



APPROACHES TO UNACCOMPANIED MINORS FOLLOWING STATUS DETERMINATION IN THE EU PLUS NORWAY

EMN INFORM

Between 2014 and 2017, some **219 575** minors came to the EU plus Norway unaccompanied, i.e. without a parent or another adult responsible for them, to seek asylum. At the same time, at least another **48 591** minors came unaccompanied for other reasons,¹ though the number of those outside the asylum system remains largely **unknown**.

This inform summarises the results of the EMN study of the same title which explores the situation of unaccompanied minors (UAMs) **who have been granted a residence permit**

or issued a return decision, and the approaches established by the (Member) States to their integration or return during the period 2014-2017. The study also examines how the States deals with UAMs who cannot be returned immediately, or who turned to 18 years and the cases of UAMs' disappearances. To the extent possible, the study also presents comparable data on the scale of unaccompanied minors in the (Member) States at present, as well as over time (2014-2017), supplementing it with national statistics where available.

In the EU context, an unaccompanied minor is defined as “a third-country national or stateless person below the age of 18 years, who arrives on the territory of the (Member) States unaccompanied by the adult responsible for them by law or by the practice of the (Member) State concerned, and for as long as they are not effectively taken into the care of such a person.”² It includes minors who are left unaccompanied after they have entered the territory of the (Member) States.³ Furthermore, as legal majority is reached in all (Member) States at the age of 18 years, “unaccompanied minors approaching majority” are understood as those between 16 and 17 years of age.



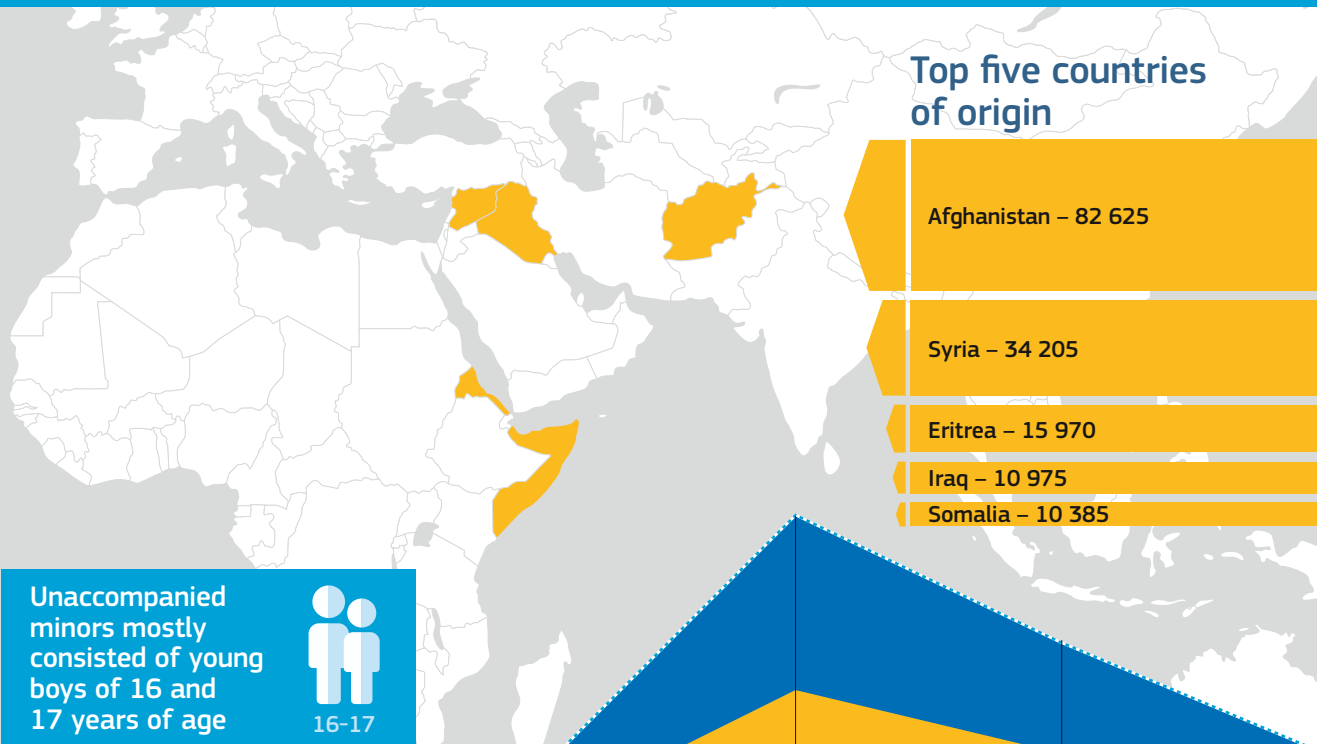
SCALE OF UNACCOMPANIED MINORS IN THE EU

It is difficult to assess the scale of unaccompanied minors in the EU. On the one hand, the number of unaccompanied minors seeking asylum in the EU increased dramatically in 2015, reaching a total of 99 995 minors (an increase of 315% in comparison to the previous year), before returning to **31 975**

in 2017.⁴ **Germany, Sweden, Italy, Austria** and **Hungary** received the highest numbers of minors applying for asylum in the EU over the 2014-2017 period. The majority of these minors were **boys** (89%). Most of them were **between the ages of 16 and 17 years** (65%), with only a small proportion being less than 14 years old. The main countries of origin of these minors in 2017 were **Syria, Afghanistan, Iraq, Eritrea** and **Somalia**.

- 1 Number of unaccompanied minors not seeking asylum as reported by six (Member) States in the 2017 EMN Study on Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway.
- 2 Charter of Fundamental Rights of the European Union, supra note 4, art. 24(2). See also Art. 2(l) of the Qualifications Directive (2011/95/EU).
- 3 EMN Glossary, Version 6.0, https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary/index_a_en. See also Art. 2(l) of the Qualifications Directive (2011/95/EU).
- 4 Eurostat indicator “Asylum applicants considered to be unaccompanied minors by citizenship, age and sex Annual data (rounded) [migr_asyunaa]” 2014-2017 (extracted on 25 April 2018).

Unaccompanied minors requesting asylum in the European Union and Norway 2014 – 2017



Numbers of unaccompanied minors applying for asylum

	2014	2015	2016	2017
Total	24 090	99 995	63 515	31 975
16 to 17 years	16 000	58 000	43 000	24 000
14 to 15 years	6 000	29 000	14 000	5 000
Under 14 years	2 000	12 000	6 000	2 000



11% of all unaccompanied minors were girls



Source: Eurostat

On the other hand, the number of unaccompanied minors who arrived in the EU and did not seek asylum is unknown – though limited data based on estimates in six (Member) States of minors in this situation suggests that their number is at least 48 591 over the 2014-2017 period. There is a general lack of comprehensive and comparable data on the numbers of and outcomes both for non-asylum seeking unaccompanied minors, and those minors seeking asylum in the EU.⁵



STATUSES TYPICALLY GRANTED TO UNACCOMPANIED MINORS BY (MEMBER) STATES

The majority of unaccompanied minors arriving in (Member) States are granted **refugee status or subsidiary protection**, and (Member) States provide (temporary) residence permits once a positive decision on the application has been taken.

Many (Member) States further grant national **alternative or temporary statuses** to unaccompanied minors, which are specific to each (Member) State, for example, a permit to stay based on humanitarian or medical reasons, or a form of individual protection for unaccompanied minors who have been victims of trafficking.



INTERNATIONAL AND EU LEGISLATION ON UNACCOMPANIED MINORS

The EU has been active in the area of unaccompanied minors for many years. This is reflected in the EU *acquis*, which provides a general framework for the protection of the rights of the child, whether unaccompanied or accompanied, in migration. The EU has incorporated aspects of the 1989 United Nations Convention on the Rights of the Child (CRC)⁶ and the 1951 United Nations Convention Relating to the Status of Refugees (the Refugee Convention)⁷ into its framework of policies and legislation. The CRC is the most important and nearly universally accepted international instrument with regard to the protection of the rights of children and the Refugee Convention additionally refers to the need to ensure protection of children, including unaccompanied ones, from the perspective of family unity.

In view of the scope of this study, the legislation adopted in the framework of the Common European Asylum System (CEAS) is particularly relevant as it includes specific provisions for (unaccompanied) minors, i.e. the Qualification Directive (COM(2016) 466 final), but also the recast Asylum Procedures Directive (2013/32/EU), Reception Conditions Directive (COM(2016) 465 final) and Return Directive (2008/115/EC) among others. Several non-legislative instruments also provide important guidelines for the care, integration and (possible) return of unaccompanied

minors, such as the EU Agenda on the Rights of the Child from 2006,⁸ the Action Plan on Unaccompanied Minors (2010-2014),⁹ the Conclusions of the Council on the protection of children in migration,¹⁰ the Communication from the Commission on the protection of children in migration (COM(2017) 211 final), the EU Action Plan on Integration of Third-Country Nationals (COM(2016) 377 final) and the renewed EU Action Plan on Return (COM(2017) 200 final).



LEGISLATIVE AND INSTITUTIONAL FRAMEWORK FOR UNACCOMPANIED MINORS AT NATIONAL LEVEL

In general, a variety of institutions, i.e. ministries, asylum agencies and local authorities, are responsible for unaccompanied minors at (Member) State level. **Local authorities in particular play a primary role in the care and integration of unaccompanied minors** and often act as guardians themselves. **Non-governmental organisations** (NGOs) also play an important role in providing (additional) support to unaccompanied minors, for example in the form of language courses, legal, social and/or psychological counselling and after-care services for aged out minors. A high number of different stakeholders are also involved in the (voluntary) return of unaccompanied minors, ranging from the Ministries of Interior and national Immigration offices to child-care services and NGOs.



CARE ARRANGEMENTS AVAILABLE FOR UNACCOMPANIED MINORS

(Member) States generally give **priority** to the care of unaccompanied minors, which commences immediately, i.e. prior to status determination. **All unaccompanied minors are entitled to the same care as other children looked after by the state**, though in a small number of (Member) States asylum- and non-asylum seeking minors may be cared for in separate accommodation facilities. Similarly, in a small number of (Member) States, those unaccompanied minors who have been granted a status may at this point be hosted in the general childcare facilities of the (Member) State.



ACCOMMODATION

Across the EU, **similar accommodation arrangements apply to all unaccompanied minors**, regardless of status. In general, (Member) States follow two different approaches to the accommodation of these minors: a general approach, whereby the unaccompanied minors are usually accommodated in children's centres from their arrival until

⁵ Excluding the limited data available at EU level presented in this Report.

⁶ Convention on the Rights of the Child, 20 November 1989, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

⁷ Convention Relating to the Status of Refugees, 28 July 1951, 189 UNTS 150.

⁸ EU Agenda on the Rights of the Child, http://ec.europa.eu/justice/fundamental-rights/rights-child/eu-agenda/index_en.htm

⁹ Asylum and Managed Migration, <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>.

¹⁰ Conclusions of the Council of the European Union and the representatives of the governments of the Member States on the protection of children in migration, Brussels, 8 June 2017, <http://data.consilium.europa.eu/doc/document/ST-10085-2017-IN1/en/pdf>

Reception and care during status determination



Accommodation in special facilities for minors or foster families



Guardians appointed by (Member) States to act in the best interests of the child



Enhanced **integration** plans in about half of the (Member) States



Tailored **healthcare** services in some (Member) States



Automatic access to **education** within the mainstream school system with a personalised learning plan granted in most of the (Member) States



Limited access to **employment** in line with national legislation



More favourable **family reunification** conditions



Social welfare assistance



Preparation of an **independence plan** to become autonomous

adulthood, and a staged approach, whereby they are first accommodated in initial **'bridge' facilities** and then transferred to general care facilities where they stay until they turn 18 years. In line with EU law, both those who have applied or been granted international protection, and those who may have obtained another status are accommodated in **facilities specifically for minors or with special provisions for minors**, usually a form of residential care in group settings. About half of the (Member) States also place unaccompanied minors in family type of care with **foster parents**. Many (Member) States further provide independent accommodation (in rented apartments) for teenagers to support their autonomy. About a third of the (Member) States additionally have **specific facilities catering to the needs of child victims of trafficking**.



GUARDIANSHIP

In line with EU law, most (Member) States appoint a **representative to all unaccompanied minors** in the form of a guardian and/ or another representative prior to status determination. As with accommodation, similar guardianship arrangements apply to all unaccompanied minors, irrespective of status and usually under the same guardianship system as for other looked-after children. About a third of (Member) States assign a temporary representative to the unaccompanied minor upon arrival, followed by the appointment of a guardian upon arrival in the care facility or upon status determination. Guardians are usually appointed through a court order and entrusted to a single entity (e.g. the child and youth welfare office), or to an assigned individual.



INTEGRATION OF UNACCOMPANIED MINORS, INCLUDING RIGHTS THAT FOLLOW ON FROM STATUS DETERMINATION

In general, (Member) States attribute **high importance to the integration of unaccompanied minors**. This is reflected in

policy documents, such as national action plans, and also in the relevant legislation, which often leaves unaccompanied minors with better integration perspectives than accompanied children. The **legal status of the unaccompanied minor influences the integration trajectory in about half of the (Member) States**, with those granted international protection usually benefiting from more favourable conditions.



HEALTHCARE

(Member) States provide **access to healthcare to asylum-seeking unaccompanied minors and those granted international protection in line with the respective EU legislation under similar conditions as their own nationals**. In most (Member) States, this includes emergency treatment and basic medical care, and in many cases additional specialised medical care and counselling where needed. Efforts are also made to **tailor the healthcare** provided to the specific needs of the unaccompanied minor by undertaking an individual assessment, mostly shortly after the unaccompanied minor arrives in the country. These provisions usually also apply to those unaccompanied minors not seeking asylum and/ or granted another status (than international protection) in the (Member) State.



EDUCATION

In line with the EU *acquis*, the vast majority of (Member) States grant **automatic access to education to all unaccompanied minors irrespective of their legal status** and under the same right as nationals. Education is usually provided within the mainstream schooling system, although around half of the (Member) States organise preparatory (language) classes to prepare the unaccompanied minor for regular school. An **education plan** is usually developed for each unaccompanied minor following an individual assessment of their needs.



(SUPPORT TO) EMPLOYMENT

In terms of employment, all (Member) States guarantee **access to the labour market for unaccompanied minors granted international protection under the same terms as for nationals**, in line with the Qualification Directive. A third of (Member) States grant unaccompanied minors in possession of a residence permit automatic access to the labour market, while others implement stricter policies, for example by requiring an authorisation to work. In line with the limitations imposed on the employment of minors in general, **access to employment for unaccompanied minors is limited in all (Member) States**, for example by a minimum working age, maximum working hours and the types of jobs that minors can undertake. Only a minority of (Member) States have **special programmes** in place to support unaccompanied minors in accessing the labour market.



FAMILY REUNIFICATION

As laid out by the Family Reunification Directive, **unaccompanied minors who are refugees benefit from more favourable family reunification conditions**, with almost all (Member) States recognising the right of these minors to act as sponsors for family reunification with their parents. In practice, (Member) States generally apply similar family reunification rules to unaccompanied minors with subsidiary protection status (as for refugees).

Nevertheless, a number of (Member) States have recently implemented changes to their family reunification policies, for example, by introducing a waiting period between the moment the sponsor-unaccompanied minor is granted subsidiary protection status and the application for family reunification.



SOCIAL WELFARE SUPPORT

Unaccompanied minors are generally entitled to **social welfare assistance**, with **accommodation and the basic needs usually being provided either at reception centres or by foster families**. Other types of social welfare support is also foreseen by (Member) States, however, the conditions to benefit from these schemes vary across countries and depend on the type of residence permit the unaccompanied minor has been granted, the needs of the minor or on other elements, such as enrolment in an education or training programme.



EXPIRATION OF A TEMPORARY RESIDENCE PERMIT FOR THE CARE AND INTEGRATION OF UNACCOMPANIED MINORS

In nearly all (Member) States, the **expiration of a temporary residence permit does not affect the care arrangements for unaccompanied minors**. This stands in **contrast to integration measures**, for which only one (Member) State stated that the expiration of a temporary residence

permit does not have an impact on the access to integration measures. A few (Member) States noted that lawful residence is a necessary requirement to access integration measures.



UNACCOMPANIED MINORS WHEN THEY TURN 18 YEARS OLD

The specific situation of an (unaccompanied) minor turning 18 years old, meaning that the safeguards for children no longer apply, is not covered under international, nor EU law. Nevertheless, about a third of (Member) States prepare an **independence plan** to support the unaccompanied minor in becoming autonomous, or accommodate the minors in special facilities which encourage their independence prior to the transition to adulthood. Such measures generally apply to all children leaving state care, including unaccompanied minors.

Upon **receiving a positive decision** on status and a permit to stay, the former unaccompanied minors have the option of moving to (adult) accommodation centres in practice, or they can look for private accommodation, usually in the same municipality where they were housed initially. In many cases, former unaccompanied minors can stay in the same accommodation until the end of the school year, or they can continue to receive after-care and integration support up to a certain age, as long as they are in full-time education or training. This can range from 19 to 27 years, depending on the (Member) States' after-care system. After-care supports rarely include any formal follow-up arrangements in lieu of guardianship, which ceases automatically in most cases when an unaccompanied minor turns 18 years, though some guardians may continue to maintain a form of informal contact, depending on their individual relationship with the former unaccompanied minor.

Upon **receiving a final negative decision on status, unaccompanied minors turning 18 years are usually expected to fulfil their return obligation** in about half of the (Member) States. In practice, former unaccompanied minors continue to receive some form of accommodation and care until their departure from the (Member) State.

In terms of integration support, **reaching the age of majority can have significant implications for access to and provision of integration measures**. With the exception of unaccompanied minors with an international protection status, access to healthcare can be limited to emergency healthcare for those with an alternative status. As regards education, all (Member) States allow unaccompanied minors with a residence permit to continue and complete primary and/ or secondary education until they turn 18 years (or reach the respective compulsory school age). Such access is possible up to a certain age, ranging from 20 to 26 years as reported by several (Member) States. Once 18 years old, the special rights and limitations related to access to employment due to their age of minority cease to apply and unaccompanied minors enjoy the same rights as other third-country nationals under the same immigration status, including access to incentive measures for unemployed or immigrants.



RETURN OF UNACCOMPANIED MINORS

Except in two cases, most (Member) States foresee by law the possibility to **issue a decision on the return** of an unaccompanied minor. In line with the EU *acquis*, the return process for unaccompanied minors is based on the **assessment of the best interests of the child** which is to be consistently taken into consideration when issuing a return decision and when enforcing it, including assuring the right of the child to be heard, involving appropriate bodies in the process, and ensuring adequate reception conditions in the place of return.

As mandated by the Return Directive, the option of **forcibly returning unaccompanied minors** is largely permitted across (Member) States, though in practice nearly half of them do not carry out forced returns, unless in exceptional cases. This is often because *de facto* the removal is considered not to be in the best interests of the child and/ or conditions for the return of the unaccompanied minor cannot be met. Similarly, all (Member) States give the opportunity to children to **access assisted voluntary return (and reintegration) programmes**. However, the number of assisted voluntary returns is also low because usually unaccompanied minors do not express any interest in returning and, in the few instances when they do so, the conditions for the return are only rarely met, such as obtaining the consent of the family, guaranteeing the safety of the child and making sure adequate reception conditions exist in the country of origin.



ENFORCEMENT OF RETURN DECISIONS AND ARRANGEMENTS MADE BY (MEMBER) STATES BEFORE, DURING AND AFTER DEPARTURE

As the return of unaccompanied minors rarely occurs, only very limited information on the enforcement of return decisions is available. When returning an unaccompanied minor, the procedure prior to return largely consists of ensuring adequate reception and handover in the country of arrival. This is done by all (Member) States who returned unaccompanied minors, through for example family tracing, as well as assessment of reception facilities conducted in cooperation with local consulate services and partners. Few (Member) States also provide **pre-departure counselling** to the minor and his/ her legal guardian and/ or social worker. During the return, all (Member) States appoint an escort to accompany the minor during the travel. **Reintegration assistance** is provided by most (Member) States, while only a minority foresee the provision of reintegration assistance in case of forced return of unaccompanied minors.



ALTERNATIVES TO RETURN IN PLACE FOR UNACCOMPANIED MINORS

For those unaccompanied minors who cannot be returned, (Member) States adopted various **alternatives to return** ranging from granting a tolerated status or temporary residency until the return can be carried out, to setting out a pathway towards long-term regularisation and thereby offering a right to stay in the (Member) State.



DETERMINATION OF THE BEST INTERESTS OF THE CHILD WITH REGARD TO THE CARE, INTEGRATION AND RETURN OF UNACCOMPANIED MINORS

(Member) States all consider the best interest of the child when it comes to the care, integration or return of unaccompanied minors. However, few of them have specific laws, policies or practices in place to guide this process when applying care or integration measures. Around half of the (Member) States have legal or policy provisions mandating the obligation to assess the best interests of the child during the return procedure.

Regarding care, the relevant facilities in most (Member) States draft an **individual care plan** in line with the unaccompanied minor's specific needs. In relation to integration, around a quarter of (Member) States pointed to **the special responsibility of the legal guardian** to ensure that the best interests are taken into account when applying integration measures. For unaccompanied minors in the return process, the assessment of the best interests of the child is to be consistently taken into consideration when issuing a return decision and when enforcing it, and includes assuring the right of the child to be heard, involving appropriate bodies in the process, and ensuring adequate reception conditions in the place of return, among others.



PROVISIONS IN PLACE TO PREVENT THE DISAPPEARANCES OF UNACCOMPANIED MINORS FROM CARE FACILITIES OR FOLLOWING RETURN DECISIONS

Despite the lack of official statistics regarding the number of unaccompanied minors disappearing from care facilities or following a return decision, some **10 000 migrant and refugee children went missing in 2017 after arriving in Europe**.¹¹ Estimates provided by (Member) States suggest that the number of unaccompanied minors disappearing from

¹¹ Missing Children Europe, 2017. Europol confirms the disappearance of 10 000 migrant children in Europe. <http://missingchildreneurope.eu/news/Post/1023/Europol-confirms-the-disappearance-of-10-000-migrant-children-in-Europe>

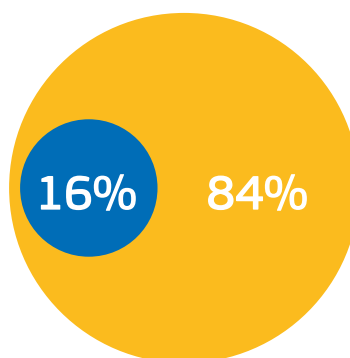
Unaccompanied minors after status determination

16% negative decisions

Very few minors are **forcibly returned** to their country of origin

Assisted Voluntary Return and Reintegration programmes are available for children, but conditions for their implementation are rarely met

In some (Member) States, minors are granted a **tolerated status**, a **temporary residence permit** or the possibility of **regularisation**



84% positive decisions

Guardianship is provided to the minor until 19 to 27 years of age

After care support and accommodation is provided until 19 to 27 years depending on the (Member) State

Source: National data provided by EMN NCPs, 2014-2017



More than 30 000 migrant and refugee children are estimated to have gone missing after their arrival in Europe. The majority disappeared before having filed an asylum application or during the asylum procedure.

Source: National data provided by EMN NCPs, 2014-2017

care facilities and/ or following a return decision varies significantly. In most cases, unaccompanied minors disappeared within the first couple of days after arrival, i.e. before having applied for asylum or another status. This may either be because the unaccompanied minors seek to reach another country as their 'final' destination and/ or because they fear receiving a negative asylum decision. Disappearances linked to instances of trafficking in human beings are underreported in the (Member) States.

(Member) States do not have a comprehensive set of measures in place to prevent disappearances. Where preventative measures are in place, they mostly consist of preventative counselling to inform the unaccompanied minor about the potential risks associated with disappearing from care facilities. In addition, tracing procedures and emergency hotlines have been put in place in several (Member) States. Most (Member) States follow a standardised procedure to report incidents of unaccompanied minors disappearing from care facilities and following a return decision, which involves informing the relevant childcare, social and immigration services, and the police of the disappearance of the minor. In some (Member) States, the disappearance of minors may result in their status or permit to stay being terminated or withdrawn.



MAIN CHALLENGES (MEMBER) STATES FACE IN RELATION TO UNACCOMPANIED MINORS FOLLOWING STATUS DETERMINATION

A common challenge reported in the fields of care, integration and return of unaccompanied minors is the **lack of specialised and trained staff**. In particular, there is room for significant improvement with regard to accommodation and guardianship arrangements, for example by providing

appropriate training of staff and guardians, to ensure a similar level of care and supervision is provided to the minors regardless of the municipality they are hosted in. **Language barriers** form the most significant challenge in the education, and in turn integration, of unaccompanied minors, coupled with insufficient resources to provide courses in line with their special needs. In terms of return, **meeting the requirement for return**, as laid down by the Return Directive, appears to pose the greatest challenge across (Member) States. Specific challenges include obtaining parental consent and determining the age and identity of the minor – issues which are further hampered where cooperation with the respective country of origin may be limited for a range of reasons. The most common challenge mentioned by (Member) States in relation to preventing and responding to disappearances of unaccompanied minors include the **lack of a standardised action plan and coordination strategy between national and cross-border authorities**, which results in losing track of the unaccompanied minors' whereabouts.



FULL STUDY PUBLICATION

European Migration Network (2018). Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway – Synthesis Report. Brussels: European Migration Network.

https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/studies_en



Keeping in touch with the EMN

EMN website www.ec.europa.eu/emn

EMN LinkedIn page <https://www.linkedin.com/company/european-migration-network/>
#EMN10years

EMN National Contact Points

Austria www.emn.at

Belgium www.emnbelgium.be

Bulgaria www.mvr.bg

Croatia www.emn.hr

Cyprus www.moi.gov.cy

Czech Republic www.emncz.eu

Denmark https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/authorities/denmark_en

Estonia www.emn.ee

Finland www.emn.fi

France www.immigration.interieur.gouv.fr/Europe-et-International/Le-reseau-europeen-des-migrations-REM2

Germany www.emn-germany.de

Greece www.ypes.gr

Hungary www.emnhungary.hu

Ireland www.emn.ie

Italy www.emnitalyncp.it

Latvia www.emn.lv

Lithuania www.emn.lt

Luxembourg www.emnluxembourg.lu

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

Netherlands www.emnnetherlands.nl

Poland www.emn.gov.pl

Portugal https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/authorities/portugal_en

Romania www.mai.gov.ro

Slovakia www.emn.sk

Slovenia www.emn.si

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

Sweden www.emnsweden.se

United Kingdom https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/authorities/united-kingdom_en

Norway www.emnnorway.no