



# Children in Migration

Report on the state of  
implementation in 2019 of the  
2017 Communication on the  
protection of children in migration

March 2021



## Disclaimer

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## Explanatory note

This Synthesis Report was prepared on the basis of National Contributions from 26 EMN NCPs (**AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK, NO**). The questionnaire to which the 26 EMN NCPs responded was developed by the EMN in conjunction with the European Commission. This report was produced at the European Commission's request to the EMN to synthesise information on the state of implementation in 2019 of the 2017 Commission Communication on the protection of children in migration (COM(2017) 211 final) at national level.

National contributions were largely based on desk analysis of existing legislation and policy documents, and information provided by national authorities. The listing of Member States in the Synthesis Report results from the availability of information provided by the EMN NCPs.

It is important to note that the information contained in this Report refers to the situation in the above-mentioned (Member) States from 1 January up to 31 December 2019 and specifically the contributions from their EMN National Contact Points. More detailed information on the topics addressed here may be found in the available National Contributions and it is strongly recommended that these are consulted as well.

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# EXECUTIVE SUMMARY



## KEY POINTS TO NOTE

- All European Union (EU) Member States and Norway set in place rules to ensure that an official with adequate training in dealing with children is present during the identification and registration procedure of minors, and provide special training to border guards/police authorities to identify minors and victims of trafficking.
- The majority of Member States and Norway accommodate families with children applying for asylum in general reception facilities for asylum seekers, while unaccompanied children are usually accommodated in special reception centres.
- While most Member States provide for the appointment or designation of a guardian or representative to unaccompanied minors recorded within the asylum system, half also provide for the appointment or designation of representatives for unaccompanied minors who are not applying for asylum but are recorded within other migration procedures.
- Detention of unaccompanied minors and minors with families is legally permitted in several EU Member States, although this is reportedly only implemented as a last resort and under strong safeguards to protect the wellbeing of the child.
- Member States generally do not have a specific policy or strategy for the integration of minors of a migrant background. However, national programmes promoting the integration of migrant children through sport and other leisure or cultural activities are implemented in some Member States, and new developments were reported in 2019 in relation to the integration of minors.
- Member States collected different types of data in relation to children in migration. All Member States and Norway collect data on the number of children applying for asylum, as well as their age and nationality. Disaggregated data on whether children are accompanied or unaccompanied, their gender and place of reception are not available in all Member States.
- In 2019, less than half of the Member States made use of EU funding (mostly from the Asylum, Migration and Integration Fund (AMIF)) for programmes prioritising the protection of unaccompanied children and/or families with children.
- Non-governmental organisation (NGO) research points to remaining challenges and gaps in the practical implementation of legislation and policies to protect children in migration across the EU, (i.e. guardianship, identification of unaccompanied minors, and minors who are victims of trafficking).



## SCOPE AND AIMS OF THE STUDY

This report<sup>1</sup> maps the progress made by EU Member States and Norway in 2019 in the implementation of the recommended actions laid down in the 2017 *Commission Communication on the protection of children in migration*,<sup>2</sup> with a view to further understanding progress made in the implementation of the Communication's

recommendations. The scope of this Report is limited to migrant children in the categories set out in the 2017 Communication:

- Accompanied minors/families with children.<sup>3</sup>
- Separated children.<sup>4</sup>

1 The European Commission invited the EMN to develop the Children in Migration Report for the first time in 2019. In the past two years, progress made in the implementation of the Communication was mapped by two informal groups of experts in the Directorate-General for Migration and Home Affairs (DG HOME) and the Directorate-General for Justice and Consumers (DG JUST) of the European Commission.

2 Communication from the Commission to the European Parliament and the Council: The protection of children in migration (COM(2017) 211 final), available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412\\_communication\\_on\\_the\\_protection\\_of\\_children\\_in\\_migration\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf)

3 Accompanied minor: A minor who is accompanied and effectively taken into the care of an adult responsible for them by law or by the practice of the Member State concerned. Families with children: minors who are accompanied by one or both parents or by their legal or customary primary caregiver (Source: Qualification Directive 2011/95/EU – inferred from the definition of unaccompanied minor in Article 2(1) – see below).

4 Separated child: A child under 18 years of age who is outside their country of origin and separated from both parents or their previous legal/customary primary caregiver. These may include children accompanied by other adult family members (Source: EMN Glossary, Version 7).

- Unaccompanied minors, including those:<sup>5</sup>
  - recorded within the asylum system,
  - not applying for asylum but recorded within other migration procedures, and
  - not applying for asylum, who remain outside the asylum/migration/(child) protection system.

## METHOD AND ANALYSIS

The Report was prepared on the basis of national contributions from 26 European Migration Network (EMN) National Contact Points (NCPs),<sup>6</sup> submitted in response to a questionnaire developed by the EMN in conjunction with the European Commission. The questionnaire was developed to facilitate comparability of the information collected from the participating national authorities. National contributions from the Member States and Norway were largely based on desk analysis of existing legislation and policy documents, and information provided by national authorities. The information collected thus refers mainly

to the legislative, policy and practice frameworks that the Member States and Norway have put in place, rather than how these frameworks are implemented.

Additional material was contributed by NGOs,<sup>7</sup> at the request of the European Commission, and based on recent research on relevant topics. These contributions illustrate some of the challenges in protecting children in migration and the impacts of these challenges, as experienced by children.

The Report reflects the legislation, policies and practices in place in Member States and Norway from 1 January to 31 December 2019.

## SWIFT AND COMPREHENSIVE IDENTIFICATION AND PROTECTION

As the 2017 Communication points out, migrant children crossing borders may come into contact with different Member State authorities and they must always be identified and registered as children. They should be prioritised in all border-related procedures and receive adequate support from specially trained staff, who should apply child-friendly and gender-sensitive approaches to biometric data collection. As well as applying special safeguards for all children, the Communication states that Member States should pay special attention to the specific vulnerabilities and protection needs of unaccompanied and separated children, who may be at a higher risk of exploitation and trafficking. The identification of a person as a minor is crucial, as it can influence subsequent applicable procedures and treatment, including the types of support offered, additional procedural guarantees, and type of reception conditions provided.

All Member States and Norway foresee that an official with adequate training in dealing with children is present during the identification and registration procedure of minors.

In most Member States,<sup>8</sup> border guards/police authorities receive special training to identify minors and victims of trafficking. In general, these authorities establish the identity of the minor and register their presence in the country, then refer them to child protection authorities.

Member States reported that officials who perform the identification and registration of minors are required to collect biometric data in a child-friendly and gender-sensitive manner. In line with the current EU *acquis*, particularly the Eurodac Regulation,<sup>9</sup> Member States do not take the fingerprints of applicants for international protection if they are less than 14 years of age, nor do some Member States take photographs of children younger than 14 years. Some Member States reported specific efforts to create a child-friendly atmosphere during the identification and registration process, for example police wearing plain clothing rather than uniforms, or giving children time to get used to their surroundings.<sup>10</sup> Border/police authorities generally take the vulnerability and gender of child applicants into consideration when collecting biometric data, for example by ensuring that both female and male staff are present.

5 Unaccompanied minor: A minor who arrives on the territory of an EU Member State unaccompanied by the adult responsible for them by law or practice of the EU Member State concerned, and for as long as they are not effectively taken into the care of such a person; or who is left unaccompanied after they have entered the territory of the EU Member State (Source: Article 2(l) of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, OJ L 337, 20.12.2011, pp. 9–26).

6 AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO.

7 The following NGOs provided input for this Report: Missing Children Europe, European Network on Statelessness, Red Cross EU Office, Danish Refugee Council (DRC), Defence for Children International Belgium, Project Play, PICUM, and Refugee Rights Europe.

8 AT, BE, BG, CY, CZ, EE, EL, ES, FI, HR, HU, IT, LU, LV, MT, NL, PL, PT, SK, SE, SI and NO.

9 Eurodac Regulation No 603/2013.

10 EE, IE, MT, NL.



## PROVIDING ADEQUATE RECEPTION

The 2017 Communication provides that reception conditions should be in line with the EU *acquis*, with reception conditions to include not only safe and appropriate accommodation, but also any necessary support services to secure the child's best interests and wellbeing, such as: independent representation, access to education, healthcare, psychosocial support, leisure and integration-related measures.

Practices and frameworks to provide adequate reception for families with children and for unaccompanied minors vary. The majority of the Member States and Norway accommodate families with children applying for asylum in general reception facilities for asylum seekers,<sup>11</sup> while

unaccompanied minors are usually accommodated in special reception centres.<sup>12</sup> However, most Member States foresee that vulnerabilities are assessed promptly, that they follow the best interests of the child and put in place the required safeguards to guarantee the wellbeing of the child.<sup>13</sup> All Member States aim to ensure that staff are properly trained and that there is ongoing monitoring of the quality of services and facilities. Overall, Member States reported that the measures put in place correspond to the situation of the child, their age, gender and vulnerability, with provision for flexibility in reception conditions and integration strategies to respond to changes in needs as children get older.



## ENSURING SWIFT AND EFFECTIVE ACCESS TO STATUS DETERMINATION PROCEDURES AND PROCEDURAL SAFEGUARDS

In its 2017 Communication, the Commission recommended that Member States focus their efforts in a number of areas, including strengthening guardianship authorities/institutions to ensure swift appointment of guardians for all unaccompanied minors, and implementing reliable multi-disciplinary and non-invasive age assessment procedures. In addition, the Commission underlined the importance of ensuring swift and effective family tracing, within or outside the EU, by making full use of existing cross-border cooperation channels. Finally, the Communication recommended that priority be given to cases concerning minors in line with the urgency principle (e.g. asylum applications),<sup>14</sup> as well as to the relocation of unaccompanied minors from Greece and Italy.

Member States' legislation provides for the appointment or designation of a custodian to unaccompanied minors, either in the form of a guardian<sup>15</sup> or a representative.<sup>16</sup>

While Member States provide for such appointment or designation for unaccompanied minors recorded within the asylum system, half also provide for the appointment or designation of representatives for unaccompanied minors who are not applying for asylum but are recorded within other migration procedures.<sup>17</sup>

Concerning procedural safeguards, most Member States reported implementing procedures or measures to provide information in a child-friendly manner.<sup>18</sup> Most Member States and Norway prioritise<sup>19</sup> and/or fast-track<sup>20</sup> applications for international protection of unaccompanied minors.

In terms of age assessment, most countries' legislation foresees medical examination for the purpose of age assessment only after all other methods and procedures have been exhausted and the age of the individual is still not determined.<sup>21</sup>



## DETENTION FOR THE PURPOSE OF RETURN OF UNACCOMPANIED MINORS AND FAMILIES WITH CHILDREN

The 2017 Communication underlines that administrative detention of children on migration grounds should always be in line with EU law, applied exclusively in exceptional circumstances, where strictly necessary, only as a last resort, for the shortest time possible, and never in prison accommodation. Where there are grounds

for detention, everything possible must be done to ensure a viable range of alternatives to the administrative detention of children in migration.

Detention of unaccompanied minors and minors with families is legally permitted in several EU Member States

11 AT, BE, BG, CZ, DE, EE, EL, FI, FR, HR, IE, IT, LV, LT, LU, NL, PT, SE, SI, SK and NO.

12 BE (only during the initial stay in the Observation and Orientation Centres for unaccompanied minors), CY, CZ, DE, EL, ES, FI, HR (only for unaccompanied minors above the age of 16 who are applicants for international protection and can be accommodated in general facilities for applicants of international protection; all other children are housed within the child welfare system), IT, LT, LU, NL, PT, SE, SI, SK and NO.

13 AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO.

14 The Council of Europe Guidelines on child-friendly justice state that children's status determination procedures should be prioritised (the 'urgency principle'). For more information, see: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016804b2cf3](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016804b2cf3)

15 BE, CY, CZ, DE, EE, ES, FI (for unaccompanied minors applying for a residence permit), FR, HR, IT, LT, LU, LV, NL, PL, PT, SE, SK and NO.

16 BG, EL, FI, HU, IE, LU, LV, PT.

17 BE, BG, CY, CZ, DE, EE, ES, FR, HR, IE, IT, LT, LU, LV, NL, SE, SK and NO.

18 AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, EL, HR, IE, IT, LT, LU, LV, NL, PL, PT, SE, SK and NO.

19 BE, BG, CY, DE, EE, ES, FI, FR, EL, HR, IE, IT, LT, LU, LV, MT, NL, PL, SE, SI and NO.

20 BE (applies to the registration of applications), LU, PL, PT, SI.

21 BG, CY, CZ, DE, EE, FI, FR, HR, HU, IT, LV, LT, NL, PL, PT, SE, SI.

but many reported that it is implemented only as a last resort.<sup>22</sup> Member States reported that strong safeguards are in place to protect the wellbeing of the child, including providing age restrictions below which minors cannot be detained, ensuring access to legal aid and support, and implementing alternatives to detention. Examples of Member States' alternatives to detention include the obligation to remain in a specified location or the duty to

report regularly to reception centres, migration authorities or the police.

Voluntary return is possible in almost all Member States<sup>23</sup> and Norway and they reported measures to ensure that voluntary return respects the best interests of the child.

Finally, the forced removal of unaccompanied minors is legally permissible in 10 EU Member States and Norway,<sup>24</sup> but only as a very last resort and in special circumstances.



## ENSURING DURABLE SOLUTIONS

The 2017 Communication states that the identification of durable solutions<sup>25</sup> should explore all possible options, including integration in the host country and resettlement, but also family reunification and return to the country of origin.

The 2017 Communication further highlights the importance of early integration to support children's development into adulthood, particularly through education, guidance and support. It also recommends that Member States increase the use of resettlement and other legal pathways for children, particularly for the most vulnerable children, such as unaccompanied minors and separated children.

Member States generally do not have a specific policy or strategy for the integration of minors of a migrant background. Some Member States<sup>26</sup> reported that reception facilities, carers and representatives do a great deal of the work on the integration of migrant children, including

through national programmes promoting integration through sport and other leisure or cultural activities. Six Member States specifically reported new developments in relation to the integration of minors in 2019, notably provision of language training and the introduction or transformation of bodies responsible for migrant integration and the protection of minors.<sup>27</sup>

Twelve Member States and Norway prioritise the resettlement of unaccompanied minors or families with children.<sup>28</sup> Several reported having quotas for resettling children, although they were not always fast-tracked in the procedure.<sup>29</sup> Other Member States did not apply quotas when identifying refugees for resettlement, although in practice they may prioritise the arrival of families with children (e.g. Finland). One-third of Member States did not prioritise or implement the resettlement of unaccompanied minors or families with children in 2019.<sup>30</sup>



## TRANSITION INTO ADULthood

There is no specific legal framework in EU or international law covering the situation of unaccompanied minors turning 18 years of age. The 2017 Commission Communication encouraged Member States to provide guidance, support and opportunities for continuing education and training to children in that transitional phase, particularly migrant children in State care.

Generally, when unaccompanied children reach the age of majority, they are required to leave the child protection system (i.e. childcare facilities and guardianship system). However, some Member States allow those who turn 18 to stay in their care placement or in child-specific

accommodation until they finish the school year, and in some cases, until they complete their vocational training or higher education studies.<sup>31</sup>

Twenty Member States and Norway provide support in the transition to adulthood for unaccompanied children recorded within the asylum procedure,<sup>32</sup> while 13 do so for unaccompanied children in other migration procedures, who are legal residents in the country.<sup>33</sup> The duration and type of support provided varies between the Member States but most often includes support in finding accommodation, educational assistance, psychosocial support and financial assistance.



## CROSS-CUTTING ISSUES

The 2017 Communication highlights that data on migrant children are very fragmented and not always comparable, hindering the identification of children's

needs. The Commission encouraged Member States to collect more detailed and disaggregated data on children

22 AT, CZ, DE, FI, HR, LT, LU, LV, MT, NL, PL, SE, SI and NO.

23 AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, EL, HR, IE, IT, LT, LU, LV, MT, NL, PT, SE, SI, SK.

24 AT, DE, EE, FI, HR, LU, LV, NL, PL, SE and NO.

25 Any means by which the situation of **refugees** can be satisfactorily and permanently resolved to enable them to live normal lives (Source: EMN Glossary, Version 7).

26 BE, BG, CZ, EL, FI, IE, IT, NL, PT, SE, SI, SK.

27 BG, CY, EE, EL, IT, LV.

28 BE, BG, EE, FR, HR, IE, IT, LU, LV, MT, PT, SE and NO.

29 BE, SE and NO.

30 AT, CY, CZ, DE, EL, ES, PL, SK, SE.

31 CZ, EE, IE, IT, PL, SK.

32 BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SE, SK and NO.

33 BE, BG, CY, CZ, DE, EE, ES, FR, HR, IE, IT, NL, SK.



in migration to inform policy development and make better use of child support services.

The type of data collected on children in migration varies between Member States and for the different categories of children. For example, all Member States and Norway collect data on the number of children applying for asylum, while only 18 Member States and Norway collected disaggregated data on whether children are accompanied or unaccompanied.<sup>34</sup> Similarly, most Member States reported collecting data on age<sup>35</sup> and nationality,<sup>36</sup> with fewer gathering data on gender<sup>37</sup> and place of reception or care placement in the Member State.<sup>38</sup> Eleven Member States collect data on children who go missing or abscond from reception and care facilities.<sup>39</sup> Five Member States<sup>40</sup> have implemented centralised systems for the collection of data on unaccompanied children.

In 2019, less than half of the Member States made use of EU funding (primarily from AMIF) for programmes prioritising the protection of unaccompanied children and/or families with children.<sup>41</sup> Some of the areas where EU funding was used included integration, reception, mental health support and the provision of training for professionals working with migrant children.

34 AT, BE, BG, EE, FI, FR, HR, IE, IT, LT, LU, MT, NL, PL, PT, SE, SI, SK and NO.

35 AT, BE, BG, CY, CZ, EE, EL, FI, HR, IE, IT, LV, LT, LU, MT, NL, PL, SE, SI, SK.

36 AT, BE, BG, CY, CZ, EE, EL, FI, HR, IE, LV, IT, LT, LU, MT, NL, PL, SE, SI, SK.

37 BE, BG, CY, EE, EL, FI, HR, IE, IT, LV, LT, LU, MT, NL, SE, SI, SK.

38 BE, BG, CY, CZ, EE, EL, HR, IE, IT, LT, LV, NL, PL, SE.

39 BE, CY, CZ, EE, EL, FI, IE, IT, LU, NL, SE.

40 ES, FI, FR, IT, SE.

41 BE, BG, CY, EE, EL, ES, FI, FR, IT, NL, PL, SE, SK.

# 1. INTRODUCTION

## 1.1. RATIONALE AND AIMS OF THE REPORT

This EMN<sup>42</sup> Report maps the progress made by Member States in implementing the recommended actions laid down in the 2017 Communication on the protection of children in migration (the 2017 Communication).<sup>43</sup> The 2017 Communication sets out actions to reinforce the protection of all third-country national migrant children at all stages of migration to and within the EU, at EU and national levels.

During the first two years of implementation of the 2017 Communication, the Commission reported that progress has been achieved in strengthening the protection of migrant children.<sup>44</sup> For example, both the European Asylum Support Office (EASO)<sup>45</sup> and the European Union Agency for Fundamental Rights (FRA)<sup>46</sup> provided guidance and research on topical issues related to the protection of migrant children, funding was provided to set up a European guardianship network (the work is currently in progress)

and several Member States reformed their guardianship systems.

The number of unaccompanied minors seeking asylum has decreased in recent years, from 31 400 in 2017 to 17 675 in 2019.<sup>47</sup> The New Pact on Migration and Asylum stresses that the needs of children should be reflected at every stage of the asylum and migration management system, providing effective alternatives to detention, promoting swift family reunification, and ensuring that the voices of children and child protection authorities are heard.<sup>48</sup> It states that adequate accommodation and legal assistance should be provided throughout the status determination procedures, with early and non-discriminatory access to education and integration services guaranteed.<sup>49</sup> The New Pact also recalls the importance of continuing to work to deliver the objectives of the 2017 Communication,<sup>50</sup> prompting the Commission to ask the EMN for this progress report.

## 1.2. SCOPE OF THE REPORT

The 2017 Communication uses the term ‘child’, which covers all third-country national children who are forcibly displaced or migrate to or within the EU territory, together with family or alone, whether or not they are seeking asylum.<sup>51</sup> The EMN report reflects the legislation, policies and practices in place in Member States from 1

January to 31 December 2019 and covers the following categories of children:

- Accompanied minors/families with children.<sup>52</sup>
- Separated children.<sup>53</sup>
- Unaccompanied minors.<sup>54</sup>

42 The European Commission tasked the EMN with the development of the Children in Migration Report for the first time in 2019. In the past two years, progress made in the implementation of the Communication was mapped by two informal groups of experts in the Directorate-General for Migration and Home Affairs (DG HOME) and the Directorate-General for Justice and Consumers (DG JUST) of the European Commission.

43 Communication from the Commission to the European Parliament and the Council: The protection of children in migration (COM(2017) 211 final), available at: <https://eur-lex.europa.eu/legal-content/DE/ALL/?uri=COM:2017:211:FIN>

44 Key actions by the European Commission and EU agencies on the implementation of the Commission Communication of 12 April 2017 on the protection of children in migration, available at: [https://ec.europa.eu/info/sites/info/files/20190321\\_com-agency\\_follow-up20170412\\_communication\\_tc\\_v6\\_for\\_publication.pdf](https://ec.europa.eu/info/sites/info/files/20190321_com-agency_follow-up20170412_communication_tc_v6_for_publication.pdf)

45 EASO Practical Guide on the best interests of the child in asylum procedures and new EASO Guidance on reception conditions for unaccompanied children, available at: <https://www.easo.europa.eu/easo-has-published-new-practical-guide-best-interests-child-asylum-procedures-and-new-easo-guidance>

46 For example, FRA 2019 Report on Children in Migration, available at: <https://fra.europa.eu/en/publication/2020/migrant-children>

47 Eurostat (migr\_asyunaa), extracted 10 July 2020; 2019 statistics not available for Spain.

48 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum, COM(2020) 609 final, available at: [https://ec.europa.eu/info/sites/info/files/1\\_en\\_act\\_part1\\_v7\\_1.pdf](https://ec.europa.eu/info/sites/info/files/1_en_act_part1_v7_1.pdf)

49 [https://ec.europa.eu/info/sites/info/files/1\\_en\\_act\\_part1\\_v7\\_1.pdf](https://ec.europa.eu/info/sites/info/files/1_en_act_part1_v7_1.pdf)

50 Communication from the Commission to the European Parliament and the Council: The protection of children in migration (COM(2017) 211 final), available at: <https://eur-lex.europa.eu/legal-content/DE/ALL/?uri=COM:2017:211:FIN>

51 For the purposes of this questionnaire, ‘child’ and ‘minor’ are used interchangeably. Child protection uses the term ‘child’, whereas ‘minor’ is more common in legal contexts.

52 Accompanied minor: A minor who is accompanied and effectively taken into the care of an adult responsible for them by law or practice in the Member State concerned. Families with children: Minors who are accompanied by one or both parents or by their legal or customary primary caregiver (Source: Qualification Directive, 2011/95/EU).

53 Separated child: A child under 18 years of age who is outside their country of origin and separated from both parents or their previous legal/customary primary caregiver. These may include children accompanied by other adult family members (Source: EMN Glossary, Version 7).

54 Unaccompanied minor: A minor who arrives on the territory of an EU Member State unaccompanied by the adult responsible for them by law or by the practice of the EU Member State concerned, and for as long as they are not effectively taken into the care of such a person, or who is left unaccompanied after they have entered the territory of the EU Member State (Source: Qualification Directive, 2011/95/EU).

- recorded within the asylum system,
- not applying for asylum but recorded within other migration procedures, and
- not applying for asylum who remain outside the asylum/migration/(child) protection system.

There is a distinction between the latter two categories of children but they may overlap and the terms may be used interchangeably (e.g. in Finland, an asylum-seeking child

accompanied by other adult family members is considered an unaccompanied minor).

Not all categories of minors listed above are recognised in all Member States or fit in each national context. More specifically, while all Member States in principle distinguish between accompanied and unaccompanied minors, they differ in their further categorisation of unaccompanied minors according to the type of procedure to which they are subject. Table 1 shows the categories of minors Member States mentioned in their questionnaire responses.

**Table 1: Categories of minors addressed in Member States' responses**

Member State	Accompanied minors/families with children	Unaccompanied minors within the asylum system	Unaccompanied minors not applying for asylum but recorded within other migration procedures	Unaccompanied minors not applying for asylum who remain outside the asylum/migration/child protection system	Separated children*
AT	✓	✓	-	-	-
BE	✓	✓	✓	-	✓
BG	✓	✓	✓	-	✓
CY	✓	✓	✓	✓	✓
CZ	✓	✓	✓	-	✓
DE	✓	✓	✓	-	-
EE	✓	✓	✓	-	-
EL	✓	✓	✓	✓	✓
ES	✓	✓	✓	✓	✓
FI	✓	✓	✓	-	-
FR	✓	✓	✓	-	-
HR	✓	✓	✓	-	✓
HU	✓	✓	-	-	-
IE	✓	✓	✓	-	✓
IT	✓	✓	✓	✓	✓
LT	✓	✓	✓	-	✓
LU	✓	✓	✓	✓	✓
LV	✓	✓	✓	-	✓
MT	✓	✓	-	-	-
NL <sup>55</sup>	✓	✓	✓	-	-
PL	✓	✓	✓	-	-
PT	✓	✓	✓	-	-
SE	✓	✓	-	-	✓
SI	✓	✓	-	-	-
SK <sup>56</sup>	✓	✓	✓	-	✓
NO	✓	✓	-	-	-

Source: EMN NCP national reports. \*This may include children in any type of procedure.

## 1.3. METHOD AND ANALYSIS

This Report was prepared on the basis of national contributions from 26 EMN NCPs,<sup>57</sup> submitted in response to a questionnaire developed by the EMN in conjunction with the European Commission. The questionnaire was developed to facilitate comparability of the information collected from the participating national authorities. EMN

NCPs' national contributions were largely based on desk analysis of existing legislation and policy documents, and information provided by national authorities. The information collected for the Report thus refers mainly to the legislative, policy and practice frameworks that the

55 NL: 'unaccompanied minor' includes those children that are separated. No differentiation is made within the respective policies.

56 The categories 'accompanied minors/families with children' and 'separated children' are not defined in the legislation, but only in practice.

57 AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO.

Member States and Norway have put in place, rather than their implementation.

Additional material was contributed by NGOs, at the request of the European Commission, and based on recent research conducted on relevant issues. These contributions illustrate some of the challenges faced by the Member States and Norway in protecting children in

migration, as well as the impacts of those challenges, as experienced by children. The following organisations provided input for this report: Missing Children Europe, European Network on Statelessness, Red Cross EU Office, Danish Refugee Council (DRC), Defence for Children International Belgium, Project Play, PICUM, and Refugee Rights Europe.



## 1.4. STRUCTURE OF THE REPORT

The report is divided into six sections, which closely follow the key chapters of the 2017 Communication, and include:

- Swift and comprehensive identification and protection;
- Providing adequate reception in the EU;
- Ensuring swift and effective access to status determination procedures and implementation of procedural safeguards;
- Detention for the purpose of return or unaccompanied minors and families with children.
- Ensuring durable solutions;
- Cross-cutting actions.

# 2. SWIFT AND COMPREHENSIVE IDENTIFICATION AND PROTECTION

The 2017 Communication points out that migrant children crossing borders may come into contact with different Member State authorities and they must always be identified and registered as children. They should be prioritised in all border-related procedures and receive adequate support from specially trained staff, who should apply child-friendly and gender-sensitive approaches to biometric data collection. As well as applying special

safeguards for all children, the Communication recommends that Member States should pay special attention to the specific vulnerabilities and protection needs of unaccompanied and separated children, who may be at a higher risk of exploitation and trafficking. The identification of a person as a minor is crucial, as it can influence subsequent procedures and treatment.



## 2.1. IDENTIFICATION AND REGISTRATION OF MINORS

### 2.1.1. Staff trained in dealing with children

All participating Member States and Norway reported that an official with adequate training in dealing with minors must be present during the identification and registration procedure of a minor. In the case of unaccompanied minors, although a guardian must be assigned to the minor as soon as possible (see Section 4.1), a guardian or representative may not always be present during identification and registration. An interpreter may also participate during identification/registration.<sup>58</sup>

Member States and Norway reported that border guards/police authorities/immigration agents receive special training to identify minors, in particular minor victims of trafficking.<sup>59</sup> In some cases, training is also provided to border/police authorities, with a view to ensuring multicultural and child-friendly communication.<sup>60</sup> Various Member States reported that training on the protection and rights of the child takes place in cooperation with international organisations.<sup>61</sup> In Norway, interviews with (unaccompanied) minors are conducted by personnel trained in the KREATIV method (PEACE model) of investigative interviewing,<sup>62</sup> and these employees have also received training in the Dialogical Communication Method (DCM) with children,<sup>63</sup> which is applied during children's substantive asylum interviews.

### 2.1.2. Special safeguards for minors

Different procedures are used to check the fulfilment of entry requirements at the border, depending on the Member State, the situation of the minor concerned (accompanied or not) and the specific circumstances of the case. In general, border guards try to establish the (initial) identity of the minor (based on available documentation) and register their presence in the country. In most Member States, border guards/immigration services officials then refer unaccompanied minors to child protection authorities (immediately<sup>64</sup> or after age assessment<sup>65</sup>). Such child protection authorities include welfare authorities,<sup>66</sup> special child protection services,<sup>67</sup> and youth courts.<sup>68</sup>

Generally, Member States and Norway will provide minors with the appropriate assistance and protection stipulated by law (e.g. medical care, accommodation appropriate to their needs, specialist care for child victims of trafficking, etc.). In Italy, international organisations and national NGOs provide information on arrival, with a special focus on vulnerabilities and potential victims of trafficking, to ensure that minors (both unaccompanied and within families) receive information and immediate support, legal assistance guidance, cultural mediation and psychosocial support. However, Lithuania noted that in the case of unaccompanied minors not applying for asylum but recorded within other migration procedures, there is

58 BE, EE, FI, HR, LU, NL, SE.

59 AT, BE, BG, CY, CZ, EE, EL, ES, FI, HR, HU, IT, LU, LV, MT, NL, PL, PT, SK, SE, SI and NO.

60 BE, BG, EE, FR, LU, LV.

61 BE, BG, EE, HR, IT, LT, LV.

62 <https://www.jus.uio.no/smr/english/about/id/law/Investigative%20Interviewing/>

63 The DCM was developed from studies on child interviews conducted by police or child welfare workers, as well as interviews conducted by child protective services investigations.

64 BE, CZ, EE, EL, HR, IE, IT, NL, PT, SE.

65 AT, BE, SK.

66 AT, CY, EE, FR, HR, IE, SE, SK.

67 BE, CZ, DE, ES, FI, LT, NL, SK and NO.

68 LU, LV, PT. In LU, once a minor applies for international protection, the Directorate of Immigration will request the Youth Court to appoint an ad hoc administrator and the minor is referred to a reception facility adapted to their needs.

no vulnerability assessment during an interview, meaning that an unaccompanied minor's need for assistance may not become apparent during the interview and they may not receive the necessary help. Similarly, in Finland, unless the minor has medical needs or is a presumed victim of trafficking, there is no vulnerability assessment for unaccompanied minors applying for a residence permit (rather than asylum).

A few Member States provided information on safeguards for minors during the identification and registration procedures applied by border guards/police authorities/immigration agents.<sup>69</sup> In Estonia, in 2019, a national

assessment tool for vulnerabilities was being developed by the Police and Border Guard Board (PBGB), which also will contain a checklist of aspects necessary to observe while working with minors. In Spain, very young children (usually infants and children up to seven years old) are recorded in the Register of the Framework Protocol on Unaccompanied Minors (MENA), especially where the adult accompanying the minor does not provide any proof of their parenthood. A DNA test is performed to verify the parent-child relationship and, simultaneously, specialised police units evaluate the possible presence of a trafficking network.



## 2.2. COLLECTION OF MINORS' BIOMETRIC DATA

In line with the Communication, Member States should apply **child-friendly** and **gender-sensitive** approaches when collecting fingerprints and biometric data. All Member States reported that this is the case, but no specific procedure appears to be followed, particularly for gender-sensitive collection of biometrics.

In line with the Eurodac Regulation,<sup>70</sup> Member States do not take the fingerprints of applicants for international protection if they are **less than 14 years of age**. In the Netherlands, however, the fingerprints and photographs of children aged 6-14 are taken (and photographs of minors are taken up to six years of age) but are not shared with Eurodac. Some Member States do not take photographs of minors younger than 14, but some exceptions apply, regulated by EU legislation (e.g. Council Regulation 380/2008<sup>71</sup>). For example, in Finland and Sweden, persons applying for asylum who provide biometrics as a basis for their residence permit card can include minors between six and 14 years of age (who otherwise do not provide full biometrics).

For unaccompanied and separated minors, the collection of biometric data must take place **in the presence of the child's representative/guardian or a responsible entity**.<sup>72</sup> Member States reported that officials taking

biometric data and/or the minor's representative/guardian explain to the child why the data are being collected. Some Member States collect biometric data in a **separate room/space**, where the minor's representative or parents are also present.<sup>73</sup> Other Member States make efforts to create a **child-friendly atmosphere** during the identification and registration process,<sup>74</sup> for example by allowing children to take breaks, giving them time to get used to their surroundings, or having police staff wear their regular (non-uniform) clothes.

Some Member States reported that **gender-sensitive** approaches to biometric data collection and fingerprinting are ensured by border/police/asylum authorities generally taking the vulnerability and gender of the applicant into consideration.<sup>75</sup> For example, both female and male staff are available during the registration process for minors (including fingerprinting and biometrics).<sup>76</sup> In some Member States, if the minor prefers the help of staff of a certain gender during the registration process, this is usually arranged.<sup>77</sup> Although the representative/guardian is not chosen by gender, this may be accommodated, too, in some cases.<sup>78</sup> Finally, some Member States noted that if a body search is necessary at the time of apprehension, this must be done by a staff member of the same sex as the child.<sup>79</sup>



## 2.3. (POTENTIAL) VICTIMS OF TRAFFICKING

According to a recent FRA publication, one in four registered victims of trafficking in human beings in the EU is a child (although the data comprise all children deprived of parental care, i.e. not only migrant children, with registered EU child victims representing twice the number of non-EU child victims).<sup>80</sup> Member States

reported that potential child victims of trafficking can be recognised at several different stages: they can be detected at the border, or by authorities on the territory, or when referred to the authorities by NGOs or third parties; they can also be detected during medical check-up,<sup>81</sup> asylum (or other migration procedure) interview<sup>82</sup> or a

69 EE, FI, LT, LU.

70 European Asylum Dactyloscopy (Fingerprint) Database, established under Regulation (EU) NO 603/2013 of 26 June 2013, available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0001:0030:EN:PDF>

71 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008R0380&from=en>

72 CZ (biometric data are collected only from unaccompanied minors aged 15 to 18 years or in case there are doubts about their age), DE, EE, EL, HR, IE, LU, LV, LT, PL, SK.

73 FI (concerning children applying for a regular residence permit), FR, NL.

74 EE, IE, MT, NL.

75 BE, CZ, EE, EL, FI, HR, IT, LU, NL, SE, SK.

76 BE, MT, NL.

77 BE, EE, EL, FI, LV, LU, MT, NL, SE, SK.

78 For example, EE, HR, LT.

79 For example, DE, EE, NL.

80 Children deprived of parental care found in an EU Member State other than their own. FRA guide to enhanced child protection focusing on victims of trafficking, available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2019-children-deprived-of-parental-care\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-children-deprived-of-parental-care_en.pdf)

81 DE, EE, HR, LU.

82 AT, BE, CY, CZ, DE, EE, FI, FR, HR, IT, LU, NL, PT, SK, SE, SI.

(labour) inspection.<sup>83</sup> Minors are sometimes identified at a later stage, for example during their stay in a reception/care facility,<sup>84</sup> on referral to child welfare services, or during the return procedure.<sup>85</sup>

In some Member States, minors outside the framework of the asylum/migration system can be detected by police and social inspection services, either through on-the-spot findings or statements.<sup>86</sup> Police and inspection services make use of **indicator lists** to assess the existence of evidence of trafficking, drawn from the investigation and prosecution policy on trafficking. In the Netherlands, indicator lists are compiled by the Police Academy and the Expertise Centre in Human Trafficking and Smuggling (EMM) and contain indicators such as victims not knowing where they work, having paid to get the job, not having control over their own documents, living at their work address, and lacking freedom of movement. In three Member States, when the police or inspection service identify a person as a (potential) victim of trafficking, they simultaneously contact one of the specialised reception centres for victims of trafficking and inform the Immigration or Prosecutor's Office.<sup>87</sup> In 11 Member States, the identification procedure is divided into two phases: early identification and formal identification,<sup>88</sup> and while anyone can detect a potential victim, only the police or prosecutor can formally identify the child as a victim. An exception is Finland, where the Finnish Immigration Service or the National Assistance System for Victims of Human Trafficking can make a formal identification.

Other Member States and Norway also identify victims with the help of **indicators**<sup>89</sup> or as part of the **vulnerability assessment**.<sup>90</sup>

In Germany, indications that a child is a victim of trafficking are commonly verified during the asylum interview (if the minor applies for asylum) by involving asylum case workers trained to deal with human trafficking cases:

- with the help of indicators, for example a country of origin known for such cases, in combination with the sex and age of the minor; a longer stay in another Member State prior to lodging an asylum application in Germany;
- by asking targeted questions on the organisation of travel, debts, work relationships.

In Poland, border guards identify potential child victims of trafficking with the help of an algorithm<sup>91</sup> that:

- indicates the risk groups that may include potential victims;
- emphasises the need to verify the information provided by a child about their circumstances;

- systematises the circumstances to be established during the interview;
- determines the rules for further intervention.

The EU Anti-Trafficking Directive<sup>92</sup> obliges Member States to establish **national rapporteurs or equivalent mechanisms** for identifying and assisting victims of trafficking. According to the Bulgarian national mechanism, for example, the relevant authorities and the National Commission for Combating Trafficking in Human Beings are notified within 24 hours, with the appropriate protection measure taken soon after, in accordance with the needs and best interests of the child.

### 2.3.1. Detection and identification authorities

Child victims of trafficking come into contact with different authorities in the Member States. All authorities have a general obligation to report suspected crime (i.e. shared responsibility), thus any authority may detect a potential child victim of trafficking.

Some Member States distinguish between informal/early and formal identification,<sup>93</sup> but the detection and identification of (potential) child victims of trafficking can also happen at the same time or by the same authority.<sup>94</sup> Nevertheless, good coordination and cooperation between all authorities involved is essential, as the border police/guard or police may first come into contact with (potential) child victims of trafficking and then refer them to specialised teams (e.g. anti-trafficking units or bodies) or victim support services.

#### Early identification in Italy

In Italy, early identification involves an initial analysis of the circumstances suggesting that the person (and/or the minor) is a potential victim of trafficking. Early identification can take place whenever such a suspicion arises. For minors, this phase often begins on first contact after disembarkation, if the operators identify one or more indicators of trafficking.

Formal identification is carried out by trained staff, who definitively ascertain whether the minor in question is a victim of trafficking and requires the specific protection measures provided for in the relevant legislation. The minor is placed in a dedicated programme, under the care of specialist support staff.

Source: EMN NCP Italy questionnaire response

Common authorities that may **detect** and/or **identify** potential child victims of trafficking:

83 BE, DE, EE, HR, NL, PT, SE.

84 BE, CZ, DE, EE, FI, FR, HR, LU, NL, PT, SK, SE.

85 DE, EE, HR, LU, NL, PT, SE.

86 BE, EE, LU, NL, PL.

87 BE, LU, NL.

88 AT, BG, EE, EL, FI, IT, LU, LV, MT, NL, PL.

89 BE, DE, EE, IE, IT, NL, PL, SK and NO.

90 BE, EE, FR, LT, LV, MT, SE.

91 Algorithm of identification and conduct with respect to minor victims of trafficking in human beings (*Algorytm identyfikacji i postępowania wobec małoletniej ofiary handlu ludźmi*).

92 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32011L0036>

93 AT, BG, EE, FI, IT, LU, LV, MT, NL, PL.

94 CZ, EE, FI, FR, HR, LT, PL. This also can happen in LU, where police detect a case and are then responsible for carrying out the identification.

- Law enforcement authorities, such as police, border guard and/or other staff of the Ministry of the Interior or its subdivisions;<sup>95</sup>
- Immigration or child protection or other relevant authorities (social assistance, labour inspectorate, medical or educational institutions, victim support organisations, municipalities);<sup>96</sup>
- Staff at reception/care facilities;<sup>97</sup>
- Civil society or international organisations.<sup>98</sup>

The detection (and identification) of child victims of trafficking can take place at any stage, even after a child has already been placed in care.

**Identification** of a minor as a victim of trafficking is important, as it is the first step towards providing appropriate protection and care. Generally speaking, the national authorities responsible for the identification of child victims of trafficking are specialised teams or units, for example anti-trafficking police units.

Some of the common authorities that can formally **identify** child victims of trafficking include:

- Law enforcement authorities, such as police, border guard, specialised (anti-trafficking) units or judiciary authorities;<sup>99</sup>
- Immigration or asylum authorities;<sup>100</sup>
- Social/child/youth welfare agency or office;<sup>101</sup>
- Specialised staff,<sup>102</sup> such as social workers, psychiatrists, psychologists, staff at reception/care centres.

A child may be identified as a victim of trafficking with the help of civil society organisations.<sup>103</sup> In Greece (and in Spain, although with regard to age assessment), the Prosecutor's Office grants formal victim status, based on a written report from specialised professionals (psychiatrists, psychologists or social workers). In Greece, a written report is not necessary if prosecution has been initiated.

Some Member States have drafted good practice guides to support professionals responsible for identification of (potential) child victims of trafficking.<sup>104</sup> In France, the document contains a non-exhaustive list of different indicators for the identification of a potential victim of trafficking,<sup>105</sup> while Italy has issued guidelines for the rapid identification of victims of trafficking and serious exploitation.<sup>106</sup> In Spain, 'Actions for the detection and care of minor victims of trafficking in human beings (THB)' is annexed to the Framework protocol for the protection of victims of THB and aims to guide professionals (public authorities, agencies, entities and civil society organisations) in the recognition of trafficking signs in potential minor victims through the establishment of a catalogue

of specific indicators for the detection of potential child victims of trafficking.

### **Bulgarian National Mechanism, Law on Anti-Trafficking in Human Beings**

According to the Bulgarian National Mechanism, officials from relevant authorities (police officers, social workers, Migration Directorate and State Agency for Refugees (SAR) officials, pre-trial authorities) carry out informal identification of victims of trafficking among the illegally staying migrants detected on the territory of the country, or those who have sought international protection. They are obliged to direct the victims to specialised assistance. Informal identification (first-level identification) begins with identifying signs that may reveal a possible case of trafficking (behaviour and appearance, traces of violence or reporting of violence, limited personal freedom, dependence, self-determination by the victims themselves, situation analysis, etc.). When identifying potential victims of trafficking, officials refer the foreigners in question to the competent institutions and service providers engaged in the support of victims.

Source: EMN Bulgaria NCP questionnaire response

### **2.3.2. Removal of a minor from the reception facility**

In half of the Member States and Norway, a minor who is identified as a potential victim of trafficking and who is already hosted in a reception facility may be **removed from the reception facility** and placed in a specialised centre.<sup>107</sup> This often depends on the individual case, and authorities are obliged to consider the child's best interests. On the one hand, it is likely that the child will be removed from the reception facility if the situation there is in any way harmful for the child (i.e. an aggressor is in the facility). On the other hand, if it is in the child's best interest to remain where they are, staff are likely to provide them with special care.

95 BE, BG, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, LV, LU (police identify victims of human trafficking), NL, PL, PT, SE, SI, SK and NO.

96 BE, CY, CZ, EE, EL, ES, FI, FR, HR, IE, IT, LT, LV, LU, NL, PL, PT, SE, SI, SK and NO.

97 AT, BE, CZ, EE, EL, ES, FI, FR, HR, IE, IT, LT, LV, LU, NL, PL, PT, SE, SI, SK.

98 BE, CZ, EE, EL, ES, FI, HR, IE, IT, LU (detection), LV, PL, SK, SE, SI.

99 AT, BE, BG, CY, CZ, EE, EL, ES, FI, FR, HR, IE, LT (non-asylum-seeking children), LU, LV, MT, NL, PL, PT, SE and NO.

100 BG, DE, FI, FR, IT, LT (asylum-seeking children), SE (asylum-seeking children), MT, PT and NO.

101 DE, FR, HR, MT, PT, SE.

102 BG, EL, SI.

103 CZ, HR, LU, SK.

104 BE, EE, ES, FR, IT.

105 [https://solidarites-sante.gouv.fr/IMG/pdf/guide-de-bonnes-pratiques-en-matiere-d-evaluation-de-la\\_minorite-et-de-l-isolement.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/guide-de-bonnes-pratiques-en-matiere-d-evaluation-de-la_minorite-et-de-l-isolement.pdf)

106 <https://www.osservatoriointerventitratta.it/primo-piano-nazionale-dazione-contro-la-tratta-di-esseri-umani-e-il-grave-sfruttamento-degli-esseri-umani/>

107 AT, BE, BG, CY, CZ, DE (unaccompanied minors), EE, EL, ES, HR, IE, IT, LU (unaccompanied minors in the asylum procedure and irregularly staying unaccompanied minors), MT, NL, PL, PT, SE and NO.



### **Identification and notification of potential victims of human trafficking in Ireland**

In Ireland, where an accompanied child is being hosted in a reception facility and is identified as a potential victim of human trafficking, local child protection services will be formally notified and carry out a welfare and risk assessment in order to best respond to the needs of the child in each individual situation.

The Child and Family Agency (Tusla) has a social work team for separated children, with expertise on children in migration and issues related to trafficking. This national team collaborates with local child protection services as appropriate.

*Source: EMN Ireland NCP questionnaire response*

The minor is often transferred to a specialised centre for victims of trafficking.<sup>108</sup> Belgium, for example, has three shelters for adults with children and two for unaccompanied minors. Run by NGOs, they provide various forms of support and assistance (medical, social, psychological, legal assistance), in addition to safe shelter. In the Netherlands, the Protected Reception is a specialised small-scale reception facility for victims of trafficking, where a presumed child victim of trafficking may be placed.

Another nine Member States reported that a transfer to another facility is assessed on a case-by-case basis.<sup>109</sup> Some Member States such as Luxembourg noted that they do not have established practice in this respect, as cases of identified child victims of trafficking are rare. In principle, however, prudence and good governance require that minors who are victims of trafficking be placed in secure shelters and away from potential trafficking networks and traffickers who may try to access unaccompanied minors and international protection applicants in reception centres.

A small number of Member States reported that they do not transfer a trafficked child to another setting or facility.<sup>110</sup>

In relation to unaccompanied children in particular, some countries involve child protection authorities<sup>111</sup> and/or anti-trafficking bodies<sup>112</sup> as soon as possible, for example within 24 hours.

### **France's experimental programme to protect child victims of trafficking**

France has established a **working group** to reflect on the **creation of a mechanism** to increase the protection of minor victims of trafficking, similar to the **Ac.Sé initiative** (the secure reception of adults, set out in Articles R. 316-1 and L. 345-1 of the Code on Social Action and Families (CASF)). This is in response to observations by the public sector and NGOs that common law provisions on child welfare are not fully adapted to the situation of unaccompanied minors caught in trafficking networks, and the need to extract them from the control of these networks. The working group is led by the interdepartmental unit for protecting women against violence and for combating trafficking in human beings (MIPROF), in partnership with the public prosecutions department in Paris, the Paris Children's Court, the DPJJ, the Paris Préfecture de Police, the General Secretariat of the Inter-ministerial Committee for the Prevention of Crime (CIPD), Hors la Rue and the Together Against Trafficking collective.

On 1 June 2016, the various actors in the working group signed an agreement on **establishing an experimental mechanism to protect minor victims of trafficking**. It consists of placing minors in safe conditions, based on the need for geographical distance, and the provision of support from specially trained case workers. As a pilot scheme, it concerns only a limited number of minors who have been identified as victims of trafficking, notably those exploited for criminal purposes or for the purposes of sexual exploitation. It is structured around different stages, ranging from the identification of specific situations, to the young person accessing an **educational and professional integration project**.

*Source: EMN France NCP questionnaire response*

<sup>108</sup> BE, BG, ES, HR, IT, LU (irregularly staying unaccompanied minors), NL.

<sup>109</sup> CY, DE, EE, FI (placement of a minor in a child welfare facility as a measure of child welfare is possible), FR, HR, LU, LV, PT.

<sup>110</sup> DE, FI (normally not transferred), LT, SK.

<sup>111</sup> BG, CZ, DE, EE, ES, HR, PT and NO.

<sup>112</sup> BG, HR.

# 3. PROVIDING ADEQUATE RECEPTION

The 2017 Communication provides that reception conditions should be in line with the EU *acquis*, with reception conditions including not only safe and appropriate accommodation, but also any necessary support services

to secure the child's best interests and wellbeing, such as independent representation, access to education, health-care, psychosocial support, leisure and integration-related measures.



## 3.1. ACCOMMODATION CONDITIONS FOR CHILDREN IN MIGRATION

The majority of Member States and Norway accommodate **families with children** applying for asylum in the general reception facilities for asylum-seekers.<sup>113</sup> When reporting on accommodation arrangements for families with children, some Member States reported that they were accommodated in facilities separate from single residents,<sup>114</sup> although the degrees of separation varied across Member States. While families may not be accommodated in the general facilities for the entirety of their stay, these facilities were adapted to meet their needs such as through provision of sufficient space and equipment and/or access to leisure and outdoor spaces. Only the Netherlands and Poland accommodate families with children in general facilities, without full separation from other residents, although this depended on the family circumstances and the length of the procedure. To the extent possible, the Netherlands accommodates families in separate residential units/rooms within the general reception centre. Certain facilities in the residential unit (such as a kitchen or bathroom) may be shared with another family or unaccompanied minor.

Other options are used by Member States and Norway, including accommodation in apartment units,<sup>115</sup> which are often prioritised for families and can be funded privately or by the authorities, residential units (usually as a result of long asylum procedures, for example in Spain),<sup>116</sup> or facilities specifically housing single women with children and women travelling alone.<sup>117</sup> Children resettled to Ireland with their families are generally first housed in Emergency Reception and Orientation Centres,

where facilities are provided for children, following which they are provided with housing in the local community.

Most Member States and Norway accommodate **unaccompanied minors applying for international protection** in specific reception centres.<sup>118</sup> This varies according to the length of the procedure or the specific needs and circumstances of the child. In Luxembourg, there are different types of housing according to the needs and vulnerabilities of the children, as is also the case in the Netherlands and Belgium. In Norway, unaccompanied minors over 15 years of age live in special reception centres operated by the immigration authorities, while unaccompanied minors younger than 15 years of age live in care centres operated by the child welfare authorities.<sup>119</sup> Foster care is prioritised for the youngest children, but seldom used. Portugal has developed Shelter House for Refugee Children (CACR), which aims to offer children a stable environment where they can develop a critical voice and responsible behaviour.

Conversely, Bulgaria, Greece,<sup>120</sup> Lithuania and Belgium, after the initial reception phase, accommodate unaccompanied minors in general reception facilities, but in units separated from adults. Estonia and Croatia may house minors in general facilities without separation in special circumstances and only when the minor is older than 16 years.<sup>121</sup> In Germany, unaccompanied minors are taken into care (temporarily) by the Youth Welfare Office, who must arrange for temporary accommodation with a

113 AT, BE, BG, CZ, EE, EL, FI, FR, HR, IE, IT, LV, LT, LU, NL, PT, SE, SI, SK and NO.

114 AT, BE, BG, CZ, EE, EL, FR, IE, IT, LT, LU, SK and NO.

115 CY, FI, IT, LT, SE, NO. In FI, accommodation with relatives is also possible.

116 ES, LT.

117 AT, BE, BG, IT, LU, PL.

118 BE (only during the initial stay in the Observation and Orientation Centres for unaccompanied minors), CY, CZ, DE, EL, ES, FI, HR (only unaccompanied minors above the age of 16 years who are applicants for international protection can be accommodated in general facilities for applicants of international protection, otherwise they are housed within the child welfare system), IT, LT, LU, NL, PT, SE, SI, SK and NO.

119 This is also the case in Belgium, although vulnerability is also a criterion to determine accommodation. As such, unaccompanied minors younger than 15 years live in care facilities operated by the child welfare authorities, as well as children older than 15 years with specific vulnerabilities.

120 In Greece, this is a short-term solution stemming from the shortage of available places in special accommodation centres. Such units are supervised by the First Reception Service and child protection actors are also responsible for the daily provision of care services.

121 Although possible, this has never occurred in Estonia.

suitable person, institution or any other type of housing and must ensure the minor's wellbeing.

Other reception facilities include residential accommodation or group homes for children,<sup>122</sup> as well as foster care.<sup>123</sup> France accommodates all children within its general childcare services.

About half of the Member States stated that unaccompanied minors not applying for asylum have access to the same accommodation and services as

unaccompanied minors applying for asylum.<sup>124</sup> Several Member States and Norway have specific accommodation measures in place for unaccompanied minors not applying for asylum – they can be housed in reception centres for unaccompanied children,<sup>125</sup> in foster care,<sup>126</sup> or in a general children's home.<sup>127</sup> This group can also rely on internal family reunification procedures or reception facilities linked to their education opportunities,<sup>128</sup> or they can be detained in view of return.<sup>129</sup>



## 3.2. ASSESSING VULNERABILITY

Vulnerability is assessed as early as possible during the asylum procedure in most Member States and Norway,<sup>130</sup> with certain Member States reporting that this assessment impacts the care plan for minors, including decisions on their accommodation, healthcare and psychological care.<sup>131</sup> For example, the Slovak Republic assembled a committee to assess vulnerability within 48 hours of the arrival of a child at the accommodation facility dedicated to unaccompanied minors. While the initial assessment usually takes place immediately once a minor is detected,<sup>132</sup> it is generally a continuous assessment, undertaken by all staff who come into contact with the minor and who have a duty to observe signs of vulnerability. Indeed, Belgium, Estonia and Poland rely on a wide network of actors to flag any sign of vulnerability (doctors, teachers, social workers, all staff who come into contact with the minor).

Eleven Member States assess the vulnerability of all migrant children identified, regardless of whether or not they applied for international protection.<sup>133</sup> The Czech Republic and Finland do not carry out a vulnerability assessment for minors who are not applying for asylum, but instead appoint a guardian (where they are unaccompanied), who is then tasked with monitoring their wellbeing and reporting any vulnerabilities detected over time. The Finnish Immigration Service requests a statement from municipal social services on the situation and the best interest of the child. In Ireland, the vulnerabilities of unaccompanied children in the care of Tusla are explored during the initial intake assessment and inform Tusla's response to the care and clinical needs of each child.



## 3.3. CHILD PROTECTION POLICY

The Member States and Norway have implemented mechanisms to prevent and respond to any type of child abuse, from training and background checks of staff, to having a reporting mechanism for minors and other staff.

The main method employed by the Member States and Norway to detect child abuse is through internal and external training, before and throughout the employment of the staff involved. Training focuses on identifying and responding to different needs and vulnerabilities, and is delivered with the help of international organisations and EU agencies (United Nations High Commissioner for Refugees (UNHCR), International Organization for Migration (IOM), EASO). Almost all Member States and

Norway emphasised that training of reception/care staff was essential to detecting child abuse.<sup>134</sup>

Other methods include reporting protocols,<sup>135</sup> implementing in-house monitoring measures (e.g. increased presence of security staff, social services personnel),<sup>136</sup> increasing cooperation with other authorities (social services, healthcare services, judicial authorities, etc.),<sup>137</sup> hiring qualified staff,<sup>138</sup> thoroughly checking the staff background (including criminal charges),<sup>139</sup> and publishing guidelines and documentation for staff.<sup>140</sup> Latvia and Sweden established complaint and interview mechanisms for minors to speak out directly. Luxembourg relies heavily on a strong accreditation process and Poland has put in place awareness-raising campaigns

122 AT, BE, EE, IE, LU, LV, NL, SE.

123 BE, BG, CY, CZ, EE (not implemented in practice), IE, IT, LU, LV, NL, PL, SE, SK and NO (if under 16).

124 BE, CY, CZ, DE, EE, ES, FR, HR, IE, IT, LT, MT, NL, SE, SK. In EE and HR, unaccompanied minors outside of the asylum system cannot be accommodated in the reception centre for applicants of international protection, therefore after the age of 16 years, accommodation conditions differ.

125 CY, EL, PT.

126 CY, EE (not implemented in practice), PT (if a responsible person is found).

127 BG (only for young minors), DE, EE, LU, LV, PT and NO.

128 PL, PT.

129 LV, PL.

130 AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LU, LV, MT, NL, PL, PT, SI, SK, SE and NO.

131 AT, BE, DE, EE, ES, FI, FR, HR, IE, IT, LU, LV, NL, PL, PT, SE and NO.

132 BE, CY, EE, ES, FI, FR, HR, IE, IT, LV, LU, NL, PL, PT, SE, SK.

133 BE, CY, EE, ES, IT, LT, LU, NL, PL, SE, SK.

134 BE, BG, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO.

135 EE, ES, IE, LV, NL, PL, PT, SE.

136 AT, BG, CZ, EE, EL, HR, IE, IT, LT, LV, MT, NL, SK.

137 BE, BG, CY, CZ, EE, FI, FR, HR, IE, LV, MT, NL, PT. In PT, each child is protected by a judicial measure that allows them to contact the case manager, the Public Prosecutor's Office, the Court and their lawyer, to clarify doubts, submit complaints, or express their opinion, all with a guarantee of confidentiality, and monitored by a case manager.

138 AT, BE, CZ, EE, FR, HR, IE, LT, LU, LV, NL, SK and NO.

139 BE, CZ, DE, EE, ES, IE, LU, LV, NL, SK.

140 BE, CZ, DE, FI, FR, HR, IE, IT, NL, SK and NO.

in reception centres. Finally, social workers and cultural mediators in the Slovak Republic explain to parents the country's legal norms concerning the abuse and neglect of children.

### Child protection in Germany

Germany supports child protection through the Federal Initiative for the Protection of Refugees in Refugee Accommodation Centres, launched in 2016 by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth of Germany, together with the United Nations Children's Fund (UNICEF) and other partners. As part of this initiative, a guide was published on 'Minimum Standards for the Protection of Refugees and Migrants in Refugee Accommodation Centres', providing guidance for drawing up and implementing protection plans for refugee reception centres, with a particular focus on vulnerable groups such as women, children and young people.

Source: EMN Germany NCP questionnaire response

### Tackling gender-based violence against children on the move in Europe

Through the project 'Building Relationships through Innovative Development of Gender-based violence awareness in Europe' (BRIDGE) and under the leadership of Terre des Hommes Hungary (TDH-Hu), Defence for Children International Belgium (DCI-Belgium) seeks to address gaps in knowledge and awareness of violence against children on the move in Europe, with a focus on gender-based violence. Findings and learning from BRIDGE across four countries<sup>141</sup> have highlighted the continued widespread gaps in child protection knowledge and awareness among care professionals. For example, DCI-Belgium found that less than 10% of professionals surveyed had a written protocol to deal with child protection concerns in their institutions, only one in three staff had received training in gender-based violence, and the majority were not aware of formal mechanisms to refer victims for support. Professionals need capacity-building opportunities that take due consideration of the context of their work, offer tools (including for leadership of institutions) and provide ongoing mentoring and peer-to-peer learning opportunities.

Source: DCI-Belgium<sup>142</sup>



## 3.4. ENSURING STAFF CAN CORRECTLY INTERACT WITH MINORS

All Member States and Norway reported that any staff in contact with minors must be properly trained to care for minors, with training provided internally or externally (through international and EU organisations/agencies, such as the European Border and Coast Guard Agency (Frontex), UNHCR, IOM or EASO). The training covers a wide range of subjects, with a special focus on vulnerability. Several Member States reported additional

measures to ensure the quality of services provided by reception staff, including the necessity to prove previous experience,<sup>143</sup> diversification of the skills of staff (social services, nursing, language skills, etc.),<sup>144</sup> thorough background checks,<sup>145</sup> specific qualifications or training programmes required,<sup>146</sup> publishing guidelines or making information services available,<sup>147</sup> and cooperating closely with other services (especially social services).<sup>148</sup>



## 3.5. MONITORING RECEPTION FACILITIES

The Member States and Norway primarily use the oversight of State authorities to monitor reception facilities and ensure that quality levels are upheld.<sup>149</sup> This monitoring may be supplemented by regular inspections.<sup>150</sup> In 10 Member States, the national Ombudsman and/or Ombudsman for Children have oversight of reception facilities.<sup>151</sup>

Bulgaria and Lithuania reported that the UNHCR (as well as IOM in Bulgaria) monitors their reception facilities, while Ireland reported that advocacy groups and NGOs

conduct monitoring and advocate on behalf of residents. Finland and France reported implementing internal reporting mechanisms to facilitate the flagging of any shortcoming in reception facilities.

Austria and Latvia reported that the quality of reception facilities relies on the strict training and recruitment of staff, while other Member States reported that strong quality standards and accreditation requirements are required for a reception facility to open.<sup>152</sup>

141 BE, EL, MT, RO.

142 DCI-Belgium (2020). An overview of the knowledge and capacities of professionals in the official accommodation network,' available at: [https://tip.childhub.org/en/system/tfidf/library/attachments/en\\_infographie\\_pro\\_bridge\\_-\\_finalisee\\_cumules\\_disclaimer.pdf?file=1&type=node&id=42710](https://tip.childhub.org/en/system/tfidf/library/attachments/en_infographie_pro_bridge_-_finalisee_cumules_disclaimer.pdf?file=1&type=node&id=42710); Data Analysis Report - Belgium December 2019, available at: <https://childhub.org/en/child-protection-online-library/data-collection-analysis-belgium-bridge-project>

143 AT, LU, PL, SE.

144 BE, EE, HR, LU, LV.

145 DE, EE, ES, IT, LU, NL, SE.

146 EE, IE, LU, NL, PT.

147 BE, EE, FR, HR, IT, LU, PL, SK and NO.

148 EE, HR, IT, LU, PT, SI.

149 AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, LU, MT, NL, PT, SI, SK and NO.

150 BE, EE, ES, FR, IE, IT, NL, SE.

151 BG, CZ, ES, HR, IE, LT, LU, PL, SI, SK.

152 BE, CZ, DE, LU, SE.



## 3.6. ALTERNATIVE CARE FOR UNACCOMPANIED MINORS

### 3.6.1. Locating family members

Almost all Member States and Norway seek family members early in the asylum procedure, often during the initial interview phase.<sup>153</sup> In Ireland, family member tracing takes place when the minor is referred to child protection services, prior to the commencement of any international protection or immigration status application process. Member States reported that several outcomes could be expected as a result of family tracing: the location of a family member can influence where the minor is placed,<sup>154</sup> for example either in reception centres or with a foster family near where the family members reside, although this is assessed according to the best interests of the child and to promote stability; distant family members (not parents or grandparents) may be appointed as either the foster family<sup>155</sup> or the guardian,<sup>156</sup> as long as this is in the best interests of the child and follows a thorough vetting of the adult(s), together with training on host family/guardianship duties.

### 3.6.2. Types of alternative care options

Different types of non-institutionalised alternative care options were cited by the Member States and Norway, the most popular being foster or host families,<sup>157</sup> which is usually the preferred option for younger children. A few other Member States offer residential housing options, such as group homes,<sup>158</sup> with four Member States noting that this option promotes stability and increases access to special services (including social services).<sup>159</sup> Appointing a responsible mentor (also referred to as guardian, in some instances) is also an option in several Member States.<sup>160</sup> Finland implements 'hybrid units' that combine options ranging from group homes, supported living units and private accommodation, all supporting the different needs of the minors. In the Netherlands, host families, guardianship and residential housing options are all part of the standard reception facilities for unaccompanied minors organised by the State. The kind of reception that an unaccompanied minor will receive depends on their age, vulnerability and length of the application procedure.

### Alternative care options in Spain

In Spain, the child protection system prioritises family foster care over residential care, especially for children under the age of six, and is compulsory for children under the age of three. Overall, family measures are prioritised over residential measures to increase stability. Foster family care can also take place within the minor's actual extended family, or with an unrelated family. Once the adequacy of the foster family is assessed, an administrative resolution on the adoption of the protection measure is formalised by the State Prosecutor. Unaccompanied minors benefit from these provisions in the same way as Spanish children. Attempts are made to find their family and re-establish family life where it is deemed to be in the minor's best interests and does not place them or their family in a situation that would endanger their safety.

Source: EMN Spain NCP questionnaire response

### 3.6.3. Semi-independent accommodation and programmes

Most Member States and Norway aim to provide semi-independent accommodation for older children, usually to promote independence and learning of life-skills.<sup>161</sup> This is usually in the form of apartments or smaller residential units. Several Member States rely on NGOs to monitor and/or sponsor the children.<sup>162</sup> Six Member States did not provide such accommodation.<sup>163</sup>

Belgium has developed several semi-independent programmes for unaccompanied minors who are beneficiaries of international protection. These rely on mentorship and coaching to promote independence, with older unaccompanied minors typically sharing a common living space with several others in co-housing and semi-independent reception facilities, under the flexible supervision of the reception authorities or the Youth Care Services of the Communities (depending on the body responsible for organising the semi-independent accommodation). Minors have access to counselling, mentorship, health and education, while developing their functional and social independence.

### 3.6.4. Monitoring alternative care options

Member States monitor alternative care options through their migration authorities and/or social services, including child protection authorities.<sup>164</sup> This is usually done through regular interviews with minors and staff, continuous monitoring of foster families, providing training, and publishing guidelines. Seven Member States

153 AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, HR, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO.

154 AT, BE, BG, DE, EE, ES, IE, LV, LU (rarely used), NL, PL, PT, SE, SI, SK and NO.

155 BE, CY, CZ, EE (not yet implemented in practice), ES, LV, LU, NL, PL, PT, SE, LT, SK and NO.

156 CZ, EE (not yet implemented in practice), HR, LV, LT, NL, PT, SI, SK and NO.

157 BE, BG, CY, DE, EE (not implemented in practice), ES, FR, HR, IE, IT, LU, NL, PL, PT, SE, SK and NO.

158 BE (only for unaccompanied minors with residence status), BG, CY, CZ, EE, IE, NL, PT, SE.

159 BE, BG, CY, SE.

160 CZ, EE, IT, LT, LU, NL, SK. In LU, guardians are appointed to deal with the day-to-day business of the child and are different from the ad hoc administrator, who deals with the administrative procedure. The guardian is usually a member of the reception facility where the child resides.

161 BE, BG, CY, CZ, DE, EE, EI, ES, FI, FR, IT, LU, NL, PL, PT, SE and NO.

162 BE, CY, IT, LU. BE also relies on Youth Care Services and Public Social Welfare Centres for the organisation of semi-independent accommodation.

163 AT, HR, IE, LT, MT, SI.

164 BE, BG, CY, CZ, DE, EE, EL, ES, FR, HR, IE, IT, LV, LT, LU, NL, PL, PT, SE, SK.

conduct regular inspections.<sup>165</sup> In three Member States, the alternative care options are directly monitored by the courts.<sup>166</sup> Other options reported by Member States include implementing a child complaint mechanism,<sup>167</sup> registration or accreditation systems,<sup>168</sup> or relying on other institutions' systems.<sup>169</sup> In Finland, group homes

monitor minors in private accommodation with relatives and can notify the relevant authorities as necessary. There is no monitoring of unaccompanied minors applying for a residence permit and staying with family members, unless they do not have a guardian, in which case the Finnish social services appoint one.



## 3.7. ACCESSING HEALTHCARE AND PSYCHOLOGICAL CARE

All Member States and Norway provide migrant children with access to healthcare and psychological care, as a universal right and as provided in the EU *acquis*. The type of care they receive varies according to their needs, whether they are accompanied or not, and where they are accommodated, with some reception facilities providing

their own healthcare centres. Sixteen Member States and Norway provide this care regardless of whether or not the minor is applying for international protection.<sup>170</sup> Finland provides only emergency healthcare for minors outside of the asylum procedure.



## 3.8. ACCESSING EDUCATION

### 3.8.1. Accessing mainstream education

All Member States and Norway stated that access to education is a basic right for children and is made available to them as early as possible. The length of time varies in the Member States, although the majority reported that access to education is facilitated as soon as possible, averaging between one to three months in most cases. The access varies according to where the minor is accommodated, the capacity of the local institutions, their age, learning requirements and vulnerability, as well as their grasp of the language. More than half of the Member States and Norway have provisions that are applicable to all children, irrespective of whether or not they apply for international protection.<sup>171</sup>

### 3.8.2. Special programmes

All Member States plus Norway have developed special education programmes to facilitate the integration of migrant children into society. Most emphasise the importance of language courses,<sup>172</sup> as well as social and cultural integration classes.<sup>173</sup> Classes are age-appropriate,<sup>174</sup> with specific classes relating to skills.<sup>175</sup> Cyprus includes a special guide in several languages for parents to understand the general education system, while Belgium and Poland have made tutoring available to ease minors' transition into the general education system. The Slovak Republic provides a language course before the minor enters the general education system.



## 3.9. UNDOCUMENTED/IRREGULARLY STAYING MINORS WITH FAMILIES

Overall, most Member States and Norway provide access to education, healthcare, housing, and psychological supports for irregularly staying children with families.<sup>176</sup> However, the specific conditions to access those rights vary from one Member State to another, and some only partially recognise those rights.

Most Member States and Norway reported granting **access to education** to irregularly staying children with families.<sup>177</sup> In Latvia, irregularly staying children are granted access to education during voluntary/forced

return procedures, as well as while they are in detention. Similarly, in the Slovak Republic, children irregularly staying with their family can only access education directly in the detention facility. In Lithuania, although undocumented children staying with their families do not have formal access to education, in practice these children are attending school.

Most Member States and Norway also reported granting **access to healthcare** for irregularly staying children with families.<sup>178</sup> Nonetheless, in eight Member States,<sup>179</sup>

165 EE, ES, IE, IT, LV, SK, SE.

166 CZ, ES, SK. In CZ, the guardianship is monitored by the Court, while foster care or other non-institutional care options are monitored by the Social and Legal Child Protection Authority (OSPOD) and other related institutions.

167 SE, NL.

168 IE, LU.

169 LU relies on the Luxembourgish Red Cross to monitor host families for unaccompanied minors.

170 BE, CY, CZ, DE, EE, ES, FR, HR, IE, IT, LT, LU, NL, PT, SE, SK and NO.

171 BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, LU, LV, NL, PL, PT, SE, SK and NO.

172 AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, LU, LV, MT, NL, PL, SE, SI, SK.

173 BE, DE, EL, ES, FR, HR, IE, IT, LT, LU, MT, NL, PL, SE, SK.

174 AT, BE, BG, CY, CZ, DE, EE, FR, IT, LU, NL, SE, SK and NO. In AT, unaccompanied minors in federal care have the opportunity to attend public schools.

175 BE, BG, CY, CZ, DE, FR, LU, PL, SE, SI, SK.

176 BE, CY, CZ, DE, EE, EL, ES, FI, FR, IE, IT, LU, NL, PT, SK (detained families with minors), SE and NO.

177 BE, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LV, LU, NL, PL, PT, SE, SI and NO.

178 BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LV, LU, NL, PT, SE and NO.

179 BG, CY, DE, FI, LT, LV, PL, SI.

access to healthcare is **limited to emergency health-care** for these children. In Finland, it is up to the municipalities to decide whether they grant access to medical services other than urgent care, which is also the case in Bulgaria. The Slovak Republic grants basic access to healthcare when a family with children is in detention.

In Luxembourg, children irregularly staying with their parents have to pay for voluntary health insurance in order to have access to healthcare. In practice, those groups may face difficulties in obtaining health without a formal address. Nevertheless, an administrative procedure is in place that allows the medical expenses of children in the charge of the State to be covered.

Most Member States and Norway reported granting **access to accommodation or social housing** to irregularly staying children with families under certain circumstances.<sup>180</sup> In France, even though irregularly staying children with families are not systematically granted

access to accommodation, in practice, as vulnerable people, they are granted access to emergency housing or other types of housing under the principle of unconditional right to housing.<sup>181</sup> Belgium and Estonia reported that housing is only offered by the State where parents do not have sufficient financial resources and have been issued with an obligation to leave with voluntary compliance.

Finally, access to **psychological support** for irregularly staying children with families is reportedly provided by half of the Member States.<sup>182</sup> By contrast, Bulgaria, Croatia, the Czech Republic and the Slovak Republic grant access to psychological support for children irregularly staying with their family only when they are in detention. In Latvia, psychological assistance for this group of children can be obtained by applying for a state-guaranteed social rehabilitation service for child victims of violence.

180 BE, CY, DE, EE, EL, ES, FI (the decision to grant housing to irregular migrants rests with each municipality), FR, IE, IT, PT, SE and NO.

181 Based on the principle of unconditional right to housing.

182 BE, CY, DE, EE, EL, ES, FI, FR, IE, IT, LU, NL, SE.

# 4. ENSURING SWIFT AND EFFECTIVE ACCESS TO STATUS DETERMINATION PROCEDURES AND PROCEDURAL SAFEGUARDS

In its 2017 Communication, the Commission recommended that Member States focus their efforts in a number of areas, including strengthening guardianship authorities/institutions to ensure that guardians are swiftly appointed for all unaccompanied minors, as well as implementing reliable multi-disciplinary age and non-invasive assessment procedures. The Commission also

underlined the importance of ensuring swift and effective family tracing, within or outside the EU, by making full use of existing cross-border cooperation channels. Finally, the Communication recommends that priority be given to cases concerning minors (e.g. asylum applications) in line with the urgency principle, as well as to the relocation of unaccompanied minors from Greece and Italy.



## 4.1. GUARDIANSHIP

Minors who are unaccompanied or separated from their caregiver are particularly susceptible to abuse and exploitation. The 2017 Communication states that guardians can help to prevent minors from going missing or falling prey to trafficking, underlining their crucial role in guaranteeing access to rights and in safeguarding the interests of all unaccompanied minors, including those not applying for asylum. Although the importance of inclusive protection systems, including guardianship, is underlined in the EU *acquis*, guardianship systems vary substantially from one Member State to another.

In line with EU legislation, Member States provide for the appointment or designation of a custodian for unaccompanied minors, either in the form of a guardian<sup>183</sup> or a representative.<sup>184</sup> <sup>185</sup> While guardians have the responsibility to ensure the child's wellbeing and protect minors deprived of parental care, the appointment of legal representatives is intended to enable minors to participate in administrative, criminal or other proceedings. The guardianship provided to unaccompanied minors differs across Member States, with several common types:

- Municipalities,<sup>186</sup>
- Child and youth welfare offices,<sup>187</sup>
- Assigned individuals,<sup>188</sup>
- Other types of guardianship (such as foster care).<sup>189</sup>

In Italy, for example, guardians could be the heads of reception centres, social workers, mayor of the host municipality, or individuals who have volunteered to be guardians. In Luxembourg, they can be the heads of reception centres or social workers who take care of the day-to-day business of the minor. A guardian can also be their appointed representative (ad hoc administrator). In Spain, legislation provides that foster family care is arranged for unaccompanied minors, or where that is not possible or is not in the best interests of the child, residential care. In the latter case, guardianship is exercised by the director or person responsible for the centre where the minor is housed. In Finland, the representative appointed to an unaccompanied minor following a court order also serves in the capacity of a guardian, assisting the minor in official affairs, such as obtaining a residence permit. In the Slovak Republic, the court usually determines the representative from the Socio-legal Protection of Children and Social Guardianship (SPCSG), until the appointment of a guardian. Luxembourg appoints both an ad hoc administrator (who must be a lawyer) to assist the minor in legal procedures, and a guardian to deal with the day-to-day business of the unaccompanied minor. The ad hoc administrator and the guardian can be the same person.

While most countries provide for the appointment or designation of a guardian or representative to support unaccompanied minors recorded within the asylum system,<sup>190</sup> half also provide for the same appointment or

<sup>183</sup> BE, CY, CZ, DE, EE, ES, FI (for unaccompanied minors applying for a residence permit), FR, HR, IT, LT, LU, LV, MT, NL, PL, PT, SE, SK and NO.

<sup>184</sup> BG, EL, FI, HU, IE, LU, LV, PT.

<sup>185</sup> Definition of representative: a person or an organisation appointed by the competent bodies to assist and represent an unaccompanied minor [...] with a view to ensuring the best interests of the child and exercising legal capacity for the minor where necessary (Qualification Directive 2011/95/EU). Definition of guardian: an independent person who safeguards the child's best interests and general wellbeing, and to this effect complements the limited legal capacity of the child, when necessary, in the same way that parents do (FRA Report on guardianship systems for children deprived of parental care in the European Union, available at: <https://fra.europa.eu/en/publication/2015/guardianship-systems-children-deprived-parental-care-european-union>).

<sup>186</sup> BG, CZ, EE, IT, LV, SE.

<sup>187</sup> CY, CZ, DE, FR, HR, IE, LT, NL, SK. Also possible in EE, but not implemented in practice.

<sup>188</sup> BE, CZ, DE, FI, IT, LV, LU, PL, PT, SE, SK, NO. Also possible in EE, but not implemented in practice.

<sup>189</sup> BG, ES, IT, LT, LU, PL.

<sup>190</sup> BE, BG, CY, CZ, DE, EE, ES, FI, FR, HR, IE, IT, LT, LU, LV, NL, PL, PT, SE, SK and NO.



designation for unaccompanied minors *not* applying for asylum, but recorded within other migration procedures.<sup>191</sup> In addition, some Member States and Norway provide guardianship for unaccompanied minors not seeking asylum who remain outside the asylum/migration/(child) protection-system.<sup>192</sup> In Germany, the youth welfare service is responsible for all unaccompanied minors, as the country does not differentiate between unaccompanied minors seeking asylum and those not seeking asylum.

In line with the Qualification Directive,<sup>193</sup> Member States must appoint a guardian or representative for an unaccompanied minor as soon as possible after granting international protection. Consequently, the stage of the international protection procedure at which a guardian/representative is appointed or designated differs across countries. Some Member States appoint or designate a guardian/representative to unaccompanied minors prior to status determination.<sup>194</sup> In Belgium, a guardian is appointed as soon as possible after the Guardianship Service (part of the Federal Public Service Justice) has determined that the person concerned is an unaccompanied minor, according to the criteria set out in the Belgian Guardianship Act, usually within one month of their arrival in Belgium. In Croatia, a guardian is appointed as soon as it is determined that the minor is unaccompanied or separated, and after the minor is brought to the police station. In addition, some countries appoint a guardian to an unaccompanied minor upon arrival at the reception facility,<sup>195</sup> or after registration of an application for international protection.<sup>196</sup> In Lithuania, temporary guardians are appointed to unaccompanied minors pending the appointment of a permanent guardian. In the case of the Netherlands, guardianship is exercised by the Nidos Foundation.<sup>197</sup> In Luxembourg an ad hoc administrator is appointed as soon as the unaccompanied minor files for international protection, while a guardian request comes from an NGO, but will be delayed until it is clear that the minor will not abscond.

A number of countries use the same process of appointing or designating a guardian or representative to unaccompanied minors, irrespective of whether or not they are applying for asylum.<sup>198</sup> In Bulgaria, minors are accommodated in a social service (foster care or with a

family of relatives). Under Norway's Guardianship Act,<sup>199</sup> if an unaccompanied minor not applying for asylum needs a legal guardian, the County Governor will appoint one, based on an individual assessment.

In addition, most Member States' selection procedure verifies the criminal record of potential guardians.<sup>200</sup> Lithuania's institutional care model appoints the Refugee Reception Centre (RCC) as the guardian/curator for unaccompanied minors.

A complaint system related to guardianship is available to minors in migration in the majority of the Member States and Norway,<sup>201</sup> with only a small number of countries not having such a system.<sup>202</sup> In Belgium, minors can complain to the Justice of Peace or to the Guardianship Service through a letter, email or via a social worker, and the appointment of a new guardian is one possible solution. In the Czech Republic, the court can appoint a new guardian at the request of the minor. In Poland, complaints about social and medical/psychological care may be submitted to the Office for Foreigners on behalf of minors seeking asylum. In Luxembourg, as the guardian is appointed by the Youth Court, the complaint can be filed before the court and the responsibility of the guardian remains, even after the guardianship is terminated.

### **Guardianship - Report on the 'Child Friendly Justice in Action' project**

The 'Child Friendly Justice in Action' project was undertaken in six Member States by the Defence for Children International Movement (DCI) and coordinated by DCI-Belgium. Its report found that a lack of adequate funds had created a wide gap between the national laws that generally require the registration and placement of a guardian for every unaccompanied child and their actual implementation in practice. As a consequence, one single guardian is often in charge of a large number of unaccompanied children, making it difficult for them to meet all of the needs of all of the children, thus leaving many children on their own.

Source: DCI, *Child-Friendly Justice In Action project*<sup>203</sup>



## **4.2. PROCEDURAL SAFEGUARDS IN ASYLUM PROCEDURES**

In the majority of the Member States and Norway, the **provision of information to minors on**

**their rights and on procedures** occurs through information sessions and/or the asylum interview conducted

191 BE, BG, CY, CZ, DE, EE, ES, FR, HR, IE, IT, LT, LU, LV, NL, SE, SK and NO.

192 BE, CY, DE, IT, LT, LU and NO.

193 Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, 13 December 2011, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0095&from=EN>

194 BE, BG, CY, CZ, DE, EE, ES, FR, HU, IE, IT, LU, LV, PT, SE, SK, NL.

195 FI, LT.

196 EL (guardian or representative can be appointed either before or after the registration of an application for international protection), LU, PL, SE and NO.

197 Nidos is the national guardianship institution for unaccompanied and separated children in the Netherlands. The court appoints Nidos as the guardian if the child's parents are unable to exercise parental authority over the child.

198 BE, CY, DE, EE, ES, FR, HR, HU, IE, IT, LT, LU, NL, PT, SE, SK.

199 Very few unaccompanied minors in Norway are outside the asylum procedure.

200 BE, BG, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LU, LV, NL, PL, PT, SE, SK and NO.

201 BE, BG, CY, CZ, DE, EE, ES, FR, HR, HU, IE, IT, LV, NL, PT, SE, SK and NO. In Greece, this is foreseen in legislation but not yet operational.

202 FI, LT, LU.

203 DCI (2020). Child migrant and Child-friendly administrative justice procedures – Report of the Child-Friendly Justice In Action project focusing on six European countries, available at: [https://c1b61ce3-1b9e-4928-8008-bb081ea48182.filesusr.com/ugd/053c39\\_9aab080f62814a5594179762a8f90c81.pdf](https://c1b61ce3-1b9e-4928-8008-bb081ea48182.filesusr.com/ugd/053c39_9aab080f62814a5594179762a8f90c81.pdf)

by **specialised officers**, who are trained to interact with minors.<sup>204</sup> Where necessary, an interpreter is present during the sessions.<sup>205</sup> A common method used by countries is the provision of child-friendly **information brochures, leaflets, or specialised webpages** in different languages.<sup>206</sup> A number of Member States also provide information on rights and procedures to unaccompanied minors through their representatives or guardians<sup>207</sup> – this is most common in Bulgaria, Finland, Malta and the Slovak Republic.

In addition, Member States aim to implement **procedures or measures to provide information in a child-friendly manner**.<sup>208</sup> In many Member States, the most common measure implemented to ensure child-friendly provision of information is the distribution of **information brochures or leaflets** that explain the rights of minors in different languages and age-appropriate ways.<sup>209</sup> Another measure implemented across many Member States to ensure that information is provided to minors in a sensitive and child-friendly way is information sessions or interviews with **protection officers or social workers** specifically designated to work with minors.<sup>210</sup> Some countries have developed **dedicated platforms** for providing information on asylum procedures. In Sweden, the Migration Agency has developed a mobile phone app<sup>211</sup> to provide unaccompanied minors with information on their rights and the asylum procedure. Likewise, in Belgium and Italy, national authorities are currently working to create similar digital platforms for the provision of information to minors. In Norway, a comprehensive **dedicated website for children seeking asylum** was established for both unaccompanied and accompanied minors, which provides complete information about the asylum procedure in the country. The website is translated into a variety of languages, mobile-friendly and user-tested.

### Informing children about their rights

Appropriate information is necessary to ensure effective participation that respects children's rights, and information must enable children to know their rights, understand the issues at stake and how the procedure is carried out. The Child-Friendly Justice in Action project, coordinated by Defence for Children International – Belgium (DCI-Belgium), highlighted that children involved in an application for international protection in the six countries examined did not seem well informed about their rights, the procedure and its possible outcomes. The lack of information on the right to family reunification and the rights of the child is a major obstacle to the exercise of those rights.

Several reasons were identified for this lack of information. Firstly, although information materials are developed, they are not always accompanied by oral and personal explanations. Secondly, information is not always conveyed in a manner appropriate to the child's level of understanding or in their mother tongue. Finally, many actors in the procedure believe that the information has been or will be delivered at another stage.

Source: DCI, *Child-Friendly Justice In Action project*<sup>212</sup>

Most Member States and Norway aim to **prioritise and/or fast-track**<sup>214,215</sup> **applications for international protection** of unaccompanied minors. In Malta, applications by unaccompanied minors are not generally prioritised or fast-tracked but can be considered in certain cases (such as unaccompanied minors in need of special procedural guarantees). Spain reported that there is no general criterion for prioritising the applications of unaccompanied minors, but such applications are processed with priority as a general rule. In Poland, the applications of unaccompanied minors are prioritised but not fast-tracked, except in cases where the minor poses a threat to state security or public order or has been previously expelled from the country on the same grounds. In Luxembourg, applications from unaccompanied minors are fast tracked on the basis of three conditions: a) if they are from a country that meets the criteria to be considered a safe country of origin; b) if they have made a subsequent application for international protection that is not inadmissible; c) if there are serious reasons to consider that they constitute a danger to national security or public order, or have been the subject of a forced removal order on serious grounds of national security or public order. In Belgium and the Netherlands, unaccompanied minors follow a fast-track procedure during the registration process of their application for international protection submitted to the Immigration Office. In Belgium, applications for international protection of unaccompanied minors submitted to

204 AT, BE, BG, CY, EE, ES, FI, FR, EL, HR, IE, IT, LT, LU, NL, PT, SE, SK and NO.

205 BE, DE, EE, FI, FR, HR, IT, LT, LU, NL, SK, SE.

206 AT, BE, BG, CZ, DE, ES, FI, FR, EL, HR, HU, IE, IT, LV, MT, NL, PT, SE and NO.

207 BE, CZ, EE, EL, FI, HR, LV, LU, NL, PL, PT, SK.

208 AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, EL, HR, IE, IT, LT, LU, LV, NL, PL, PT, SE, SK and NO.

209 AT, BE, CZ, EL, FI, FR, HR, IE, IT, LU, LV, NL, SE.

210 BE, BG, CZ, DE, EE, FI, FR, HR, IE, LT, LU, LV, NL, PL, SK.

211 The *Migrationsverket Stories* app is available in the app store.

212 DCI (2020). Child migrant and Child-friendly administrative justice procedures'. Report of the Child-Friendly Justice In Action project focusing on six European countries, available at: [https://c1b61ce3-1b9e-4928-8008-bb081ea48182.filesusr.com/ugd/053c39\\_9aab080f62814a5594179762a8f90c81.pdf](https://c1b61ce3-1b9e-4928-8008-bb081ea48182.filesusr.com/ugd/053c39_9aab080f62814a5594179762a8f90c81.pdf)

213 BE, BG, CY, DE, EE, ES, FI, FR, EL, HR, IE, IT, LT, LU, LV, MT, NL, PL, SE, SI and NO.

214 BE, LU, PL, PT, SI.

215 Fast-track procedures are used to speed-up the processing of claims as a matter of administrative practice.

the Office of the Commissioner General for Refugees and Stateless Persons are prioritised where possible but are not fast-tracked.

The **views of minors must be taken into account throughout the procedure** in all Member States and Norway, regardless of whether or not they are accompanied.<sup>216</sup> In the majority of countries, this is done through **interviews**, conducted in a manner appropriate to the age and spoken language of the minor, and delivered by officers trained for the purpose.<sup>217</sup> In line with EU law, interviews with unaccompanied minors are conducted in the presence of the representative<sup>218</sup> or guardian.<sup>219</sup> In Bulgaria, the opinion of unaccompanied minors is always taken into account when determining their accommodation. In Estonia, Finland and the Netherlands, the possibility to be interviewed is granted to an unaccompanied minor of sufficient degree of maturity,<sup>220</sup> but a younger minor may also be heard if they are sufficiently mature to have their views considered.



### 4.3. AGE ASSESSMENT

The most common method of age assessment in the Member States and Norway is the thorough analysis of existing **documentation** in their possession that can support the declared date of birth.<sup>222</sup> In addition to the documents produced by the applicant, documentary evidence may include visas,<sup>223</sup> and evidence recorded in the Eurodac database that the person was already assessed as an adult by another Member State.<sup>224</sup> Child-sensitive **age assessment interviews** are conducted in a number of countries,<sup>225</sup> generally to collect details on a minor's background, identity or possession of documents. In Germany there is a qualified visual examination and thorough assessment by educational or psychological experts, focusing on the physical appearance and behaviour of the minor in question. In Bulgaria, both a screening interview and a social interview are conducted to assess the age of the applicant. In France, pursuant to the Decree of 20 November 2019, this assessment is based on a range of indicators, from a social assessment of age (interviews) to a check, in case of doubt, on the authenticity of the documents. As a last resort, these investigations may be medical, in the absence of valid identity documents and in cases where the alleged age appears implausible.

#### **Consequences of inadequate conditions and interactions with a child**

A recent DCI report found that inappropriate conditions and interactions with a child can have serious consequences for their physical and mental integrity (i.e. being questioned about the reasons for an application for international protection can cause significant trauma to the child). The child's participation should be prepared, and the questions and format of the hearing adapted. Children tend to give the answer they believe the interviewer expects and do not always understand the consequences of their answers. Some unaccompanied children have the impression that they are being questioned as if they have done something wrong. Others noted that the interviews were very long, stressful and emotionally intense.

Source: *Child-Friendly Justice In Action project*<sup>221</sup>

Some Member States adopted non-invasive approaches to age assessment (e.g. qualified visual examinations carried out by educational and/or psychological experts, interviews with the minor, analysis of documentation provided by the minor, analysis of country of origin information etc.),<sup>226</sup> while others, such as Bulgaria and the Czech Republic, are evaluating alternatives to medical examinations.

While most Member States use **medical examination** only after all other (non-invasive) methods and procedures have been exhausted and the age of the individual is still not determined,<sup>227</sup> some countries have specified medical examinations as their main age assessment method.<sup>228</sup> Such examinations can include:

- X-ray of wrist,<sup>229</sup>
- Dental examination or x-ray,<sup>230</sup>
- X-ray of collarbone,<sup>231</sup>
- Magnetic Resonance Imaging (MRI) of a knee joint;<sup>232</sup>
- Other.<sup>233</sup>

Some Member States indicated that they make use of the EASO guidelines for age assessment<sup>234</sup> and also

216 AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, EL, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO.

217 AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, EL, HR, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO.

218 AT (legal counsellor), BE, BG, EE, EL, ES, FI, FR, IE, LT, LU (ad hoc administrator), NL, PT, SE, SI, SK and NO.

219 BE, CY, CZ, DE, EE, EL, HR, IT, LV, MT, NL, PL, SE, SI, SK.

220 Age 10+ in Estonia; age 12+ in Finland; age 6+ in the Netherlands.

221 DCI-Belgium (2020). 'Child migrant and child-friendly administrative justice procedures.' Report of the Child-Friendly Justice In Action project focusing on six European countries, available at: [https://c1b61ce3-1b9e-4928-8008-bb081ea48182.filesusr.com/ugd/053c39\\_9aab080f62814a5594179762a8f90c81.pdf](https://c1b61ce3-1b9e-4928-8008-bb081ea48182.filesusr.com/ugd/053c39_9aab080f62814a5594179762a8f90c81.pdf)

222 BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LV, LT, LU, NL, SE, SI and NO.

223 BE, CZ, EE, FR, NL.

224 BE, EE, NL.

225 BE, BG, CY, DE, EE, FR, HR, IE, NL, SE.

226 DE, FR, HR, IE, LU, NL.

227 BG, CY, CZ, DE, EE, FI, FR, HR, HU, IT, LU, LV, LT, NL, PL, PT, SE, SI.

228 BE, PL, PT, SK and NO.

229 BE, CZ, DE, EE, FI, HR, LT, LU, NL, PL, PT, SK and NO.

230 BE, DE, FI, FR (as a last resort, by decision of the judicial authority and after obtaining the agreement of the person concerned), HR, LU, PL, PT, SE, SK and NO.

231 BE, BG, DE, LT, LU, NL.

232 SE.

233 In Portugal, the medical age assessment procedure includes: a processual analysis, a clinical interview (which includes an objective examination based on anthropometric assessment, degree of height-weight development, assessment of sexual development, development of external genital organs, breast development, axillary and facial hair, pubic hair, laryngeal prominence, hip shape, screen for clinical pathological conditions that are likely to affect physical development, bone and/or dental development, sexual maturation) as well as complementary diagnostic exams.

234 BE, BG, CY, CZ, EE, IT, LV, MT, PT.

seek the informed consent of the individual or their guardian/representative before undertaking a medical age assessment.<sup>235</sup> The individual has a right to refuse participation in an age assessment procedure in some Member States,<sup>236</sup> while in others,<sup>237</sup> such refusal results in their automatic consideration as adults. Some Member States stated that the presumption of a minor's age is upheld and the individual is treated as a minor in case of doubt,<sup>238</sup> if all the possible methods and procedures have been exhausted and the age has not been determined. In Italy, where there is doubt about the age of the child, the support of the diplomatic-consular authorities may be requested, unless the minor expresses the intention to

apply for international protection, or where the request for protection is clearly the best way to proceed to protect the best interests of the child. Should doubt about the age of the child persist, the juvenile court may order an assessment through specific, multidisciplinary examinations. The minor and the person with their parental responsibility must be informed of the procedures to be implemented and the nature of these assessments. The final decision is the responsibility of the juvenile court and may be challenged. If the assessment results are not conclusive, the person is presumed to be a minor and is included in the dedicated pathways for unaccompanied minors.



## 4.4. FAMILY REUNIFICATION

The **Family Reunification Directive**<sup>239</sup> offers more favourable family reunification conditions to **unaccompanied minors who are recognised as refugees** and provides that the Member States shall authorise the entry and residence for the purposes of family reunification of their first-degree relatives. In addition, the Directive underlines that Member States may apply a wider definition of family members in the case of unaccompanied minors, including the legal guardian or any other member of the family.<sup>240</sup> In the case of family reunification for unaccompanied minors or separated children who have been granted refugee status, conditions laid out in the Directive for sponsors (sufficient resources, accommodation, health insurance) usually do not have to be fulfilled if the application for family reunification is made within 90 days of receiving refugee status.<sup>241</sup> Most Member States stressed that the applicant must be under the age of 18 at the time of making the application.<sup>242</sup> Ensuring the best interest of the child is a primary consideration in Member States when considering family reunification.<sup>243</sup>

The option for family reunification is an important element of the guarantees for minors provided under the **Dublin Regulation**.<sup>244</sup> This Regulation provides that where an asylum applicant is an unaccompanied minor with a family member, sibling or relative legally present in another Member State, that the Member State shall unite the minor with their relative and shall be the Member State responsible for the application, providing this action is in the best interests of the child, and that the relative can take care of them (Article 8 Dublin Regulation).<sup>245</sup> Where an unaccompanied minor has lodged an asylum application, the responsible Member State must take action as soon as possible to identify the child's family members, siblings or relatives who are on the territory of any of the Member States bound by the Dublin

Regulation, while protecting the best interests of the child (Article 6(4) Dublin Regulation).

All Member States reported that family reunification of separated children and/or unaccompanied minors is possible when certain conditions are fulfilled, in most cases making reference to their obligations under the Dublin Regulation.

Several Member States indicated that family reunification does not apply to **separated children**.<sup>246</sup> However, family reunification is a possibility where separated children have been granted asylum or subsidiary protection.<sup>247</sup> Other Member States reported different approaches: Cyprus noted that the authorities apply simple procedures to reunify separated children (and unaccompanied minors) with their parents, handling sensitive situations on an ad hoc basis and applying a humanitarian approach, while Italy reported that for all categories of separated and unaccompanied children, the right to be reunited with family members is recognised in law, and that, in serious cases, taking into account the age and medical condition of the minor, the possibility exists to grant entry or residence to a family member for a specific period of time, notwithstanding other regulatory provisions.

For **unaccompanied minors recorded in the asylum system**, several countries indicated that reunification with family members in the host country is not possible where an application is pending.<sup>248</sup> Others noted that it is only possible once an unaccompanied minor has been recognised as a refugee or granted subsidiary protection status.<sup>249</sup> Family reunification in the context of the Dublin Regulation applies to this category of minors. The approaches in place in Cyprus and Italy for separated children apply also in the case of unaccompanied minor within the asylum procedure.

235 BE, BG, CY, CZ, DE, EE, EL, ES, FI, HR, IT, LU, LT, LV, NL, SE, SI, SK.

236 AT, BE, CZ, DE, EE, EL, ES, HR, IT, LT, LU, NL, PL.

237 CZ, EE, FI, HR, LT, NL, PL, SK. In EE, according to OLPEA Article § 12<sup>1</sup> (2), if the alien refuses medical examination to determine the age, the PBGB or the Estonian Internal Security Service shall deem the alien to be an adult, except where the person is manifestly minor.

238 AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IT, LT, LU, LV, NL, PL.

239 Directive 2003/86/EC of 22 September 2003. Ireland does not participate in the adoption of this Directive and is not bound by nor subject to its application.

240 Article 10(3) of the Family Reunification Directive.

241 BE, DE, EE, FI, FR, LT, LU, NL, SE, SI, SK.

242 AT, BE, EE, HR, IE, IT, LV, LT, LU, NL, PL, SI, SK, SE.

243 BE, BG, DE, EL, ES, FR, HR, IE, IT, LU, NL, PL, SE, SK and NO.

244 Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

245 According to the Dublin II Regulation, family members of minors entail the following: the father, mother or another adult responsible for the applicant, whether by law or by the practice of the Member State where the adult is present. Relatives of minors entail the following: the applicant's adult aunt, uncle or grandparent.

246 DE, LU, NL and NO.

247 AT, BE, BG, CZ, EE, EL, FR, IE, IT, LV, PL, SE.

248 FI, NL and NO.

249 BE, BG, CZ, DE, EE, LU, LV, PL, SE, SI and NO.

Some countries reported the possibility of reunification with family members **in the country of origin** where it is in the best interests of the child. In Finland, if an unaccompanied minor applying for asylum is not considered in need of international protection, originates from a country that is not affected by armed conflict, and is already in contact with their parents or other caregivers, the Finnish Immigration Service can contact parents/caregivers to ensure the safe return and proper reception of the minor. In Sweden, efforts are made to locate family members of unaccompanied minors as soon as possible - at the reception stage and before a residence permit is granted that enables family members to join the minor in Sweden, reunification can take place in the minor's home country, where it is deemed to be in the child's best interests. Other Member States reported on the conditions to be fulfilled before reunification with family members in the country of origin is actioned, for example, in the Slovak Republic (see below):

### **Reunification of unaccompanied minors with family members in countries of origin: Slovak Republic**

In order to reunify unaccompanied minors with their parents or relatives, several conditions need to be identified, assessed and fulfilled in advance. These include:

- the interest (and desire) of unaccompanied minors to reunite with their parents, or other family members, in the country of origin, of habitual residence, or in a third country;
- the authorised stay of parents or relatives with whom the unaccompanied minor is to be reunited in that country;
- the consent of that country to admit the unaccompanied minor;
- the suitability and safety of the location for the unaccompanied minor;
- that the reunification does not endanger the family of the child present in the country of origin;
- confirmation of the family relationships of parents/relatives with the unaccompanied minor and evaluation of their relationship, their conditions and capacity to care for the unaccompanied minor.

Source: EMN NCP Slovak Republic questionnaire response

For **unaccompanied minors not in the asylum process but recorded within other migration procedures**, most Member States and Norway noted that family reunification is not possible<sup>250</sup> unless a residence permit has been granted.<sup>251</sup> However, in Estonia, for this group of unaccompanied minors (who are deemed to be staying in the country irregularly), family reunification is possible. The decision on whether the reunification should take place in the country of destination or of origin is made on a case-by-case basis and depends on the child's best interests. In Italy, as for separated children and unaccompanied minors in the asylum process, entry or residence may be granted to family members for a specific period of time and under certain circumstances if it is deemed in the best interests of the child.

The **needs of minors and the possibility of reunification** with family members are assessed at different stages across the Member States and Norway. Germany<sup>252</sup> and Italy assess the possibility for family reunification for unaccompanied and separated minors at the first interview with the minor (Germany) or during the initial screening (Italy) at the temporary care centre or reception facility. In some countries, needs are assessed at the **lodging stage**<sup>253</sup> of the asylum application,<sup>254</sup> while in others this is done **after the application for asylum has been submitted**.<sup>255</sup> Croatia offers the possibility for assessment at any stage of the asylum procedure, even if minors accept returning to their country of origin to be reunited with family there.<sup>256</sup> The authorities carrying out the assessment also vary across countries.

Twelve Member States and Norway reported efforts to speed-up the family reunification procedures, **prioritising unaccompanied and separated children**.<sup>257</sup> In Germany, after the asylum procedure is closed and international protection is granted, priority is given to visa applications of family members for family reunification. A number of countries also give priority to separated children<sup>258</sup> and to unaccompanied minors not applying for asylum but recorded within other migration procedures.<sup>259</sup>

**Family tracing**<sup>260</sup> practices vary between countries. In some Member States, family tracing for unaccompanied minors applying for asylum begins after the submission of the application for international protection.<sup>261</sup> Some countries initiate the family tracing process at any stage of the procedure,<sup>262</sup> while others do so after the identification of the minor<sup>263</sup> or after granting the status.<sup>264</sup> In most cases, the relevant national authorities are responsible for initiating family tracing,<sup>265</sup> sometimes in cooperation with

250 BE, BG, CY, DE, ES, FR, LU, NL, PL and NO.

251 DE, LU (the minor has to fulfil the general conditions as a sponsor established in the Immigration Law), NL, SI (on the basis of a permanent residence permit or a temporary residence permit issued for at least one year).

252 In cases where the parents already live in Germany.

253 According to the EMN Glossary (Version 7), lodging an application for international protection is defined as the 'act of formalising the application for international protection with the determining authority or any other body charged with lodging as per national practice'. See: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_search/lodging-application-international\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/lodging-application-international_en)

254 BG, DE, EL, IT, LU, LV, MT, NL (in the context of family reunification under the Dublin process), SK and NO.

255 CZ, EE, HR, IE (in the context of family reunification under the Dublin process).

256 HR (also offered for unaccompanied minors not applying for asylum and for separated children), SK.

257 DE, EE (children in general are given priority in all the proceedings), FI, EL, HR, IE, IT, MT, PL, LU, LV, SE and NO.

258 EE, HR, IE, LT, SE, MT.

259 EE, FI, HU, HR, IE.

260 According to the EMN Glossary (Version 7.0), family tracing is defined as the 'search for family members, including relatives or former caregivers of unaccompanied minors and separated children, with the aim of ensuring the restoration of family links and the right of family unity', available at: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_search/family-tracing\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/family-tracing_en)

261 LV, LU (can begin at the request of the guardian before the granting of the status), FR.

262 EE, HR, IT, PL, SE, SK.

263 IE, LT, LV, SK and NO.

264 LU.

265 BG (State Agency for Refugees), CZ, EE (Police and Border Guard Board), FI (Finnish Immigration Service), IE (Tusla), IT, LV, NL (Nidos), PL (Office for Foreigners), SE.

NGOs (such as the Red Cross, UNHCR or IOM).<sup>266</sup> In some cases, the responsibility for family tracing lies with the guardian of the minor.<sup>267</sup> In Belgium and the Netherlands, the guardian contacts specialised tracing services (such as the Tracing Service of the Red Cross) following consultation with the minor. In Croatia, the guardian is obliged to:

- Submit a tracing application for family members;
- Be present during the interview with the official from the Croatian Red Cross Tracing Service;
- Notify the Tracing Service if the unaccompanied or separated minor changes placement or leaves Croatia during the procedure.

In Austria, unaccompanied minors are informed of the possibilities for family reunification via information brochures and by their legal counsellors or representatives. Reunification must be initiated by the family members themselves, however, who submit the applications for entry to the relevant Austrian representation authority.

Finally, the possibility and conditions for family reunification for **unaccompanied minors not applying for asylum** vary between the Member States. In Finland and Lithuania, for example, unaccompanied minors outside of the asylum procedure are also eligible for family reunification, but their family members must meet the conditions set out for all third-country nationals to acquire a permit.



## 4.5. DUBLIN FAMILY REUNIFICATION PROCEDURE

The common mechanism for distributing the responsibility of processing asylum applications among Member States is contained in the Dublin Regulation.

In most Member States, Dublin family reunification procedures include the collection and analysis of documentation and any other type of evidence that proves the family connection.<sup>268</sup> Types of **documentary evidence** collected can include:

- Identity document;<sup>269</sup>
- Birth certificate;<sup>270</sup>
- Documentary evidence for family relationship;<sup>271</sup>
- Statement of the unaccompanied minor;<sup>272</sup>
- Photographs.<sup>273</sup>

Other<sup>274</sup> (such as documents from asylum interviews, evidence from an appeal hearing, residence permits, lodging certificate, criminal record access authorisation).

In the absence of reliable documentary evidence, many Member States conduct **interviews** with the unaccompanied minor or with their family member(s) in order to establish and verify the existence of the family relationship.<sup>275</sup> Where the available information is not sufficient to establish a family link, a **DNA examination** can be requested in some Member States, although this is generally a measure of last resort.<sup>276</sup> In order to ensure

that the unaccompanied or separated minor is protected, the principle of the **best interests of the child** is taken into account by the institutions dealing with applications for family reunification in a number of Member States.<sup>277</sup>

In Germany, for example, the foreign authorities, the responsible youth welfare office and the guardian in charge of the minor are all contacted to find out whether there are any objections and whether family reunification is in the best interests of the child. Where family reunification is considered to be in the best interests of the minor – so a 'take charge' request under Article 8 of the Dublin Regulation is sent to the Member State in question to confirm its responsibility and prepare the reunification appropriately.<sup>278</sup>

The majority of Member States indicated that they comply with the provisions of the Dublin Regulation in respect of the time limits for making an inquiry.<sup>279</sup> In several countries, the Dublin Unit collects all the necessary evidence and sends the request as soon as possible, not using the full three-month time limit permitted under the Regulation.<sup>280</sup>

Some Member States have reported only a small number of Dublin family reunification procedures related to unaccompanied minors over several years.<sup>281</sup> Luxembourg has very few cases but where the situation occurs, it is dealt with as a priority by the Directorate of Immigration.

266 BG, EE, EL, FR, HR, LT, LU, MT, NL, SE, SK.

267 BE, HR, IT, LU (in order to begin the research before the status is granted, the Red Cross requests the guardian and the minor to consent and sign the form), NL (Nidos is the guardian organisation).

268 AT, BE, BG, CY, CZ, DE, EE, FI, FR, EL, HR, HU, IE, IT, LV, LU, NL, PL, PT, SE, SK and NO.

269 BE, BG, CY, EE, FR, HR, IT, LV, LU, NL, PL, PT, SE, SK.

270 CY, CZ, EE, HR, IT, LV, LU, NL, PL, SE, SK.

271 AT, BE, BG, CY, CZ, DE, EE, FI, EL, HR, HU, IT, LV, LU, NL, PT, SE, SK.

272 BE, EE, HU, IT, LV, NL, PT, SE.

273 CY, CZ, EE, FR, HR, HU, LV, LU, NL, SE.

274 BE, BG, CY, CZ, DE, EE, FR, HR, LU (any relevant information relating to the presence of a family member, sibling or relative in another State), NL, PL, PT, SE, SK and NO.

275 AT, BE, CY, CZ, EE, FI, HR, IE, IT, LV, LU, NL, PL, PT, SE, SK.

276 BE, BG, CY, DE, EE, IE, IT, NL, SK, SE. In LU, it is suggested to the family member and the sponsor as a last resort measure to prove the relationship. In Ireland, a DNA examination is not a measure of last resort in Dublin proceedings.

277 BE, CZ, DE, EE, ES, FI, FR, HR, HU, IE, IT, LV, LU, NL, PL, PT, SE, SK.

278 DE, EE, LU.

279 AT, BE, BG, CZ, EE, FI, HR, HU, IE, IT, MT, NL, PL, SE, SK and NO.

280 EE, HU.

281 CZ, EE, LU, LT, PL, SK.

# 5. DETENTION FOR THE PURPOSE OF RETURN OF UNACCOMPANIED MINORS AND FAMILIES WITH CHILDREN

The 2017 Communication states that administrative detention of children should be in line with EU law, exclusively in exceptional circumstances, where strictly necessary, only as a last resort, for the shortest time possible, and never in prison accommodation. Where

there are grounds for detention, everything possible must be done to ensure that there are a viable range of alternatives to the administrative detention of children in migration.



## 5.1. DETENTION OF UNACCOMPANIED MINORS IN VIEW OF RETURN

### 5.1.1. Overview

Fourteen Member States and Norway have a legal right to place unaccompanied minors in detention in view of return.<sup>282</sup> In line with the Return Directive,<sup>283</sup> most of these countries reported that this measure is taken as a last resort, usually where there is a risk of absconding on the part of the minor.<sup>284</sup> The Czech Republic, Poland and Slovenia stated that detention applies only to unaccompanied minors not applying for international protection – in the case of Czech Republic, detention of unaccompanied minors can take place only if they are older than 15 years old. Italy, the Netherlands and Norway give possible grounds for detention, including that the child in question presents a danger to public security and/or is suspected or convicted of criminal charges.

More specifically, several Member States reported that children are placed in facilities appropriate to their age and separate from adults.<sup>285</sup> Four Member States and Norway set time restrictions on such detention, as provided for within EU law, which calls for the shortest amount of time:<sup>286</sup> Finland, Sweden and Norway set it at 72 hours maximum, while the Netherlands limits it in principle to a maximum of 14 days or four weeks if it is the first time the unaccompanied minor has been identified by the authorities (there are cases to which other regulations apply). In Norway, the detention can be for a maximum of 72 hours at a time and no more than nine days in total. Additionally, Austria, Czech Republic and Finland impose age restrictions – no child under 14 years

(Austria) and 15 years (Finland, Czech Republic) can be placed in detention.

Eleven Member States do not detain unaccompanied minors in view of return.<sup>287</sup> Although they allow for the detention of unaccompanied minors by law, Estonia, Lithuania, Luxembourg and Malta stated that this rarely happens in practice. In fact, national guidelines in Estonia state that unaccompanied minors cannot be detained – there have been cases in the past, but not in 2019.

### 5.1.2. Alternatives to detention

Alternatives to detention are provided by 13 Member States and Norway.<sup>288</sup> The alternatives take different forms:

- **Duty to report** to reception centres, migration or police authorities.<sup>289</sup> The frequency of the reporting varies between Member States. In Finland, for example, the child may be ordered to report to the reception centre one to four times a day, although this measure only applies to unaccompanied minors over 15 years of age, who have been issued a return decision.
- **Geographical restrictions**, usually in the form of an obligation to remain in a specified location and/or residence.<sup>290</sup> In Finland, the child shall be released after one week from the start of the residence obligation at the latest.
- **Surrendering of travel documents** to the migration authorities or the police.<sup>291</sup>

282 AT, CZ, DE, EE, FI, HR, LT, LU, LV, MT, NL, PL, SE, SI and NO. For example, in NL, unaccompanied minors can be placed in detention in view of return when they have no right of residence – this is a so-called ‘custody restricting measure’, it is a measure of last resort and limited to cases where it is strictly necessary.

283 Directive 2008/115/EC, available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>

284 AT, CZ, DE, FI, HR, LT, LU, LV, MT, NL, PL, SE, SI and NO.

285 CZ, DE, LU, NL, SI.

286 LU, MT, NL, SE and NO.

287 BE, BG, CY, EE, ES, FR, IE, IT, PL, PT, SK.

288 AT, CZ, DE, EE, ES, FI, HR, LU, LV, MT, NL, SE, SI and NO.

289 AT, BG, CY, DE, EE, FI, HR, LT, LV, LU, MT, NL, PL, SE and NO.

290 AT, CZ, EE, HR, MT.

291 EE, HR, LU, LV, MT.

### ■ A financial deposit.<sup>292</sup>

The remaining nine Member States in which unaccompanied minors can be detained did not provide examples of alternatives to detention,<sup>293</sup> with most not providing for detention of unaccompanied minors in view of return.<sup>294</sup> Poland has national legislation allowing unaccompanied minors to be detained but did not provide examples of alternatives. Conversely, Bulgaria and Spain do not detain unaccompanied minors in view of return, but do provide alternatives to detention. Bulgaria stated that

unaccompanied minors who do not apply for international protection are placed in group homes, while Spain provides community care as an alternative.

Only Bulgaria and France reported using EU funds for the development of alternatives to detention for minors. France used the AMIF to develop specific facilities for families, designed to prepare them to return and open up space in reception centres. Bulgaria used EU funds to strengthen the social services system, which would benefit unaccompanied minors by reducing absconding rates.



## 5.2. DETENTION OF FAMILIES WITH CHILDREN IN VIEW OF RETURN

### 5.2.1. Overview

Nearly half of the Member States and Norway provide for the detention of families with children in view of return.<sup>295</sup> This measure is primarily used where there is a risk of absconding or non-compliance prior to return.

Eleven Member States and Norway explained that they provide adequate facilities for families, usually separated from other adults and with access to leisure activities.<sup>296</sup> Nine countries provide a time limitation for this detention,<sup>297</sup> ranging from 48 hours in France to 90 days in Bulgaria and the Czech Republic. Luxembourg has established a maximum detention time of seven days.

As detention is a last resort measure under strict conditions, several Member States and Norway noted rules tailored to specific circumstances: Estonia, Germany and Norway indicated that, if necessary and where possible, one of the parents can be detained instead of the entire family; Austria, Croatia, Malta, Poland and the Slovak Republic do not separate families during detention. The Czech Republic and the Netherlands have specialised centres solely for families, or, in the case of Czech Republic, women-only. Poland has centres for families and single women.

Four Member States do not detain families with children.<sup>298</sup> In Ireland, if it is necessary to detain adults from a family prior to removal, the children will be placed with social services to be reunited at the airport. Spain may require the implementation of a duty to report, geographical restrictions and surrendering of passports, if necessary. Although Belgium<sup>299</sup> and Spain do not detain families with children, the law does allow such detention under certain legal conditions.

### 5.2.2. Alternatives to detention

Nineteen Member States and Norway provide alternatives to detention for families with children prior to return.<sup>300</sup> Similar to the method used for unaccompanied minors, in practice this is usually a duty to report to reception centres, migration authorities or the police.<sup>301</sup> Other common measures include geographical restrictions, often in the form of an obligation to remain in an assigned place,<sup>302</sup> financial deposits,<sup>303</sup> and/or surrendering passports or travel documents.<sup>304</sup>

Most families in alternative detention facilities are accommodated in facilities adapted to their needs,<sup>305</sup> usually in the form of semi-open centres. In Belgium, families with minor children who have been served with a detention decision can be placed in return homes managed by the Immigration Office as an alternative to detention. These are open single-family homes or studios, where families with underage children are held. Children can go to school and adults can leave the houses to do errands, consult a lawyer, see a doctor, etc. However, an adult family member must always be present in the house to prevent absconding. The families receive guidance from return coaches from the Immigration Office to prepare for their return. The coaches explain the consequences of non-cooperation, in particular forced return and, as a last resort, detention (e.g. if the rules within the housing units are not respected). The Netherlands has a family location as an alternative to detention, in which the counselling provided is focused on return, while Lithuania includes the condition to have a civil sponsor to care for the family prior to return.

Four Member States do not provide alternatives to detention for families with children because they do not detain families prior to return.<sup>306</sup>

292 AT, HR, LU.

293 BE, CY, EL, IT, PL, PT, SK.

294 BE, BG, CY, ES, EL, FR, IT, PL, PT, SK.

295 AT, BE (a judgment of the Council of State saw the use of detention of families with minors suspended since 4 April 2019), DE, EE, FI, FR, HR, LV, LT, LU, NL, SE and NO.

296 BE, BG, CZ, DE, EE, FR, EL, HR, LU, NL, SK and NO.

297 BE, BG, CZ, DE, FR, LU, NL, SE and NO.

298 CY (national law provides for the possibility of detaining a family with children, although this is not implemented in practice), ES, IE, IT (law allows for the detention of families with children on the authorisation of the Court but this is not in place in practice, as there are no appropriate detention centres for families or for vulnerable cases like children).

299 Detention of families with minors has been suspended since 4 April 2019, following a judgment of the Council of State.

300 AT, BE, BG, CZ, DE, EE, ES, FI, FR, HR, EL, LT, LU, LV, MT, NL, SE, SI, SK and NO.

301 AT, BG, CY, CZ, DE, EE, ES, FI, HR, LT, LV, LU, MT, NL (as part of the stay in the family location), PL, SE, SI, SK and NO.

302 AT, BE, CY, CZ, DE, EE, ES, FI, FR, HR, LT, LU, MT, NL, PL, SI, SK.

303 AT, BG, DE, HR, LU, MT, PL, SK.

304 BG, EE, ES, FI, FR, HR, LU, LV, MT, PL.

305 BE, CZ, EE, FR, EL, HR, LU, NL, SI.

306 CY, ES, IE, IT.





## 5.3. VOLUNTARY RETURN OF UNACCOMPANIED MINORS

### 5.3.1. Overview

Almost all Member States and Norway carry out voluntary return of unaccompanied minors.<sup>307</sup> Estonia and Ireland reported no recent cases or experience of unaccompanied minors availing of voluntary return. Most Member States conduct these activities in cooperation with the IOM,<sup>308</sup> relying on the know-how and international network of IOM. Some Member States have their own infrastructure, such as France, which uses its own French Office for Immigration and Integration to carry out these voluntary returns. In most Member States and Norway, voluntary return only takes place if there is an agreement with the family, guardian and/or the competent authorities in the country of return, to ensure that the child is well cared for upon return, as provided in the EU acquis.<sup>309</sup>

In Bulgaria, the Czech Republic and Poland, voluntary return of unaccompanied minors takes place rarely, if ever, often because the necessary reception conditions in the country of origin cannot be guaranteed (e.g. inability to locate or contact the family). Additionally, Lithuania only provides for voluntary return of unaccompanied minors if they have been issued a return decision, while Sweden explained that police authorities may be involved if the minor does not cooperate or absconds prior to the return.

### 5.3.2. Respecting the best interests of the child

Several Member States rely on the experience of IOM to support or even conduct voluntary return activities.<sup>310</sup> IOM has developed robust guidelines and training to respect and implement the best interests of the child.<sup>311</sup> IOM also has extensive experience in family tracing, as well as a substantial network of country offices to locate and contact families of unaccompanied minors. The International Committee of the Red Cross (ICRC) is also very experienced in this field. A 2019 Guidance

Document developed by the UN and the EU and informed by civil society organisations provides guidance for state authorities on the design and implementation of return procedures that are child rights compliant and in line with the existing policy and legal framework.<sup>312</sup>

As well as appointing guardians, other methods implemented by Member States and Norway to make sure that the best interests of the child are respected include:

- Conducting a **family assessment** before the voluntary return takes place;<sup>313</sup>
- Entering into **agreements** with the family, guardian and/or responsible authorities to make sure that there are appropriate reception conditions for the unaccompanied minor;<sup>314</sup>
- Carefully examining the **return plan** to protect the child against trafficking or general mistreatment;<sup>315</sup>
- Providing **reintegration assistance**, including in the form of cash assistance;<sup>316</sup>
- Making **return counsellors** available for the child;<sup>317</sup>
- Developing specific **guidelines** on how to make sure the principle of the best interests of the child is respected;<sup>318</sup>
- Making sure the child is **accompanied** during the return journey.<sup>319</sup>

There are several notable exceptions in the voluntary return practices of Member States and Norway. Luxembourg and Italy require the consent of another authority (the court in the case of Italy and an interdisciplinary commission for Luxembourg) before the voluntary return can be carried out. Belgium and the Slovak Republic require explicit agreement from the child, while Bulgaria requires that the childcare system in the country of return functions properly. France only conducts voluntary return for the purposes of reuniting the child with their family.

307 AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, EL, HR, IT, LT, LU, LV, MT, NL, PT, SE, SI, SK and NO.

308 AT, BE, BG, CY, DE, EE, FI, EL, HR, LV, LU, MT, NL, PL, SK.

309 AT, BE, BG, CZ, DE (German authority responsible for the unaccompanied minor's case has to consent to the voluntary return), EE, ES, FI, FR, HR, IT, LV, LT, LU (interdisciplinary commission (including ad hoc administrator) evaluates if voluntary return is in the best interest of the child and IOM assesses the country of origin of the family, with voluntary return approved following a positive assessment), MT, NL, PL, SK, SE and NO.

310 AT, BE, BG, CY, DE, EE, EL, FI, HR, LV, LU, MT, NL, PL, PT, SI, SK.

311 See, for example, Guidance to Respect Children's Rights in return Policies and Practices - Focus on the EU Legal Framework, available at: <https://eea.iom.int/publications/guidance-respect-children-rights-return-policies-and-practices-focus-eu-legal>

312 [https://picum.org/wp-content/uploads/2019/09/2019\\_Guidance\\_childrens\\_rights\\_in\\_return\\_policies.pdf](https://picum.org/wp-content/uploads/2019/09/2019_Guidance_childrens_rights_in_return_policies.pdf)

313 AT, BE, CY, DE, EE, HR, IT, LU (conducted by IOM), MT, NL, SK, SE.

314 AT, BE, BG, DE, EE, ES, FI, FR, HR, IT, LT, LV, MT, NL, PL, PT, SI, SK, SE.

315 BE, BG, CY, DE, EE, HR, LU (conducted by IOM), MT, NL, SE, SK.

316 BE (reintegration support for unaccompanied minors is part of the target group support. Some target groups (victims of human trafficking, medical profiles, families with children, unaccompanied minors) receive extra support in addition to regular reintegration support), DE, EE, FI, LU, LV, MT, PT (unaccompanied minors are returned only if there is a guarantee of assistance upon their arrival by a responsible adult, namely one of the parents. Otherwise, national law may allow for their legalisation), SE. In the case of FI and LV, general reintegration is always provided, regardless of whether or not the individual is a minor.

317 BE, DE, EE, FI, LU, LV, NL, SE.

318 DE, NL, SE, SK and NO.

319 BE (under 16 years old), DE, EE, HR, LT, LU, LV, MT, NL, PL, SE.



## 5.4. FORCED RETURN

Return and removal of unaccompanied minors is specifically provided for under Article 10 of the Return Directive.

### **Forced removal of unaccompanied minors in Croatia**

In cases concerning the forced removal of an unaccompanied minor, Croatia appoints a special guardian to conduct the preparations for the departure of the child, which includes the following measures: obtaining a written notification (including information on who will assume care for the child upon return); examining the decision for removal and ensuring it is in accordance with the best interests and wellbeing of the child, and notifying the authorities if not; submitting an application for international protection if the removal decision jeopardises the wellbeing of the child; accompanying the child to the country of return; making sure the child has access to free legal aid; and notifying the authorities on the finalisation of any administrative disputes initiated against the return decision, as applicable.

*Source: EMN NCP Croatia questionnaire response*

Fourteen Member States do not forcibly remove unaccompanied minors.<sup>320</sup> Ten Member States and Norway have legal provisions that allow them to conduct forced

removals of unaccompanied minors,<sup>321</sup> all of which provide for a series of safeguards before, during and after this procedure is conducted, as per EU law and in accordance with the best interests of the child. As a general principle, all Member States must also respect the principle of non-refoulement.<sup>322</sup>

Additional safeguards include:

- Ensuring that the child will be able to access **safe reception conditions upon return**,<sup>323</sup>
- Requiring **guarantees** on the protection of the child's rights upon return to their country of origin,<sup>324</sup>
- Ensuring that there will be **family members and/or a guardian** present upon the return of the child,<sup>325</sup>
- **Close examination** of the case and the **return plan** of the child by the responsible authorities,<sup>326</sup>
- **Accompanying** the child during the return trip (Croatia, the Netherlands and Norway);
- Conducting a **medical check** prior to removal (the Netherlands);
- Collaborating closely with **IOM** (Luxembourg);
- Ensuring oversight by the national **Ombudsman** (Latvia).

320 BE, BG, CY, CZ, EE, ES (possibility to carry out forced return of unaccompanied minors, but only where in the best interest of the child and ensuring that the minor can be received by family members or adequate social institutions in the country of return), FR, EL, IE, IT, LT, MT, PT, SK.

321 AT, DE, EE, FI, HR, LU, LV, NL, PL, SE and NO.

322 Article 5 of the Return Directive (2008/115/EC), available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>. Ireland does not participate in the Return Directive, however the non-refoulement principle is reflected in national legislation.

323 FI, HR, LU, NL, SE.

324 HR, LV, LU, NL, PL.

325 AT, FI, HR, LV, LU, NL, PL, SE and NO.

326 LU, LV, NL.

# 6. DURABLE SOLUTIONS

Ensuring durable solutions is a key factor in refugee children's return to normality and stability. The 2017 Communication states that the identification of such durable solutions should explore all possible options, including integration in the host country (Section 6.1) and resettlement (Section 6.2), which refers to the transfer (on request from the UNHCR) of persons from a third country to an EU Member State, where they are permitted to reside with refugee or equivalent national protection status.<sup>327</sup> Other durable solutions – family reunification (Section 3.2) and return to the country of origin or

residence (Section 5.3) – have already been discussed in previous sections.

The 2017 Communication highlights the importance of early integration to support children's development into adulthood, particularly through education, guidance and support. It also recommends that Member States increase the use of resettlement and other legal pathways for children, particularly the most vulnerable children, such as unaccompanied minors and separated children.



## 6.1. INTEGRATION

Most Member States and Norway do not have a specific policy or strategy that addresses the integration of minors in society.<sup>328</sup> Minors may be included in a country's general (migrant) integration policy or strategy,<sup>329</sup> or addressed by national youth strategies.<sup>330</sup> In some Member States,<sup>331</sup> the integration of minors is a regional/municipal competence.

Some Member States reported that much of the work in relation to integration of minors in society is done by staff in the different reception facilities and/or carers and representatives,<sup>332</sup> for example in the context of a minor's life project or plan.<sup>333</sup> In the Netherlands, children up to 14 years of age normally live with a host family in a regular neighbourhood and go to school there, just like Dutch children. In sports, leisure and other cultural activities, Member States reported providing minors with music classes and cultural orientation events,<sup>334</sup> opportunities to participate in art competitions, local and international festivals, environmental and social initiatives,<sup>335</sup> and sports activities.<sup>336</sup> Collaboration with NGOs is very important, where they work together with reception facilities and ministries to deliver sports and leisure activities.<sup>337</sup>

### **ZUSAMMEN initiative in Austria**

'Integration Ambassadors' visit schools and serve as examples of successful integration in Austria. They point out ways to get along well with one another, respond to issues relating to prejudice in open discussions, and motivate pupils with or without a migration background to make the best of their school and job opportunities. *Teampay ohne Abseits* complements this initiative, with specially developed seminars making the topic of integration tangible in football clubs and youth development facilities throughout Austria.

Source: EMN NCP Austria questionnaire response

Germany has a number of national programmes that target the integration of young people with a migration history through sport (e.g. 'Integration Through Sports' by the Ministry of the Interior, Building and Community) and young refugees (the 'Welcome to Football' and 'Orientation Through Sport' programmes, sponsored by the Federal Government Commissioner for Migration, Refugees and Integration). The 'Orientation Through Sport' programme for unaccompanied minors offers more than 100 activities in 22 sports disciplines.

327 Based on EMN Glossary definition for Resettlement, available at: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_search/resettlement\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/resettlement_en)

328 AT, BE, BG, CY, CZ, EE, ES, FI, HR, IE, LT, LU, LV, MT, PL, PT, SK, SE and NO.

329 AT, BG, EE, EL, FI (only those who have received a residence permit), HR, IE, LV, LT, PT, SK (in case of accompanied children) and NO.

330 CY, EE, FR, LU, PT, SK.

331 BE, BG, IT, NL, SE.

332 BE, BG, CZ, EL, FI, IE, IT, NL, PT, SE, SI, SK.

333 BE, CZ, EL, IE, FR, HR, IT, PT, SK.

334 BG, IT, LU, SK.

335 BE, BG, IT, LU, SE.

336 BE, BG, DE, FI, IT, LU, NL, SE, SI.

337 BE, BG, CZ, DE, FI, HR, IT, LU, NL, SI, SK, SE.

### Integration of young refugees through sport in Germany

The programme 'Welcome to Football' is run by the German Children and Youth Foundation in cooperation with the foundation of the German Football League and provides young refugees (up to the age of 27) with access to sport through low-entry threshold programmes, thereby fostering their participation and involvement in society. The programme aims to create partnerships: it is based on cooperation between a first or second-division Bundesliga club and local education institutions, civil society initiatives or municipal bodies and amateur soccer clubs. In addition to regular training sessions, these local partnerships also offer programmes in the fields of culture, education, qualifications and networking. Currently, the focus is on sport for girls and women who fled their home countries, qualifying refugees to volunteer in sport clubs, and linking sport systematically to vocational orientation.

Source: EMN NCP Germany questionnaire response

Few Member States reported new developments in relation to the integration of minors in 2019.<sup>338</sup> In Italy, this

was partly explained by the significant decrease in arrivals of minors since 2018. Nevertheless, since the beginning of 2019, the *Protezione Unità Obiettivo Integrazione* (PUOI) launched an integration project for new adults who arrived in Italy as unaccompanied minors. It introduced some innovations in the type of interventions provided, identifying the areas of greatest need, such as an L2 Italian language course specific to new arrivals' work sectors and a skills balance sheet.

Migrant children have funding priority for integration in Austria and Italy (support for guardians is available through the Budget Law adopted at the end of 2019). Some Member States have introduced or transformed the bodies responsible for looking after migrant integration in general, and the protection of minors in particular,<sup>339</sup> such as the Special Secretariat for the protection of unaccompanied minors established in the Greek Ministry of Migration and Asylum. This Special Secretariat is responsible for developing and implementing a national strategy for unaccompanied minors in Greece, including integration. Other Member States stepped up their provision of support classes,<sup>340</sup> especially language training and/or mediation services for minors in schools, for example, in Cyprus, where additional maths classes were introduced.



## 6.2. RESETTLEMENT

Member States reported that, generally, they do not prioritise the resettlement of children from third countries based solely on their status as minors, but must consider individual circumstances. In 12 Member States and Norway, the resettlement of unaccompanied minors or families with children is prioritised.<sup>341</sup>

In three Member States, children were resettled through quotas for unaccompanied minors<sup>342</sup> and/or families with children,<sup>343</sup> but were not fast-tracked in the procedure.<sup>344</sup> Other Member States do not apply quotas when identifying refugees for resettlement,<sup>345</sup> but may, in practice, prioritise the arrival of families with children if the latter are particularly vulnerable (sick, out of school for many years, etc.), which is the case in France. The Netherlands has a general quota for resettlement of 500 refugees per year and the authorities aim for a diverse caseload. In Belgium, authorities also aim for a balanced caseload, with a focus on resettling vulnerable families.

### Emergency Quota in Norway

In general, Norway gives priority to women and girls, and families (ahead of single men). Norway has an Emergency Quota for all types of emergency cases, and the same groups are given priority there. The total for Emergency/Unallocated Quotas is 150 places per year. Cases processed through emergency procedures are finalised within two working days of referral, with accommodation and receiving facilities ready within another two working days. Cases referred to the emergency procedures should therefore be cleared for travel to Norway within one week of referral.

Source: EMN NCP Norway questionnaire response

Of the Member States who resettled families with children,<sup>346</sup> about half resettled mostly Syrian refugees within the framework of the EU-Turkey agreement.<sup>347</sup> In 2019, the number of Syrian refugees resettled under that agreement ranged from seven in Estonia to 98 in Croatia. Latvia and Estonia discontinued the resettlement of Syrians from Turkey in 2018 and 2019, respectively.

Other groups prioritised for resettlement include vulnerable persons, such as single-parent families,<sup>348</sup> but also unaccompanied minors in some cases.<sup>349</sup> Less than

338 BG, CY, EE, EL, IT, LV.

339 BG, EL, HR.

340 CY, IT, LV.

341 BE, BG, EE, FR, HR, IE, IT, LU, LV, MT, PT, SE and NO.

342 NO.

343 BE, SE.

344 BE, SE.

345 FR, NL.

346 BE (nearly all refugees arrived as a family of at least four, with children, in 2018), BG, EE, FI, FR, HR, IE, IT (no preferential procedure for families with minors, as this group represented the majority of resettlements), LU, LV, MT, NL, SE and NO.

347 BG, EE, IT, HR, MT, NL.

348 EE, FI.

349 EE and NO.

one-third of Member States appear to have resettled unaccompanied minors. For example, there is a limit on the number of unaccompanied minors in the Netherlands per mission, in order to be able to arrange for suitable reception and guidance.<sup>350</sup> No unaccompanied minors were resettled in Belgium or Italy in 2019.

### **Resettlement of Yezidi women and children in France**

France committed to the reception of 100 Yezidi women and their children, who have been victims of Daesh's persecution in Iraq and lost their spouses. This commitment was made to Ms Nadia Murad, Nobel Peace Prize Laureate in 2018 and was fulfilled with the arrival of the last families on 20 November 2019. At the end of this operation, 103 Yezidi women accompanied by their children (466 people) were welcomed in France in 2019.

The women and their children were accommodated in independent housing located in several French regions (Auvergne-Rhône-Alpes, Bourgogne-Franche-Comté, Hauts de France, Île-de-France, Occitania, Nouvelle-Aquitaine and Grand Est) received a year's support from specialised NGOs. Appropriate medical follow-up, support for administrative procedures, French language courses and schooling for the children were expected to facilitate the process of personal reconstruction and integration in France.

*Source: EMN NCP France questionnaire response*

One-third of Member States reported that they did not prioritise or implement the resettlement of unaccompanied minors or families with children in 2019.<sup>351</sup> In Germany, there were neither special quotas nor a fast-track procedure, so minors were not prioritised *per se*. Nevertheless, unaccompanied minors and families with children qualified as particularly vulnerable persons and *could* be resettled in Germany, and also in Sweden. In all other cases, Member States did not report participating in any resettlement activities.

The reception procedure on arrival in the territory of a Member State varies depending on the framework of resettlement used there. Generally, unaccompanied minors and families with children are likely to be met at the airport.<sup>352</sup> Some Member States carry out initial health checks,<sup>353</sup> then accompany the refugees to the place of accommodation<sup>354</sup>, usually arranged by the municipality.<sup>355</sup> On arrival in the country, resettled persons do not need to apply for asylum,<sup>356</sup> or need only to formally sign their asylum application, after which the asylum status is issued directly,<sup>357</sup> or are issued international protection and a valid residence permit shortly after arrival (processed more quickly than for asylum-seekers).<sup>358</sup> Some Member States reported providing education<sup>359</sup> and language training,<sup>360</sup> and applying other integration measures (see Section 6.1).

350 EE, FI, IE, LT, NL, SE and NO.

351 AT, CY, CZ, DE, EL, ES, PL, SK, SE.

352 BE, EE, FI, HR, IE, LU, NL, SE.

353 EE, HR, LU, NL.

354 BE, EE, LU, NL.

355 EE, FI, HR, NL, SE and NO.

356 EE, ES, FI, FR, IE (resettled children), IT, LU (resettled individuals have already been granted international protection status before entering the territory), SE.

357 NL.

358 BE, FR, IE (relocated children).

359 BE, EE, FR (education is compulsory for all children), LU, NL (all children are obliged to receive education).

360 BE, EE, FR (part of the Republican Integration Pathway), HR, IE, IT, LU, SE and NO.

# 7. TRANSITION INTO ADULTHOOD

There is no specific legal framework in EU or international law covering the situation of unaccompanied minors turning 18 years of age. While those young adults are no longer protected by the legal safeguards applicable to minors, they may not have the skills they need to live an independent life and fully integrate into society. The 2017 Communication encouraged Member States to provide guidance, support and opportunities for continued education and training to young people in that transitional

phase, in particular, for migrant children in State care (as is the case for EU national children in the same situation).

The consequences for unaccompanied children turning 18 years of age vary between Member States – or even between different municipalities and regions in the same Member State, as do the supports provided in the transition to adulthood.<sup>361</sup>



## 7.1. UNACCOMPANIED MINORS WHEN THEY TURN 18

Generally, when unaccompanied minors turn 18 years old (also known as care leavers), they are considered adults in migration procedures and can be returned if they do not have any legal grounds to stay in the Member State. The impact on their legal status of turning 18 typically depends on the type of residence permit applied for or granted to them as unaccompanied children. There are three main scenarios for unaccompanied children turning 18:

- **Unaccompanied children who are still in the asylum procedure when they turn 18** will – in some Member States<sup>362</sup> – begin to be treated as adults (i.e. accessing reception conditions), with the exception of the supports provided by most Member States to assist them as young adults in the transition to adulthood (see Section 7.3).
- In some Member States and Norway,<sup>363</sup> unaccompanied children are granted a **temporary residence permit for the sole fact of being unaccompanied children** so that when they reach the age of majority, permission to stay in the Member State is terminated, unless they have different grounds to stay (e.g. special needs, victims of trafficking, or change of status (education, employment, etc.)). In many cases, unaccompanied children are offered alternative ways to legalise their situation after they turn 18.<sup>364</sup> In Bulgaria, unaccompanied children who do not apply

for international protection or whose applications are rejected are given the possibility to legalise their situation on humanitarian grounds. In France, when turning 18, unaccompanied children can be granted a residence permit to pursue vocational training or employment, while in Italy, the temporary residence permit granted to these children can be converted into a study or work permit when reaching the age of majority. Two Member States<sup>365</sup> specifically reported that they do **not revoke residence permits granted to unaccompanied children who are entitled to stay due to their status as unaccompanied children on the grounds that they reached the age of majority alone**. In the Czech Republic, unaccompanied children who do not apply for international protection are usually granted a residence permit that can be further extended when they turn 18.

- If, **by the time unaccompanied children reach the age of majority, there are no legal grounds for them to stay in the Member State, they can be returned**.<sup>366</sup> Sweden and the Netherlands specified that when returning young adults, adequate reception in their countries of origin is no longer required. In Germany, after deportation has been suspended for four years, young adults under the age of 21 years who are well integrated in the country (e.g. successfully attended school in Germany) are given the opportunity to apply for a temporary residence permit.

<sup>361</sup> ES, NL, SE.

<sup>362</sup> AT, BE, BG, DE, EE, FI, IE, IT, LT, LU, MT, NL, PT, SE.

<sup>363</sup> BG, CZ, DE, ES, FR, IT, LT, SE, SK and NO.

<sup>364</sup> BE, BG, DE (unaccompanied minors do not receive a residence permit, but are tolerated according to Section 60a Residence Act. If the unaccompanied minor turns 18 and no other grounds to stay are given, they may be removed), ES, FI, FR, IT. In Sweden, the status can be retained if there are 'weighty reasons for cessation'.

<sup>365</sup> CZ, LU (outside the asylum system, unaccompanied children can only be granted a residence permit for private reasons or as victims of human trafficking).

<sup>366</sup> BE, EE, HR, LT, LU, LV, NL, SE, SK and NO.

### **Mechanisms for children to regularise their status at 18**

According to the Platform for International Cooperation on Undocumented Migrants (PICUM), residence status determination procedures that provide children and young people with secure long-term residence status (i.e. durable solution) are crucial to ensure that they fully enjoy all of their rights and to promote their wellbeing. Several EU countries have in-country residence procedures for undocumented children or young adults.

**France** has a number of regularisation mechanisms – provisions in law and policy – that entitle children to regularise their status at 18, based on private and family life. Criteria focus on the number of years of residence and schooling (different for different groups of children; including unaccompanied minors who can benefit from specific procedures). The

permit granted is for one year and is renewable; on renewal, it may be extended for four years. Some young people can acquire French nationality on similar grounds. A policy mechanism also allows parents to regularise their status. The local government (Prefecture) has the decision-making power in respect of residence permits, and extremely long waiting times at some Prefectures, together with fees, can be obstacles to regularisation and discourage some young people from applying.

A mechanism in the law in **Luxembourg** provides for regularisation of children and young people (before they turn 21), and their parents, if the child or young person has completed at least four years of compulsory schooling in Luxembourg, together with certain other conditions.

Source: PICUM<sup>367</sup>



## **7.2. ACCOMMODATION ARRANGEMENTS FOR UNACCOMPANIED MINORS TURNING 18**

In general terms, when unaccompanied children reach the age of majority, they are required to leave the child protection system, including childcare facilities<sup>368</sup> and the guardianship system.<sup>369</sup> In nine Member States and Norway,<sup>370</sup> **unaccompanied children in the asylum system** who reach the age of majority are generally moved to adult accommodation or private accommodation. By contrast, in Italy, unaccompanied children in the asylum system can remain in child accommodation for a period of six months after they turn 18, while, in the Slovak Republic, they can either stay in that care until

they have a decision on their asylum claim or move to adult accommodation.

Some Member States<sup>371</sup> allow for unaccompanied children who turn 18 years of age and have legal residence (or are in the asylum procedure) to **stay in child accommodation until they finish the school year**, and, in some cases, until they complete their vocational training or higher education studies.<sup>372</sup> Some forms of transitional housing are also foreseen for care leavers legally staying in some Member States<sup>373</sup> (see Section 7.3).



## **7.3. OTHER AFTER-CARE FOR UNACCOMPANIED MINORS TURNING 18**

Most Member States provide support for the transition to adulthood of unaccompanied children legally residing in the country. Twenty Member States and Norway provide support in the transition to adulthood for unaccompanied children recorded within the asylum procedure,<sup>374</sup> and 13 Member States<sup>375</sup> do so for unaccompanied children in other migration procedures who are legal residents in the country. Duration and types of support vary between Member States and even among different municipalities or regions.<sup>376</sup>

The majority of Member States<sup>377</sup> carry out a **care assessment** when unaccompanied children turn 18 (or a

few months before that) to evaluate their needs and develop an integration plan. Some Member States also have a monitoring system in place to regularly assess those needs.<sup>378</sup> In Sweden, the measures to be adopted for the transition into adulthood of unaccompanied children are assessed six weeks before reaching the age of majority and then again five weeks after they turn 18 to follow up on their accommodation situation, schooling and social/health situation.

Some Member States<sup>379</sup> and Norway begin to **organise the transition to adulthood a few years before unaccompanied children actually turn 18**. In Bulgaria,

367 PICUM (2018). Manual on regularisations for children, young people and families, available at: [https://www.picum.org/Documents/Public/2018/Regularisation\\_Children\\_Manual\\_2018.pdf](https://www.picum.org/Documents/Public/2018/Regularisation_Children_Manual_2018.pdf)

368 AT, BE, EL, IE, IT, LT, MT, NL, PT, SE and NO.

369 BE, CY, CZ, DE, EE, EL, ES, FI, FR, IT, LU, LV, NL, PT, SE, PL.

370 AT, BE, FI, IE, IT, LU, PT, SE, NL and NO.

371 BE (if they turn 18 after 1 April), EE, EL, IE IT, LV, LU (if they are in a regular situation) PL, PT, SK.

372 CZ, EE, ES, IT, PL, SK.

373 BE, BG, CY, CZ, EE, ES, FR, IT, LU, PT, SE, SK.

374 BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SE, SK and NO.

375 BE, BG, CY, CZ, DE, EE, ES, FR, HR, IE, IT, NL, SK.

376 BE, ES and SE.

377 BE, BG, CY, CZ, EE, ES, FI, FR, IT, LU, SE, HR, IE.

378 BE, EE, ES, FR, LU, NL, PT, SE.

379 BE (if they are granted international protection status), BG, EE, ES, FR, HU, PT, SK and NO.

the Slovak Republic, Portugal and Norway, the transition to adulthood may start at the age of 15, in Spain at the age of 16 and in France at the age of 17. At that time, unaccompanied children start to be introduced to an independent life, usually through placement in transitional housing or the provision of specific training and guidance. In other Member States,<sup>380</sup> this process starts some months (normally six months) before reaching the age of majority. In the Netherlands, it depends on the reception facility in which the unaccompanied child is staying. Housing facilities for minors who are 15+ are structured to develop their independence, while children under the age of 15 stay with a host family until they turn 18 and their process towards independence starts six months before they turn 18.

In most Member States and Norway,<sup>381</sup> after reaching the age of majority, unaccompanied children legally residing in the Member State still receive **support in finding**

**accommodation** or accessing transitional housing arrangements. Thirteen Member States<sup>382</sup> offer semi-independent housing arrangements or other forms of supported accommodation to unaccompanied children turning 18 years old. A number of Member States provide support in accessing **training, education and entering the labour market**,<sup>383</sup> as well as **financial assistance**<sup>384</sup> and **psychosocial support**.<sup>385</sup> Italy also foresees activities with a broader social scope (e.g. volunteering, theatre) to facilitate the integration of young adults, while Finland and Norway provide training on household activities.

**The duration of the transitional support** provided varies between the Member States, with a number allowing for the continuation of support until the age of 21,<sup>386</sup> while others<sup>387</sup> foresee the possibility to provide support for a longer period (until 25, 26 or 27 years old).<sup>388</sup>

<sup>380</sup> FI, LV.

<sup>381</sup> BE, BG, CY, CZ, EE, ES, FI, FR, HR, IE, IT, LU, NL, PL, SE, SK and NO. In LU, PL, SE, this kind of support is only provided to unaccompanied children recorded within the asylum system.

<sup>382</sup> BE (only where they have international protection status), BG, CY, CZ, EE, ES, FI, FR, IE, IT, LU (if the unaccompanied minor has been granted international protection status), PT, SE, SK.

<sup>383</sup> BE, BG, CY, CZ, EE, ES, FI, FR, HR, IT, PL, PT, MT, NL, SK, SE. In FI and PL, this kind of support is only provided to unaccompanied children recorded within the asylum system.

<sup>384</sup> BE, CY, EE, ES, IE (if the young person is in full-time education), LT (financial assistance is only offered to unaccompanied children seeking asylum), NL, PT, SK.

<sup>385</sup> BE, CY, EE, ES, FI, PL, PT, SK (if still accommodated in the Centre for unaccompanied minors). In FI and PL, this kind of support is only provided to unaccompanied children recorded within the asylum system.

<sup>386</sup> HR, FI, FR, IT, PT, SE.

<sup>387</sup> BE, CZ, DE, EE, IE (in certain circumstances) HU, PL, PT, SK.

<sup>388</sup> DE: support is provided until the age of 27 in individual justified cases; DE, SK: care leavers can be supported until they turn 27 (SK, if they study); BE, CZ: until they are 26 years old (only those in need of continued care); EE, PL, PT: until they are 25 years old; IE: some care leavers may access support while in full time education.



# 8. CROSS-CUTTING ACTIONS

The 2017 Communication highlighted that data on migrant children are very fragmented and not always comparable, hindering the identification of children's needs. The Commission encouraged Member States to

collect more detailed and disaggregated data on children in migration to inform policy development and make better use of child support services.



## 8.1. DATA ON CHILDREN IN MIGRATION

The information reported by Member States shows that the type of data collected on children in migration varies between Member States and categories of children, making it difficult to compare data across the EU.

More specifically, **all Member States collect data on the numbers of children applying for asylum**, while **18 Member States and Norway collect disaggregated data on whether children are accompanied or unaccompanied**.<sup>389</sup> Similarly, 14 Member States collect data on the number of unaccompanied children in the child protection system.<sup>390</sup> Belgium, Italy and Poland collect data on the date of arrival and departure from reception facilities, while Bulgaria and Estonia collect data on the number of children who are unaccompanied but were initially placed as adults or accompanied

Some examples of **the most frequently collected data on children in migration** include: name and surname,<sup>391</sup> age,<sup>392</sup> gender,<sup>393</sup> place of birth and country of origin,<sup>394</sup> nationality,<sup>395</sup> data on family members/family ties,<sup>396</sup> as well as data on the place of reception/address in the Member State.<sup>397</sup>

Eleven Member States also reported collecting data on **children who go missing or abscond from reception and care facilities**.<sup>398</sup> Several reported that they collect data on the children's level of education.<sup>399</sup>

Six Member States have implemented **centralised systems** for the collection of data on unaccompanied children.<sup>400</sup> Since 2017, Italy has introduced a National Information System for unaccompanied children, which allows the Ministry of Labour and Social Policy to keep track of these children from the moment they enter Italy until they reach the age of majority. Bulgaria, Italy and the Netherlands have all developed systems to better share data collected on children in migration among relevant authorities in the migration process. In Greece, a new ministerial decision was issued in 2019, providing a Registry of Unaccompanied Minors in Greece for the purpose of the protection of unaccompanied minors based in Greece. The National Centre of Social Solidarity is the competent actor for maintaining the Registry, to which actors such as the Special Secretariat of the Ministry of Migration and Asylum have access.



## 8.2. EU-FUNDED PROGRAMMES PRIORITISING THE PROTECTION OF UNACCOMPANIED MINORS AND/OR FAMILIES WITH CHILDREN

In the 2017 Communication, the Commission suggested that Member States should prioritise children

in migration under the AMIF and Internal Security Fund (ISF) national programmes. It also encouraged Member

389 AT, BE, BG, EE, FI, FR, HR, IE, IT, LT, LU, MT, NL, PL, PT, SE, SI, SK and NO.

390 BE, BG, CY, CZ, DE, EE, ES, FR, HR, IE, IT, PL, SE, SK.

391 BE, BG, CY, CZ, EE, EL, ES, FI, HR, IE, IT, LV, LT, LU, MT, NL, PL, SE, SI, SK.

392 AT, BE, BG, CY, CZ, EE, EL, FI, HR, IE, IT, LV, LT, LU, MT, NL, PL, SE, SI, SK.

393 BE, BG, CY, EE, EL, FI, HR, IE, IT, LV, LT, LU, MT, NL, SE, SI, SK.

394 BE, BG, CY, CZ, EE, EL, FI, HR, IE, IT, LV, LT, LU, MT, NL, SE, SI, SK.

395 AT, BE, BG, CY, CZ, EE, EL, FI, HR, IE, LV, IT, LT, LU, MT, NL, PL, SE, SI, SK.

396 BE, BG, EE, EL, IE, LT, LV, PL, SE.

397 BE, BG, CY, CZ, EE, EL, HR, IE, IT, LT, LV, NL, PL, SE.

398 BE, CY, CZ, EE, EL, FI, IE, IT, LU, NL, SE.

399 BG, EE, PL, SE.

400 EL, ES, FI, FR, IT, SE.

States to increase the use of other EU funds<sup>401</sup> to support reception, integration, education and training, and access to procedural safeguards of children in migration.

In 2019, less than half of the Member States made use of EU funding for programmes prioritising the protection of unaccompanied children and/or families with children.<sup>402</sup> Most of the EU funds came from AMIF,<sup>403</sup> with the Czech Republic and Italy also implementing projects prioritising the protection of unaccompanied children under the European Social Fund (ESF). Most Member States reported that the EU funding in 2019 went to projects supporting unaccompanied children recorded within the asylum system,<sup>404</sup> followed by accompanied children,<sup>405</sup> and unaccompanied children not applying for asylum but recorded within other migration procedures.<sup>406</sup> Only a small number of projects were accessible to separated children<sup>407</sup> and unaccompanied children not applying for asylum and who remain outside the migration protection system.<sup>408</sup>

Most of the projects receiving EU funding in 2019 aimed to promote the **integration** of asylum-seeking children<sup>409</sup> and migrant children in general (both accompanied and unaccompanied children) and, in some cases,<sup>410</sup> through educational support,<sup>411</sup> language courses<sup>412</sup> or sociocultural activities.<sup>413</sup>

A small number of Member States also used EU funding to improve the **reception** of children in the asylum system<sup>414</sup> and of unaccompanied children recorded within other migration procedures<sup>415</sup> through the construction of additional reception facilities, for example, or the

development of alternative care facilities for unaccompanied children.<sup>416</sup> Bulgaria used AMIF funds to build two safe areas for unaccompanied children in reception centres, and the 'Alternative Family Care II project' in the Netherlands, led by Nidos and co-financed by the European Commission, aimed to improve the reception of unaccompanied children by increasing the quality and quantity of family-based care in Belgium, Croatia, Cyprus, Greece and Italy.

In 2019, EU-funded projects in Member States provided **mental health services** and psychosocial assistance to children in the asylum system<sup>417</sup> or other migration procedures.<sup>418</sup> Finland and the Netherlands implemented a project to support the wellbeing of asylum-seeking families and unaccompanied children reunited with family members, respectively, while Belgium established a day clinic with a child psychiatric and trauma therapy offer for refugee children.

Five Member States used EU funds to support the **training** of professionals working with migrant children, including asylum officials, border guards, police officers, staff in reception facilities and guardians.<sup>419</sup> Belgium issued a guide on the 'children's right to be heard' for parents and legal guardians, developed with AMIF funding.

Other examples of areas receiving EU funding in Member States included the provision of information to children in the asylum system,<sup>420</sup> development of voluntary return programmes for families with children,<sup>421</sup> provision of assistance to local authorities with resettlement projects,<sup>422</sup> and facilitation of return for unaccompanied children.<sup>423</sup>

401 Including the ESF, the European Regional Development Fund (ERDF), the Fund for Aid to the Most Deprived, the Employment and Social Innovation programme (EaSI) and the Rights, Equality and Citizenship (REC) Programme.

402 BE, BG, CY, CZ, EE (programmes prioritised vulnerable groups in general, including unaccompanied minors and/or families with children), ES, FI, FR, IE, IT, NL, SE, SK.

403 BE, BG, CY, EE, EL, ES, FI, FR, IT, NL, PL, SE, SK.

404 BE, BG, CY, EE, ES, FI, FR, IT, LT, LV, NL, PL, SE, SK.

405 BE, BG, CY, EE, FI, FR, IE, IT, LT, LV, NL, PL, SE, SK.

406 BE, CY, EE, ES, FR, IT, LT, LV, NL, SK.

407 BG, CY, EE, IT, LT, LV, NL, SK.

408 CY, FR, IT.

409 BE, BG, CY, HR, IT, PL, SE, SK.

410 CY, IT, NL, SK.

411 CY, HR, IT, PL, SI, SK.

412 BG, CY, IT, PL, SI, SK.

413 BG, CY, HR, IT, PL, SK, SE.

414 BE, BG, CY, IT.

415 BE, IT.

416 BE, IT.

417 BE, BG, FI, FR, HR, NL.

418 FR, NL.

419 BE, EE, FR, IT, NL.

420 BE, EE, SK, SE.

421 FI.

422 IE.

423 ES, SE.





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Denmark [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/authorities/denmark\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/authorities/denmark_en)

Estonia [www.emn.ee](http://www.emn.ee)

Finland [www.emn.fi](http://www.emn.fi)

France <https://www.immigration.interieur.gouv.fr/Europe-et-International/Le-reseau-europeen-des-migrations-REM3/Le-reseau-europeen-des-migrations-REM>

Germany [www.emn-germany.de](http://www.emn-germany.de)

Greece <http://emn.immigration.gov.gr>

Hungary [www.emnhungary.hu](http://www.emnhungary.hu)

Ireland [www.emn.ie](http://www.emn.ie)

Italy [www.emnitalyncp.it](http://www.emnitalyncp.it)

Latvia [www.emn.lv](http://www.emn.lv)

Lithuania [www.emn.lt](http://www.emn.lt)

Luxembourg [www.emnluxembourg.lu](http://www.emnluxembourg.lu)

Malta <https://homeaffairs.gov.mt/en/mhas-information/emn/pages/european-migration-network.aspx>

Netherlands [www.emnetherlands.nl](http://www.emnetherlands.nl)

Poland [www.emn.gov.pl](http://www.emn.gov.pl)

Portugal <http://rem.sef.pt>

Romania [www.mai.gov.ro](http://www.mai.gov.ro)

Slovak Republic [www.emn.sk](http://www.emn.sk)

Slovenia [www.emm.si](http://www.emm.si)

Spain <http://extranjeros.empleo.gob.es/en/redeuropeamigracion>

Sweden [www.emnsweden.se](http://www.emnsweden.se)

Norway [www.emnnorway.no](http://www.emnnorway.no)