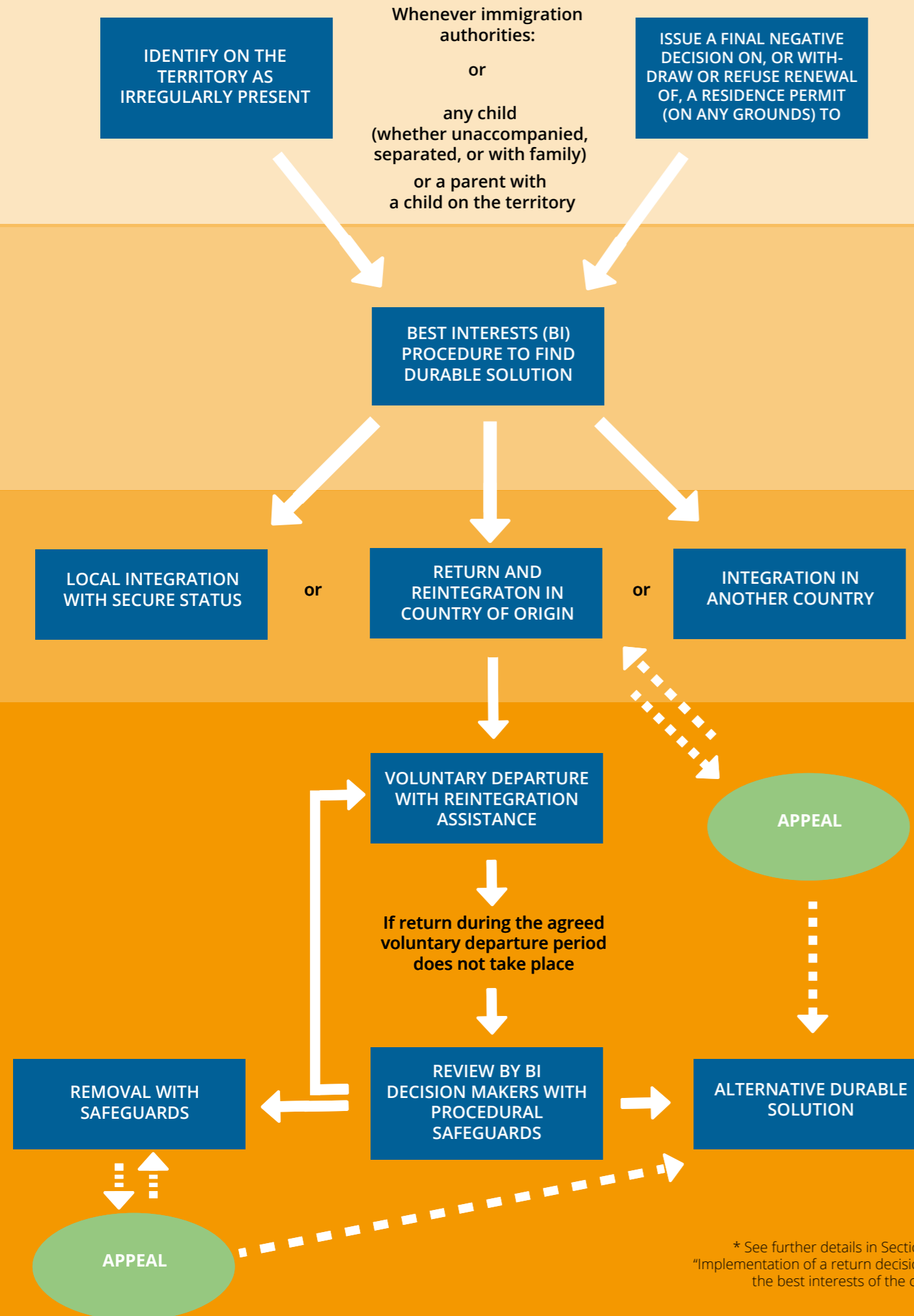


# Steps for the procedure and implementation when return is a durable solution in the best interests of the child

This flowchart is to be read in conjunction with **Guidance to respect children's rights in return policies and practices: Focus on the EU legal framework**, produced by:



## The following are crucial from the outset of the procedure:

- ✓ Anyone claiming to be a child should be treated as such (unless and until - if necessary - a multi-disciplinary and non-invasive age assessment finds them to be an adult)
- ✓ Child-friendly information.

It should always be possible - at any time during the process - for the child and/or family to apply for residence status under other mechanisms (including international protection procedures) or participate in assisted voluntary return and reintegration (AVRR) programmes.

## Essential characteristics of the best interests procedure to find a durable solution:

- ✓ Aims to identify a durable solution (considering all options)
- ✓ Formal, individual procedure examining all aspects of the child's situation
- ✓ Independent and impartial - decision-makers with no conflict of interests with rights of the child
- ✓ Multi-disciplinary (child protection actors, legal representative, parents, guardian, others as needed)
- ✓ Views of the child duly heard and considered throughout
- ✓ Child-friendly information, counselling, support
- ✓ Legal assistance
- ✓ Documentation during the procedure (no enforcement actions against the child or family members) and access to services
- ✓ Whichever durable solution, discussion and development of plan
- ✓ Leads to reasoned, documented decision with right to appeal with suspensive effect.

## The decision must result in the necessary steps to implement the identified durable solution for the child:

- ✓ Integration or reintegration in another country would usually be for family reunification purposes.

## If return is found to be in the best interests of the child, it must be implemented through voluntary departure with reintegration assistance. Essential measures at this stage include:

- ✓ Support and counselling
- ✓ Timing and other aspects of return as consensual as possible (with plenty of time to prepare and ensuring uninterrupted access to education)
- ✓ Assistance and cooperation with relevant actors to ensure the conditions for return as a durable solution in the best interests of the child are met.\*

## If return during the agreed voluntary departure period does not take place - in order to proceed in the best interests of the child - the review should consider:

- Why voluntary departure period failed
- Any changes to circumstances underlying the decision that return is in best interests
- Views of the child and other actors
- Whether the essential safeguards are in place to consider removal.

## If the decision-makers consider removal as a measure of last resort, they need to assess and ensure that both the essential operational safeguards, and the stipulated return and reintegration conditions and assistance, are available and in place. Some of the essential operational safeguards include:

- ✓ Information, preparation, support and assistance
- ✓ No immigration detention
- ✓ No family separation
- ✓ No force or physical restraints
- ✓ Several other measures.\*

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\* See further details in Section 2: "Implementation of a return decision in the best interests of the child"