

# The BIC: a multidisciplinary perspective

Focusing on the BIC implementation in the context  
of irregular migration and family reunification  
procedures

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OCÉANE UZUREAU  
FRANCESCA CEREGHETTI

# Introduction

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- The BIC principle
- UNHCR guidelines to assess the BIC
- BIC assessment within the Dublin Regulation
- Best IC or Best interest of the Member States ?
- Challenges with the BIC assessment in practise: Field experiences

# The Best Interest Principle

- Art. 3 of the Convention on the Rights of the Child (1989): “In all actions concerning children, whether undertaken by public or private social welfare institutions , courts of law, administrative authorities or legislative bodies , **the best interests of the child shall be a primary consideration**”
  - Article 9: separation from parents
  - Article 18: parental responsibilities for their children
  - Article 20: deprivation of family environment
  - Article 21: adoption.
- **Key groups** forming the child’s best interests as seen during Rakha Manon’s lecture
- Domestic authorities have the obligations to provide that the best interest of the child is assessed correctly. But how to do it ?

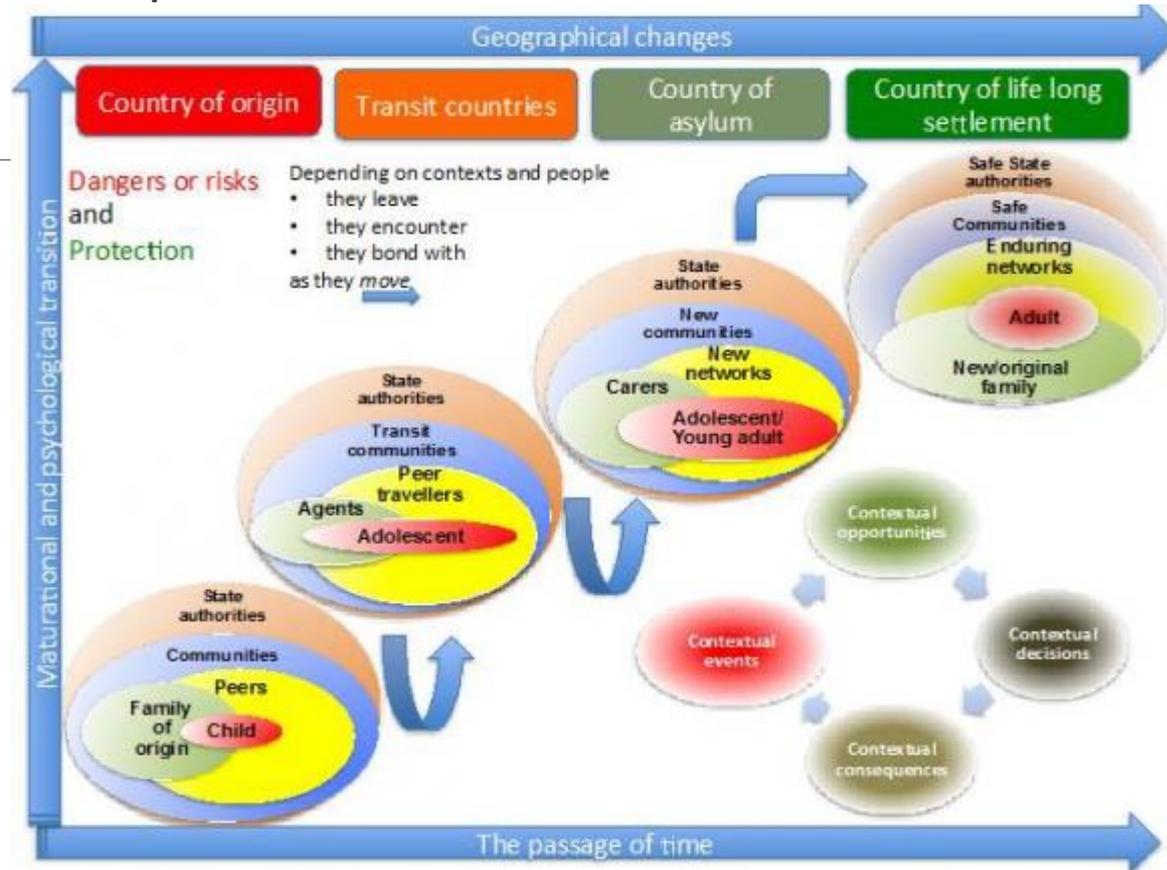


# The BIC in the migration process

BIC assessment will evolve and change according to :

- Change of time
- change of local contexts encountered by the minors
- Contextual opportunities, events, decisions taken by the minors
- Psychological and physical maturation of the child

(Kohli, 2014)



# UNHCR 2018 guidelines: assessing the BIC

**When?**

**Why?**



- initiating family tracing
- implementing durable solutions for separated children
- developing care plans for children at risk
- **initiating family reunification (according the Dublin regulation)**
- ...

**....How?**

# UNHCR BIA assessment

=> Samples: **Annex 6 and 7** of the guidelines

- **General information** (bio data including info about parents or others taking care of the child),
- **History of family separation and tracing needs** (reason for leaving the home country), how become separated from the family, relatives in country of asylum,...)
- **Care arrangements and living conditions** (Who do you currently live with, how is the relationship,...),
- **Health and Safety** (Do you feel safe here? To whom do you go to ask for help?),
- **Daily life** (Info about Education, Work, .. ),
- **Conclusion:**
  - Child at risk ? (child parent, child spouse, teenage pregnancy?)
  - Unaccompanied or separated Child ?
  - Sexual violence?
  - Disability?
  - Serious Medical Condition?
- **Recommendations/Action plan** (Family tracing, Education program, Protection plan, ...)

# BIC assessment within the Dublin Regulation

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( Giulia's part - missing)

# Best Interest of the Child or Best interest of the Member States ?

- Coexistence of a diversity of relocation schemes in Europe next to the Dublin Regulation (FRA, 2020)

Relocation models	Sending state	State of relocation	Time period	Unaccompanied children relocated	Legal basis
<b>European Emergency Relocation Mechanism*</b>	EL, IT	16 Member States, CH, NO	September 2015 to September 2017**	823	European Council Decisions 2015/1523 and 2015/1601 based on Article 78 (3) TFEU
<b>Bilateral arrangements targeting unaccompanied children</b>	EL, FR, IT	UK	2016-2019	475	'Dubs scheme' as per amendment to Section 67 of the United Kingdom Immigration Act 2016
	EL, FR	IE	2017-2019	49	Voluntary, based on Article 17 (2) of the Dublin Regulation
	EL	PT	2017	5	
<b>Voluntary relocation for people rescued at sea</b>	MT	BE, DE, FI, FR, IE, SI	2018-2019	45	Voluntary, based on Article 17 (2) of the Dublin Regulation
	IT***	PT	2019	1	

# Best Interest of the Child or Best interest of the Member states in relocation schemes ?

- Selection criteria are also set by the member States within bilateral agreements
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Table 3: Selection criteria for children in the three relocation experiences

<b>European Emergency Relocation Mechanism</b> <i>Relocation from Greece, Italy</i>	<b>Bilateral arrangements targeting unaccompanied children</b> <i>Relocation from France, Greece, Italy</i>	<b>Voluntary relocation for people rescued at sea</b> <i>Relocation from Malta</i>
National with a 75 % recognition rate, but in practice state of relocation has additional preferences such as unmarried children, with relatives in country of relocation, certain nationalities	State of relocation has specific preferences, but more often based on the vulnerability of the child	State of relocation has specific preferences such as certain nationalities or minimum age

Source: FRA, 2020

## CHALLENGES WITH THE BIC ASSESSMENT IN PRACTICES: FIELD EXPERIENCES

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Questioning family reunification : lengthy processes and support after transfer

- What kind of social support/coordination is provided for a UM after a Dublin transfer ?

**Example 1:** One child arrived in Italy, he started a Dublin process in Sicily and waited for his transfer toward Spain. He waited so long that he escaped and decided to pay a smuggler to continue his journey by himself. Being stuck in Ventimiglia, he agreed once more to wait for his transfer and was appointed a guardian. He was transferred to Spain shortly after and met with his uncle. In Spain the uncle didn't receive any help from the social services and the boy escaped again after months waiting to go to school.

**Example 2:** Often the family reunification, in the best interest of the child, according to the Dublin regulation does not work because the child decides to leave illegally and by himself before the Dublin procedure is achieved (long procedure and complicated to find the member of the family in the requested Country + to prove the link between the child and the member of the family)

- How to ensure Dublin transfers in a reasonable period of time and avoid detrimental lengthy processes (FRA, 2020)?
- How to have a cross-border cooperation between sending/receiving countries to ensure a comprehensive assessment of the BIC of the child and initiate social interventions for before and after the transfer ?

# CHALLENGES WITH THE BIC ASSESSMENT IN PRACTICES: FIELD EXPERIENCES

## Exemple 3: Minors in transit in Europe

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A minor on the move in Ventimiglia or Calais want to continue his journey and reach another country but isn't eligible to any FR programme.

How to protect minors if they want to irregularly cross borders (e.g minors in border spaces like Calais, Ventimiglia, Patras) ?

What other key elements can be taken into account to ensure a good BIC assessment involving the child's views ?

- 1) Safety and trust between the officer and the child
  - Providing a safe temporary accommodation
  - Appointing a guardian to the child as soon as possible
  - Giving time to the child to decide: often minors have to quickly take a decision and have to be transferred to another facility for asylum seeking children and feel pressured
  
- 1) Information and misinformation:
  - To listen to the child views
  - To deliver timely, accurate and child friendly information about the current country and the country where the child wants to go
  
- 1) Participation
  - To ensure the child's participation and consider his point of view
  - Strengthen mediation with cultural mediators with appropriate training and a cultural understanding of the child's background

# CONCLUSION

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- The legal provisions concerning the BIC are central and touch many different parts of the minor's social life (education, health, family life)
- International guidelines that provide useful and practical ways to implement the BIC assessment of children on the move
- The BIC is an iterative and evolutive process that should be done at different stages of the child's journey
- It should be conducted by a multidisciplinary team of professionals (social workers, psychologists, doctors, lawyers) and with the support of cultural mediators
- Next to the legal safeguards, an efficient BIC assessment also implies to create trust, promote the child's participation and provide accurate and child friendly information
- The diversity of voluntary relocation and resettlement schemes outside of the Dublin Regulation brings into question the translation and application of the BIC principle into this context.

# REFERENCES

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