



Resolution 2354 (2020)¹

Effective guardianship for unaccompanied and separated migrant children

Parliamentary Assembly

1. Unaccompanied and separated migrant children are among the most vulnerable individuals and, as such, require additional protection when they arrive in Europe, often after traumatic experiences in their countries of origin or during their migration.
2. Referring to its [Resolution 2136 \(2016\)](#) on harmonising the protection of unaccompanied minors in Europe, [Resolution 2195 \(2017\)](#) on child-friendly age assessment for unaccompanied migrant children and [Resolution 2243 \(2018\)](#) on family reunification of refugees and migrants in the Council of Europe member States, the Parliamentary Assembly reiterates its position that guardians play an essential role in ensuring protection of and respect for the fundamental rights of unaccompanied and separated migrant children.
3. The Assembly is concerned that despite ratification by all Council of Europe member States of the United Nations Convention on the Rights of the Child, which obliges them to protect the best interests of all children on their territory without discrimination, the same States do not provide effective guardianship systems to help ensure that children's best interests are adequately safeguarded and duly considered in all processes and decisions concerning them.
4. Guardianship systems are not harmonised across Europe and differ from country to country. There is a serious lack of qualified professionals who can exercise the functions of guardians and there are considerable delays in their appointment, in particular in the countries which face large influxes of migrants. In some countries one guardian is responsible for more than 20 children and there is no regular monitoring of the guardians' performance.
5. The Assembly stresses the key role local and regional authorities play in providing access to child-friendly services, including guardianship, to unaccompanied and separated migrant children and invites governments to make sure that migrant and refugee children are integrated into national child protection systems and that the existing procedures facilitate the work of childcare services at the local and regional levels, thereby enabling their timely and effective assistance and thus providing unaccompanied and separated migrant children, regardless of their age or status, with the same protection as children who are citizens of the State, in line with international obligations.
6. The Assembly is convinced that in order to ensure effective guardianship systems for unaccompanied and separated migrant children, children's opinions should be taken into account and special attention paid to their individual situation, age, maturity, language and culture.

1. *Text adopted by the Standing Committee*, acting on behalf of the Assembly, on 4 December 2020 (see [Doc. 15133](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Ms Rósa Björk Brynjólfssdóttir; and [Doc. 15166](#), opinion of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Ms Sibel Arslan).

See also [Recommendation 2190 \(2020\)](#).



7. The Assembly welcomes the adoption by the Committee of Ministers of [Recommendation CM/Rec\(2019\)11 on effective guardianship for unaccompanied and separated children in the context of migration](#), and calls on member States to ensure the successful implementation of this recommendation by:

7.1. reviewing their legislation, with a view to putting in place more effective guardianship systems for unaccompanied and separated migrant children, in line with the best interests of the child;

7.2. creating a Europe-wide unified database on unaccompanied and separated migrant children to make sure that they are identified and provided with timely protection, while taking into account the provisions of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108);

7.3. ensuring that, on their arrival in Europe, unaccompanied and separated migrant children are properly informed of their rights in a form and language they can understand and that they can benefit from free legal advice before any decision on their future is taken;

7.4. allocating the necessary financial, technical and human resources at national and local levels to ensure that every unaccompanied migrant child is provided with a guardian immediately on reception;

7.5. reinforcing the guardianship institutions, which must provide clear guidance to guardians on their duties, monitor their performance and ensure the existence of accessible complaints mechanisms for migrant children, as well as providing guardians with the necessary training and paying special attention to the needs of children who have suffered from violence and trauma and those with physical and mental health issues. Guardianship institutions must also collaborate with qualified professionals from specialist services, as required, in order to assess and determine the best interests of the child and his or her needs, taking into account the child's family situation, health status, specific vulnerabilities, gender and ethnic and religious background. For this purpose, it would be an advantage for professionals, guardians and other carers to have a migrant background;

7.6. ensuring that a child-friendly and gender-sensitive approach is taken in the preparation of professionals for guardianship, which can be essential for guaranteeing children's security and physical and psychological well-being;

7.7. providing young migrants who have benefited from guardianship protection, who have reached 18 years of age and who are in a vulnerable situation with the necessary assistance for their transition to adult life, by maintaining guardianship or other type of continuing care up until the age of 21, when possible, and by reviewing their practice of granting temporary residence permits to unaccompanied and separated migrant children to put in place a more rights-based and child-friendly legislation in order to fully ensure their well-being while they are still within the jurisdiction of member States, as reflected in the Committee of Ministers Recommendation CM/Rec(2019)4 on supporting young refugees in transition to adulthood;

7.8. ensuring effective co-operation between all relevant stakeholders involved in the guardianship system at the national level, in order to provide seamless protection and accompaniment during all procedures and to complement children's limited legal capacity by safeguarding their best interests and taking into account their right to be heard in processes and decisions affecting them.

8. Upon the arrival of migrant children, member States should identify family reunification needs, work to improve cross-border co-operation in family reunification matters and ensure that guardians and legal representatives are trained in the procedure to be followed at national level. The Assembly also calls on the Council of Europe member States to study the possibility of creating a mechanism to allow the quick and safe relocation of unaccompanied migrant children who are not eligible for family reunification to countries with the most developed child protection systems, taking into account the opinions of children. For this purpose, a European register of guardians for unaccompanied migrant children could be set up.

9. The Assembly also invites the European Union to consider earmarking financial resources from the European Refugee Fund for the support and implementation of guardianship systems for unaccompanied and separated migrant children.