

The best interests of the child*

Article 3 of the Convention on the Rights of the Child provides that, in all actions concerning children, both in the public and private sphere, the best interests of the child shall be a primary consideration.

In its General Comment N°14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee on the Rights of the Child observes that the concept of the child's best interests is aimed at ensuring both the full and effective enjoyment of all the rights recognized in the Convention and the holistic development of the child.

According to the Committee on the Rights of the Child, the child's best interests is a threefold concept:

1. **A substantive right:** the right of the child to have his or her best interests assessed and taken as a primary consideration in situations that affect him or her.
2. **A fundamental, interpretative legal principle:** If a legal provision is open to more than one interpretation, the interpretation which most effectively serves the child's best interests should be chosen.
3. **A rule of procedure:** whenever a decision is to be made that will affect a child, the decision-making process must include an evaluation of the possible impact of the decision on the child concerned; in other words, the best interests of the child should be assessed and determined before the decision is taken.

The Committee also points out that the concept of the child's best interests is complex and its content must be determined on a case-by-case basis; it is a flexible and adaptable concept and should be adjusted and defined on the basis of the specific situation of the child concerned.

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In the case of migrant children, the principle of the best interests of the child must be respected during all stages of the displacement cycle.

The **determination of what is in the best interests of a migrant child** requires a clear and comprehensive assessment of the child's identity, including his or her nationality, upbringing, ethnic, cultural and linguistic background, particular vulnerabilities and protection needs .

Regarding **unaccompanied or separated children** in particular, the appointment of a guardian as expeditiously as possible ensures that their best interests will be duly taken into consideration.

The principle of the best interests of the child **applies to all situations regarding migrant children** and to all plans aiming to ensure their well-being.



Committee on the Rights of the Child, General Comment N°6 (2005) Treatment of Unaccompanied and Separated Children outside their country of origin