRA &amp; EUAA Practical Tool for Guardians - Transnational procedures in the framework of international protection (2024)</a></p> <p>➤ <a href="#">Frequently asked questions received on the interpretation of the Temporary Protection Directive and Council Implementing Decision 2022/382</a></p> <p>➤ <a href="#">Frequently Asked Questions on Registration, Reception and Care for the Unaccompanied and Separated Children fleeing from war in Ukraine</a></p> <p>➤ <a href="#">Frequently Asked Questions on going home to Ukraine on a voluntary basis in the context of the Temporary Protection</a></p>	<p><a href="#">effective Investigations at Borders (2021)</a></p> <p>➤ <a href="#">FRA &amp; CoE Joint Note Children in migration: fundamental rights at European borders (2023)</a></p> <p>➤ <a href="#">FRA, CoE &amp; ECHR Handbook on European law relating to asylum, borders and immigration (2020)</a></p> <p>➤ <a href="#">ISS Children on the Move: From protection towards a quality sustainable solution - A practical guide (2017)</a></p> <p>➤ <a href="#">OSCE Recommendations - Migrant Children's Rights in Regional Processes: What Next after the Chişinău Agreement? (2020)</a></p>
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<ul style="list-style-type: none"> <li>➤ UNHCR <a href="#">Framework for the Protection of Children</a> (2012)</li> <li>➤ UNHCR <a href="#">Recommendations on Flexible Approaches to Family Reunification Procedures in Europe</a> (2023)</li> <li>➤ UNHCR <a href="#">Policy on Child Protection</a> (2024)</li> <li>➤ UNHCR <a href="#">Refugee Treaty and Legislation Dashboard</a></li> </ul>			
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## 2. Child-friendly Procedures and Child-friendly Information

United Nations	Council of Europe	European Union
<ul style="list-style-type: none"> <li>➤ UNHCR <a href="#">Technical Guidance on Child-Friendly Procedures</a> (2021)</li> <li>➤ UNHCR <a href="#">Best Interests Procedure Guidelines: Assessing and determining the best interests of the child</a> (2021)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">How to convey child-friendly information to children in migration - A Handbook for frontline professional</a> (2018)</li> <li>➤ <a href="#">Compilation Promoting child-friendly approaches in the area of migration - Standards, guidance and current practices</a> (2019)</li> </ul>	<ul style="list-style-type: none"> <li>➤ EASO (now EEAA) <a href="#">Practical Guide on the best interests of the child in asylum procedures</a> (2019)</li> </ul>

## 3. Unaccompanied and Separated Children and Transition to Adulthood

United Nations	Council of Europe	European Union	Interinstitutional and Other
<ul style="list-style-type: none"> <li>➤ <a href="#">General Comment No.6 of the CRC on the treatment of Unaccompanied and Separated Children outside of their Country of Origin</a> (CRC/GC/2005/6, 2005)</li> <li>➤ UNHCR &amp; UNICEF <a href="#">Safe &amp; Sound: What States can do to ensure respect for the best interests of unaccompanied and separated children in Europe</a> (2014)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Recommendation on Supporting young refugees in transition to adulthood</a> (CM/Rec(2019)4, 2019)</li> <li>➤ <a href="#">Recommendation and Explanatory Memorandum on Effective guardianship for unaccompanied and separated children in the context of migration</a> (CM/Rec(2019)11, 2022)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">European Parliament Resolution of 12 September 2013 on the situation of unaccompanied minors in the EU</a> (2012/2263(INI) )</li> </ul>	<ul style="list-style-type: none"> <li>➤ UNHCR, UNICEF &amp; RESCUE <a href="#">The Way Forward to Strengthened Policies and Practices for Unaccompanied and Separated Children in Europe</a> (2017)</li> <li>➤ KIND &amp; Child Circle, <a href="#">Stepping Stones to Safety – Strengthening Key Procedural Safeguards for Unaccompanied Children in Transnational Procedures within the EU</a> (2021)</li> </ul>

## C. RIGHTS OF CHILDREN AND RESPONSIBILITIES OF STATES IN THE AREA OF CRIMINAL LAW

*The applicability of human rights instruments does not always in itself guarantee that the enshrined rights are fully protected / that States parties ensure a full degree of protection.*

*Specialist instruments have been adopted to further spell out State responsibilities and strengthen the rights of children who are victims of crime (or suspects/accused of crime<sup>4</sup>).*

*The scope of application of these instruments may be territorial but also extraterritorial (e.g. Art 10 Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims).*

### 1. Overarching Principles

United Nations	Council of Europe	European Union
<ul style="list-style-type: none"> <li>➤ <a href="#">Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime</a> (E/RES/2005/20, 2005)</li> <li>➤ <a href="#">Justice in Matters involving Child Victims and Witnesses of Crime Model Law and Related Commentary</a> (2009)</li> <li>➤ <a href="#">Draft UN Convention on Justice and Support for Victims of Crime and Abuse of Power</a> (2010)</li> <li>➤ <a href="#">UN Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice</a> (A/RES/69/194, 2014)</li> <li>➤ <a href="#">General Comment No. 24 of the CRC</a> on children's rights in the child justice system (CRC/C/GC/24, 2019)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">European Agreement on the Transmission of Applications for Legal Aid</a> (ETS No. 092, 1977)</li> <li>➤ <a href="#">Recommendation on the position of the victim in the framework of criminal law and procedure</a> (Rec(85)11, 1985)</li> <li>➤ <a href="#">Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice</a> (2010)</li> <li>➤ <a href="#">Recommendation on rights, services and support for victims of crime</a> (CM/Rec(2023)2, 2023)</li> <li>➤ <a href="#">Recommendation on rights, services and support for victims of crime and its Explanatory Memorandum</a> (CM/Rec(2023)2, 2023)</li> <li>➤ <a href="#">Recommendation on strengthening reporting systems on violence against children</a> (CM/Rec(2023)8, 2023)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Regulation (EU) 606/2013</a> on mutual recognition of protection measures in civil matters (2013)</li> <li>➤ <a href="#">Directive 2004/80/EC</a> relating to compensation to crime victims (2004)</li> <li>➤ <a href="#">Directive 2011/99/EU</a> on the European protection order (2011)</li> <li>➤ <a href="#">Directive 2012/29/EU</a> establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA<sup>5</sup> (2012)</li> <li>➤ <a href="#">Guidance Document related to the transposition and implementation of Directive 2012/29/EU</a> establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision (2001/220/JHA, 2013)</li> <li>➤ FRA, <a href="#">Underpinning victims' rights: support services, reporting and protection</a> (2023)</li> <li>➤ <a href="#">Directive 2002/8/EC</a> to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes (2002)</li> </ul>
	FRA & CoE <a href="#">Handbook on European law relating to access to justice</a> (2016)	

<sup>4</sup> [Directive 2016/800/EU](#) on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

<sup>5</sup> This directive is being revised: [COM \(2023\) 424](#): Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA



## 2. Human Trafficking, Sexual Exploitation & Sexual Abuse

Children, especially those in residential care and during times of displacement, are particularly vulnerable to the risks of human trafficking, as well as sexual exploitation and abuse.

United Nations	Council of Europe	European Union
<ul style="list-style-type: none"> <li>➤ UN <a href="#">Convention for the Suppression of the traffic in Persons and of the Exploitation of the Prostitution of Others</a> (1949)</li> <li>➤ ILO <a href="#">Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour</a> (No. 182, 1999)</li> <li>➤ UN <a href="#">Convention against Transnational Organized Crime &amp; Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime</a> (2000)</li> <li>➤ <a href="#">Optional Protocol I to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography</a> (2000)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Council of Europe Convention on Action against Trafficking in Human Beings</a> (Warsaw Convention) (CETS No. 197, 2005)</li> <li>➤ <a href="#">Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse</a> (Lanzarote Convention) (CETS No. 201, 2007)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Directive 2011/36/EU</a> on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (2002)</li> <li>➤ <a href="#">Directive 2011/93/EU</a> of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (2004)</li> <li>➤ <a href="#">Directive 2024/1712/EU</a> of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (2024)</li> </ul>
See also:		
<ul style="list-style-type: none"> <li>➤ UN <a href="#">Global Plan of Action to Combat Trafficking in Persons</a> (A/RES/64/293, 2010)</li> <li>➤ <a href="#">Political Declaration on the Implementation of the United Nations Global Plan of Action to Combat Trafficking in Persons</a> (A/RES/76/7, 2021)</li> <li>➤ <a href="#">Strengthening national and international efforts, including with the private sector, to protect children from sexual exploitation and abuse</a> (A/RES/77/233, 2022)</li> <li>➤ <a href="#">Report of the Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullally, Strengthening accountability for trafficking in persons in</a></li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Handbook on the protection of children against sexual exploitation and sexual abuse in crisis and emergency situations</a> (2022)</li> <li>➤ <a href="#">Statement on protecting children from sexual exploitation and sexual abuse resulting from the military aggression of the Russian Federation against Ukraine</a> (2022)</li> <li>➤ <a href="#">Information Note on the Lanzarote Convention</a> (2022)</li> <li>➤ <a href="#">Recommendation on preventing and combating trafficking in human beings for the purpose of labour exploitation</a> (CM/Rec(2022)21, 2022)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Final Communication on the EU Strategy for a more effective fight against child sexual abuse</a> (COM(2020) 607, 2020)</li> <li>➤ <a href="#">Final Communication on the EU Strategy on Combatting Trafficking in Human Beings</a> (COM(2021) 171, 2021)</li> <li>➤ <a href="#">Common Anti-Trafficking Plan to address the risks of trafficking in human beings and support potential victims among those fleeing the war in Ukraine</a> (2022)</li> <li>➤ <a href="#">Final Proposal for a Regulation laying down rules to prevent and combat child sexual abuse</a> (COM(2022) 209)</li> </ul>

<a href="#">conflict situations</a> (A/78/172, 2023) ➤ IOM, <a href="#">Human Trafficking in the Ukraine Crisis</a> (2023) ➤ <a href="#">Victims Rights First   United Nations</a>		➤ <a href="#">Final Proposal for a Directive on combating the sexual abuse and sexual exploitation of children and child sexual abuse material and replacing Council Framework Decision 2004/68/JHA</a> (recast) (COM(2024) 60)
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### 3. Domestic Violence

Council of Europe	European Union
➤ <a href="#">Council of Europe Convention on preventing and combating violence against women and domestic violence</a> (Istanbul Convention) (CETS No 210, 2011)	➤ <a href="#">Directive (EU) 2024/1385</a> on combating violence against women and domestic violence (2024)

## Part II - JURISDICTION OF COMPETENT AUTHORITIES AND COMMUNICATIONS BETWEEN CENTRAL AUTHORITIES

### A. RECEPTION OF CHILDREN FROM UKRAINE

*When a child arrives from Ukraine, it may be with one or both parents, but there are a multitude of other possibilities, including where a child arrives with: a sibling; relative; non-related adult; as part of a group or indeed alone.*

*Furthermore, the child may have been living in an alternative care setting in Ukraine.*

#### Potential Scenarios:

- Child arrives with a parent;
- Child arrives at the border with an unrelated adult who claims to be the legal guardian;
- Child arrives at the border without parents, but with relatives who claim to be the legal guardian(s);
- Child arrives at the border with an unrelated adult;
- Child arrives at the border with a power of attorney (a legal document in which parent(s)/legal guardian of a child grants another person (an agent/attorney/guardian) the authority to make decisions or act on behalf of the child) in favour of a person in the host state;
- Children from an institution arrive at the border together with staff from the institution;
- Child arrives at the border unaccompanied and without any papers.

*Faced with these and other scenarios, staff of frontline organisations dealing with children upon their arrival in a host State will have core issues to address and solve. These key issues are identified below, and users are signposted to the most relevant legal instruments and texts to consider in each instance.*

#### a. Issue 1: What is the legal basis to take measures to protect a child upon arrival?

##### 1. Core International and Regional Instruments:

HCCH	European Union
<p><i>The primary instrument governing jurisdiction to take measures directed to the protection of children from Ukraine is the 1996 Hague Child Protection Convention, Chapter II on Jurisdiction:</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children</a> (Child Protection Convention)</li> </ul>	<p><i>For EU Member States, in so far as private international law matters are concerned, the Brussels IIb Regulation could come into play. Art 97 of this Regulation clarifies its relationship with the 1996 Hague Child Protection Convention. See also <a href="#">the European Judicial Network in Civil and Commercial Matters</a>, <a href="#">Factsheet: Children from Ukraine – Parental Responsibility</a> (2024):</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Council Regulation (EU) 2019/1111 of 25 June 2019 on Jurisdiction, the Recognition and Enforcement of Decisions in Matrimonial Matters and the Matters of Parental Responsibility, and on International Child Abduction (Recast)</a> (Brussels IIb)</li> </ul>

## 2. Additional Materials:

HCCH	United Nations	European Union
<p><i>To gain further insights into the operation of the 1996 Hague Child Protection Convention, regard may be paid to the following Hague Conference materials:</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">The Application of the 1996 Child Protection Convention to Unaccompanied and Separated Children</a> (2024)</li> <li>➤ <a href="#">Publication of the Practitioners' Tool: Cross-Border Recognition and Enforcement of Agreements Reached in the Course of Family Matters Involving Children</a> (2022)</li> <li>➤ <a href="#">Practical Handbook on the Operation of the 1996 Child Protection Convention</a> (2014)</li> <li>➤ P. Lagarde, <a href="#">Explanatory Report on the 1996 HCCH Child Protection Convention</a> (1998)</li> </ul>	<ul style="list-style-type: none"> <li>➤ UN Committee on the Rights of the Child, <a href="#">General Comment no. 6 on Unaccompanied and Separated Children</a> (2005)</li> <li>➤ <a href="#">UNHCR Best Interests Procedure Guidelines: Assessing and Determining the Best Interests of the Child</a> (2023)</li> <li>➤ <a href="#">Guidelines for the Alternative Care of Children</a> (A/RES/64/142, 2009)</li> </ul>	<p><i>Relevant EU materials, including some with a particular Ukrainian focus include:</i></p> <ul style="list-style-type: none"> <li>➤ EUAA &amp; FRA, <a href="#">Practical Tool for Guardians Transnational procedures in the framework of international protection</a>, (2024)</li> <li>➤ EUAA &amp; FRA, <a href="#">Practical Tool for Guardians: Temporary protection for unaccompanied children fleeing Ukraine</a> (2022)</li> <li>➤ FRA, <a href="#">The Russian aggression against Ukraine – Displaced children finding protection in the EU</a> (2023)</li> <li>➤ <a href="#">Unaccompanied and Separated Children fleeing from war in Ukraine – FAQs on Registration, Reception and Care</a> concerning the interpretation of the Temporary Protection Directive and Council Implementing Decision 2022/382</li> <li>➤ <a href="#">Recommendation of 23.4.2024 on developing and strengthening integrated child protection systems in the best interests of the child</a> (COM(2024) 2680 final)</li> <li>➤ <a href="#">The Protection of Children in Migration</a> (COM(2017) 211 final)</li> <li>➤ European Judicial Network, <a href="#">Practice Guide for the Application of the Brussels IIb Regulation, European Union</a> (2023)</li> </ul>

**b. Issue 2: Who Has Legal Authority in Respect of the Child? (Law Applicable to Parental Responsibility)**

**1. Core International and Regional Instruments**

HCCH
<p><i>Comprehensive rules setting out the law governing the attribution or extinction of parental responsibility whether by operation of law; agreement or unilateral act; or the effect of decision of judicial or administrative authorities</i></p> <p><i>are set out in Chapter III – Applicable Law or Chapter IV Recognition and Enforcement of the 1996 Hague Child Protection Convention:</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children</a> (Child Protection Convention)</li> </ul>

**2. Additional Materials**

HCCH	European Union
<ul style="list-style-type: none"> <li>➤ <a href="#">The Application of the 1996 Child Protection Convention to Unaccompanied and Separated Children</a> (2024)</li> <li>➤ <a href="#">Practical Handbook on the Operation of the 1996 Child Protection Convention</a> (2014)</li> <li>➤ P. Lagarde, <a href="#">Explanatory Report on the 1996 HCCH Child Protection Convention</a> (1998)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">European e-Justice Portal - Children from Ukraine – civil judicial cooperation (europa.eu)</a></li> <li>➤ <a href="#">Q&amp;A on Ukrainian Family Law</a></li> <li>➤ <a href="#">Online Multilingual Form for Ukrainian Children Travelling to and Residing in the European Union</a></li> </ul>

**c. Issue 3: How Can information be exchanged with relevant authorities in Ukraine or from another CoE host State?**

**1. Core International and Regional Instruments**

HCCH	European Union
<p><i>Comprehensive rules setting out the legal basis for cooperation with States Parties, including Ukraine, are set out in Chapter V – Cooperation of the 1996 Hague Child Protection Convention:</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children</a> (Child Protection Convention)</li> </ul>	<p><i>For EU Member States, in so far as private international law matters are concerned, the Brussels IIb Regulation could come into play. Recital 25 of this Regulation should be read in conjunction with <a href="#">the European Judicial Network in Civil and Commercial Matters, Factsheet: Children from Ukraine – Parental Responsibility</a> (2024):</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Council Regulation (EU) 2019/1111 of 25 June 2019 on Jurisdiction, the Recognition and Enforcement of Decisions in Matrimonial Matters and the Matters of Parental Responsibility, and on International Child Abduction (Recast)</a> (Brussels IIb)</li> </ul>

## 2. Additional Information

HCCH	European Union
<ul style="list-style-type: none"> <li>➤ <a href="#">Central Authorities of contracting States</a> to the 1996 Hague Child Protection Convention <ul style="list-style-type: none"> <li>- <a href="#">Central Authority of Ukraine</a> (Art. 29, 1996 Hague Child Protection Convention)</li> </ul> </li> <li>➤ Emerging Guidance regarding the development of the International Hague Network of Judges and General Principles for Judicial Communications, including commonly accepted safeguards for <a href="#">Direct Judicial Communications</a> in specific cases, within the context of the International Hague Network of Judges, Hague Conference on Private International Law (2013)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Central Authorities of EU Member States</a> for the Brussels IIb Regulation (information per region)</li> </ul>

### d. Issue 4: What measures taken in Ukraine, or another CoE host State, can be recognised in the host State?

#### 1. Core International and Regional Instruments

HCCH
<p><i>A comprehensive framework for the recognition and enforcement of measures of protection taken in Ukraine by competent authorities in other States Parties (and vice versa) are set out in Chapter IV – Recognition and Enforcement of the 1996 Hague Child Protection Convention:</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children</a> (Child Protection Convention)</li> </ul>

#### 2. Additional Materials

HCCH
<p><i>To gain further insights into the operation of the 1996 Hague Child Protection Convention regard may be paid to the following Hague Conference materials:</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">The Application of the 1996 Child Protection Convention to Unaccompanied and Separated Children</a> (2024)</li> <li>➤ <a href="#">Publication of the Practitioners' Tool: Cross-Border Recognition and Enforcement of Agreements Reached in the Course of Family Matters Involving Children</a> (2022)</li> <li>➤ <a href="#">Practical Handbook on the Operation of the 1996 Child Protection Convention</a> (2014)</li> <li>➤ P. Lagarde, <a href="#">Explanatory Report on the 1996 HCCH Child Protection Convention</a> (1998)</li> </ul>



## B. INTERNATIONAL FAMILY LAW DISPUTES CONCERNING PARENTAL RESPONSIBILITY

*This section deals with situations which can be classified as traditional private law disputes involving holders of parental responsibility.*

### Potential Scenarios:<sup>6</sup>

- **A child arrives with only one parent in a CoE host State**, the other parent stays in Ukraine. The parent from Ukraine requests return of the child or contact with the child.
- **A child arrives with only one parent in a CoE host State**, the other parent stays in Ukraine. Both parents apply to different authorities in different states regarding parental responsibility over the child.
- **A child is registered and residing in a CoE host State**. The child's parent(s) subsequently want the child to return to Ukraine.
- **A child is registered and residing in a CoE host State, living with a relative**. A parent then wishes to take the child to a non-CoE member State.
- **A child is registered and residing in a CoE host State**. One parent wants the child to stay there, the other wants child to return to Ukraine or alternatively move elsewhere outside Ukraine. Dispute leads either to proceedings for relocation or to international parental child abduction.

### a. Issue 1: Unilateral Removal / Retention of Children

#### 1. Core International and Regional Instruments

HCCH	European Union
<p><i>The 1980 Hague Child Abduction Convention is the primary international instrument to consider where the unilateral wrongful removal or retention of a child of Ukraine <u>under the age of 16</u> is at issue. Ukraine acceded to this international instrument in 2006</i>Chapter II – Jurisdiction and IV - Recognition and Enforcement of the 1996 Hague Child Protection Convention is also relevant:</p> <ul style="list-style-type: none"><li>➤ <a href="#">Convention of 25 October 1980 on the Civil Aspects of International Child Abduction</a></li><li>➤ <a href="#">Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children</a> (Child Protection Convention)</li></ul>	<p><i>Where a child habitually resident in one EU Member State (except Denmark) is wrongfully removed to or retained in another EU Member State (except Denmark) the 1980 Hague Child Abduction Convention is complemented by Chapter III – International Child Abduction of the Council Regulation 2019/1111:</i></p> <ul style="list-style-type: none"><li>➤ <a href="#">Council Regulation (EU) 2019/1111 of 25 June 2019 on Jurisdiction, the Recognition and Enforcement of Decisions in Matrimonial Matters and the Matters of Parental Responsibility, and on International Child Abduction (Recast)</a> (Brussels IIb).</li></ul>

<sup>6</sup> The Dialogue Group noted the terms used in presenting the potential scenarios, such as "registered" and "residing", may be attributed different meanings under various legal frameworks. The use of these terms in the 'scenarios' is intended as entirely generic in meaning and does not convey any information regarding the status or habitual residence of the child in question.

## 2. Additional Materials

HCCH	Council of Europe	European Union
<p>To gain further insights into the operation of the 1980 Hague Child Abduction Convention regard may be paid to the following Hague Conference materials:</p> <ul style="list-style-type: none"> <li>➤ E Pérez-Vera, <a href="#">Explanatory Report Convention on the Civil Aspects of International Child Abduction</a> (1982)</li> <li>➤ <a href="#">Guides to Good Practice</a> on the 1980 Hague Convention and other HCCH publications. See in particular: <ul style="list-style-type: none"> <li>- <a href="#">Part V - Mediation</a> (2012) (also available <a href="#">in Ukrainian</a>)</li> <li>- <a href="#">Part VI - Article 13(1)(b)</a> (2020)</li> </ul> </li> <li>➤ <a href="#">Practical Handbook on the Operation of the 1996 Child Protection Convention</a> (2014)</li> <li>➤ P. Lagarde, <a href="#">Explanatory Report on the 1996 HCCH Child Protection Convention</a> (1998)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Fact Sheet on Case law of the European Court of Human Rights on International Child Abductions</a> (2024)</li> </ul>	<ul style="list-style-type: none"> <li>➤ European Judicial Network, <a href="#">Practice Guide for the Application of the Brussels IIb Regulation</a>, European Union (2023)</li> <li>➤ European E-Justice Portal: <a href="#">Parental Child Abduction</a></li> </ul>

### b. Issue 2: Residence/Contact Disputes, including recognition of residence/contact orders

The potential scenarios listed above include a variety of situations which fall within this section:

- Disputes as to who should have care over a child of Ukraine;
- Disputes between parents / carers as to the country in which a child of Ukraine should live, including the potential return of a child to Ukraine;
- Disputes concerning contact with a child of Ukraine, including the potential organisation of contact in Ukraine.

The primary instrument governing jurisdiction in respect of residence and contact actions, the recognition and enforcement of residence and contact orders and co-operation between relevant authorities is the 1996 Hague Child Protection Convention.

### 1. Core International and Regional Instruments

HCCH	Council of Europe	European Union
<p>The <b>1996 Hague Child Protection Convention</b> is the primary international instrument to consider, particularly Chapter II – Jurisdiction, Chapter IV – Recognition and Enforcement, and Chapter V – Cooperation. Limited provision is made in the <b>1980 Hague Child Abduction Convention</b> for organising or securing the effective exercise of contact (access) rights in Chapter IV:</p>	<p>Reference may be made to the <b>1980 Council of Europe Custody Convention</b>. Whilst it has been overshadowed in recent decades by HCCH and EU instruments it remains relevant because Ukraine is a party and other parties include States which have not ratified or acceded to the <b>1996 Hague Convention</b>, notably the Republic of Moldova. Reference may also be made to the 2003 Contact Convention, to which Ukraine and some other CoE member States are parties which seeks to determine general principles to be applied to contact orders, as well as to fix appropriate safeguards and guarantees to</p>	<p>Where a child is habitually resident in an EU Member State regard should be paid to Council Regulation 2019/1111:</p> <ul style="list-style-type: none"> <li>➤ <a href="#">Council Regulation (EU) 2019/1111 of 25 June 2019 on</a></li> </ul>

<ul style="list-style-type: none"> <li>➤ <a href="#">Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children</a> (Child Protection Convention)</li> <li>➤ <a href="#">Convention of 25 October 1980 on the Civil Aspects of International Child Abduction</a></li> </ul>	<p><i>ensure the proper exercise of such contact and the immediate return of children at the end of the period of contact. The Convention also establishes co-operation between all the bodies and authorities concerned with contact orders and reinforces the implementation of relevant existing international legal instruments.</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children</a> (ETS No. 105, 1980)</li> <li>➤ <a href="#">Convention on Contact concerning Children</a> (ETS No. 192, 2003)</li> </ul>	<a href="#">Jurisdiction, the Recognition and Enforcement of Decisions in Matrimonial Matters and the Matters of Parental Responsibility, and on International Child Abduction (Recast) (Brussels IIb)</a>
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## 2. Additional Materials

HCCH	United Nations	Council of Europe	European Union
<p><i>To gain further insights into the operation of the 1996 Hague Child Protection Convention regard may be paid to the following Hague Conference materials:</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Publication of the Practitioners' Tool: Cross-Border Recognition and Enforcement of Agreements Reached in the Course of Family Matters Involving Children</a> (2022)</li> <li>➤ <a href="#">Practical Handbook on the Operation of the 1996 Child Protection Convention</a> (2014)</li> <li>➤ P. Lagarde, <a href="#">Explanatory Report on the 1996 HCCH Child Protection Convention</a> (1998)</li> <li>➤ <a href="#">Transfrontier Contact Concerning Children – General Principles and Guide to Good Practice</a> (2008)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">UNHCR Position on Voluntary Return to Ukraine</a> (2023)</li> <li>➤ <a href="#">UNHCR Position on Voluntary Return to Ukraine of Refugee Children without Parental Care, including Unaccompanied Children and Children Evacuated from Care Institutions in Ukraine</a> (2023)</li> </ul>	<ul style="list-style-type: none"> <li>➤ <a href="#">Explanatory Report to the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children</a> (1980)</li> <li>➤ <a href="#">Explanatory Report to the Convention on Contact concerning Children</a> (2003)</li> </ul>	<ul style="list-style-type: none"> <li>➤ European Judicial Network, <a href="#">Practice Guide for the Application of the Brussels IIb Regulation</a> (2023)</li> <li>➤ <a href="#">Frequently asked questions on going home to Ukraine on a voluntary basis in the context of the Temporary Protection Directive</a> concerning the interpretation of the Temporary Protection Directive and Council Implementing Decision 2022/382</li> </ul>

### c. Issue 3: Transfer of Jurisdiction

By way of exception, the authority of a Council of Europe member State which has jurisdiction in respect of a child of Ukraine may consider that the authority of another State is better placed to exercise that jurisdiction.

Conversely, the situation may also arise whereby the authority of the Council of Europe member State, which has jurisdiction is requested, to authorise a transfer of jurisdiction. The transfer request may come from an authority in another State or a party to the proceedings.

Whichever the circumstances, the **primary instrument** for authorities in Council of Europe States **which provides for the transfer of jurisdiction** is the **1996 Hague Child Protection Convention**.

#### 1. Core International and Regional Instruments

HCCH	European Union
<p><i>Chapter II – Jurisdiction of the 1996 <b>Hague Child Protection Convention</b> is the primary international instrument to consider:</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children</a> (Child Protection Convention)</li> </ul>	<p><i>Where a child is habitually resident in one EU Member State (except Denmark) and the issue of transfer arises with regard to another EU Member State (except Denmark) then regard should be paid to <b>Chapter II – Jurisdiction of the Council Regulation 2019/1111</b>:</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Council Regulation (EU) 2019/1111 of 25 June 2019 on Jurisdiction, the Recognition and Enforcement of Decisions in Matrimonial Matters and the Matters of Parental Responsibility, and on International Child Abduction (Recast)</a> (Brussels IIb)</li> </ul>

#### 2. Additional Materials

HCCH	European Union
<p><i>To gain further insights into the operation of the 1996 <b>Hague Child Protection Convention</b>, regard may be paid to the following Hague Conference materials:</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Practical Handbook on the Operation of the 1996 Child Protection Convention</a> (2014)</li> <li>➤ P. Lagarde, <a href="#">Explanatory Report on the 1996 HCCH Child Protection Convention</a> (1998)</li> </ul>	<ul style="list-style-type: none"> <li>➤ European Judicial Network, <a href="#">Practice Guide for the Application of the Brussels IIb Regulation</a> (2023)</li> </ul>

## C. INTERNATIONAL FAMILY DISPUTES CONCERNING CHILD PROTECTION AND ALTERNATIVE CARE

*This section deals with situations in which the protection of the child by public bodies is engaged in some way.*

### Potential Scenarios:<sup>7</sup>

- **The child is registered in a CoE host State and lives there with a parent.** The local authorities in that State are concerned about the care provided to the child and wish to assume responsibility for the child.
- **The child is registered in a CoE host State and lives there with a sponsor.** The local authorities in that State are concerned about the care provided to the child and wish to assume responsibility for the child. [Further alternatives would include whether or not parent(s) can be located to give consent to alternative arrangements.]
- **The child is registered in a CoE host State and lives with a parent.** The parent is deemed unable to provide care for the child. A relative living in another CoE State wishes to assume responsibility for the child
- **The child is registered and residing in a CoE host State, travels to a new CoE host State and is in need of protective measures.**
- **A child is 'missing' and needs to be located.**
- **A child, aged 16 or 17 years old, arrives in a CoE host State alone.** The child applies for and receives temporary protection. The child then takes care of himself/herself in the host country, and has to arrange some important matters, such as school enrollment, medical care, benefits, loans, etc.
- **Abandonment of the child after birth in the CoE host State by the Ukrainian mother.<sup>8</sup>**

### a. Issue 1: Child Welfare Issues

#### 1. Core International and Regional Instruments

HCCH	European Union
<p><i>The 1996 Hague Child Protection Convention is the primary international instrument to consider, particularly Chapter II – Jurisdiction, Chapter IV – Recognition and Enforcement, and Chapter V – Cooperation:</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children</a> (Child Protection Convention)</li> </ul>	<p><i>Where a child is habitually resident in an EU Member State (except Denmark) and a child welfare issue arises then regard should be paid to Council Regulation 2019/1111:</i></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Council Regulation (EU) 2019/1111 of 25 June 2019 on Jurisdiction, the Recognition and Enforcement of Decisions in Matrimonial Matters and the Matters of Parental Responsibility, and on International Child Abduction (Recast)</a> (Brussels IIb)</li> </ul>

<sup>7</sup> The Dialogue Group noted the terms used in presenting the potential scenarios, such as "registered" and "residing", may be attributed different meanings under various legal frameworks. The use of these terms in the 'scenarios' is intended as entirely generic in meaning and does not convey any information regarding the status or habitual residence of the child in question.

<sup>8</sup> *It must be noted that this particular scenario presents challenges due to the potential variability of the circumstances of the family and the motives for abandonment.*

## 2. Additional Materials

HCCH	European Union
<p>To gain further insights into the operation of the 1996 Hague Child Protection Convention, regard may be paid to the following Hague Conference materials:</p> <ul style="list-style-type: none"> <li>➤ <a href="#">The Application of the 1996 Child Protection Convention to Unaccompanied and Separated Children</a> (2024)</li> <li>➤ <a href="#">Practical Handbook on the Operation of the 1996 Child Protection Convention</a> (2014)</li> <li>➤ P. Lagarde, <a href="#">Explanatory Report on the 1996 HCCH Child Protection Convention</a> (1998)</li> </ul>	<ul style="list-style-type: none"> <li>➤ European Judicial Network <a href="#">Practice Guide for the Application of the Brussels IIb Regulation</a> (2023)</li> </ul>

### b. Issue 2: Missing Children

Children may go missing within a State or there may be a transfrontier dimension to a child's disappearance. A significant number of children of Ukraine have been reported as missing since 2022. That year, Missing Children Europe's member in Ukraine, NGO Magnolia, recorded 2908 cases of missing children to its 116000 hotline.<sup>9</sup>

There is no international or regional instrument specifically focussed on addressing the problem of missing children, but Missing Children Europe in their submission to the CGU's Call for Information did note the role that could be played **by central authorities to assist in identifying the whereabouts of children, where the material scope of the 1980 Hague Child Abduction Convention is engaged, in actual or suspected cases of wrongful removal and retention. Central authority assistance in discovering the whereabouts of children in need of protection can also be engaged under the 1996 Hague Child Protection Convention.** There is equally the network of 116000 hotlines in 32 countries which support parents from Ukraine in situations of children going missing in CoE member States, including the situations of parental abductions in the context of war-related displacement.

## 1. Core International and Regional Instruments

HCCH	
<p>Reference may be made to Chapter II - Central Authorities of the 1980 Hague Child Abduction Convention. Cooperation provisions are also found within Chapter V – Cooperation of the 1996 Hague Child Protection Convention for locating a child on the territory of a contracting State, at the request of a competent authority:</p> <ul style="list-style-type: none"> <li>➤ <a href="#">Convention of 25 October 1980 on the Civil Aspects of International Child Abduction</a><sup>10</sup></li> <li>➤ <a href="#">Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children</a> (Child Protection Convention)</li> </ul>	<p><a href="#">Please also see the instruments concerning human trafficking, sexual exploitation and abuse cited in this Compendium, Part I, Section C on Rights of Children and Responsibilities of States in the Context of Crime.</a></p>

<sup>9</sup> Missing Children Europe, [One Year After Russia's Full-Scale Invasion of Ukraine: Missing Children Europe's 116000 Network United To Protect Children \(At Risk of\) Going Missing](#), 2023, p. 7.

<sup>10</sup> For further reference to 1980 Hague Child Abduction Convention, see Part II/B/a of this document on page 20.



## **2. Practical Information**

- European Union, Fleeing Ukraine: protection for children: [Missing Children hotlines](#)
- Missing Children Hotline: [116 000](#)
- Missing Children Europe: [Ukraine](#)
- List of hotlines: [One Year After Russia's Full-Scale Invasion of Ukraine: Missing Children Europe's 116000 Network United To Protect Children \(At Risk of\) Going Missing \(2023\)](#)
- Information (In EU, UA, RUS) on how to report a missing child (including cross border cases): [Missing Children Ukraine - Missing Children Europe](#)

## **3. Studies and Guides on Missing Children and Human Trafficking**

- Missing Children Europe, [SUMMIT project \(Safeguarding Unaccompanied Migrant Minors from going Missing by Identifying Best Practices and Training Actors on Interagency Cooperation\)](#) (2016)
- Missing Children Europe, [Summit Handbook Practical Guidance on Preventing and Responding to Unaccompanied Children Going Missing](#) (2016)
- European Migration Network, [How Do EU Member States Treat Cases of Missing Unaccompanied Minors?](#) (2020)
- International Organization for Migration, [Human Trafficking in the Ukraine Crisis Regional Anti-Trafficking Task Force](#) (2023)

**[www.coe.int](http://www.coe.int)**

The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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