



# **European Guardianship Network**

## **Workplan September 2020 – August 2025**

**December 2020**

# 1. Introduction

## 1.1 This Plan

This document sets out the five-year plan which will guide the development and work programme of the European Guardianship Network (EGN) to September 2025. The Members and Partners have been consulted about the areas of work that EGN should pursue via engagement at the Network meetings (March and September 2019) and via a written consultation process. The plan has also been informed via the consultations with national stakeholders during the round of country missions. Emerging drafts have also been shared with the Network. EGN is currently funded up to the end of August 2020 by a direct grant from the European Commission. It is envisaged that EGN will apply to the European Commission for an Operating Grant at the beginning of 2021. This work plan will cover the interim period between the current Direct Grant expiring and the award, if successful, of this Operating Grant, plus the period covered by the Operating Grant up to the end of August 2025. The network will build on the existing knowledge and experience that the current members hold regarding the development of effective partnerships and the delivery of quality guardianship services to separated and unaccompanied children<sup>1</sup>.

## 1.2 The problem

Historically Member States have organised guardianship for separated and unaccompanied children in a variety of ways which take into account and reflect each country's perspective and historical context, the resources they have available and the cultural and societal factors within which the service is delivered.

**There is thus great inconsistency in the availability and quality of guardianship provided to unaccompanied children across Member States. Existing standards are not always fully adhered to and available training is not used for best effect and reach and there is generally a lack of coordination in cross-border cases. In consequence children receive a variable service that can impact upon their safety, protection and realisation of their rights. The voices of children are seldom heard regarding the development and delivery of guardianship provision.**

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<sup>1</sup> Separated child: 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 - UN Committee on the Rights of the Child General Comment No. 6 CRC/GC/2005/6 and the UN Guidelines for the Alternative Care of Children (UN Alternative care guidelines) A/HRC/11/L.13), paragraph 8.

Unaccompanied child: a child who arrives on the territory of the Member State unaccompanied by an adult responsible for them whether by law or by the practice of the Member State concerned, and for as long as they are not effectively taken into the care of such a person; it includes a child who is left unaccompanied after they have entered the territory of the Member State - Qualification Directive (2011/95/EU), Article 2 (1).

### 1.3 What we want to achieve

**We want to put the rights of the child at the heart of the work of all agencies engaged in the delivery and support of guardianship services. We want to ensure that the voices of children are heard in the development and delivery of these services. We want to raise the standard and quality of guardianship services so that children have better outcomes. EGN wants to add value to existing guardianship provision.**

It is recognised that there is no ‘one size fits all’ approach regarding the delivery of guardianship services. It is not the aim of EGN to develop a universal model of guardianship that should be applied across all Member States, rather the Network will seek to identify, develop and apply clear high-quality practice and standards of guardianship that will work across a variety of models.

EGN will strive for the development and improvement of guardianship services provided to separated and unaccompanied children within the EU Member States plus Iceland, Norway and Switzerland. We will raise awareness of the issues that impact upon separated and unaccompanied children within guardianship and the impact that these issues have on children. We will strive to present solutions to these issues and challenges. We hope to be able to inform the European Commission and push for change regarding the steps needed across the EU and at national level that are necessary to improve services. EGN also seeks to unite those institutions that exercise legal guardianship regarding these children and to perform activities that in a broad sense takes further the positive development of these guardianship services. Where possible we will embrace the work of other relevant projects working on the subject of guardianship and will input into and take their work forward as appropriate. We envisage that other projects will likewise support and promote our work.

The network will continue to be coordinated by Nidos and as such will fit within their mandate and overall strategic plan <https://www.nidos.nl/en/>.<sup>2</sup>

## 2. Our Vision and Mission

A guardian is an independent person who safeguards the child’s best interests and general well-being, and to this effect complements the limited legal capacity of the

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<sup>2</sup> Nidos is the national guardianship institution that is responsible for all unaccompanied children in the Netherlands. Nidos has worked hard over the last decade to improve the situation of unaccompanied children and separated children in the Netherlands but also in the European Union, for instance through working on concepts of professional and specialised guardianship, development of family-based care, systematically spreading and sharing knowledge and bringing together small networks. Nidos is also a CEDEO-certified training institute, providing professional training in youth care, acknowledged in a professional points-system. Nidos has worked – mostly as applicant – on many European projects focusing on unaccompanied children and/or guardianship in the past years and continues to hold contacts and cooperation with the European Commission and its agencies in the area of its work.

child, when necessary, in the same way that parents do.<sup>3</sup> In its work EGN is committed to the full implementation of the United Nations Convention on the Rights of the Child (CRC) and strives to ensure that the best interests and wellbeing of unaccompanied and separated third country national children are safeguarded. The CRC has been ratified by all Member States of the European Union. EGN believes that all the articles within the CRC are applicable to all separated and unaccompanied children and must be the framework for all decisions affecting them. Of particular relevance to our work in delivering guardianship services are the references in the Convention to the provision of special protection and assistance for children who are not living with their family (Article 20) and the requirement for children seeking refugee status to receive appropriate protection and humanitarian assistance (Article 22).

EGN's work will be guided by existing common standards on guardianship and the international and EU legal framework. Consistent with the position of the FRA<sup>4</sup> (European Agency for Fundamental Rights) we believe that quality and qualified guardianship is something to strive for. The promotion, protection and fulfilment of the rights of third country national children in migration will be central to the activities of the network. Our work will be guided and grounded by the CRC and the relevant authoritative guidance issued by the United Nations Committee on the Rights of the Child, including but not limited to General Comments numbers 6, 12, 13, 14, 22 and 23. We believe that, as outlined in General Comment 13, guardianship should be child-rights based and as such the network members must respect the dignity, life, survival, wellbeing, health, development, participation and non-discrimination of the children in receipt of support from their services. Bearing this in mind the vision for the EGN is that,

**The Network will be an inclusive and supportive environment which will enable members to contribute to the development of safe, effective and consistent ways of delivering high quality, child rights-based, and accessible guardianship services. We want the Network to work collaboratively to build the capacity of individual Members and Partners. The Network will be a welcoming and enabling forum for the development of best practice that will put the rights and best interests of separated and unaccompanied children at the heart of its work thus leading to better outcomes for children and the guardianship services who work with them.**

We believe that every member and partner within EGN should, or should be aiming to;

- Hold an official mandate to either deliver guardianship to separated and unaccompanied children, or hold such a mandate to input and inform services to this group of children;
- Be accountable; activities must be set out in a constitution, articles, memorandum of understanding or other such formal documentation;

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<sup>3</sup> Guardianship for Children deprived of parental care: A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking - European Union Agency for Fundamental Human Rights (FRA).

<sup>4</sup> Ibid

- Deliver its service through skilled and knowledgeable personnel and, regarding the direct delivery of guardianship services, follow agreed standards;
- Act in the best interests of the children they work with and uphold the CRC, with particular reference to Article 12, in the delivery of their service.

Our vision reflects the following guiding principles;

- The best interests and wellbeing of separated and unaccompanied children must be safeguarded;<sup>5</sup>
- Guardianship is child-rights based;<sup>6</sup>
- Guardianship is more effective where methodologies and practices are shared between organisations and authorities;
- Policy and practice should be developed by including the views of children in line with Article 12 of the CRC – this should be done in a way that is both practical and meaningful;
- Member States should be supported in their obligations with regard to guardianship for unaccompanied children;
- The work of individual guardians is better supported under the remit of a guardianship authority or organisation;
- A validation framework for guardianship institutions should be available for use among the network;
- Guardianship authorities and organisations should contribute more effectively to policy discussions and decisions at national and European level.<sup>7</sup>

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<sup>5</sup> The promotion, protection and fulfilment of the rights of third country national children in migration must be central to all network activities. All network activities must be guided by and grounded in the UNCRC and the authoritative guidance issued by the UN Committee on the rights of the child, including GC No 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, GC No 12 (2009) on the right of the child to be heard, GC No 13 (2011) on the child's right to freedom from all forms of violence, GC No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, and Joint General Comments of the UN Committee on the protection of the rights of all migrant workers and their families and the UN Committee on the rights of the child No 3/22 (2017) and 4/23 (2017) on the human rights of children in the context international migration.

<sup>6</sup> Definition of a child rights approach as outlined in Paragraph 59 of General Comment No 13 of the UN committee on the Rights of the Child: Respect for the dignity, life, survival, well-being, health, development, participation and non-discrimination of the child as a rights-bearing person should be established and championed as the pre-eminent goal of States parties' policies concerning children. This is best realized by respecting, protecting and fulfilling all of the rights in the Convention (and its Optional Protocols). It requires a paradigm shift away from child protection approaches in which children are perceived and treated as "objects" in need of assistance rather than as rights holders entitled to non-negotiable rights to protection. A child rights approach is one which furthers the realization of the rights of all children as set out in the Convention by developing the capacity of duty bearers to meet their obligations to respect, protect and fulfil rights (art. 4) and the capacity of rights holders to claim their rights, guided at all times by the rights to non-discrimination (art. 2), consideration of the best interests of the child (art. 3, para. 1), life, survival and development (art. 6), and respect for the views of the child (art. 12). Children also have the right to be directed and guided in the exercise of their rights by caregivers, parents and community members, in line with children's evolving capacities (art. 5). This child rights approach is holistic and places emphasis on supporting the strengths and resources of the child him/herself and all social systems of which the child is a part: family, school, community, institutions, religious and cultural systems."

<sup>7</sup> In cooperation with the European Commission, EASO, FRA and the Council of Europe.

The Network members and partners, board, advisory committee, secretariat and coordinator will advance our vision by;

- Creating an open, transparent and inclusive network;
- The sharing of good practice within our network;
- The provision of reliable, current, relevant and accurate information;
- The development of clear standards for the delivery of guardianship;
- Supporting the network partners to deliver their services effectively;
- Securing the continuity of the Network by developing a clear organisational structure, governance process and sustainable funding;
- Timely, effective awareness raising and targeted advice and advocacy.

We recognise that if the Network is to develop and implement a strategy that is capable of delivering our vision we need to ensure that the Network is appropriately positioned to take full advantage of the collective experience, skills, motivation and overall capacity of our Network members. We want to ensure that we have a structure capable of delivering our goals.

### **3. Our areas of work September 2020 – August 2025**

The areas of work which EGN will engage with are based on the needs and gap analysis as provided via consultation with the Network's Members and Partners. It reflects the areas that they feel EGN should prioritise within its workplan. It is envisaged that the Members and Partners of the Network will work together in identifying gaps in national provision and will support each other to address these gaps.

#### **3.1 September 2020 – August 2021 (First phase of the plan)**

##### **3.1.1 Agree standards for the delivery of effective guardianship**

Whilst EGN does not seek to implement a rigid model for the delivery of guardianship throughout Member States we do want to see greater consistency in the application of standards of practice within guardianship authorities across the Member States. Standards have been prepared by other agencies and EGN will use those prepared as part of the ProGuard project (and FRA) to drive it's work forward. We will engage with children in taking this work forward.

Tasks;

- Adopt, promote and share the standards as identified in the ProGuard project and add to the 'toolkit' as developed for use by guardians;
- Draft a checklist for the use of agencies delivering guardianship;
- Disseminate the EGN Guidance on guardianship and the standards;
- Promote the standards (consider hosting a conference to aid this);
- Conduct additional desk research and literature review to draw upon, map and analyse existing material.

### **3.1.2 Ensure that children participate in the Network; that children feel listened to and that they have 'agency' in the Network's development**

The Network needs to embrace the meaningful participation of children if it is to adequately reflect their needs. Children need to be aware of their rights and be listened to and Members and Partners should be encouraged and supported to develop child participation initiatives at national level. We want the principle of hearing the voices of children to be embedded in the work of the Network throughout the period of this workplan so that our work is shaped by children.

Tasks;

- Hold two meetings per year with the 'trusted juniors' and plan their contributions to Network meetings;
- Facilitate attendance and meaningful participation of children at Network meetings;
- Members and Partners to seek out feedback regarding the delivery of guardianship services from children and presentation of findings at Network meetings;
- Support Members and Partners to develop fora for children to inform the development of guardianship services at local level;
- Build on the existing work undertaken by young people to develop an 'App' containing relevant information for guardians that is designed and led by children;
- Work with children to develop tools and processes for children to conduct audits of guardianship services.

### **3.1.3 Develop good practice**

In order to raise the quality of guardianship authorities and to ensure that they deliver services that are in the best interests of children it is important that the Network members learn from each other and move towards the highest levels of practice.

Tasks;

- Use the Network to timely identify, share and spotlight practice;
- Hold regular Thematic Network meetings (approximately 6 per year)
- Analyse and identify high quality practice, draw out the best and create a checklist;
- Take forward the work undertaken within the ProGuard project regarding self-assessment of guardianship services;
- Encourage and help facilitate exchange visits within the Network;
- Liaise with other Commission funded projects working on issues concerning guardianship of separated and unaccompanied children, e.g. ProGuard, Guardianship Advanced Instruments for child protection in Europe (GAIN), Alliance for Children on the Move: standards operating procedures for guardians (ASOP4G) etc;

- Engage with other key stakeholders for example, but not limited to EASO, the EU Fundamental Rights Agency (FRA) European Network of Ombudspersons for Children (ENOC) and the Council of Europe ad hoc Committee for the Rights of the Child;
- Seek to explore options to facilitate the meaningful engagement of children (perhaps by linking into existing groups and fora) in developing good practice (see above);
- Work with children, guardians and cultural mediators to make processes and support for children with mental health needs more accessible and relevant;
- Consider specific areas of guardianship practice, for example the role of the guardian regarding family tracing and reunion, working with young people post 18, age assessment procedures, Dublin transfers, supporting children who are stateless or at risk of becoming so, provision of information and support to separated and unaccompanied children in relation to asylum procedures and other services, responding to children who have been trafficked etc and stimulate others to prepare 'position papers' on these areas;
- Facilitate discussion and comments relating to practice from Network members.

#### **3.1.4 Build, support and consolidate the Network**

At the heart of our work is a functioning and effective Network of guardianship providers, and other stakeholders across the EU Member States. We will build on our existing work in this area and continue to;

##### Tasks;

- Maintain our governance and audit systems and processes so that our work is transparent, members feel involved and decision-making processes are clear;
- Keep the Network's child protection policy and procedure under review;
- Engage with Nidos's 'trusted juniors' to ensure that the views and opinions of children are reflected in our work;
- Identify new members and partners, - we will do this through liaison with the European Commission, our current members and partners, and our existing contacts, etc, against agreed criteria;
- 'Assess' suitability against the relevant Memorandum of Understanding and select new members and partners;
- Undertake country missions to Member States who are not already part of the Network;
- Convene two Network meetings (provisionally for March 2021 and September 2021);
- Maintain and develop an EGN Website to communicate our messages;
- Provide ongoing updates and support to members throughout the year;
- Support members and partners to engage in bilateral visits where this is helpful for learning and the development of quality services.

## **3.2 September 2021 – August 2025 (Second phase of the plan)**

Going forward we will continue to implement and develop our work as outlined above in the first phase of the plan. In this second phase we will additionally concentrate on the following areas. This plan will be a living document and we recognise that over the life time of the plan the Network will identify new and emerging themes or areas of work that need to be addressed. We will thus keep the plan under constant review and adapt it as necessary to meet the changing requirements of the Network and the children who receive guardianship.

### **3.2.1 Explore options and models for cross border working between guardianship services**

The issue of cross border working has become a somewhat contentious issue because it is often linked to the transfer or return of children and concerns often exist that this is not always taken in the best interests of individual children. This aspect of the work plan will need to be handled sensitively and we will be guided by FRA's recent publication – Returning unaccompanied children: fundamental rights considerations.

Tasks;

- Consult with and establish the views of members and partners;
- Identify existing practice and spotlight good aspects of this;
- Consider the Dublin Regulation and the best interests of the child principle. This may involve further consultation and/or desk top review and support the drafting of a position paper;
- Check, consider and explain new and emerging legislation to Members and Partners;
- With due regard to data protection and data sharing and transfer, develop a platform for guardianship authorities to share information needed in order to carry out transnational or cross border tasks (e.g. contacts with guardianship and other authorities in another country for Dublin transfers, family reunion or reunification, children going missing, etc);
- Undertake country missions to Member states where good practice has been developed to better understand how this works;
- Draft a best practice checklist and consider linking this to the COM database.

### **3.2.2 Map existing provision and develop action plans**

Whilst some mapping of provision has been undertaken, for example as part of the Proguard project this has generally not been undertaken against a set of consistent standards. It has also been limited in its scope and in consequence mapping of the standards of guardianship services has been missing from many Member States.

Tasks;

- Working from the agreed standards (see above) and the PAS tool developed within the ProGuard project draft a proforma document identifying the areas to be examined;

- Support members and partners to complete the mapping exercise (offering additional support with coordination where necessary);
- Make recommendation and draft SMART action plans;
- Draw together responses and prepare a comparative analysis of existing practice.

### **3.2.3 Prepare training materials**

Training materials aimed at delivering quality guardianship have been developed by other agencies. As part of our mapping exercise we will consult with our Members and partners and identify which training adds value and which needs to be revised or improved. EGN will seek to adopt or adapt the best elements of these packages in order to promote good practice, and to aid the move towards consistency in service delivery. We will work alongside the Fundamental Rights Agency of the European Union (FRA) and support them in their work to develop training for guardians and a training manual.

Tasks;

- Undertake a desk review of existing materials;
- Identify what training is needed and where it is needed;
- Draft materials (based on good practice as identified above);
- Ensure that the materials reference a shared EGN vision for delivering guardianship;
- Consult with Network members and partners;
- Adapt and redraft materials where necessary;
- Pilot (suggest in 3 Member States) and review the materials;
- Finalise the materials;
- Support the delivery of train the trainer sessions across Member States;
- Where appropriate support Network Members and partners to deliver training;
- Disseminate the final materials.