European Commission

Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway

Synthesis Report for the EMN Study

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Disclaimer

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The Study was part of the 2017 Work Programme for the EMN.

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Explanatory note

This Synthesis Report was prepared on the basis of national contributions from 26 EMN NCPs (**Austria, Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom** and **Norway**) collected via a Common Template developed by the SE NCP and EMN NCPs to ensure, to the extent possible, comparability.

National contributions were largely based on desk analysis of existing legislation and policy documents, reports, academic literature, internet resources and reports and information from national authorities rather than primary research. The listing of (Member) States* in the Synthesis Report following the presentation of synthesised information indicates the availability of relevant information provided by those (Member) States in their national contributions, where more detailed information may be found and it is strongly recommended that these are consulted as well.

Statistics were sourced from Eurostat, national authorities and other (national) databases.

It is important to note that the information contained in this Report refers to the situation in the above-mentioned (Member) States in the period 2014-2017 and specifically, the contributions from their EMN National Contact Points.

EMN NCPs from other (Member) States could not, for various reasons, participate on this occasion in this Study, but have done so for other EMN activities and reports.

* The use of "Member" between brackets reflects the participation of Norway as non-Member State in the study.

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EXECUTIVE SUMMARY

This Synthesis Report presents the main findings of the 2017 EMN Study *Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway*. The study covers the period 2014-2017, thereby following up on previous EMN research on unaccompanied minors. It may serve to inform further the approaches of EU Member States plus Norway to the protection of unaccompanied minors following status determination and to inform action on this at EU level.

Aim and scope of the study

The study aims to explore the situation of unaccompanied minors **who have been granted a residence permit or issued a return decision**, and in turn, the approaches established by (Member) States to their integration or (voluntary) return. The study also covers unaccompanied minors who cannot be returned immediately and may be granted a temporary status, such as tolerated stay, at least in some (Member) States. Any measures taken by (Member) States with regard to disappearances of unaccompanied minors from care facilities and/ or following a return decision are also covered. The study further highlights the **special situation of those unaccompanied minors who are approaching the age of 18 years** and any transitional arrangements made by (Member) States to support them. The situation of unaccompanied minors who are still in a status determination procedure is also covered in some instances. 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.

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. **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**.

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." It includes minors who are left unaccompanied after they have entered the territory of the (Member) States. 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.

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.

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) and the 1951 United Nations Convention Relating to the Status of Refugees (the Refugee Convention) 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, the Action Plan on Unaccompanied Minors (2010-2014), the Conclusions of the Council on the protection of children in migration, 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 adulthood, and a staged approach, whereby they are first accommodated in initial **'bridge' facilities** and then transfered 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 accomodated 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.

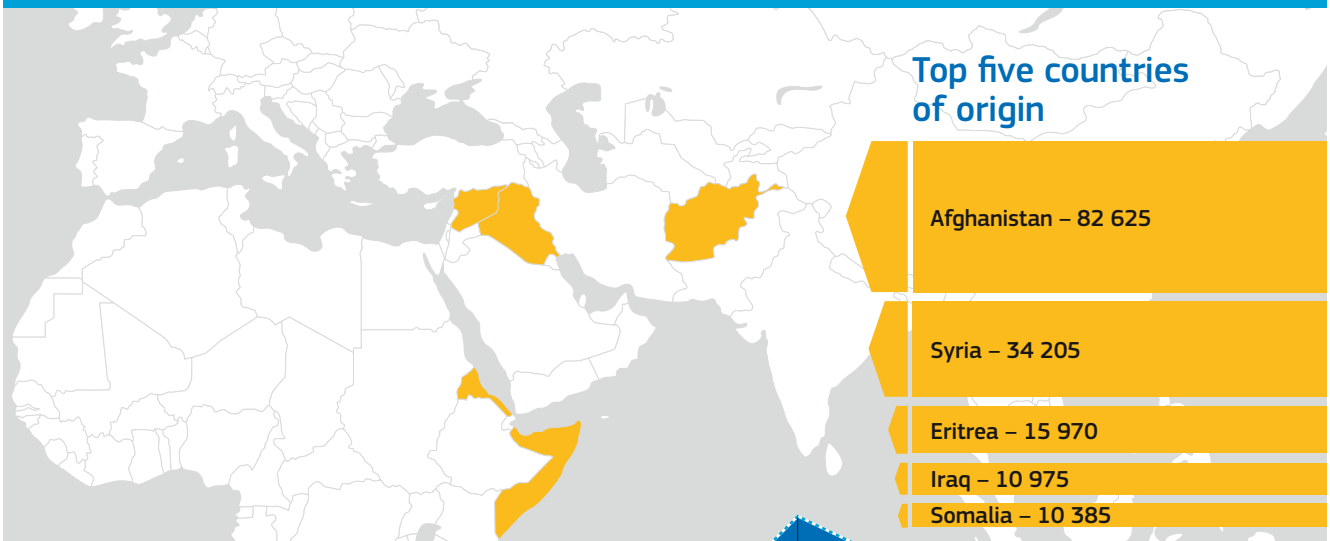
Integration of unaccompanied minors, including rights that follow on from status determination

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

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



Top five countries of origin

- Afghanistan – 82 625
- Syria – 34 205
- Eritrea – 15 970
- Iraq – 10 975
- Somalia – 10 385

Unaccompanied minors mostly consisted of young boys of 16 and 17 years of age

16-17

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

Top five destination countries

- Germany – 71 675
- Sweden – 45 065
- Italy – 22 540
- Austria – 15 500
- Hungary – 10 860

Source: Eurostat

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

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

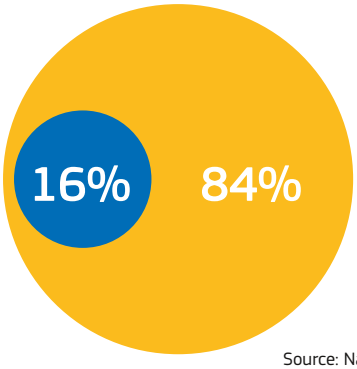
Unaccompanied minors after status determination

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

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**. Estimates provided by (Member) States suggest that the number of unaccompanied minors disappearing from 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.

1. INTRODUCTION

This Synthesis Report presents the main findings of the 2017 EMN Study *Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway*. The study aims to explore the situation of unaccompanied minors who, following status determination, are entitled to a residence permit or issued a return decision, and the approaches put in place by the EU Member States plus Norway to ensure their integration or (voluntary) return.

The study covers the period 2014-2017 and aims to follow up on previous EMN work on unaccompanied minors.[1] However, this study does *not* cover the asylum or other status determination procedures in which the right of an unaccompanied minor to stay in a (Member) State is examined and decided upon.

The study further aims to provide 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.

1.1. DEFINITION AND SCOPE OF THE STUDY

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 being 16 to 18 years old.

To the extent possible, a general distinction has been made between the following groups of unaccompanied minors in the study:

- Unaccompanied minors who have applied for and may be granted international protection, i.e. refugee and/ or subsidiary protection status, and
- Unaccompanied minors who are not seeking asylum but may be granted an alternative status/ permit to stay.
- Unaccompanied minors who have been granted an international protection, humanitarian or other status.

The study also considers:

- Unaccompanied minors who cannot be returned immediately and may be granted a temporary status, for example, tolerated stay, at least in some (Member) States;
- Unaccompanied minors turning 18 years of age around the point in time when they receive a final decision on status, or former unaccompanied minors who have reached the age of adulthood but are legally affected by regulations applying to unaccompanied minors, and
- Unaccompanied minors who have absconded following a final (negative) decision on their application for status.

The situation of unaccompanied minors who are still in a status determination procedure is also covered in some instances, for example, when it comes to the care of these minors which starts from the moment an unaccompanied minors is identified on EU territory.

1.2. EU POLICY AND LEGISLATIVE CONTEXT

The most important and nearly universally accepted international instrument with regard to the protection of the rights of children is the 1989 United Nations Convention on the Rights of the Child (CRC).[4]

The EU has incorporated aspects of the CRC into its own framework of policies and legislation, stipulating legal standards relating to economic, social, cultural, civil and political rights of children as articulated in the CRC. The 1951 United Nations Convention Relating to the Status of Refugees (the Refugee Convention)[5] additionally refers to the need to ensure protection of children, including unaccompanied ones, from the perspective of family unity.

1 For example, the 2014 EMN study Policies, Practices and Data on Unaccompanied Minors in the EU Member States and Norway, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_policies_practices_and_data_on_unaccompanied_minors_in_the_eu_member_states_and_norway_synthesis_report_final_eu_2015.pdf
2 Charter of Fundamental Rights of the European Union, *supra* note 4, art. 24(2).
3 EMN Glossary, Version 3.0, https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary/index_a_en
4 Convention on the Rights of the Child, 20 November 1989, http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx
5 Convention Relating to the Status of Refugees, 28 July 1951, 189 UNTS 150.

The vulnerable situation of unaccompanied minors – mostly asylum-seeking unaccompanied minors, but also child victims of trafficking – is addressed by a number of EU legal acts (see Annex 1), some of which have undergone changes in recent years as part of the reform of the Common European Asylum System (CEAS), notably:

- Proposal for a Regulation of the European Parliament and the Council establishing a common asylum procedure in the Union and repealing Directive (2013/32/EU) (COM(2016) 467 final);
- Proposal for a Regulation of the European Parliament and Council 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 and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (COM(2016) 466 final);
- Proposal for a Directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast) (COM(2016) 465 final);
- The proposal for the reform of the Dublin Regulation (COM(2016) 270 final);
- Proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' (COM(2016) 272 final);
- Family Reunification Directive (2003/86/EC);
- Return Directive (2008/115/EC), and
- Anti-Trafficking Directive (2011/36/EU).

The EU also adopted an Agenda for the Rights of the Child,[6] dating back to 2011, and an Action Plan on Unaccompanied Minors (COM(2010) 213 final) for the period 2010-2014. Building on progress made under this Action Plan, the European Commission's most recent Communication on the protection of children in migration (COM(2017) 211 final) further calls for a comprehensive approach to all children in migration, including unaccompanied minors. All of these activities have been instrumental in raising awareness about the protection needs of unaccompanied minors and in promoting protective actions, such as training for guardians, public authorities and other actors who are in close contact with unaccompanied minors.

1.3. SCALE OF THE PHENOMENON OF UNACCOMPANIED MINORS IN THE EU PLUS NORWAY

The total number of asylum applications by unaccompanied minors in the EU plus Norway increased from 24 090 in 2014 to 99 995 in 2015 (an increase of 315%), 63 515 in 2016 and returning to 31 975 in 2017.[7] This increase broadly follows the increased influx of asylum-seekers into the EU in 2015 and 2016.

Over the period 2014-2017, the top five countries of origin of unaccompanied minors applying for asylum in the EU plus Norway were Syria, Afghanistan, Iraq, Eritrea and Somalia (Table 1.1).

Between 2014 and 2017, the largest number of unaccompanied minors applying for asylum arrived in **Germany** (a total of 71 675 asylum applications lodged), followed by **Sweden, Italy, Austria** and **Hungary** (Figure 1.1).

The majority of unaccompanied minors applying for asylum are boys (Figure 1.2), constituting 89% of all asylum applications (196 405 out of 219 575) in the EU plus Norway between 2014 and 2017. The largest number of asylum applications were lodged in 2015, with 90 830 asylum applications lodged by boys and 8 655 asylum applications, by girls.

More than half of the unaccompanied minors (65%) who applied for asylum in the period 2014-2017 in the EU plus Norway were between 16 and 17 years of age, followed by the age group 14 to 15 years (25%) (Figure 1.3).

Table 1.1: Total number of unaccompanied minors applying for asylum per country of origin, top five, 2014-2017

	2014	2015	2016	2017
Afghanistan	5 800	47 370	23 990	5 465
Syria	3 060	17 240	11 990	1 915
Eritrea	3 635	5 890	3 330	3 115
Iraq	380	5 195	4 155	1 245
Somalia	2 180	3 670	2 765	1 770

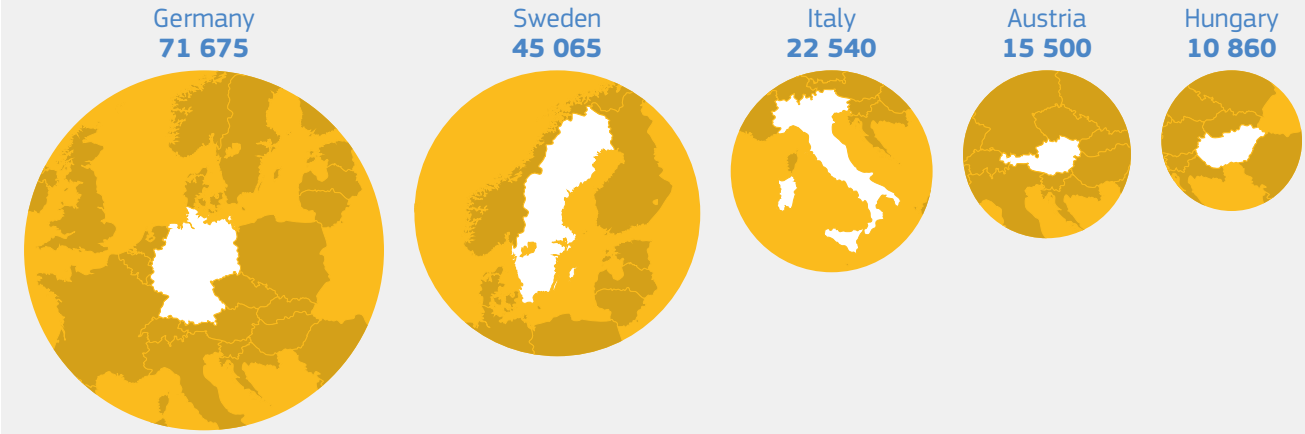
Source: Eurostat, 2014-2017*

* 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).

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

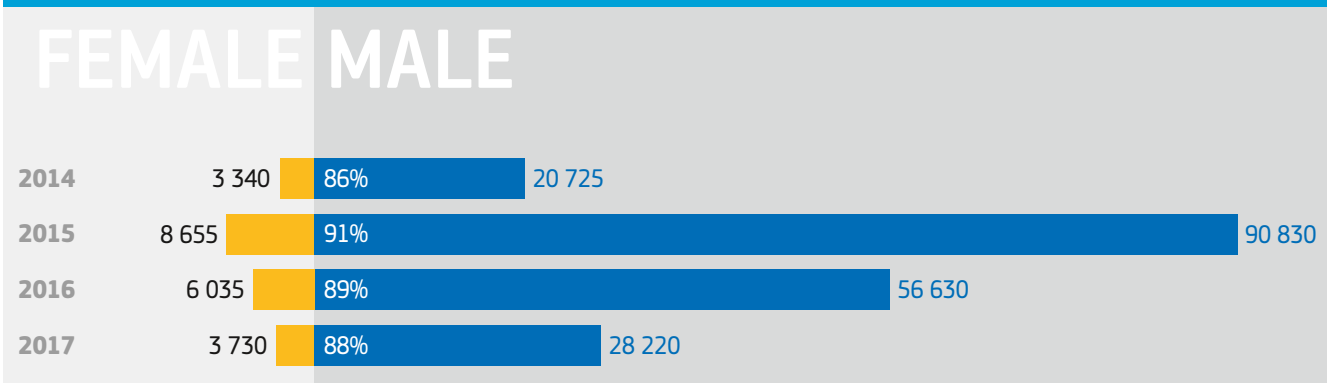
7 Eurostat indicator "Asylum applicants considered to be unaccompanied minors by citizenship, age and sex Annual data (rounded) [migr_asyunaa]" 2014-2017 (extracted on 25 April 2018).

Figure 1.1: Total number of unaccompanied minors applying for asylum per (Member) State between 2014-2017, top five (Member) States



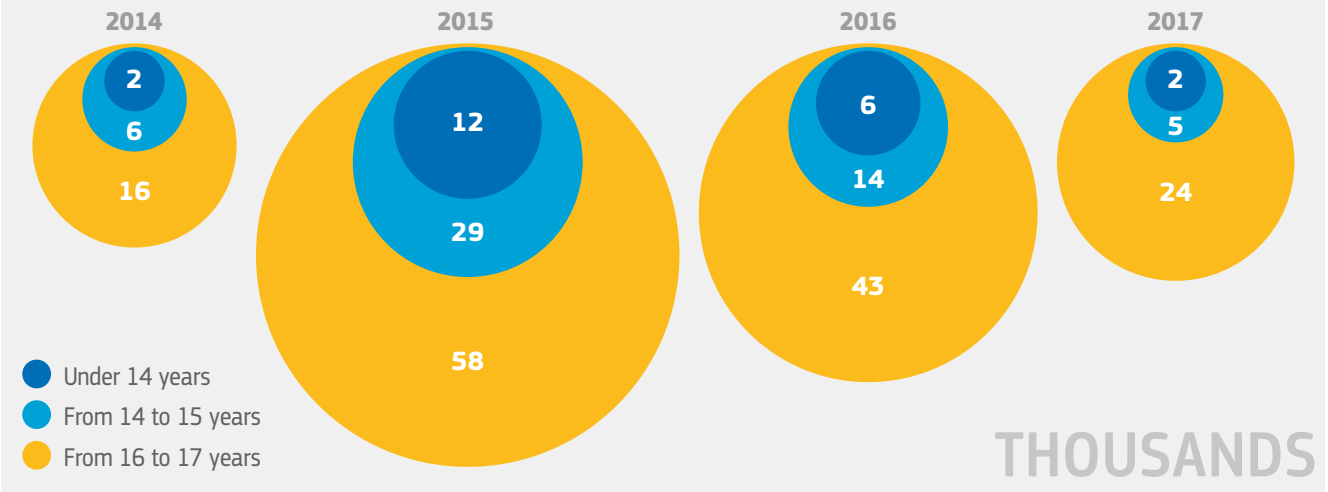
Source: Eurostat, 2014-2017*

Figure 1.2: Number of unaccompanied minors seeking asylum by gender in the EU plus Norway



Source: Eurostat, 2014-2017*

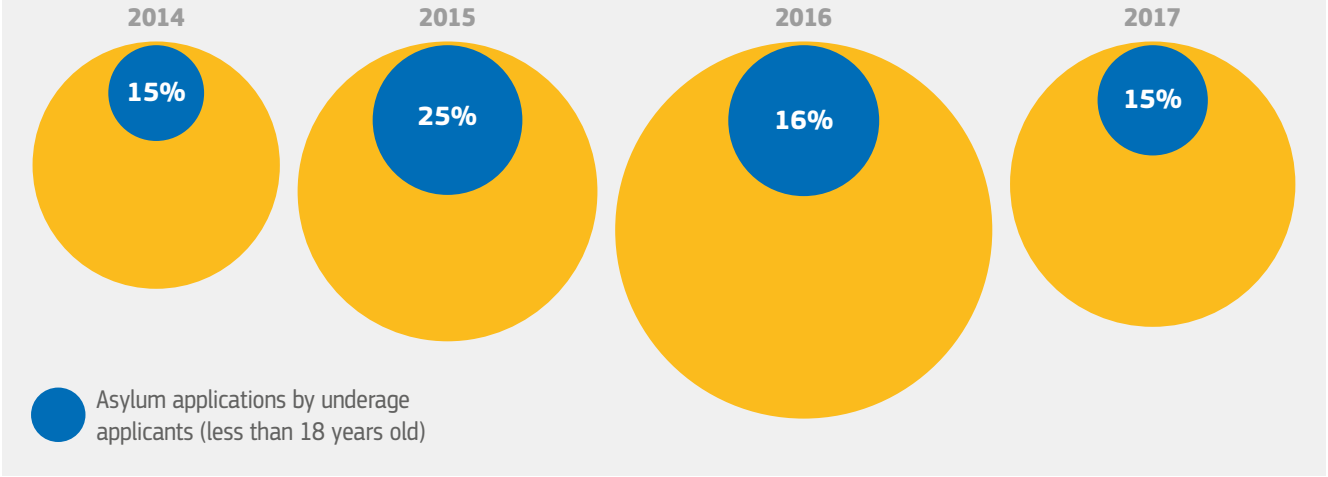
Figure 1.3: Number of unaccompanied minors applying for asylum in EU plus Norway, by age



Source: Eurostat, 2014-2017*

* 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).

Figure 1.4: Percentage of asylum applications lodged by unaccompanied minors (under the age of 18) out of total asylum applications



Source: Eurostat, 2014-2017*

* 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).

Table 1.2: Total number of positive decisions on international protection applications and/ or applications for another status filed by unaccompanied minors,[8] 2014-2017[9]

MS	2014	2015	2016	2017
AT[10]	n/a	1 018	1 458	949
BE	399	487	1 124	1 541
BG	940	1 816	2 769	252
DE[11]	1 129	2 626	8 274	19 408
EE	0	0	0	0
EL[12]	75	95	82	188
FI	64	112	1 570	213
FR	121	154	274	n/a[13]
HR	1	1	4	6
HU	606	8 685	n/i	119
IE	7	4	6	10

MS	2014	2015	2016	2017
LT[14]	5	3	1	1
LU[15]	6	4	14	8
LV	1	13	3	11
NL[16]	710	1 640	2 150	530
PT	12	42	17	20
SE[17]	3 372	3 205	7 049	5 916
SI	65	42	244	388
SK[18]	11	3	2	11
UK	906	1 289	1 524	1 100
NO[19]	716	1 083	1 928	619

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

8 No data available for HR, IT, MT, PL.
9 Please note that discrepancies may exist between Table 1.2 (positive decisions on applications for status) and Table 1.5 (types of statuses granted to unaccompanied minors) in some cases, e.g. data may relate to international protection outcomes only in some (Member) States, whilst in other (Member) States data may include other statuses granted. Therefore, comparison between the data provided by (Member) States may be limited.
10 Data for 2017 is for the whole of 2017 and they are provisional; therefore, revisions of the numbers can be expected.
11 Data include entitlement to asylum, recognition of refugee status, subsidiary protection and the removal bans.
12 Data at first instance covering the period 7.6.2013 to 30.04.2018.
13 Data for 2017 were not yet available when the study was published.
14 Data for 2017 is for the whole of 2017.
15 Dublin cases, etc. are excluded.
16 Data for 2017 is until June 2017.
17 Data include successful appeals in the Migration Courts.
18 The number of accepted applications equals the overall number of all applications lodged by unaccompanied minors.
19 Data include unaccompanied minors given temporary permits until 18 years of age. Data for 2017 is for the whole of 2017.

Table 1.3: Total number of negative decisions on international protection applications and/ or applications for another status filed by unaccompanied minors, 2014-2017[20]

MS	2014	2015	2016	2017
AT[21]	n/a	976	1 414	458
BE	367	219	420	1 004
BG	19	16	29	167
DE[22]	326	191	479	4 473
EE	0	0	0	0
EL[23]	230	176	649	1 233
FI	3	2	141	21
FR	174	176	132	n/a
HR	2	1	0	2
HU	n/a	n/a	n/a	n/a
IE[24]	3	3	3	0
LT[25]	0	0	0	0
LU[26]	19	12	21	15
LV	1	8	1	1
NL[27]	150	150	660	440
PT	2	1	4	5
SE[28]	117	69	100	120
SI	3	7	7	7
SK	0	0	0	2
UK	364	641	427	276
NO[29]	34	27	150	89

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

Table 1.4: Estimated number of unaccompanied minors not seeking asylum, 2014-2017[30]

MS	2014	2015	2016	2017
CZ[31]	22	65	39	19
EE	1	3	1	0
IT	11 600	9 900	20 500	6 200
LT	50	25	23	12
LV	8	25	30	3
SK	10	20	21	14

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

Between 2014 and 2017, applications for asylum lodged by unaccompanied minors constituted less than one fourth of the total number of asylum applications lodged by all applicants under the age of 18 during that period (Figure 1.4).

Comparative data on the estimated number of unaccompanied minors *not* seeking asylum is not systematically available across the EU, due to methodological issues preventing the accurate measurement of such data in some (Member) States.[32] Based on estimates provided by six (Member) States, at least 48 591 minors came unaccompanied for other reasons (than seeking asylum) (Table 1.4).

1.4. RECENT CHANGES TO LAW, POLICY AND/ OR PRACTICE IN (MEMBER) STATES

Unaccompanied minors have gained considerable attention and shaped public and political debate in most Member States and Norway in recent years. Issues which emerged from the public debate in some (Member) States relate to the lack of reception capacity in particular following the higher influx of asylum seekers in 2015;[33]

20 No data available for CZ, HR, IT, MT, PL.
21 Data for 2017 is for the whole of 2017 and they are provisional; therefore, revisions of the numbers can be expected.
22 Data include rejections and formal conclusions of procedure.
23 Data at first instance covering the period 7.6.2013 to 30.04.2018.
24 Data are unavailable on the number of decisions made in relation to permission to remain for unaccompanied minors.
25 Data for 2017 is for the whole of 2017.
26 Rejected applications include rejections via the normal and accelerated procedure. Dublin cases, etc. are excluded.
27 Data for 2017 is until June 2017.
28 Data are based on first instance decisions, excluding Dublin cases.
29 Data for 2017 is for the whole of 2017.
30 Some of these unaccompanied minors not seeking asylum will have subsequently been granted some form of legal/ residence status by the (Member) States. As well, an estimate of unaccompanied minors not seeking asylum may be available based on a different measurement in other (Member) States. For example, since 2013 in FR, it is possible to get a precise understanding of the number of placement measures for unaccompanied minors made by the judicial authority.
31 Data refer to the total number of unaccompanied minors who came to the specialised Facility for Children of Foreign Nationals during the 2014-2017 period. Therefore, data might not represent the total number of minors not applying for asylum, as there might be cases which are not included in these figures, or cases which include children who had previously applied for international protection in another (Member) State.
32 For example, the total number of referrals of unaccompanied minors, which includes those not seeking asylum, to the social work team with national responsibility for separated children are recorded in IE, however the numbers of children who subsequently apply for asylum or another legal status are not disaggregated in national statistics.
33 BE, DE, FI, FR, HU, LU, SI, UK.

age assessment;[34] the successful integration of minors;[35] tracing and reunification with family members;[36] the ethics of forced return;[37] and the increased number of disappearances by unaccompanied minors.[38]

Many (Member) States made changes to their policies, legislation and/ or practices concerning unaccompanied minors.[39] Some introduced new policy/ legislation affecting unaccompanied minors, for example: **France**, where the Law of 14 March 2016 regarding the protection of the child and its implementing regulatory text led to a National Procedure for Protecting, Assessing and Guiding Unaccompanied Minors, giving a legal basis to the geographic dispersal system; and **Italy**, where the Law of 7 April 2017 specifically dedicated to unaccompanied minors introduced a series of amendments to the current framework for unaccompanied minors, strengthening the protective instruments guaranteed by law and seeking to ensure greater uniformity in the application of the provisions throughout the territory. Others amended the legal statuses that can be granted to unaccompanied minors,[40] such as **Finland** which removed the status of humanitarian protection from the Aliens Act as a national residence permit category. Other (Member) States introduced new rules on return applicable to (former) minors, such as **Sweden**, where third-country nationals, including young adults from 18 years of age, who do not comply with an enforceable return decision and return voluntarily, lose their daily allowance and accommodation.

A number of (Member) States implemented changes to strengthen aspects of the care and/ or after-care arrangements for unaccompanied minors, with eleven (Member) States[41] in particular improving the reception/ accommodation arrangements for unaccompanied minors. Nevertheless, some (Member) States highlighted a lack of available appropriate accommodation facilities for unaccompanied minors, notably **Greece**, where a 2016 law stipulated that unaccompanied minors seeking asylum can be detained for the safe referral to appropriate accommodation facilities for a period not exceeding 25 days. In exceptional circumstances (e.g. significant increase in arrivals of unaccompanied minors) and despite reasonable efforts by competent authorities, this may be prolonged for another 20 days but, in practice, the period that unaccompanied children spend in detention is longer than laid down in legislation.

The legislative basis for provisions of after-care services (i.e. for former unaccompanied minors who have reached the age of majority) was strengthened in some (Member) States for example, in **Estonia** and **Poland**, where if an unaccompanied minor has obtained a legal ground to stay, local authorities must ensure continued care to minors who are in third-level education and have reached the age of majority. Since 2017, in **Ireland**, social workers are obliged to undertake an assessment of needs to determine the provision of after-care services for most children in care who are approaching the age of 18 years. Some (Member) States additionally introduced a requirement for care/ after-care workers to provide proof of professional qualifications.[42]

Several (Member) States have improved aspects of their integration policies applicable to unaccompanied minors. For example, in **Austria**, mandatory integration counselling was introduced in 2016, while in **Germany** in the same year, integration was promoted by widening access to vocational training schemes and financial support during training. Access is however often restricted to young refugees holding a residence permit or to asylum applicants with good prospects to remain in Germany. **Finland** is undergoing a general integration reform,[43] in **Latvia**, access to language training for unaccompanied minors, who have been granted the status of refugee or alternative status was facilitated in 2016.

Finally, some (Member) States have made changes[44] to family reunification rules and conditions applicable to unaccompanied minors. For example, in **Austria**, amendments to the Asylum Act 2005, the Aliens Police Act 2005 and the Federal Office for Immigration and Asylum Procedures Act entered into force in 2016, including partly modified provisions governing the reunification of parents with unaccompanied minors. According to these changes, family members of beneficiaries of subsidiary protection status are entitled after three years to apply for an entry permit to allow family reunification. In **Slovenia**, the Foreigners Act was amended in 2014, transposing the concept of family reunification for beneficiaries of international protection, including unaccompanied minors.

1.5. STATUSES TYPICALLY GRANTED TO UNACCOMPANIED MINORS BY (MEMBER) STATES

Even though comparable data are not available on asylum-seeking versus non-asylum seeking unaccompanied minors, it appears that most of those who arrive in the EU plus Norway are granted refugee status or subsidiary protection. With the exception of two (Member) States[45] that only grant long-term or permanent residence permits to unaccompanied minors, (Member) States generally foresee the possibility for the individual to obtain a temporary residence permit.[46] When this permit expires, the possibility to renew it mainly depends on two aspects: the age (i.e. whether the unaccompanied minor has become of age) and the grounds on which the permit was granted.

34 AT, DE, FI, LU.
35 DE, FI, FR, IE.
36 FI, LV.
37 MT, NL, SE.
38 AT, DE, LU, NL.
39 HU, CZ, PT and UK did not report any legislative changes.
40 BG, FI (humanitarian protection status was previously granted to both adult asylum-seekers and unaccompanied minors).
41 AT, BE, DE, FI, IE, LU, LV, NL, SE, SI, NO.
42 SK.
43 In FI, the legislation on integration will be reformed to correspond to the upcoming general regional reform. The new counties will have the responsibility for arranging the care and accommodation of unaccompanied minors granted a residence permit.
44 AT, DE, IE, SI.
45 BG, MT.
46 Except for FI which grants continuous residence permits of a fixed-term nature to most unaccompanied minors.

Table 1.5: Total number of permits to stay issued to unaccompanied minors, by the status of the minor, 2014-2017[47]

	Total number of permits to stay issued to unaccompanied minors, by type[48]				
MS	Type of permit	2014	2015	2016	2017
AT[49]	***Total***	***n/a***	***1 018***	***1 458***	***949***
	Refugees	n/a	481	673	242
	Beneficiaries of subsidiary protection	n/a	473	728	697
	Humanitarian protection	n/a	64	57	10
BE[50]	***Total*** – *special, durable solution procedure for unaccompanied minors*	***147***	***217***	***183***	***196***
	Temporary residence permit (A card, 1 year)	40	66	76	81
	Permanent residence permit (B card)	30	22	17	14
	Immatriculation certificate for 6 months (whilst awaiting the decision for a durable solution)	77	129	90	101
BG	***Total***	***114***	***176***	***26***	***44***
	Refugees	95	146	14	22
	Humanitarian protection	19	30	12	22
CZ	***Total***	***n/a***	***n/a***	***n/a***	***n/a***
EE	***Total***	***n/a***	***n/a***	***n/a***	***n/a***
	Temporary residence permits issued for participation in criminal proceedings	0	2	0	0
EL[51]	***Total***	***75***	***95***	***82***	***188***
	Refugees	51	73	65	161
	Beneficiaries of subsidiary protection	24	22	17	27
FI	***Total***	***64***	***112***	***1 570***	***213***
	Beneficiaries of subsidiary protection	37	43	454	85
	Convention status	8	31	228	59
	Humanitarian protection	2	6	2	0
	Residence permit on compassionate grounds	16	32	886	69
	Residence permit on other grounds	1	0	0	0
HR	***Total***	***n/a***	***n/a***	***n/a***	***n/a***
	Refugee status	0	0	4	1
	Beneficiaries of subsidiary protection	1	0	0	5
	Temporary residence under humanitarian grounds	n/a	n/a	n/a	n/a
HU	***Total***	***20***	***31***	***20***	***8***
	Refugees	6	11	3	0
	Beneficiaries of subsidiary protection	8	9	14	8
IE[52]	***Total***	***7***	***4***	***6***	***38***
	Refugees	6	4	5	10
	Beneficiaries of subsidiary protection	1	0	1	0
	Programme Refugee Status (granted to unaccompanied minors accepted under the Calais Special Project 2017)	n/a	n/a	n/a	28

47 Please note that discrepancies may exist between Table 1.2 (positive decisions on applications for status) and Table 1.5 (types of statuses granted to unaccompanied minors) in some cases, e.g. data may relate to international protection outcomes only in some (Member) States, whilst in other (Member) States data may include other statuses granted. Therefore, comparison between the data provided by (Member) States may be limited.

48 No data available for DE, FR (where unaccompanied minors are not required to hold a residence permit, due to their age and isolation from their families), HR, MT, PL, PT.

49 Data for 2017 is for the whole of 2017 and they are provisional; therefore, revisions of the numbers can be expected.

50 Data refer to residence permits issued in the context of the durable solution procedure for unaccompanied minors and the immatriculation certificates for 6 months whilst awaiting the decision for a durable solution. The Immigration Office does not disaggregate data on humanitarian and medical regularisation by age. Data also exclude international protection (provided in Table 1.2).

51 Data cover the period from 7.6.2013 to 30.04.2018.

52 Data is unavailable on other statuses/ permits granted to unaccompanied minors.

MS	Total number of permits to stay issued to unaccompanied minors, by type[48] Type of permit	2014	2015	2016	2017
IT	***Total***	***n/a***	***n/a***	***n/a***	***4 919***
	Refugees	n/a	n/a	n/a	299
	Beneficiaries of subsidiary protection	n/a	n/a	n/a	215
	Humanitarian protection	n/a	n/a	n/a	4 405
LT[53]	***Total***	***n/a***	***n/a***	***n/a***	***n/a***
	Refugees	0	0	0	1
LU[54]	***Total***	***5***	***4***	***14***	***15***
	Refugees	4	4	12	8
	Beneficiaries of subsidiary protection	1	0	2	0
	Private reasons based on humanitarian reasons of exceptional gravity	0	0	0	7
LV	***Total***	***n/a***	***n/a***	***n/a***	***n/a***
	Refugees	0	1	0	0
NL[55]	***Total***	***710***	***1 640***	***2 150***	***530***
	Refugees	n/a	n/a	n/a	n/a
	Beneficiaries of subsidiary protection	n/a	n/a	n/a	n/a
	Other or unknown	30	70	60	10
SE[56]	***Total***	***3 372***	***3 205***	***7 049***	***5 916***
	Refugees	1 540	1 460	2 106	1 620
	Beneficiaries of subsidiary protection	1 202	1 147	3 851	3 775
	Humanitarian protection	589	566	967	327
	Temporary permit	4	11	150	122
	Other	101	107	235	242
SI	***Total***	***0***	***0***	***16***	***3***
	Refugees	0	0	4	2
	Beneficiaries of subsidiary protection	0	0	12	1
SK	***Total***	***3***	***0***	***6***	***11***
	Asylum on humanitarian grounds (national status)	1	0	1	2
	Tolerated stay	2	0	5	9
UK[57]	***Total***	***900***	***1 289***	***1 519***	***1 098***
	Asylum	487	420	620	779
	UASC leave	380	809	828	284
	Humanitarian protection or discretionary leave	33	60	71	35
NO	***Total*** – *all countries of origin*	***716***	***1 083***	***1 928***	***619***
	Protection	495	674	1 000	111
	Other protection	132	16	3	0
	Humanitarian grounds	38	41	2	2
	Temporary until 18 years of age	12	11	299	338

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

53 Data for 2017 is for the whole of 2017.
54 Data represent persons to whom a residence permit was granted after an application for international protection as an unaccompanied minor. Data is unavailable on those minors outside of the context of applications for international protection.
55 Data represent the number of applications for asylum by unaccompanied minors by type of status granted. The category other/ unknown represents data entry errors. Data represent final decisions. Data for 2017 is until June 2017.
56 'Humanitarian' refers to permits issued due to "particularly distressing circumstances" *[synnerligen ömmande omständigheter]* according to the Aliens Act. 'Temporary' refers to temporary residence permits issued due to non-permanent impediments to enforcement (which can be issued to unaccompanied minors who are 16 years of age or older). 'Other' includes rejected applications with an instruction of deferred enforcement (issued to minors who are 17,5 years of age or older).
57 UASC leave is temporary leave until the unaccompanied minor is 17 and a half. Grants are based on first instance decisions.

In general, the residence permit of an unaccompanied minor will be renewed on the same grounds as initially granted,[58] or on the basis that he/ she is pursuing studies in the country.[59] In some (Member) States, notably **France**, due to their age, unaccompanied minors are not required to hold a residence permit at all: when a third-country national has been recognised as a minor and unaccompanied, he/ she is covered by common law on child welfare, enabling him/ her to be cared for and provided with social, educational and legal protection until the age of 18 years.

Former unaccompanied minors, who have reached 18 years of age, in some (Member) States then have the possibility to apply for a residence permit on the general grounds that apply to third-country nationals (e.g. education, employment, humanitarian reasons) and their situation is assessed on an individual basis.[60] In these cases, the education and degree of integration of the former minor acquired in the host country are taken into account to inform the decision.

In general, the following (national) statuses granted by (Member) States to unaccompanied minors can be distinguished:[61]

- Special residence permit for (unaccompanied) minors on account of their age.[62]
- Temporary residence in the form of specific residence procedures until a durable solution for the unaccompanied minor is found, which may include family reunification in the country where the parents have legal residence, a return to the country where the unaccompanied minor has legal residence and where adequate reception is available, or a settlement in the destination country.[63]
- (Temporary) residence permits for unaccompanied minors who have been victims of trafficking in human beings.[64]
- (Temporary) residence permits for specific reasons, such as humanitarian or medical reasons.[65]
- Temporary residence permits for unaccompanied minors who cannot return to their home country because their lives are potentially at risk.[66] In the **United Kingdom**, for example, a child which is under the age of 17 ½ and who has applied for asylum but been refused refugee status and humanitarian protection will be granted a form of limited leave if there are no adequate reception arrangements in the country to which they would be returned.[67] This kind of leave is called unaccompanied asylum-seeking child (UASC) leave despite the child no longer being a UASC because their asylum claim has been refused. This type of leave is granted for a period of 30 months or until the child turns 17 ½. In **Slovenia,** an unaccompanied minor whose application for international protection has been rejected or who did not apply for asylum in the first place, may be permitted to stay on the basis of a temporary authorisation, following the request of his/ her guardian.
- Limited residence permit for unaccompanied minors due to undocumented identity on the grounds of strong humanitarian considerations or a connection with the destination country in question.[68]
- Tolerated stay for unaccompanied minors who have exhausted all legal remedies but are still underage and need to wait for return,[69] or for those who cannot be returned to their country of origin due to the provisions of Art. 10 of the Return Directive (see Section 4).[70]
- Where relevant, the status of stateless person for unaccompanied minors,[71] this is for example the case since 2016 in **Bulgaria,** following an amendment to the Foreigners in the Republic of Bulgaria Act.

1.6. UNACCOMPANIED MINORS TURNING 18

Neither international, nor EU law refers to the specific situation when an (unaccompanied) minor becomes 18 years of age, when the legal safeguards for children no longer apply. The international and EU legal framework does not foresee any transition rules, leaving this largely to (Member) States' discretion. The special circumstances of unaccompanied minors approaching the age of majority, along with the implications of such a transition to adulthood for their care, integration or return, are thus explored in this study.

Generally, unaccompanied minors turning 18 who have been issued a final negative decision on their application for status are expected to fulfill their return obligation in about half of the (Member) States.[72] In practice, some (Member) States continue to care for these young adults in (adult) accommodation facilities until the moment the return decision is operationally enforced.[73] Those turning 18 years who have been issued a positive decision on status and a permit to stay in the (Member) State in many cases also have the option of moving to (adult) accommodation facilities in practice, where they can stay and continue to receive after-care and integration support up to a certain age.[74]

Normally, (Member) States provide care services and support in the framework of an individual care plan drawn

58 BE, FI (mainly beneficiaries of international protection), LT, LU, LV (beneficiaries of international protection).
59 DE, EE, LV, SE, SI.
60 BE, CZ, EE, ES, FI (concerning those granted a residence permit on compassionate grounds), HR, LT, SI, SK.
61 This does not represent an exhaustive list.
62 IT.
63 BE, CZ, PL.
64 AT, BE, DE, EE, FI, HR, IE, LU, LV, NL, PL.
65 AT, BE, DE, EE, FI (continuous (fixed-term) residence permits on compassionate grounds), IE, NL, LU, LV, PL, SE, SK.
66 LT, LV, NO, SE, UK.
67 For more information, please see http://www.childrenslegalcentre.com/resources/uasc-leave/.
68 NO.
69 AT, BE, CZ, PL, SK (grants tolerated stay immediately in order to determine the residence status of the minor).
70 DE.
71 BG.
72 AT, BE, BG, DE, HR, CZ, EE, FI, HU, LU, PL, SE, SK, UK, NO.
73 DE (in certain circumstances), FI, LU, NO.
74 AT (in certain circumstances), BE, DE (in certain circumstances), FI, FR, HR, LU, LT, MT, NO.

up for the unaccompanied minor by the legal guardian and/ or social worker.[75] In some cases, (Member) States additionally prepare after-care or integration plans,[76] to determine the supports and services required by the soon-to-be aged-out unaccompanied minors prior to leaving care. Such plans are usually prepared and/ or reviewed six months[77] or less prior to the minors reaching the age of majority.[78]

Some (Member) States prepare unaccompanied minors for independent life through specific activities in reception/ care facilities,[79] or by offering special accommodation options for minors aged 15 to 17 years,[80] which help them to increase their independence through, for example, less supervision staff, or the possibility for unaccompanied minors to prepare their own meals or do their own shopping. In other cases, a few months prior to reaching the age of majority, care service and/ or social workers will discuss the transition arrangements with unaccompanied minors, including after-care and integration support, such as accommodation, education and/ or training, healthcare, etc.[81]

One of the most common after-care transition measures provided by (Member) States includes accommodation. Where available, the age until which former unaccompanied minors can benefit from accommodation and/ or after-care services provided by the state ranges from 19 to 27 years.[82] Other forms of after-care transition measures include needs assessments for former unaccompanied minors,[83] and access to integration support and social benefits.

1.7. STRUCTURE OF THE REPORT

In addition to this introduction (Section 1), the Synthesis Report consists of the following sections:

- Section 2: Care arrangements for unaccompanied minors, including after-care of unaccompanied minors turning 18;
- Section 3: Integration of unaccompanied minors, including transitional arrangements for unaccompanied minors turning 18;
- Section 4: Return of unaccompanied minors;
- Section 5: Disappearances of unaccompanied minors from care facilities or following a return decision;
- Section 6: Conclusions;
- Annex 1: Overview of the international and EU legislative framework on unaccompanied minors.

75 AT, BG, CZ, DE, EE, FI, HU, IE, LU, LV, NL, PL, SI. In IE, the individual care plan is drawn up for the unaccompanied minor by the social worker, in conjunction with the unaccompanied minor.
76 CZ, FI, FR, IE, SI, SK.
77 IE.
78 CZ, FI, FR, IE, HU, LV, PL, SK. In IE, legislation provides that aftercare plans for children leaving care should be prepared at least 6 months prior to the age of 18, however, this varies in practice in relation to unaccompanied minors.
79 AT, BE, CZ, FI, FR.
80 BE, BG (not in practice), CZ, DE, EE, FI, FR, IE, LV, PL, SE, UK (minors aged 16-17 years). In DE such options are available, but there is an increasing demand for facilities of this type.
81 AT, CZ, DE (in certain circumstances), HR, HU, IE, LU, LV, MT, NL, PL, SE.
82 AT, BE, CZ, DE (in certain circumstances), FI, FR, HR, IE, LT, PL, SE, SK, UK, NO.
83 EE, IE, NO.

2. CARE ARRANGEMENTS FOR UNACCOMPANIED MINORS, INCLUDING AFTER-CARE FOR UNACCOMPANIED MINORS TURNING 18

2.1. EU PROVISIONS ON CARE OF UNACCOMPANIED MINORS

At EU level, the care of unaccompanied minors is, for those who seek (and may be granted) international protection, regulated by the recast Asylum Procedures Directive,[84] the recast Reception Conditions Directive,[85;86] and the recast Qualification Directive,[87] and for those who have been trafficked, the Anti-Trafficking Directive.[88]

Under the recast Reception Conditions Directive (Art. 24(2)) and recast Qualification Directive (Art. 31(3)), asylum-seeking unaccompanied minors and those granted international protection should be placed in special reception or accommodation facilities where their needs can be attended to, with adult relatives or with a foster family. Staff working with unaccompanied minors must have followed (and continue to follow) specific training (Art. 24).

(Member) States are further required by the recast Asylum Procedures Directive (Art. 25), the recast Reception Conditions Directive (Art. 24(1)) and the recast Qualification Directive (Art. 31(1)) to appoint a representative or guardian, as soon as possible, to represent and assist the unaccompanied minor, for example, during the examination of the application, or from the moment international protection is granted. The Anti-Trafficking Directive prescribes that (Member) States must also ensure that, where appropriate, a guardian is appointed to unaccompanied minors who are victims of trafficking from the moment the minor is identified by the authorities. The representative or guardian needs to act in the best interests of the child and have the necessary expertise to this end and can only be changed under exceptional circumstances.

Finally, the recast Reception Conditions Directive stipulates that, when deciding on housing arrangements, the best interests of the child must be a primary consideration for (Member) States (Art. 23). If in their best interest, those aged 16 years or older can be placed in accommodation facilities for adult applicants. The representative must also ensure the best interests of the child (Art. 24).

2.2. GENERAL OVERVIEW OF CARE ARRANGEMENTS AND ORGANISATIONAL SET-UP IN THE (MEMBER) STATES

(Member) States generally give priority to the care of unaccompanied minors: the care of unaccompanied minors starts immediately, from the moment the child is identified on the territory of the (Member) State and irrespective of whether his/ her legal/ residence status has been determined.[89] Furthermore, across the EU, the care of these minors is integrated within the general childcare system of (Member) States, which means that an unaccompanied minor is entitled to the same care as any other child looked after by the state. In addition, some (Member) States have specific provisions addressing the care of unaccompanied minors in general policy or legislation,[90] for example, **Austria**'s Basic Welfare Support Agreement contains provisions on accommodation for unaccompanied minors specifically. Other (Member) States prioritise the care of unaccompanied minors during certain procedures,[91] for example, this is the case upon unaccompanied minors' entry at the border in **Hungary**, whereby those seeking asylum and under the age of 14 years are transferred (from the transit zones) to children's homes.[92]

84 Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, OJ L 180.
85 Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, OJ L 180.
86 IE and the UK have not opted-in to the Reception Conditions Directive.
87 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.
88 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.
89 AT, BE, CZ, DE, EE, FI, FR, HU, IE, IT, LT, LU, LV, MT, NL, SI, SK, UK, NO.
90 AT, BE, DE, EE, FI, FR, NL, UK.
91 HU, LU, NO.
92 Unaccompanied minors between the ages of 14 and 18 years are moved to children's homes in Hungary as soon as they are granted status as a refugee, beneficiary of subsidiary protection or tolerated person.

With a few exceptions,[93] the care of unaccompanied minors does not depend on the legal/ residence status of the minor. In some (Member) States, unaccompanied minors are cared for within the general youth welfare system, regardless of their status (in the same way as children with EU citizenship are taken into care).[94]

But some (Member) States, such as **Austria** first provide 'basic welfare support' to asylum-seeking minors and those granted asylum for a period of up to 4 months, followed by 'child and youth welfare' for minors recognised as refugees or beneficiaries of subsidiary protection.[95] In fact, **Austria** and **Belgium** apply different stages of care to unaccompanied minors, which means that asylum- and non-asylum seeking minors may be accommodated in separate facilities.[96]

2.2.1. The best interests of the child with regard to care

In principle, when an (unaccompanied) minor is taken into care, an individual care plan is drafted in line with his/ her specific needs.[97] However, only in a few (Member) States, following a positive decision on status of the unaccompanied minor, there is specific legislation or a procedure in place to determine what is in the best interests of the child in relation to the individual care provided to them.[98] General guidance on the best interests of the child is provided in most (Member) States' general child care or other legislation (e.g. social code, family code).[99] Some (Member) States have additionally included guidance on the best interests of the child in immigration legislation.[100] In many cases, the person responsible for overseeing the child's best interests is either the guardian, or a social worker.[101] **Bulgaria**, **Ireland** and **Poland**[102] highlighted that, in practice, there was a lack of clarity around the procedure for defining and determining the best interests of the child in the care planning process. In **Bulgaria** and **Ireland**, there is additionally a lack of guidelines for professionals working with unaccompanied minors, for example, as to who should examine the circumstances relevant to the determination of the best interests of the child in practice, and when and how this should happen. In other (Member) States, some guidance is made available to practitioners, albeit not covering the determination of the child's best interests for unaccompanied minors specifically.[103]

2.2.2. Relevant authorities and organisations

Several authorities in the (Member) States share responsibility for the care and after-care of unaccompanied minors, with local authorities usually playing a primary role in the provision of accommodation and guardianship in many (Member) States. In fact, in a number of (Member) States local authorities act as guardians to the children (see Section 3.5.1).

A number of (Member) States highlighted the important role of NGOs[104] in the care of unaccompanied minors: in addition to accommodation and/ or guardianship, NGOs provide a range of other services, including legal, social and/ or psychological counselling, education and out-of-school social activities, after-care services for aged out minors, etc.

Some (Member) States reported that the provision of care by local government had implications for the type, and sometimes, quality of care available to the minors. This is the case in federal (Member) States in particular, where the care provided to unaccompanied minors depends on the responsible province/ region.[105] The content of care may further depend on the unaccompanied minor's individual care plan drawn up by the care facility with the child's specific needs in mind.[106]

2.3. ACCOMMODATION ARRANGEMENTS FOR UNACCOMPANIED MINORS

Most (Member) States apply similar accommodation arrangements to all unaccompanied minors, regardless of their legal/ residence status. Nevertheless, five (Member) States apply a different system with regard to the accommodation of asylum- and non-asylum seeking unaccompanied minors, and those minors who have been granted a permission to stay, whereby they are hosted in separate accommodation facilities.[107] For example, asylum-seeking unaccompanied minors in **Austria** are accommodated in basic welfare support facilities, whereas once granted asylum, they are cared for by the child and youth welfare system.

In **Finland**, asylum-seeking unaccompanied minors are usually accommodated in group homes within the reception system and, after receiving a residence permit, moved to a family group home established by the municipality.

2.3.1. Type of accommodation for unaccompanied minors

In line with EU law, all (Member) States accommodate asylum-seeking unaccompanied minors and those granted international protection in special accommodation facilities where their needs can be attended to, however, the type of accommodation differs. Most (Member) States

93 AT, BG, SI.
94 DE, EE, IT.
95 In AT, beneficiaries of subsidiary protection are not in all provinces cared for under the child and youth welfare system.
96 For example, in BE, asylum seeking and non-asylum seeking unaccompanied minors are accommodated separately during the first reception phase.
97 For example, in CZ, the Social and Legal Child Protection Authority is required to regularly evaluate the situation and, on the basis of such an evaluation, to create an individual protection plan for the child in question.
98 BE, DE, CZ, FI, FR, LV, NL.
99 AT, BE, BG, DE, EE, ES, FI, FR, IE, LV, PL, PT, SE, SK, SI, UK, NO.
100 BE, BG, FI, HR, LV, NL, SI, UK.
101 AT, BE, CZ, DE, EE, FI, HR, IE, LV, PL, SI.
102 Particularly in relation to unaccompanied minors.
103 LV, PL, SI, UK.
104 AT, BE, BG, CZ, DE, FI, FR, HU, IE, LU, SI.
105 AT, ES, DE.
106 AT, DE, EE, LT, PL, UK.
107 AT, BE, FI, HU, PL.

accommodate these minors in a combination of the following:

- Separate accommodation specifically for minors, for example, children's homes.[108]
- Designated section for minors within general reception/ accommodation facility.[109]
- Specialised accommodation for unaccompanied minors with specific needs, for example, girls and young women who are pregnant or have become mothers, or adolescents with mental health issues.[110]
- Foster families[111] though six (Member) States reported that they either did not provide foster care in practice,[112] or did not have any foster care arrangements for unaccompanied minors in place.[113]
- Other accommodation options,[114] for example, supported accommodation for minors at the age of 15-17 years,[115] or accommodation with adult relatives of the minor.[116]

About a third of (Member) States additionally have facilities catering to the needs of child victims of trafficking.[117] For example, protected reception in the **Netherlands** provides accommodation, supervision and counselling to (suspected) child victims of trafficking and works with the minors to prevent disappearances.

On the other hand, due to the increased influx of migrants in 2015 and 2016, thousands of unaccompanied minors in **Greece** were accommodated in insufficient conditions in Reception and Identification Centres (RIC) and camps on the Greek islands and mainland. A number of unaccompanied minors were held under protective custody in pre-removal detention centres and police stations, pending referral to appropriate accommodation facilities.

Some interesting, recent practices which aim to improve the care of unaccompanied minors are provided below, highlighting also the important role of NGOs.

Box 1: 'Time-out'-options for unaccompanied minors with problem behaviour – Belgium

Although the system of time-outs existed for many years in the federal reception centres in the towns of Sint-Truiden and Sugny in Belgium, the Federal Reception Agency (Fedasil) funded several other so-called 'Time-out'[118] options for unaccompanied minors with problematic behaviour in 2017, to diversify the offer and increase its quality. For example, the NGO Oranjehuis, experienced in restorative practices with young people with a diverse background, helps unaccompanied minors to restore relationships with their social network and the counselling staff and avoid disciplinary transfers from one reception centre to another. The Time-out takes 2 to 4 weeks, and the youngster shares a studio with another unaccompanied minor where they can cook their own meals and are responsible for housekeeping. The starting point is to work on lasting positive changes in an activating way. The unaccompanied minors also have access to an individual counselling programme and to volunteer work, for example on an organic farm.

'Time Out'doors' is another initiative run by the NGO Nature vzw which offers hiking trips for unaccompanied minors who are 12+ years old as adventure therapy to prevent difficult behaviour. Through these walking tours, young people are offered the chance to experience a multi-day activity in nature under experiential learning, combined with an appreciative approach, to reframe their (traumatic) experience. They are encouraged to work on their intra- and interpersonal development: to recognise (problematic) behaviour patterns, including their own role in these patterns, and to explore more constructive alternatives. Creating a space, in nature, within clear boundaries is one of the main elements of this kind of adventure therapy. This Time-out focuses specifically on young people with complex problems and there is a therapist present during the walks.

Box 2: "Menschen stärken Menschen" programme – Germany

The federal programme "People Strengthen People" ("Menschen stärken Menschen"), funded by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, aims to promote and support sponsorships between refugees and people living in Germany. One of the main tasks of the programme is to develop specialist standards and recommendations for the care of young unaccompanied refugees, in particular placement with foster families, skill-building of foster parents and establishing volunteer support structures with guardians and sponsors. The initiative, implemented by Diakonie Deutschland and Competence Centre for Foster Children, has been tested in ten model locations in Germany.

108 AT, BE, BG, CZ, DE, EE, ES, FI, FR, HR, HU, IE, LT, LU, LV, MT, NL, PT, SE, SI, SK, UK, NO.
109 AT, BE, BG, EE, HR, LT, LU, SE, SI, UK, NO.
110 AT, BE, DE, HU, IE, SE, UK, NO.
111 AT, BE, CZ, DE, EE (not in practice), FI (practice is in its beginning), FR, HU (not in practice), IE, LT, LU, LV, NL, SE, SI (not in practice), SK, UK, NO.
112 CZ, EE, HU, SI.
113 HR, MT.
114 BE, BG, CZ, DE, EE, FI, FR, HR, IE, LU, LV, MT, SE, SI, SK, UK, NO.
115 BE, CZ (not in practice), DE, ES, FI, FR, IE, SE, UK (minors aged 16-17 years).
116 BG, CZ, DE, FI, LT, LU, MT, NO.
117 AT, BE, BG, DE, HR, HU, PL, SI, UK, NO.
118 Time-out is a project aimed at unaccompanied minors for which the cooperation between the counselling staff and the youngster is difficult or threatens to stall. The youngster takes temporarily part in a residential, intensive educational trajectory in which specialised staff works on the bottlenecks in the contact with the youngster. Unaccompanied minors with serious psychiatric problems who need help from specialised institutions are not eligible for a Time-out.

Box 3: Our New Children programme – Norway

The programme 'Our New Children', which was initiated by SOS Children's Villages in coordination with the Asker municipality in Norway, aims to develop and test a model of good quality care for unaccompanied minors with refugee status. The municipality sets up what are termed "family homes" for two to five children "from scratch" by first finding suitable housing and then recruiting foster parents. The family-home model is further backed up by close and frequent support from competent professionals. The first evaluation of the programme considered the family-home model a promising practice and recommended putting it to use in other municipalities in Norway.[119]

2.3.2. Cost of accommodation

Based on data provided by thirteen (Member) States,[120] the cost of accommodation of unaccompanied minors varies significantly, depending on the (Member) State and type of accommodation. Overall, the cost of residential care in reception/ accommodation facilities appears to be the highest in **Finland, Norway** and **Belgium**, and the lowest, in **Lithuania** and **Bulgaria**.

In **Finland** and **Sweden**, municipalities spend similar amounts for the accommodation of these minors per day, approximately €190-250[121] and €150 respectively. As shown in Table 2.1, these costs are respectively 2.10 and 1.29 times of the monthly mean income in these (Member) States.[122]

Table 2.1: Estimated cost of accommodation of unaccompanied minors, 2017

MS	Type of accommodation	Estimated cost, per child	Estimated cost, calculated as cost per month, per child	Comparison with mean monthly income[123]
AT	Residential groups	€95 per day	€2 945	1,04 times of the monthly mean income
	Residences	€63.50 per day	€1 968.5	0.70 of the monthly mean income
	Supervised accommodation (or other types of accommodation)	€40.50 per day	€1 255.5	0.44 of the monthly mean income
BE	Observation and Orientation Centres for unaccompanied minors (1st reception phase)	€181.51 per day	€5 626.81	1.74 times of the monthly mean income
	Accommodation in the reception centres of the 2nd reception phase	€50.37 per day	€1 561.47	0.48 of the monthly mean income
	Accommodation in the reception structures of the 2nd reception phase (Fedasil Partners)	€69.14 per day / €81.86 per day	€2 143.34/ €2 537.66	0.66 of the monthly mean income / 0.78 of the monthly mean income
	Accommodation in the reception structures of the 3rd reception phase (Fedasil Partners)	€69.14 per day	€2 143.34	0.66 of the monthly mean income
BG	Home for Children Deprived of Parental Care	€4 100 (approx.) per year	€341.66	0.79 of the monthly mean income
	Small group home (family-type placement centre)	€4 960 (approx.) per year	€413.33	0.95 of the monthly mean income
	Children's Crisis Centre	€4 694 (approx.) per year	€391.13	0.90 of the monthly mean income
EE	Substitute home for up to 5 unaccompanied minors	€1 450 per month	-	1.36 times of the monthly mean income

119 Berg and Haugen (2018). *Evaluering av familiehjem som bo- og omsorgsløsning for enslige mindreårige flyktninger*/ Evaluation of the family-home model as a living and care arrangement for unaccompanied minor with refugee status. NTNU Samfunnsforskning. https://www.sos-barnebyer.no/familiehjem-en-god-losning-for-barn-alene-pa-flukt

120 No available data on costs of accommodation in CZ, DE, IE, LU, MT, NL, PL, PT, SK, UK. Not possible to determine the exact costs for accommodation in HU.

121 Accommodation in a family group home in FI, the amount varies depending on the unit.

122 Eurostat mean monthly earnings data for 2014, the latest year in which this was measured, http://ec.europa.eu/eurostat/data/database?node_code=earn_ses14_19

123 This comparison has been added for the purpose of this Report, i.e. it is not reported in the national contributions.

MS	Type of accommodation	Estimated cost, per child	Estimated cost, calculated as cost per month, per child	Comparison with mean monthly income[123]
FI	Family group home in municipalities	€190-250 per day	€5 890 – €7 750 (depending on the unit)	2.10 times of the monthly mean income
	Supported living unit for 16-17-year-old minors	€54-80 per day	€1 674 – €2 480	0.64 of the monthly mean income
FR	Child welfare system (depending on the departments and type of accommodation)	€140 per day	€4 340	1.56 times of the monthly mean income
HR	Children's homes	€20 (approx.) per day	€620	0.76 of the monthly mean income
IT	First reception centres	€45 + €9 per day	€1 674	0.68 of the monthly mean income
	Reception of unaccompanied foreign minors	€45 per day	€1 395	0.57 of the monthly mean income
LT	Refugee Reception Centre (RRC)	€386.71 per month (including €85.40 monthly allowance)	-	0.54 of the monthly mean income
LV	Children's homes	€976.86 per month	-	1.21 times of the monthly mean income
	Foster family	€386 per month (up to 6 years old) / €429 per month (including €171 remuneration for foster family) (7 to 17 years old)	-	0.47 of the monthly mean income / 0.53 of the monthly mean income
	Guardian's family	€161.57 per month (up to 7 years old) / €183.07 (7 to 18 years old)	-	0.20 of the monthly mean income / 0.22 of the monthly mean income
SE	Municipalities	€150 per day (approx.)	€4 650	1.29 times of the monthly mean income
SI	Student dormitory	€11.95 (school day) €19 (out-of-school day)	€370.45 (school) / €589 (out-of-school)	0.23 of the monthly mean income / 0.37 of the monthly mean income
NO	Reception centres for minors over the age of 15 years	€68.538 per month (approx.) per year	€5 711.5	1.13 times of the monthly mean income

Source: Data provided by EMN NCPs within the framework of this study, 2017

2.3.3. Staff

Across the EU, the staff responsible for the care of unaccompanied minors comprises a wide range of professionals. Their profile depends on the type of accommodation and care made available to unaccompanied minors, as well as the type of services offered by the facility, for example, staff at supported accommodation where unaccompanied minors are more self-reliant may be less specialised (than staff at children's centres). Generally, staff responsible for the care of looked-after children, including unaccompanied minors includes:

- Social workers;[124]
- Counsellors/ Psychologists;[125]
- Educators;[126]
- Other staff, for example, a general coordinator for unaccompanied minors,[127] medical staff such as doctors and/ or nurses,[128] teachers,[129] interpreters or staff from a migrant background,[130] volunteers.[131]

The required qualifications of staff are usually set by legislation[132] or a professional body,[133] and staff need to complete in-service training, however, the qualifications of

124 AT, BE, CZ, DE, EE, FI, FR, HR, IE, LT, LU, LV, NL, PL, SI, SK.
125 AT, CZ, DE (in certain facilities and/ or upon referral), FR, HU, LT, LU (upon referral for asylum-seeking unaccompanied minors; in all cases for victims of human trafficking), NL, SI, SK, NO.
126 AT, BE, CZ, DE, EE, FR, LU, LV, NL, PL, SI, SK.
127 BE.
128 BE, CZ, FI, HU, LT, LU (for victims of trafficking in human beings), LV, PL, SK.
129 CZ, DE (in certain circumstances in child care facilities), HU, LT, MT.
130 AT, DE (in certain circumstances), FI, LU (assistance in administrative and/ or judicial procedures).
131 DE, LU (support for homework, language acquisition or social activities).
132 AT, CZ, DE (for state providers of care), EE, FI, HU, LV, PL, SI, SK, NO.
133 IE, PL, SE, UK.

those responsible for the (immediate) care of unaccompanied minors in particular may not be specifically regulated by law,[134] but by the practice of the particular local authority or accommodation provider.[135] Generally, staff have a socio-pedagogical background. In some (Member) States social workers are expected to have knowledge of the asylum process, immigration system and care needs of unaccompanied minors.[136] Overall, the education/ qualification level of staff and staff-child ratio is higher in child welfare services (compared to reception facilities, or supported accommodation for aged-out minors).[137]

Where reported by (Member) States, further training of staff is provided on: conflict management,[138] dealing with difficult behaviour,[139] psychosocial support[140] and/ or trafficking in human beings[141] among others. The training provided by (Member) States is however rarely specific to unaccompanied minors, while the need for further training is apparent in a few instances.[142]

Box 4: Safeguarding Strategy for Unaccompanied Children – United Kingdom

The UK Government's Safeguarding Strategy for Unaccompanied Children, which sets out a range of commitments in looking after Unaccompanied Asylum-Seeking Children (UASC). It has been welcomed by a number of significant NGOs, including the Refugee Council and Children's Society. In November 2017, the Department for Education additionally published detailed statutory guidance[143] for local authorities on the care of unaccompanied migrant children and child victims of modern slavery.

2.4. STANDARD OF ACCOMMODATION AND CHALLENGES

Research on the standard of accommodation in twelve (Member) States[144] suggests that whilst in some instances this is seen as satisfactory,[145] in others accommodation arrangements need to be significantly improved, for example, when it comes to availability and material conditions, but also in terms of specialisation to the needs of unaccompanied minors specifically.[146] Even in (Member) States where accommodation is generally seen as up to standard, unaccompanied minors are reported as having mixed experiences, with frequent changes of accommodation before placement in specialised facilities being one of the main difficulties for the children.[147] Some (Member) States such as **France** and **Greece** reported more serious challenges as a result of increase in the number of unaccompanied minors in recent years, which led to explosion of costs, saturation of reception and accommodation facilities and the need to establish mechanisms appropriate to the specific needs of these children and, in the case of Greece, ones that guarantee access to basic forms of protection which is not currently the case.

Other common challenges in the area of accommodation include: disparities between the quality of accommodation and care provided by municipalities[148] and concerns that in some instances care may not meet the needs of children;[149] a need for specialised training of staff working at accommodation facilities, as well as foster carers;[150] challenges with recruiting foster carers,[151] which is of relative importance, as this type of care is perceived as better for the unaccompanied minors over larger scale facilities where the minors may experience a lack of care and support by adults, or feel lonely and excluded from society.[152]

Additionally, areas such as the consideration of the child's best interests in the care process[153] and the minors' transition to adulthood[154] have posed challenges in some (Member) States, with lack of sufficient preparation, isolation and exclusion of the minors cited as problem areas when it comes to the latter.

2.5. GUARDIANSHIP ARRANGEMENTS FOR UNACCOMPANIED MINORS

In line with EU law, most (Member) States provide for the appointment of a representative to unaccompanied minors, in the form of a guardian[155] and/ or representative,[156] as soon as the minor is identified on the territory

134 BG,
135 AT, DE (for non-state providers of care).
136 BE, UK.
137 AT, NO.
138 BE, LT, LU.
139 BE, LT.
140 FI.
141 BE, LU, UK.
142 BG, DE, IE, LV, PL.
143 Department for Education (2017). Care of unaccompanied migrant children and child victims of modern slavery. Statutory guidance for local authorities, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/330787/Care_of_unaccompanied_and_trafficked_children.pdf
144 BE, BG, DE, FI, FR, IE, LU, LV, NL, SE, SI, NO.
145 BE, FI, IE, PT.
146 BG, EL, FR, SI.
147 BE, FI, LU.
148 AT, DE.
149 FR, NO.
150 BG, EL, IE, IT, SI.
151 CZ, IE, SI.
152 BE, DE, EL, NL.
153 BG, FI (due to administration of accommodation falling under different ministries in the reception and in the integration phase), IE.
154 AT, DE, IE, SE.
155 AT, BE, CZ, DE, EE, IE, LU, LV, MT, PL, SE, SI, NO.
156 CZ, LU, LV.

of a (Member) State.[157] Most (Member) States also provide for the appointment of a representative to unaccompanied minors not seeking asylum (under the same guardianship system as asylum-seeking unaccompanied minors).[158]

Most (Member) States apply one guardianship system to all unaccompanied minors, irrespective of their legal/ residence status.[159] Usually, they are covered by the same guardianship system as for other looked-after children in the (Member) State, though special arrangements apply to them. Three (Member) States, the **Czech Republic**, **Poland** and the **United Kingdom**, do not have legal guardianship arrangements specifically for unaccompanied minors. In **Ireland** and **Poland**, each unaccompanied minor has a dedicated social worker and, while provision is made in law to appoint a social worker or another adult as the legal guardian of an unaccompanied minor, this is rarely done in practice.[160]

In the **United Kingdom**, unaccompanied minors seeking asylum are provided with a professional social worker, in addition to an Independent Reviewing Officer who oversees their care arrangements (plus access to an independent advocate responsible for accurately representing the child's wishes and feelings).

2.5.1. Role and type of guardians for unaccompanied minors

The type of guardian available for unaccompanied minors differs across (Member) States, with the most common type being one of the following:

- Municipalities;[161]
- Child and youth welfare offices;[162]
- Assigned individuals;[163]
- Other, for example, foster parent or family where the minor is accommodated, or specialised guardian associations.[164]

Guardians are usually appointed through a court order, for example, by district, youth or family courts.[165] In some (Member) States, the role of representative is entrusted by the courts to a single entity,[166] for example, the child and youth welfare office, or an assigned individual. Other (Member) States operate a system of double-guardianship,[167] whereby a temporary representative is assigned to the child prior to status determination, followed by the appointment of a guardian upon arrival in the accommodation facility or upon status determination. For example, in **Luxembourg**, an ad-hoc administrator, who accompanies and assists the unaccompanied minor during all legal procedures, is appointed as soon as possible and in all cases. In many cases, a guardian is additionally appointed (upon request to the Youth Court) to unaccompanied minors applying for international protection, as well as to unaccompanied minors who are (presumed) victims of trafficking in human beings, to assist the minor in all activities of daily life.

2.5.2. Appointment of a guardian

The timely appointment of a representative is regulated by EU law, though its timing differs across (Member) States. Most (Member) States appoint either a representative, or a guardian to unaccompanied minors prior to status determination,[168] for example, the Guardianship Service in **Belgium** appoints a guardian to assist, support and represent the minor as soon as possible once his/ her identity and age are confirmed. Some (Member) States may appoint a guardian to an unaccompanied minor upon arrival at the reception facility[169] or after registration of an application for international protection[170] (for example, if the (Member) State has a double-guardianship system). According to information provided by some (Member) States, the appointment of a representative/ guardian happens within a matter of days: for example, temporary guardians are appointed within three days in **Lithuania**, whilst longer-term guardians are appointed within three and eight days of placement in care respectively in **Hungary** and **Poland**.

2.5.3. Standard of guardianship arrangements and challenges

Research on guardianship standards in twelve (Member) States[171] suggests that there is a need for considerable improvements. Three (Member) States, **Bulgaria, Greece** and **Slovakia**, reported serious flaws in their guardianship systems: in **Slovakia**, a carer instead of a guardian is appointed to unaccompanied minors; in **Bulgaria**, any employee of the municipality can become a representative to an unaccompanied minor, as the qualifications required are not set in legislation; moreover, a recent report[172] found that, in practice, many unaccompanied minors seeking asylum in **Bulgaria** registered their application without the presence of a representative appointed by the municipality or a social worker, were not represented by a lawyer in many cases, nor appointed a guardian in 100% of the observed cases; and in **Greece**, the local public prosecutors which are appointed as temporary guardians of unaccompanied minors are responsible for thousands of children in practice, which impairs their effective representation.

Some of the most common areas for improvement of guardianship arrangements include: clarifying the role of the guardian, which is often not fully clear to the guardians

157 CZ, DE (legal representation upon arrival by youth welfare office, until a guardian is appointed by the family court), IT (representation upon arrival by municipality, until a guardian is appointed by the youth court), LU, LV, PL, SE, SK, NO.
158 AT, BE, BG, CZ, EE, DE, FI, HU, IE, LT, LV, LU, NL, SE, SK, NO (in practice).
159 BE, CZ, DE, EE, EL, ES, FI, FR, HU, LU, LV, NL, SK, SI.
160 In IE, provision is also made for the appointment of a guardian ad-litem to represent the child in court proceedings, however this is also rarely done in practice.
161 BG, EE, IT (until a guardian is appointed by the youth court), LT, LV (the Orphan's Court of the respective municipality appoints a guardian to the unaccompanied minor).
162 AT, CZ, DE, ES, FR, HR, IE, LT, NL, PL, PT, SK.
163 BE, CZ, DE, FI, IT, PL, SE, SI.
164 BG, CZ, DE, IT, PL.
165 AT, CZ, DE, EL, FI, IT, LU, PL, SK.
166 BE, BG, CZ, DE, FR, IT, PL.
167 CZ, EL, HU, LT, LU, SE, SI, SK, NO.
168 BE, CZ, DE, EL, ES, HU, IE, IT, NL, SK.
169 EE, FI, HU, LV, LT.
170 AT, BG, CZ (another guardian/ custodian to represent the child in the proceeding, so called ´proceedings guardian for the child´), MT, SI.
171 BE, BG, DE, EE, FI, FR, IE, LV, NL, PL, SE, SI, SK.
172 Bulgarian Helsinki Committee (2016). Human Rights in 2016, http://www.bghelsinki.org/media/uploads/annual_reports/annual_bhc_report_2016_issn-2367-6930_bg.pdf

themselves;[173] providing them with special training,[174] for example, training on relevant legislation and residence permit matters, dealing with traumatised unaccompanied children or intercultural skills; timely appointment of a guardian,[175] which as reported by **Germany** can take anywhere between 2 weeks and 4 months; and insufficient number and need for recruitment of more guardians.[176] Additionally, **Hungary, Poland** and the **United Kingdom** pointed out that having more than one guardian, or (in the case of the United Kingdom) the addition of a 'guardian' risks adding another level of unhelpful complexity to existing arrangements. Similarly, while civil society in **Ireland** advocate for the appointment of independent guardians, the Social Work Team for Separated Children Seeking Asylum commented that this could be confusing for the young person.

2.6. TRANSITION TO ADULTHOOD

As mentioned above (see Section 2.2.1), when an (unaccompanied) minor is taken into care, an individual care plan is drafted in line with his/ her specific needs, including an (additional) independence plan[177] in some cases, to specifically help the minor prepare for becoming an adult, as well as outline after-care supports once he/ she turns 18 years.[178] For example, in **Finland**, an independence promotion plan helps the minors to practise things necessary for independent life, such as household management, spending and taking care of administrative matters. In **Ireland**, an after-care worker assists the unaccompanied minor in drawing up an after-care plan, and more than one after-care plan can be drawn up, which sets out the supports available in cases where the minor receives a status, is reunited with family or opts to voluntarily return to their country of origin. In **Italy**, an after-care worker supports the unaccompanied minor in completing education and finding a job. In the **United Kingdom**, a Personal Adviser helps coordinate a pathway plan (based on the care plan for a looked after child) from age 16 onwards, setting out the services the child will access to support their aims and ambitions as they make their transition to adulthood. Limited specific after-care arrangements for unaccompanied minors appear to be available in **Bulgaria, Croatia, Estonia, Lithuania** and **Luxembourg**.

Box 5: Organisation of the transition of unaccompanied minors to adulthood – France

In France, several regulatory texts address the transition of all children, including unaccompanied minors, to adulthood. The Law of 14 March 2016 on child welfare regulates the exit from the child welfare system, ensuring that the transition between placement with the child welfare services and adulthood is managed in a continuous manner. An interview is organised by the chair of the Departmental Council with any young person taken into care, one year before they turn 18 years, to review their situation and plan any conditions for supporting them towards independence. Within the framework of the Child Plan, an 'access to independence plan' is drafted by the chair of the Departmental Council with the minor. They call upon relevant institutions and bodies to create a comprehensive solution adapted to their educational, social, health, housing, training, employment and resource needs. The interview may, in exceptional circumstances, be repeated to take account of changes in the needs of the young person in question.

2.6.1. Accommodation arrangements

Upon reaching the age of majority, in principle an unaccompanied minor loses the right to be accommodated at the care facility. This often means that the former minor has to move to an adult accommodation facility[179] or look for private accommodation (usually in the same municipality).[180] Although this change does not generally appear to be dependent on status,[181] in most cases more favourable provisions sometimes apply, to minors who have been granted international protection. For example, in **Lithuania**, they have three months (after turning 18) to move out.

In certain cases, however, unaccompanied minors can remain in the same accommodation,[182] as part of the (Member) State's after-care service. With a few exceptions,[183] former unaccompanied minors can often remain in the same accommodation until the end of the school year[184] or until they reach a certain age. In most cases, this age threshold is 19 years,[185] 21 years,[186] 23 years,[187]

173 BE, CZ, EE, IE, LU, PL, SK.
174 DE, IE, LV, PL, SE.
175 DE, FR.
176 DE, PL (where the Border Guard reports that since December 2017 they use a list of NGO workers who declared their willingness to be a representative of a child).
177 Wording varies between (Member) States, e.g. preparation/ integration plan, etc.
178 BG, CZ, EE, FI, FR, IE, IT, SK, SI, UK.
179 AT, BE, BG, DE (in certain circumstances), IT, LT, LU, LV, MT, NL, PT, NO.
180 AT, DE (in certain circumstances), FI, NL, PL, SI.
181 Except for IE (where the minor's status/ no status will determine their accommodation).
182 CZ, DE, EE, FR, HR, IE, LU, UK (foster care).
183 AT.
184 BE, CZ (untl he/ she finishes his/ her studies), EE, LV, SI, PL.
185 EE.
186 AT, BE (beneficiaries of international protection (or those who were granted a residence permit for more than 3 months)), EE, FR (within the framework of a specific programme dedicated to young adults called 'young adult contract'), HR, IE, IT (within the framework of a specific programme dedicated to young adults called 'administrative hereinafter'), LU (victims of trafficking), SE, UK.
187 IE, NO.

25 years,[188] 26 years[189] or 27 years[190] – and it is usually linked to the person concerned being in full-time education or training. Sometimes NGOs provide additional support to the aged-out minors, such as follow-up residential care.[191] Other after-care measures include one or a combination of the following:

- Open-door policy at an accommodation facility and/ or NGOs;[192]
- Follow-up with a social/ support worker, personal adviser;[193]
- Counselling;[194]
- Financial support;[195]
- Informal contact with former carers in individual cases.[196]

Importantly, prior to the transition to adulthood, unaccompanied minors in some (Member) States can move to accommodation which supports their independence.[197] For example, in **Finland**, unaccompanied minors can try supported living, including cooking, shopping and spending money on their own, whilst receiving occasional or remote support by professionals.[198] In **France** and **Italy**, young people in the child welfare scheme (whether unaccompanied or not) may be directed towards young workers homes depending on their degree of independence, with a view to exiting the system and acquiring autonomy. Some (Member) States rely on the responsibility of social workers at care facilities and/ or guardians to increase the autonomy of the young people, inform and advise the minors in preparation for adulthood.[199] Unaccompanied minors in other (Member) States may be provided with written information on their rights and available assistance after leaving care, six months or a year ahead of turning 18 years.[200]

2.6.2. Guardianship

In principle, guardianship ceases automatically when an unaccompanied minor turns 18[201] and the former minor is treated as an adult. This means that he/ she has full legal capacity and responsibility for his/ her welfare, education, finances and legal representation from that point onwards.[202]

Across (Member) States, pre-transition support for unaccompanied minors turning 18 is rarely provided by guardians. In a few cases, guardians helped unaccompanied minors with becoming autonomous,[203] for example, by supporting them in practising independent spending whilst in their custody.[204]

Following the transition, in two (Member) States only, a court-appointed guardian can continue to take care of the former unaccompanied minors' finances,[205] or to support any minors with a mental disability past the age of 18.[206] Although generally there is no formal follow-up by guardians once the minor turns 18, in practice, guardians in some (Member) States may continue to maintain some form of informal contact with the former unaccompanied minor, depending on individual relations with the minor.[207]

2.7. CONSEQUENCES OF A TEMPORARY RESIDENCE PERMIT ON THE CARE ARRANGEMENTS FOR UNACCOMPANIED MINORS

Except in **Latvia**, **Poland** and the **United Kingdom** where unaccompanied minors may lose their right of residence and are expected to make plans for return to the country of origin, the expiration of a temporary residence permit generally does not affect the care arrangements for unaccompanied minors in the (Member) States.[208] In some cases, the expiration of the residence permit of the unaccompanied minor coincides with his/ her 18th birthday.[209] As mentioned later in this Report (see Section 3.6.1), in most cases unaccompanied minors continue to receive after-care past the age of majority.

188 BE (beneficiaries of international protection (or those who were granted a residence permit for more than 3 months)), BG, EE, HU, PL, SK, UK.
189 CZ.
190 SK, SI.
191 AT, CZ, LV.
192 CZ (short-term accommodation in a 'half-way' flat of non-governmental organisation OPU), IE, MT, LU (provision of support and information), LV.
193 CZ, EE, DE (in certain cases), FI, FR, IE, PL, SI (integration advisor), UK (personal adviser).
194 CZ, DE, FI, FR, NL.
195 CZ, DE (in certain cases), EE (in certain cases), FR (in some cases), IE, MT, NL, SK.
196 CZ, DE, LU, SK.
197 BG (not in practice), CZ (in the student department of the Facility for Children of Foreign Nationals), DE, EE, FI, FR, IE, LV, PL, SE, UK.
198 Also applicable in CZ (in the student department of the Facility for Children of Foreign Nationals), EE, etc.
199 BE, CZ, DE, FR, IE, IT, LT, NL.
200 LV.
201 AT, BE, BG, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, LT, LU, LV, MT, NL, SE, SK, SI, NO.
202 In some (Member) States, the age threshold for the end of guardianship is linked to the legal age of majority in the country of origin (e.g. this is the case in DE, however, with a minimum age of 18 years applying).
203 AT, BE, CZ, DE, FI.
204 FI.
205 LU (in cases of idleness).
206 AT, CZ.
207 BE, CZ, DE, LU, SK.
208 AT, BE, DE, EE, ES, IT, LT, LU, NL, SE, PT, NO.
209 CZ, EE, SE, NO.

3. INTEGRATION OF UNACCOMPANIED MINORS, INCLUDING TRANSITIONAL ARRANGEMENTS FOR UNACCOMPANIED MINORS TURNING 18

The EU acquis on asylum, including the recast Reception Conditions Directive,[210] the recast Qualification Directive,[211] as well as the recast Asylum Procedures Directive,[212] contains several provisions related to the integration of unaccompanied minors. For asylum-seeking unaccompanied minors and those granted international protection, the recast Reception Conditions Directive and the recast Qualification Directive respectively lay down certain common reception standards and content of the protection that is provided by (Member) States to beneficiaries of international protection. More specifically, the recast Reception Conditions Directive stipulates their right to education (Art. 14), employment (Art. 15), vocational training (Art. 16), and healthcare (Art.19), while once a status has been granted, the recast Qualification Directive ensures that all (Member) States provide access to the following common rights for unaccompanied minors granted international protection: employment (Art. 26), education (Art. 27), procedures for recognition of qualifications (Art. 28), social welfare (Art. 29), healthcare (Art. 30), and accommodation (Art. 32), in line with the best interests of the child (Art. 20). For unaccompanied minors granted another form of protection, the Anti-Trafficking Directive (Art.13(10)[213]) stipulates that child victims of trafficking must be provided with assistance, support and protection in line with the child's best interest, as well as access to education in accordance with national law.

3.1. GENERAL OVERVIEW OF INTEGRATION PROVISIONS AND ORGANISATIONAL SET-UP IN THE (MEMBER) STATES

In the majority of (Member) States, the integration of unaccompanied minors is treated as a priority.[214] Some have drawn up national action plans, which pay specific attention to the integration of unaccompanied minors,[215] for example by emphasising that integration support should already begin during the asylum procedure,[216] or by allocating funds to targeted integration measures.[217] In **Finland**, for example, unaccompanied minors are prioritised in the provision of municipal placement, and their special circumstances and needs are taken into account. In **Bulgaria** and **Poland**, the integration of unaccompanied minors is not treated as a priority. **Bulgaria** mentioned that although the political level recognised integration to be a very important aspect of the migration process, no specific programme was currently in place to implement the measures foreseen in its National Strategy on Migration, Protection and Integration. **Estonia, Latvia** and **Poland** explained that due to the small number of unaccompanied minors, it was difficult to assess the priority.

The extent to which unaccompanied minors are considered a priority is also reflected in the way provisions for their integration differ from those for accompanied minors. Twelve Member States differentiate between these two groups at least to some extent, giving unaccompanied minors better integration perspectives.[218] In **Germany**, for example, the possibility for a minor to attend a regular school or take

210 Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, OJ L 180
211 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
212 Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, OJ L 180
213 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, OJ L 101
214 AT, CZ, DE, ES, FI, FR, HU, IT, LT, LU, MT, SE, SK, UK, NO.
215 AT, FI, IT, LU, SE, SK.
216 FI, LU.
217 IT, SE.
218 AT, BG, CZ, DE, FR, HU, HR, IT, LT, NL, SI, SK.

up vocational training in practice can depend on his/ her being accompanied or not as accompanied minors can be housed in initial reception centres without access to regular schooling. In **France**, integration measures come under common law and apply to every minor who is taken into care by the child care service. However, due to their specific situation, unaccompanied minors also benefit from dedicated support measures aiming at facilitating their integration.

The way in which the legal status of an unaccompanied minor defines the integration trajectory differs between (Member) States. While about half of the (Member) States provide different integration measures depending on the legal status of the unaccompanied minor,[219] the other half provides the same support regardless of the status.[220]

With regard to the former group, unaccompanied minors who are granted international protection generally benefit from more favourable integration measures than those with a different status.

In **Croatia**, for example, unaccompanied minors with a temporary residence permit are not provided with assistance for integration into society and free legal assistance, as opposed to unaccompanied minors who are beneficiaries of international protection.

In **Bulgaria**, unaccompanied minors with a negative asylum decision or those that have not applied for asylum have only very limited possibilities to benefit from integration measures as compared to beneficiaries of international protection. In **Germany**, the prospect to remain after reaching the age of majority determines the integration measures at disposal. The Migrant Integration Strategy of **Ireland** does not apply to unaccompanied minors who are in the international protection process or who do not have a legal status.

3.1.1. The best interests of the child with regard to integration

In the context of integration, (Member) States generally do not have a special procedure in place to determine the best interests of the child. Nevertheless, most (Member) States pointed to the fact that the best interests of the child principle are laid out in the constitution or national legislation.[221] However, these are not necessarily specific to the integration of unaccompanied minors[222] and/ or apply equally to all foreign minors.[223] Six Member States pointed to the special responsibility of the legal guardian of the unaccompanied minor in ensuring that the best interests of the child are adhered to.[224] **Lithuania** noted that the best interests of the child were taken into account in the framework of drawing up an individual action plan for their integration, and that this procedure was the same for all unaccompanied minors, regardless of their status. In the **United Kingdom**, it is generally not assumed that the best interests of an unaccompanied child necessarily is to remain permanently in the country, as opposed to being reunited with parents or adult family members in another country which can care for the child.

3.1.2. Relevant authorities and organisations

A variety of authorities and organisations at national, regional and local level are involved in the integration of unaccompanied minors in the (Member) States. In general, the regional and local authorities which play the most important role in the life of unaccompanied minors are child/ youth care services which are often responsible for the overall care and integration of the unaccompanied minor.[225] National public employment services have also been identified as important actors by some (Member) States in terms of facilitating labour market integration of unaccompanied minors,[226] while (state) schools are ultimately responsible for providing adequate education.[227] Complementary to the work of these public authorities, NGOs contribute significantly to the integration of unaccompanied minors in many (Member) States,[228] for instance through providing additional language classes (e.g. HU, IE, IT, SI) or by working with traumatised children (e.g. SE). In **Norway**, SOS Children's Villages is currently piloting the project SAMMEN ("Together") to support the integration of unaccompanied minors (see Box 6).

Box 6: "SAMMEN" programme, SOS Children's Villages – Norway

Under the umbrella of the national "Our New Children programme", SOS Children's Villages is currently piloting the project SAMMEN ("Together") in 15 municipalities in Norway. This project aims to foster contact and friendship between unaccompanied minors and native-born young people in their communities. Groups of three unaccompanied minors and three native-born youth are brought together to develop a joint project of their choice. The groups are supervised and are supported by resources from the respective municipalities.

3.2. ACCESS TO HEALTHCARE

3.2.1. The right to healthcare for unaccompanied minors

As mentioned above, access to healthcare is guaranteed by EU law for asylum-seeking unaccompanied minors and those granted international protection. Almost

219 AT, BG, DE, EE, HR, IE, LU, PL, SI, NO.
220 BE, CZ, ES, FI, FR, HU, IT, LT, MT, NL, PL, PT, SE.
221 BE, BG, DE, ES, HR, FI, FR, HU, IE, IT, LT, LV, NL, PT, SI, SE, SK, NO.
222 AT, BE, DE, ES, IE, IT, LV, NL, SI, SE.
223 FI, SI, SE.
224 AT, BE, FI, LV, NL, PL.
225 BE, CZ, DE, EE, ES, FR, HR, HU, IE, IT, MT, PL, PT.
226 AT, DE, EE, HR, FI, LV, MT, SE.
227 AT, BE, BG, CZ, DE, EE ES, FR, FI, HR, HU, IE, IT, LT, LU, LV, PL, SI, SK, UK, NO.
228 AT, BE, CZ, DE, EE, FI, FR, HU, IE, IT, LV, LU, PL, PT, SE, SI, NO.

all (Member) States[229] also provide automatic access to healthcare for non-asylum seeking unaccompanied minors and/ or those granted another status, and this usually entails the same right to healthcare as nationals.[230]

In some (Member) States, for example, in **Germany**, although access to healthcare is automatic, the extent of healthcare services provided differs depending on the legal status of unaccompanied minors; and in **Austria**, unaccompanied minors who do not fall under the Qualification Directive receive health insurance coverage as part of their basic welfare support. **Greece** further reported that, although unaccompanied minors are entitled to free healthcare by law, in a number of cases social workers had to interfere to ensure such access in practice; and even when free access to healthcare is ensured, problems remain at all stages of the procedure (diagnosis, treatment, etc.) due to practical communication difficulties between patients and health personnel, and chronic problems with the Greek administration in general and health system in particular.

In general, access to healthcare includes emergency treatment[231] and basic medical care,[232] in addition to specialised medical care[233] and counselling[234] in many cases. Most (Member) States also make efforts to tailor the healthcare provided to the specific needs of the unaccompanied minor by undertaking an individual assessment, mostly shortly after they arrive in the country.[235] In **Sweden**, for example, an individual assessment is carried out by doctors and nurses at primary healthcare facilities, or at school by the school nurse. If needed, unaccompanied minors are then referred to a hospital or child psychiatric support for further care. **Austria** explained that while preventive healthcare check-ups for children and young people are required by law, there are no specific medical assessments to determine the special needs of unaccompanied minors.

3.2.2. Transition to adulthood

In many (Member) States, the unaccompanied minor's transition from the age of minority to 18 years of age has implications for their access to healthcare, unless the minor has been granted international protection.[236,237] The extent of these implications either depends on the legal status[238] and/ or whether the unaccompanied minor is still attending school, enrolled in university, employed or undergoing vocational training.[239] For example, **Hungary** and **Lithuania** specified that unaccompanied minors continue to be granted healthcare if they are employed or enrolled in a university. An unaccompanied minor in **Slovenia** is entitled to the same scope of healthcare services as a minor Slovenian citizen as long as he/ she attends school or until the age of 26 years. Similarly, in **Portugal,** against the background of healthcare being a fundamental right, access to national healthcare for (former) (unaccompanied) minors is established under the same conditions as national citizens.

In other cases, such as those unaccompanied minors with a temporary residence permit, some (Member) States only provide emergency healthcare once the age of majority has been reached.[240] In **Latvia**, the age of the unaccompanied minor also plays a role: all unaccompanied minors who have a legal right to reside in the country have the right to receive healthcare services under the state compulsory health insurance up to the age of 24 years; former unaccompanied minors above the age of 24 years only receive the minimum amount of state-funded medical assistance.

3.2.3. Quality of healthcare and challenges

Research on the quality of healthcare for unaccompanied minors undertaken in a small number of (Member) States revealed that in particular, insufficient resources for the provision of mental health treatment is a significant challenge, especially for traumatised children.[241] A 2017 survey carried out in selected reception facilities in **Austria**, for example, found that 15 percent of unaccompanied minors had an acute need for therapy, yet no places were available.[242] Meanwhile, "mobile intercultural teams" now visit schools to support teachers in providing the necessary psychosocial care to children with a refugee background. Such teams normally consist of a psychologist, a social worker and a social pedagogue. Such mobile support teams have also been established in **Belgium**, where they support welfare organisations, the Centres for Pupil Guidance (CLB) and teachers in the counselling of refugee children with traumas. The main task of these trauma psychologists is to support and reinforce the regular CLB employees and teachers in recognising and treating (possible) trauma in refugee children through the transfer of knowledge on trauma, skills to deal with trauma and the translation of the educational needs of refugee children with trauma.

Research done in **Finland** found that unaccompanied minors living in different parts of the country do not always have equal access to mental health services,[243] and in **Greece**, cases involving self-harm behaviour and substance abuse by unaccompanied minors may be referred to external services for specialised support, however, there is currently no standard protocol or referral mechanism to provide for appropriate steps or for the registering of such referrals. In **Germany**, **Ireland** and **Sweden**, insufficient resources for the provision of mental health treatment and/ or rehabilitative and psychosocial treatment is

229 BE, BG, CZ, DE, EE, ES, FI, FR, HU, HR, IE, IT, LT, LV, MT, NL, PT, SE, SI, NO.
230 AT, BE, CZ, EE, ES, FI, FR, HR, HU, IE, IT, LT, LV, MT, NL, PL, PT, SE, SI, SK, NO.
231 AT, BE, CZ, DE, EE, FI, FR, HR, HU, IE, LT, LU, LV, NL, PT, SE, SI, UK, NO.
232 AT, BE, CZ, DE, EE, FI, FR, HR, HU, IE, IT, LT, LU, LV, NL, SE, SI, NO.
233 BE, CZ, DE (depending on status), EE, FI, FR, HR, HU, IT, LT, LU, LV, SE, SI, UK, NO.
234 AT, BE, CZ, DE (depending on status), EE, FI, FR, HR, HU, IT, LT, LV, SE, SI, UK, NO.
235 BE, DE, EE, FI, FR, HR, HU, IE, IT, LT, LU, LV, NL, PL, SE, SI, UK, NO.
236 AT, BE, CZ, DE, EE, ES, FR, HR, HU, LT, LU, NL, SI, SK, NO.
237 Beneficiaries of international protection, irrespective of their age, have the right to access healthcare under the same conditions as nationals (Art. 30 Qualification Directive).
238 CZ, DE, EE, HR, IT, LU, SI, SK, NO.
239 DE, FR, HU, LT, LU, SI, SK.
240 HR, LT, SI, NO.
241 AT, BE, DE, EL, FI, IE, PL.
242 Asylkoordination Österreich, Umfrage der asylkoordination österreich (sic!) unter UMF-Betreuungsstellen zu „Erhöhter Betreuungsbedarf bei unbegleiteten minderjährigen Fremden", available at: www.asyl.at/adincludes/dld.php?datei=208.02.ma,auswertungumfrageerhhterbetreuungsbedarf.pdf (accessed on 9 January 2018).
243 Björklund (2015): Unaccompanied refugee minors in Finland.

a challenge. **Sweden** also noted a general problem of coordination and cooperation between the school health services and other healthcare providers, as well as the fact that many minors (and their parents) are unaware or ill-informed of their rights as regards access to healthcare.

3.3. ACCESS TO EDUCATION

3.3.1. The right to education for unaccompanied minors

As mentioned above, the recast Reception Conditions Directive requires (Member) States to grant access to the education system within three months following the lodging of the application "under similar conditions as their own nationals" until enforcement of an expulsion order. Furthermore, (Member) States shall not withdraw secondary education for the sole reason that the former minor has reached the age of majority. Similarly, the recast Qualification Directive stipulates that all minors with an international protection status need to be granted full access to the education system under the same conditions as nationals (Art.27(1)). As the CRC – along with other international treaties – recognises education as a legal right to every child (Article 28), also those unaccompanied minors with a status not covered by the Qualification Directive shall be granted access to education.[244]

(Member) States generally adhere to these legal requirements and grant automatic access to education to all unaccompanied minors irrespective of their legal status and under the same right as nationals.[245] An exception to this is **Bulgaria**, where access to education is only provided for unaccompanied minors with a positive decision on the asylum application; those without a legal residence status only receive support by NGOs. In **Germany**, all children from the age of six are subject to compulsory education as a matter of principle, however, the specific provisions regarding compulsory education vary between the *Länder*. In most cases, the beginning of compulsory education is not determined by the unaccompanied minor's residence status but by the duration of presence on the territory and the type of accommodation. Compulsory education applies as soon as the unaccompanied minor is taken into care following the national distribution procedure.[246] In the reporting period, **Finland** noted challenges related to the education of 17-year olds, as these were no longer in a compulsory school age but had not necessarily completed basic school studies. There is no separate education arrangement in place for this group, which is why they take part in basic education meant for adults.[247]

Almost all (Member) States provide education to unaccompanied minors within the mainstream schooling system.[248] However, in twelve (Member) States, preparatory (language) classes are organised outside of the mainstream schools, such as in accommodation centres, reception facilities, or in alternative educational settings to prepare the minor for the regular school.[249] These classes are organised by various actors, such as municipalities, the schools themselves, language institutes and NGOs. While in most (Member) States such preparatory classes are only provided for a couple of weeks or months,[250] in **Germany**, pupils might attend these for one to two years before transitioning to a regular class. In **Belgium** and **Luxembourg**, secondary school students attend preparatory classes for one year – and in the case of Belgium, are supervised by follow-up coaches afterwards. In **Luxembourg**, school students will receive additional preparatory classes in the following school year, if necessary. As opposed to this, pupils in the **Netherlands** do not attend such classes for a pre-determined period of time, but as long as necessary to ensure their proficiency in Dutch is sufficient to participate in mainstream education. In **France,** education of unaccompanied minors, as newly arrived allophone pupils, is based on access to the general schooling system with a specific support organised in the framework of the CASNAV (Education Authority Centres for the Education of New Arrivals and Travellers' Children). Alongside regular school, they attend pedagogical units focusing on French language and culture learning, to facilitate learning of other disciplines.

3.3.2. Indivual assessments

The vast majority of (Member) States undertake a form of individual assessment to ensure that the education provided corresponds to the specific needs of the unaccompanied minors.[251] This individual assessment is usually accompanied by the development of an education plan for each minor, often together with the legal guardian, social workers and the schools. In **Hungary**, professionals from NGOs determine the best option in terms of education. The **Netherlands** specified that an intake method has been developed for newcomers who want to enter secondary education. For unaccompanied minors with no prospect of obtaining a legal residence permit, this education is geared towards learning an occupation that will later enable them to find employment in their country of origin.

Box 7: Migrant Access Programme (MAP) by the Youth and Education Service for Refugees and Migrants – Ireland

With a view to supporting unaccompanied minors to integrate into the Irish education system, the Youth and Education Service for Refugees and Migrants (YES) implements the Migrant Access Programme (MAP) for unaccompanied minors in care in the Dublin area. This is a transition programme to prepare migrant children, including unaccompanied minors, for mainstream or further education in Ireland. Based on an educational assessment, the minor is placed in a group that corresponds to their level of

244 United Nations Human Rights. (1989). Convention on the Rights of the Child. Available at: http://www.ohchr.org/en/professionalinterest/pages/crc.aspx
245 AT, BE, BG, CZ, DE, EE, ES, HR, FI, FR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK, UK, NO.
246 DE has a two-staged approach to the care of unaccompanied minors: preliminary taking into care (possibly followed by a national distribution procedure) and regular taking into care.
247 Basic education for adults was reformed in 2018 to better address the needs of immigrant students.
248 AT, BE, BG, CZ, DE, EE, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK, UK, NO.
249 AT, CZ, DE, HU, IE, IT, MT, NL, SE, SI, SK, NO.
250 HU, IE, MT, PL, SI, SE, SK, NO.
251 AT, BE, BG, CZ, DE, EE, FI, FR, HR, HU, IE, LT, LU, LV, MT, PT, SI, SE, UK, NO.

English and receives 20 hours of classes per week focusing on four core modules (English, Mathematics, IT and Life-Skills), in addition to after-school activities. The MAP also runs a language exchange class with Irish students in secondary school. On completion of the MAP, the YES provides a report and recommendation on the child's progress, which feeds into his/ her overall care plan. The unaccompanied minor can then transition to mainstream second-level education.

3.3.3. Transition to adulthood

The implications of unaccompanied minors' transition from the age of minority to 18 years of age for their access to education vary across (Member) States. Those who benefit from international protection should, according to the Qualification Directive (Art. 30) be allowed "access to the general education system, further training or retraining, under the same conditions as third-country nationals legally resident", which means that (Member) States have a certain level of discretion in terms of the type of access they grant.[252] For example, in **Portugal**, access to education is granted under the same conditions as national citizens to all minors and adults with a refugee or subsidiary protection status.

In principle, all (Member) States allow unaccompanied minors with a residence permit to continue and complete primary and/ or secondary education once they turn 18 years old (or reach compulsory school age in the (Member State)).[253] However, some (Member) States only grant such access to education up to a certain age, for example up to 20 years in **Bulgaria,** 25 years in **Poland** and 26 years in the **Czech Republic** and **Slovenia**. Three Member States specified that unaccompanied minors were moved to education programmes for adults once they turned 18 years in order to complete (lower) secondary education.[254] Some (Member) States indicated that it was also possible for unaccompanied minors to continue vocational training.[255] In **Germany**, age limits for accessing general or vocational education vary between the *Länder*, although it is usually possible to continue education which was begun before turning 18. **Norway** and **Sweden** noted that unaccompanied minors with a temporary residence permit were not entitled to continue education beyond the age of 18 years, though Swedish municipalities could choose to allow access to secondary school for unaccompanied minors in this category between 18 and 20 years of age.

3.3.4. Quality of education and challenges

Many (Member) States reported on challenges with regard to the education of unaccompanied minors.[256] These often relate to the fact that it takes unaccompanied minors many years to complete their education due to language barriers, insufficient tailoring of the education programme to individual needs and financial barriers to accessing third-level or further education.

A number of (Member) States pointed to the lack of specialised staff, necessary for both the special language training and psychological support that many unaccompanied minors require.[257] For example, in **Greece**, the lack of systematic training and on-site support for teachers led to increased feelings of insecurity and inadequacy due to the fact that they were not familiar with teaching Greek as a second language or intercultural education. This, in combination with the reality of changing teachers all too often, affected the effectiveness and quality of the education offered to unaccompanied minors.

Germany mentioned that the heterogeneity of pupils in preparatory classes was a particularly great challenge, as pupils with very different prior knowledge, language skills and prospects to remain were placed in the same classes. This makes it difficult to ensure a consistently high-quality standard of the education provided. **Finland** pointed to the specific challenge faced by unaccompanied minors arriving in the country at the age of 15-17, as they only have a short period of time complete basic school in order to have the opportunity to access further education and employment. The risk of dropping out of the educational system is the greatest precisely among these young persons at a transition point. In **Sweden**, significant differences between schools across the country were reported.

3.4. ACCESS TO (SUPPORT TO) EMPLOYMENT

3.4.1. The right to Access the labour market for unaccompanied minors

As established in the recast Qualification Directive, all (Member) States guarantee access to the labour market for unaccompanied minors granted international protection in the same terms as for nationals.[258] (Member) States can, however, impose restrictions or conditions for access to the labour market for unaccompanied minors with another status, or deny them the right to take up work. Asylum-seeking unaccompanied minors are to be

252 The Qualification Directive does not specify the 'category' of legally residing third-country nationals to which Art. 30 would apply, meaning that Member States could select any (with more or less rights regarding access to education).
253 In Belgium, it is up to the school to decide whether an unaccompanied minor is allowed to continue studying.
254 FI, HR, NO.
255 AT, CZ, DE, EE, FI, HU, IE, IT, LT, LU, LV, NL, PL.
256 BE, BG, DE, FI, IE, LU, NL, PL, SI, SE, NO.
257 BG, DE, EE, EL, PL, SE, NO.
258 Article 26 of the recast Qualification Directive 2011/95/EU.

granted access to the labour market within a period of nine months,[259] but (Member) States may set certain conditions.[260]

In this context, nine (Member) States[261] grant automatic access to employment for unaccompanied minors with a residence permit. In **France**, unaccompanied minors are not required to hold a residence permit but need a work permit to access vocational training as part of an apprenticeship and vocational contract, due to the length and type of training anticipated in a company; the work permit is automatically issued to the minor until the age of 18 years.

Stricter policies are in place in some (Member) States, either with regard to all unaccompanied minors or specific groups. For example, an authorisation to work is required for all unaccompanied minors in five (Member) States,[262] in some cases – such as **Austria** – even for vocational training. Furthermore, in some (Member) States, certain groups of unaccompanied minors are subject to stricter conditions or not allowed to work. For instance:

- In **Hungary**, unaccompanied minors with a tolerated status need to take a labour market test to obtain a work permit;
- In **Belgium**, unaccompanied minors in the special residence procedure for unaccompanied minors and who have no application for international protection running, cannot apply for a work permit;
- In **Bulgaria**, unaccompanied minors who have been refused or who have not applied for international protection do not have access to the labour market;
- In **Germany**, the foreigners' authority may not allow the employment of certain groups of unaccompanied minors who do not have a residence permit, but benefit from a suspension of removal or are still in the asylum procedure.[263] Individuals with residence status as persons entitled to asylum, recognised refugees, or beneficiaries of subsidiary protection, have unrestricted access to the labour market and vocational training. Persons with residence titles on other humanitarian grounds (e.g. due to the ascertainment of a removal ban) require a formal permit from the foreigners authority, but do not need permission from the Federal Employment Agency.
- In **Slovakia**, unaccompanied minors whose stay is tolerated on account of being unaccompanied are not allowed to work.

In addition to the above-mentioned conditions, access to employment for unaccompanied minors is limited in all (Member) States.[264] These restrictions are the usual limitations imposed on employment of minors (i.e. minimum working age, maximum working hours, types of jobs that minors can undertake) and thus, they apply to unaccompanied minors as well. With some exceptions,[265] most (Member) States have set the general minimum working age for minors at 15 years old. Furthermore, in the **United Kingdom** most local councils/ authorities state that business intending to employ school-aged children over 13 years old must apply for a child employment permit before they can be employed.

3.4.2. Support measures

Some (Member) States[266] have special programmes in place to support unaccompanied minors in accessing the labour market, for example:

- In the **Czech Republic**, if the child is placed in the Facility for Children of Foreign Nationals (ZDC),[267] the facility helps unaccompanied minors explore their professional orientation, for example through the arrangement of visits to job fairs and schools and short-term placements with different employers.
- In **Finland**, an unaccompanied minor who registers at an Employment and Economic Development Office as an unemployed jobseeker will be drawn up an integration plan, which may include study plans, as well as other measures that support integration, employment and social inclusion.
- In **France**, unaccompanied minors over the age of 16 years can follow vocational training. Since 2016, vocational training for unaccompanied minors is one of the measures of integration into French society. With the young person's agreement, guidance towards vocational training in an apprenticeship centre or vocational training centre is often encouraged, in order to support them towards independence and encourage their integration into society.
- In **Germany**, unaccompanied minors receive personal counselling within the youth welfare system, covering prospects for taking up vocational training and employment. In addition to this, unaccompanied minors have access to programmes providing career orientation to minors and adolescents such as vocational preparation schemes at schools or programmes funded by the Federal Employment Agency.
- In **Lithuania**, unaccompanied minors accommodated at registration and reception centres (RRC) have access to vocational training courses, job counselling and training and upskilling opportunities. However, it is in practice, unaccompanied minors do not usually make use of these services as many tend to abscond rather soon upon arrival at these centres.

259 Article 15 of the recast Reception Conditions Directive 2013/33/EU.
260 IE has not yet opted-in to the Reception Conditions Directive or its recast and, up to February 2018, all asylum-seekers were prohibited from seeking employment. Following a Supreme Court decision, which held that the prohibition on asylum seekers from seeking work was unconstitutional, the Government announced its intention to opt-in to the Reception Conditions Directive and grant asylum-seekers permission to seek employment where the applicant has not received a first instance decision within 9 months, subject to conditions. Until the Government opts-in to the Directive, interim arrangements have been made for asylum-seekers to access employment on the same basis as non-EEA nationals.
261 BG, CZ, EE, FI, LV, NL, PT, SE, UK.
262 AT (depending on the status granted), BG, DE (depending on the status granted), LU, MT.
263 For example, those with a suspension of removal due to reasons attributable to themselves or coming from 'safe countries of origin' who applied for asylum after 31 August 2015.
264 AT, BE, BG, CZ, DE, EE, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK, UK and NO.
265 The general working age in ES, IE, IT, PL and PT has been set at 16 years old. More generally, exceptions allowing minors under the minimum working age to perform some jobs (e.g. in the show business industry) are usually foreseen.
266 CZ, DE, FI, FR, LT.
267 Zařízení pro děti-cizince (ZDC); The minor can also be placed in a different form of institutional care or substitute family care.

Whilst in all cases unaccompanied minors have access to general or specific child or unemployment support services, four (Member) States[268] underlined that they were not particularly encouraged to seek employment, with education being the preferred route for them.

3.4.3. Transition to adulthood

When unaccompanied minors transition into adulthood, the special rights and limitations linked to their age of minority cease to apply and they enjoy the same rights as other third-country nationals under the same immigration status, including access to incentive measures for unemployed or immigrants. To ensure a smooth transition, special measures targeting soon-to-be-adults or recently aged-out unaccompanied minors are in place in some (Member) States.[269] For example, guidance to unaccompanied minors is provided in **Finland**, **Ireland** and **Slovakia** in the form of plans drafted in collaboration with the minor approaching the age of majority, defining aspects such as training, basic education or other employment or social inclusion support measures. In the **Czech Republic**, the Social and Legal Child Protection Authority is required to regularly evaluate the situation and, on the basis of such evaluation, creates an **individual protection plan for the child in question**. Both the evaluation of the child's situation and the individual child protection plan also address issues concerning the residence status of the unaccompanied minor in the territory of the Czech Republic and his/ her integration, even after reaching 18 years of age. Moreover, if a minor is placed in the ZDC, a support plan is developed for unaccompanied minors in this facility, to ensure that by the time the young adult leaves the centre, both employment and accommodation are secured.

In **France**, child welfare legislation states that young adults who are in need may receive an extension of child welfare services support up to the maximum age of 21 years. The "young adult contract", concluded between the young adult and the child welfare services includes financial support and personal support towards employment. It can be combined with accommodation, legal support and educational and/ or psychological support. The aim of the contract is, ultimately, to enable the young person to live autonomously.

In **Slovakia**, transition measures apply only to aged-out minors who decide to stay in the reception centre. In other cases,[270] the responsible authority or the guardian appointed to them as minors follow up once they become young adults, either in the framework of a formally established mechanism[271] or in an informal manner.[272]

3.4.4. Quality of employment access support and challenges

Research on the quality of employment support for unaccompanied minors and effects of the access to employment on their integration is limited, with only three (Member) States[273] reporting on the findings of studies. In general terms, researchers found that unaccompanied minors are in a more vulnerable situation when it comes to being employed in regular jobs as compared to young nationals and other third-country nationals. It has also been noted that unaccompanied minors tend to opt for lines of work that do not require higher education.[274] The reasons for this are numerous, ranging from bureaucratic obstacles and lack of written documentation from previous education and training[275] to lack of family support or even the need to support their families back home and save money to bring them to Europe.[276]

3.5. FAMILY REUNIFICATION

3.5.1. The right to family reunification for unaccompanied minors

Unaccompanied minors who are recognised refugees benefit from more favourable family reunification conditions,[277] and (Member) States may apply a wider definition of family members in the case of unaccompanied minors, including the legal guardian or another adult responsible for the minor.[278] As reported in the 2016 EMN study on family reunification,[279] the right of unaccompanied minors to reunite with family members from abroad, is nearly 'universal' in the EU, i.e. also applying to beneficiaries of subsidiary protection and often also other humanitarian statuses. Nearly all (Member) States recognise the right of unaccompanied minors to act as sponsors for family reunification with their parents, except in **Belgium**, **Hungary** and **Ireland**, where this is only allowed if the unaccompanied minor has refugee status or benefits from subsidiary protection. The **United Kingdom** currently does not allow children to sponsor relatives to come to the country, based on the concern that doing so will lead to more children putting their lives at risk to get to the United Kingdom in order to sponsor family members to join them.[280]

During the reference period of this Study, a number of (Member) States have carried out[281] or planned[282]

268 IE, LU, SE, SI.
269 CZ, FI, FR, IE, NL, PL, SI, SE, SK, NO.
270 IE, PL, SI, SK, LU, NO.
271 IE, PL, SI, SK, NO.
272 LU.
273 BE, FI, SE.
274 Björklund, K. (2015), 'Unaccompanied refugee minors in Finland', http://www.migrationinstitute.fi/files/pdf/c26.pdf.
275 IOM (2011). Unaccompanied Minor Asylum-seekers: Overview of Protection, Assistance and Promising Practices.
276 Espenhorst, Niels/Noske, Barbara (2017): Serviceteil: Zentrale Institutionen außerhalb der Kinder- und Jugendhilfe für die Zukunft unbegleiteter minderjähriger Flüchtlinge, in: Brinks, Sabrina/Dittmann, Eva/Müller, Heinz (ed.): Handbuch unbegleitete minderjährige Flüchtlinge. Reihe Grundsatzfragen (53), Frankfurt: Internationale Gesellschaft für erzieherische Hilfen Sektion Bundesrepublik Deutschland, 60-71. / Bauer, Angela/Schreyer, Franziska (2016): Ausbildung von unbegleiteten minderjährigen Flüchtlinge. Sinnvoll ist Unterstützung über Volljährigkeit hinaus. IAB Kurzbericht 13/2016, Nürnberg: Institut für Arbeitsmarkt- und Berufsforschung.
277 As per Art. 10(3) of the Family Reunification Directive. IE and UK have not opted-in to the Family Reunification Directive.
278 This is however subject to a 'may' clause and hence left to the discretion of the Member States.
279 European Migration Network (EMN) (2017), Synthesis Report for the EMN Focussed Study 2016 – Family Reunification of Third-Country Nationals in the EU plus Norway: National Practices.
280 The Family Reunification Directive applies to all (Member) States, except Denmark, Ireland, the United Kingdom and Norway.
281 AT, DE, FI, FR, HU, IE, NO.
282 LV.

legislative or policy changes to the family reunification system, introducing further restrictions affecting unaccompanied minors. For example:

- In **Austria**, an amendment to the Asylum Act introduced a three-year waiting period between the moment the sponsor is granted subsidiary protection status and the application for family reunification.
- In **Finland**, the requirement to prove secure means of support is now applicable to family members of beneficiaries of international protection, even when the family was established in the country before the sponsor's arrival in Finland. A waiver of this requirement is recognised for sponsors with refugee status, including unaccompanied minors acting as sponsors, but only if the application for family reunification is filed within three months from the date on which the sponsor was granted the status.
- In **France**, the draft law guaranteeing the right to asylum and improving control of migration flows, adopted by the Council of Ministers on 21 February 2018, includes provisions to, among other things, facilitate the granting of a 10-year card to family members of minor refugees (girls who are victims of female genital mutilation) and broaden the family group so as to include brothers and sisters of minors.
- In **Hungary**, the period during which refugees, including unaccompanied minors who have been granted refugee status, are exempted from proving secure means of support was reduced from six to three months. However, as more asylum seekers are being granted subsidiary protection, for whom this exemption is not available, in this reduction is applied less often in practice.
- **Norway** introduced a change to the Immigration Act which allows authorities to deny the right of the unaccompanied minor's family to migrate to Norway in cases where family life can be exercised in a safe country which the family is generally more closely connected to, so long as the sponsor (i.e. the unaccompanied minor) can legally reside in that country. The exception does not apply to unaccompanied minors who have been granted a permanent resident permit.
- **Germany** passed legislation in early 2018 prolonging the temporal suspension of family reunification for persons with subsidiary protection status until 31 July 2018. This also applies to unaccompanied minors with that status. However, under very limited circumstances, unaccompanied minors can benefit from exceptions in cases of hardship. From 1 August 2018 on, up to 1 000 residence permits can be issued to relatives of persons with subsidiary protection status for humanitarian reasons. If the relative is a minor, unmarried child, this is to be considered as one of the humanitarian reasons. In the application process and the decision on the issuance of the residence permit, the best interest of the child is to be especially considered. There is, however, no entitlement to a residence permit on these grounds.

3.5.2. Transition to adulthood

When an unaccompanied minor turns 18, the more favourable conditions for family reunification, namely the broader definition of family members, cease to apply, meaning that they can exercise their right to family reunification under the same conditions as other third-country nationals. An exception to this rule has been recently recognised by the European Court of Justice (ECJ) in the case of unaccompanied minors who have been granted refugee status after reaching the age of majority.[283] In this case, the Court clarified that under the Family Reunification Directive, the term 'minors' nationals of non-EU countries and stateless persons must be interpreted to include those who are below the age of 18 at the moment of their entry into the territory of a (Member) State and of the introduction of their asylum application in that state, but who, in the course of the asylum procedure, they attain the age of majority, for the purposes of assessing an application for family reunification.

In this context, it is relevant to mention that **Germany** not only requires that the unaccompanied minor is underage when the application is filed, but also when the family member enters the territory. To minimise the impact of this status change, some Member States, such as **Sweden**, prioritise applications from sponsors who are nearing the age of majority.

Exceptions to the general rule mentioned above are possible in two (Member) States.[284] In **Austria**, authorities weigh the right to family life against public interest and may conclude that a young adult shall be entitled to family reunification with his parents. In **Finland**, the decision on an application linked to an unaccompanied minor who has turned 18 while the dossier was open may be positive if the application was significantly delayed due to a reason beyond the applicant's or the sponsor's control.[285]

Although no (Member) State has established specific measures to support unaccompanied minors with regard to the exercise of their right to family reunification as they transition into adulthood, support and guidance is or may be provided in some (Member) States as part of the childcare or aftercare support scheme.[286]

3.5.3. Effects of family reunification on the integration of unaccompanied minors and challenges

The effect of family reunification on the integration of unaccompanied minors has been the subject of a number of research projects. In general terms, studies referred to by (Member) States[287] suggest that family reunification is beneficial for the integration of unaccompanied minors in the host country.[288] Family support plays a key role in school attendance, as it constitutes a source of motivation and eliminates some of the pressure that pushes unaccompanied minors to find a job. On the other hand, some research also identifies the negative impact that family reunification procedures may have on unaccompanied minors. While the

283 Court of Justice of the European Union (CJEU), Judgment in Case C-550/16 (A and S v Staatssecretaris van Veiligheid en Justitie).
284 AT, FI.
285 With regard to sponsors with a refugee status, FI will also take into account the recent ECJ ruling mentioned above.
286 AT, DE, HR, FI, HU, IE, NL.
287 AT, BE, FI, IE, NL, SE
288 Becker, H., Crosgrave, C., Labor, H., 'Family Reunification: a barrier or facilitator of integration? Ireland Summary Report', 2012.

procedure is on-going, minors may feel that the outcome is highly dependent on factors within their responsibility (e.g. families often expect the unaccompanied minor to cover most of the procedural costs), and experience stress and anxiety. This, together with the uncertainty and the lengthiness of the process may divert them from focussing on their education. Furthermore, a positive decision does not necessarily put an end to their plight, as many unaccompanied minors who succeed in bringing their families have to assume a great deal of responsibility, as they become the link between the family and society.[289]

Challenges relating to the exercise of the right of unaccompanied minors to family reunification have been highlighted by **Ireland** and **Lithuania**: in **Ireland**, in spite of the support provided to unaccompanied minors,[290] their limited access to tailored legal services and information, together with a lack of clarity and insufficient guidelines available for asylum seekers regarding the family reunification process constitute a major obstacle for unaccompanied minors applying for family reunification. From a more general viewpoint, **Lithuania** pointed out that the tracing of family members of unaccompanied minors was one of the greatest challenges when implementing the right to family reunification, as the process was long, and minors often absconded before their family members were found.

3.6. SOCIAL WELFARE SUPPORTING UNACCOMPANIED MINORS

Unaccompanied minors are generally entitled to social welfare or assistance in one way or another. Accommodation is usually provided either at childcare facilities or foster families, in which case the basic needs of the minor are covered by the institution or the family. Along with this element, (Member) States reported that other types of social welfare support are in place, but the conditions to benefit from these schemes vary across countries. In some (Member) States,[291] it is only accessible to minors with a residence permit, whereas in other countries the decision to provide further social assistance is based on an assessment of the needs of the minor,[292] or on other elements, such as enrolment in an education or training programme or their registration as job seekers.[293] Complementary to this, child benefits further contribute to cover the unaccompanied minor's costs of living in some (Member) States.[294] The latter are usually paid to the foster family responsible for the child,[295] but in some cases,[296] they may also include pocket money that is given directly to the minor.

In this context, **Latvia** pointed out that the fact that the social support granted to third-country nationals with an alternative status is entirely dependent on their residence permit places them in an uneven position as compared to refugees. To address this situation, the Ministry of Welfare is currently examining the socio-economic integration of refugees and persons with alternative status, with a view to developing proposals for a system that will grant them equal access to social assistance.

In **France**, once their age and unaccompanied status has been recognised, unaccompanied minors fall under the scope of common law on child welfare, which allows them to receive care (including accommodation) and socio-educational support until they reach the age of 18 years.

3.6.1. Transition to adulthood

When they reach the age of majority, some of the social benefits that unaccompanied minors receive within the framework of the childcare system cease to apply and they are given access to the same social benefits as adult third-country nationals or citizens of the (Member) State, depending on their status.[297]

The exception to this general rule is seen in the **Czech Republic** and **Portugal**, where unaccompanied minors may remain in substitute care and receive the same material aid that he or she received as a minor so long as he or she is considered 'dependent'.[298] Similar regulations apply in **Italy**, where in certain cases, former unaccompanied minors may be granted assistance through the Social Service system up to 21 years of age) and in **Germany,** where certain former unaccompanied minors should be granted assistance through the youth welfare system (up to 21 or 27 years of age), which is formally a benefit under the Social Code. Some examples of social benefit schemes accessible for former unaccompanied minors are,[299] for example, an allowance for those enrolled in an education or training programme[300] and integration or introduction programmes for third-country nationals.[301] While in **Austria** the transition to adulthood results in a reduction of benefits, in **Latvia**, although childcare benefits such as out-of-family care are terminated, the financial support that adults receive is higher than that granted to minors (approximately 97 euros per month for minors and 139 euros per month for adults).

In some (Member) States, the impact of a potential reduction of social benefits for former unaccompanied minors and transferring from care to independence is minimised by the provision of after-care services,[302] or the provision of a settling-in allowance.[303] For example, in **Hungary**, a provision from the Child Protection Act ensures the possibility for after-care service until the aged-out minor is 21, 24 or 25, depending on the reason of entitlement. This is

289 Red Cross Flanders, Tracing, 'De Niet-Begeleide Minderjarige Vluchteling en gezinshereniging. Het kan ook anders' ('The unaccompanied minor and family reunification. It can also go differently'), 2015.
290 Unaccompanied minors in Ireland receive support from a number of non-governmental organisations, UNHCR and Tusla.
291 AT, BE, CZ.
292 DE, EE, LU, LV, PL, SE, SI, NO.
293 FI, PL, NO.
294 AT (depending on the status granted), BE, CZ, DE, HU, IE, PL, SI, SE, NO.
295 BE, CZ, IE, IT, PL, SI, NO.
296 HU, SI.
297 The only (Member) State that specifically declared that there is not any type of benefit cut-off when minors reach 18 years of age is Luxembourg.
298 The dependent status may last until the individual is 26 years old if he/she: attends full-time education, is unable to attend full-time education due to illness or injury, or is unable to perform full-time employment due to a long-term medical condition.
299 BE, EE, FI, IE, SE.
300 FI, IE, IT, SE.
301 BE, DE (in some cases), NO.
302 CZ, FI, HR, HU, IE, IT, UK.
303 CZ, HU, IE, LT.

very relevant for unaccompanied minors, as it results in a very rare cut-off of benefits in practice. In addition to this, young adults leaving the children's home/ aftercare home/ foster home after at least three years can apply for financial support to buy a house in Hungary. The amounts range from approximately €4 000 to €6 000, which is enough to buy a modest house in a small village outside Budapest. In the **Czech Republic,** upon termination of foster care or upon leaving the Facility for Children of Foreign Nationals, an unaccompanied minor is entitled to material aid of approximately €1 000. If a foreigner leaves educational facilities for administering institutional care, he/ she can obtain material aid of a maximum of €1 000, however, a minimum level is not laid down.[304] In **Lithuania**, aged-out unaccompanied minors with refugee status receive a one-time settling-in allowance amounting to €1 342. This has been criticised because the amount is half as much as that received by orphans leaving the system.

Support for the transition into adulthood is mostly provided in the form of guidance, either as part of the support provided by the government before they turn 18[305] or through NGOs and other entities.[306]

Box 8: Bridging the gap between social assistance schemes – the Netherlands

In the Netherlands, the change in the social support schemes that follows when unaccompanied minors reach the age of majority may pose a lot of difficulties in practice, as in some cases the individual needs to be over 18 to apply for adult schemes. This opens a window during which the individual does not receive any type of social benefit. To solve this issue, some municipalities have sought to create a bridge between both schemes by either making it possible to file a benefit application before the 18th birthday, or by providing general and special social assistance to bridge the gap.

3.6.2. Effects of social welfare on the integration of unaccompanied minors and challenges

Research on the effects of social welfare on the integration of unaccompanied minors, particularly with regard to their transition to adulthood has been carried out in three (Member) States.[307] The studies highlight some of the difficulties faced by aged-out unaccompanied minors in actually making use of the social benefits to which they are entitled, as well as call for better coordination between all relevant actors. For example, in **Finland** unaccompanied minors over the age of 17 can register as unemployed job seekers, allowing them to receive labour market support while they carry out the activities laid down in their integration plan, including pursuing studies, including basic education. This has meant that in cases where the recently aged-out minor has pursued basic education throughout the whole period covered by the integration plan (which usually has a maximum duration of three years), their labour market support will run out before they can truly be considered unemployed job seekers.[308] Similarly, research conducted in **Ireland** found that unaccompanied minors whose immigration status had not been resolved by the time they turn 18 face difficulties in accessing social welfare, which may also affect their access to education and integration into Irish society.[309]

3.7. FURTHER MONITORING OF UNACCOMPANIED MINORS' TRANSITION TO ADULTHOOD

In addition to the abovementioned aftercare services, further monitoring of former unaccompanied minors is ensured in six (Member) States.[310] As part of the services provided in the aftercare scheme in **Croatia** and **Finland** for unaccompanied minors below the age of 21 years, general monitoring and guidance is provided. Monitoring and counselling from the reception centre is also foreseen in the **Czech Republic**[311] and **Slovakia**, the latter only under consent of the individual.

From a more general perspective, the Malta College of Art, Science and Technology – the leading vocational education and training institution in the country – ensures the monitoring of former unaccompanied minors enrolled in one of its programmes.

3.8. CONSEQUENCES OF A TEMPORARY RESIDENCE PERMIT ON THE INTEGRATION OF UNACCOMPANIED MINORS

With regard to the effect of the expiration of a residence permit on the integration measures for unaccompanied minors, three (Member) States[312] explicitly stated that lawful residence constitutes a requirement to access certain integration measures, such as access to the labour market, whereas in two (Member) States[313] the expiration of a temporary residence permit does not have an impact on any of the integration measures for unaccompanied minors.

304 The condition is that he/ she has residence entitlement for the territory of CZ even after reaching the age of 18 years.
305 AT, DE (in some cases), EE, IE, LV, SI.
306 BE, DE (in some cases), IT.
307 FI, IE, SE.
308 In 2017, legislation was amended to extend labour market support for those finishing their basic education.
309 Mannion, K., 'Child Migration Matters: Children and Young People's Experience of Migration', 2016.
310 FI, HR, IE, MT, SI, SK.
311 Only in case the unaccompanied minor remains in the facility or he/ she turns for assistance to the facility, or he/ she decides to return to the facility a year after leaving in order to continue his/ her studies.
312 AT, LV, UK.
313 BE, ES, PT.

4. RETURN OF UNACCOMPANIED MINORS

The Return Directive[314] allows the return of unaccompanied minors but includes them among the category of 'vulnerable persons' (Art. 3(9)). This entails that for the return and removal of an unaccompanied minor to be possible, (Member) States must comply with certain conditions and provide special safeguards. Before issuing a **return decision** for an unaccompanied minor, a (Member) State must ensure that "assistance by appropriate bodies other than the authorities enforcing return" is provided. In addition, authorities must give "due consideration to the best interests of the child" (Art. 10). Before **enforcing the removal** of an unaccompanied minor, (Member) States "shall be satisfied that he/ she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return" (Art. 10). **Upon return**, the minor must be handed over to a family member, an appointed guardian or an appropriate care centre.

The Commission further addressed the return of unaccompanied minors also in the set of recommendations adopted in March 2017 to improve the effectiveness of return (recommendations 13 and 14). These recommendations encourage (Member) States to establish clear rules on the legal status of unaccompanied minors. The Commission also calls on (Member) States to ensure that any decision is based on an individual assessment which systematically takes account of the best interest of the child, that this process is carried out by the competent authorities on the basis of a multi-disciplinary approach, that the unaccompanied minor is heard and, finally, that a guardian is duly involved. In its recommendations, the Commission also encourages to put in place targeted reintegration policies for unaccompanied minors.

4.1. GENERAL OVERVIEW OF THE RETURN PROCEDURE AND ITS LEGAL AND ORGANISATIONAL SET-UP IN THE (MEMBER) STATES

The majority of (Member) States foresee the possibility to issue a decision on the return of an unaccompanied minor. The only exceptions are **Bulgaria** and **France,** which by law cannot issue such decisions against an unaccompanied minor. **Bulgaria** and **Estonia** however foresee the possibility for the unaccompanied minor to opt for a voluntary return (though not obliged by a return order in Bulgaria), benefitting of the Assisted Voluntary Return (and Reintegration) programmes (AVRR) (see Section 4.1.2). On the contrary, in **France**, the return (and reintegration) programmes are not applicable to unaccompanied minors. However, a specific programme of voluntary return may be implemented in the framework of a family reunification. In this case, the best interest of the child is assessed by the juvenile judge in association with the departmental council to which the child's guardianship has been granted. The travel of the unaccompanied minor is organised by the French Office for Immigration and Integration.

4.1.1. The best interests of the child with regard to return

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 and involving appropriate bodies in the process.[315] To assess the best interests of the child, (Member) States have adopted different procedures and modalities: some have legal or policy provisions mandating the obligation to assess the best interests of the child.[316] In some cases, (Member) States issued specific operational guidance to facilitate the work of relevant authorities in conducting the assessment of the best interests of the child.[317] In all

314 Directive 2008/115/EC Directive on common standards and procedures in Member States for returning illegally staying third-country nationals. Available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:en:PDF. IE and UK have not opted-in to the Return Directive, therefore they are not bound by its provisions. NO, while not a member of the EU, is bound by the Return Directive as part of the Schengen acquis.
315 This provision does not apply to IE and UK have not opted-in to the Return Directive.
316 AT, BE, CZ, EE, ES, FI, HU, LV, LT, LU, NL, SI, SE, PL, NO.
317 FI, NO, SE.

(Member) States[318] the assessment of the best interests of the child to decide on the issuance of a return decision and its enforcement looks, among other criteria,[319] at the identification of durable solutions for the stay or return of the unaccompanied minor. In **Luxembourg**, a new collegiate body, composed of members of different state authorities as well as of the ad-hoc administrator of the minor, was created in 2018 with the function of assessing the best interest of the child in the context of return of unaccompanied minors.

Other elements considered and safeguards applied by (Member) States during the return process include:

- Making sure that the child and his/ her guardian are **duly involved** in the decision-making process.
- Conduct a **'family assessment'** for each individual case, to determine which durable solution is the best.[320]
- Confirming the **will of the family of origin** to take back the minor, or the availability of other **adequate reception facilities**. This usually requires **family tracing** and an on-site assessment in close cooperation with local consulate offices local NGOs and partner organisations (see section 4.2).
- Looking at general **standards of living** as well as safety and other conditions in the unaccompanied minor's country of origin.[321]
- Assessing the **degree of integration** of the unaccompanied minor in the host country, as well as the length of time that the minor has spent outside his/ her country of origin.[322]

Box 9: Project "Best Interests of the Child and Return" [Barnets bästa vid återvändande, BBÅ] – Sweden

This AMIF-funded project was initiated by the Swedish Migration Agency together with the municipality of Strömsund in August 2017 and will run until June 2020. The aim of the project was to increase the knowledge and coordination among stakeholders to develop a more sustainable return process. The target groups of the project are staff in managerial positions at municipal social services involved in the care of unaccompanied minors and in care facilities (residential care homes for children and young persons and supported accommodation), as well as legal guardians and staff in charge of trainings.

One of the anticipated outcomes of the project was to build stakeholders support to the unhindered compliance with return decisions and build a common understanding of what constitutes the best interests of the child in this regard. The project embraced the view that return can be a durable solution in the child's best interest, emphasising the importance of on early counselling about the return process and help the minor to plan accordingly.

The project also set up a platform for social workers, to exchange practices and knowledge on how to discuss difficult issues with minors, such as the possibility to return, or how to deal with trauma (PTSD). The staff in the municipality introduces in their first conversations with the child the possibility that the asylum process may end in a return decision. The Common platform of knowledge aims to make sure that all actors close to the child, act on the basis of the same information and know which actor is responsible (or not) for different parts of the process. Finally, a manual for coordination and processes for those actors working with the child is being produced.

4.1.2. Voluntary departure and assisted voluntary return

If, based on the assessment of the best interests of the child, return was considered to be the best durable solution, the unaccompanied minor is in all (Member) States given the possibility to depart voluntarily, or as part of an assisted voluntary return programme.[323]

(Member) States do not have any specific legal provisions regulating the **voluntary departure** of unaccompanied minors, beyond the provisions applying to all third-country nationals. These include being granted a period for voluntary departure and the possibility to appeal against the return decision. This also implies that (Member) States do not provide assistance to unaccompanied minors who decide to depart independently (i. e. without assistance in the form of an AVR(R) programme), with a few exceptions[324] where the government provides some form of assistance including legal support, and counselling on reintegration in the case of return. In **Austria**, in cases where the reception centre *Drehscheibe*[325] assists unaccompanied minors with their voluntary departure, a reliable partner in the country of return must accept responsibility for the minor and ensure the minor's safety.

All (Member) States[326] give the opportunity to children to access **AVR(R)programmes**, provided that the conditions to return can be met (i.e. consent of the parents, and ensuring adequate reception, see below). **Croatia** was the only country which did not yet have an AVR(R) programme, although it is currently working to develop one. AVR(R) programmes are either funded through the Asylum, Migration and Integration Fund (AMIF) and / or (partly) through government funding, and carried out by service providers, commonly IOM or Caritas.[327]

318 With the exception of Ireland.
319 For a complete overview or the criteria used across EU Countries and Norway to assess the BIC please look at the EMN focus study, Synthesis report on "The Effectiveness of Return", February 2017.
320 BE, CZ, IE, IT, LU, PL, SI.
321 CZ, IE, IT, LU, PL.
322 CZ, IT
323 This is also the case for Bulgaria although as a matter of national policy they never issue a return decision for an unaccompanied minor.
324 CZ, SI, UK.
325 Drehscheibe is a specialised service centre for unaccompanied children.
326 AT, BE, BG, CZ, DE, EE, FI, HU, IE, IT, LT, LV, LU, MT, NL, PL, PT, SI, SK, SE, UK, NO.
327 AT, BE, BG, CZ, DE, EE, FI, HU, IE, IT, LT, LV, LU, MT, NL, PL, PT, SK.

Table 4.1 Total number of voluntary/ assisted voluntary/ forced returns of unaccompanied minors in (Member) States, 2014-2017 [328]

	Total number of voluntary/ assisted voluntary/ forced returns of unaccompanied minors				
	Type of return	2014	2015	2016	2017
BE[329]	Voluntary return	n/a	n/a	n/a	n/a
	Assisted voluntary return	9	17	19	31
	Forced return	n/a	n/a	n/a	n/a
BG	Voluntary return	n/a	n/a	n/a	n/a
	Assisted voluntary return	12			
	Forced return	n/a	n/a	n/a	n/a
DE[330]	Voluntary return	n/a	n/a	n/a	n/a
	Assisted voluntary return (Federal REAG/ GARP-Programme only)	27	96	170	80
	Forced return	n/a	n/a	n/a	n/a
EE	Voluntary return	0	0	0	0
	Assisted voluntary return	0	0	0	0
	Forced return	0	0	0	0
FI	Voluntary return	0	3	5	0
	Assisted voluntary return	1	3	18	4
	Forced return	0	1	0	1
HU	Voluntary return				0
	Assisted voluntary return				0
	Forced return				0
IE	Voluntary return	n/a	n/a	n/a	n/a
	Assisted voluntary return	1	2	1	0
	Forced return	n/a	n/a	n/a	n/a
IT	Voluntary return	n/a	n/a	n/a	n/a
	Assisted voluntary return	n/a	n/a	n/a	n/a
	Forced return	n/a	n/a	n/a	n/a
LT	Voluntary return	0	0	0	0
	Assisted voluntary return	0	0	0	0
	Forced return	0	0	0	0
LV	Voluntary return				
	Assisted voluntary return				
	Forced return	3	8	27	0
MT	Voluntary return				
	Assisted voluntary return				
	Forced return			1	
NL[331]	Voluntary return	10	20	60	40
	Assisted voluntary return	n/a	n/a	n/a	n/a
	Forced return	5>	10	10	20
SE[332]	Voluntary return	41	48	161	120
	Assisted voluntary return				
	Forced return	5	5	15	5

328 No data available for AT, LU, SI, UK. Not applicable in FR.
329 Minors who signed up for assisted voluntary return before the age of majority but returned after the age majority are not included.
330 No forced returns of unaccompanied minors have been carried out between 2012 and 2017. Data on unassisted voluntary return is not available.
331 Data of 2017 refer to the period January to November 2017
332 SE does not distinguish between voluntary return and assisted voluntary return. In practice, nearly all voluntary returnees receive some form of assistance.

	Total number of voluntary/ assisted voluntary/ forced returns of unaccompanied minors				
	Type of return	2014	2015	2016	2017
SK	Voluntary return	0	0	0	0
	Assisted voluntary return	0	0	0	0
	Forced return	0	1	1	0
NO[41]	(Assisted) voluntary return	5	12	17	9
	Forced return	17	37	29	8

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

In line with the Return Directive, some common conditions/ procedures were applied by all (Member) States when carrying out voluntary return:

- Defining a plan for return in consultation with the minor's legal guardian, and through counselling by social workers, which sets out options for assistance to reintegrate in the country of return;[334]
- Obtaining the formal agreement of the parents or family members in countries of origin to assist the minor in the reintegration process; alternatively, to assure reception in an adequate child-care institution;[335]
- Arranging an escort, which can be a parent or a designated person authorised to take care of the child, to accompany the minor during travel; [336]
- Ensuring proper handover to the parent or appointed legal guardian in the country of return.[337]

In practice, however, the number of minors returned through AVR(R) is low because, as some (Member) States noted, usually unaccompanied minors did not express any interest in returning and, in the few instances when they did so, the conditions for the return were only rarely met, in particular obtaining the consent of the family and guaranteeing the safety of the child.[338]

4.1.3. Forced return

The Return Directive allows the forced return of unaccompanied minors, but mandates that, in the best interests of the child, before removing an unaccompanied minor from the territory of a (Member) State, the authorities of that (Member) State shall be satisfied that the child will be returned to a member of his/ her family, a nominated guardian or adequate reception facilities in the country of return.[339]

In line with the Return Directive, the option of forcibly returning unaccompanied minors who have been issued a return decision is largely permitted by law across the EU, with three (Member) States among those issuing return decisions to unaccompanied minors, expressly forbidding it.[340] In practice, however, most (Member) States[341] do not perform forced returns of unaccompanied minors, unless in exceptional cases. This is often because *de facto* 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. Notably, assuring adequate reception in the country of return proved to be rarely possible, including tracing the family and obtaining parents' consent to return. Some (Member) States[342] reported that another reason impeding the return of unaccompanied minors is the high rate of absconding. In **Ireland**, the lack of forced returns is due to the fact that most unaccompanied minors do not receive a decision on their application for international protection before they reach the age of 18.

Few (Member) States reported that they performed effective forced returns of unaccompanied minors, in a handful of cases.[343]

4.1.4. Relevant authorities and organisations

There is not a single model of dealing with the return of unaccompanied minors across (Member) States. A high number of institutional and civil society stakeholders are usually involved in the process, playing different roles from one (Member) State to another. However, some commonalities could be identified:

- Return decisions are issued in most (Member) States[344] by the Ministry of Interior, or national or local Immigration Offices/ Agencies, but in some (Member) States[345] decisions can also be issued by law enforcement agencies.
- The assessment of the best interest of the child is undertaken by diverse stakeholders, ranging from Ministries and Immigration Offices[346] to child care

333 NO does not distinguish between voluntary return and assisted voluntary return. Data for 2017 covers the period January – June 2017.
334 AT, BE, BG, CZ, DE, EE, FI, HU, IE, IT, LT, LV, LU, MT, NL, PL, PT, SI, SK, SE, UK, NO.
335 AT, BE, BG, CZ, DE, EE, FI, HU, IE, IT, LT, LV, LU, MT, NL, PL, PT, SI, SK, SE, UK, NO.
336 AT, BE, BG, CZ, DE, EE, FI, HU, IE, IT, LT, LV, LU, MT, NL, PL, PT, SI, SK, SE, UK, NO.
337 AT, BE, BG, CZ, DE, EE, FI, HU, IE, IT, LT, LV, LU, MT, NL, PL, PT, SI, SK, SE, UK, NO.
338 AT, BE, DE, FI, HU, LU, NL, PT, SK, SI.
339 While the EU Directive does not apply to Ireland and the United Kingdom, the UK established similar practices for removals. In the UK, in 1993 the then Immigration Minister made a commitment that no unaccompanied child would be removed from the UK unless the Secretary of State was satisfied that adequate reception and care arrangements were in place in the country to which the child was to be removed.
340 BE, LT, LV.
341 CZ, DE, EE, HU, FI, IE, LU, MT, PT, SI, SK, UK, NO.
342 SI, IT, LV, UK.
343 AT, HR, NL, SE, NO.
344 AT, BE, DE, FI, HU, LV, HR, LU (Directorate of Immigration of the Ministry of Foreign and European Affairs), SI, UK.
345 CZ, EE, LV, MT, SK.
346 AT, DE, EE, FI, HR, LU, SE, NO.

services[347] and NGOs.[348] In some (Member) States,[349] more than one stakeholder is tasked with assessing the best interest of the child. In two (Member) States,[350] the best interests of the child are determined by a court. In **Italy**, the assisted and voluntary repatriation measure for an unaccompanied minor is adopted by the competent Juvenile Court where reunification with his/ her family in the country of origin or third country is regarded as being in the minor's best interest. In **Ireland**, national legislation does not require the best interests of the child to be taken into account before issuing a return decision. This was the subject of a legal challenge in the case of *Dos Santos v Minister for Justice and Equality*[351] but the Court of Appeal confirmed that the Minister for Justice is not obliged to decide expressly whether deportation would be consistent with the best interests of the child.

- The enforcement of a return decision is a duty of law enforcement agencies (i.e. police) in most (Member) States,[352] while assisted voluntary return is often organised and implemented by IOM.[353]

4.2. ENFORCEMENT OF RETURN DECISIONS AND KEY ARRANGEMENTS BEFORE, DURING AND AFTER DEPARTURE

Due to the low number of voluntary returns, and the fact that only four (Member) States appear to have performed forced returns of a (few) unaccompanied minors, there is limited information available on the practices in place to enforce the return of unaccompanied minors.

4.2.1. Enforcement of the return decision

Less than half of the (Member) States could provide an estimated **timeframe** for the return of unaccompanied minors, which varied depending on the individual case. Some (Member) States[354] indicated that, in principle, returns were enforced in the shortest possible timeframe and ideally between seven and 30 days, with the possibility to be extended up to a few months, though this term was often exceeded in practice. Others[355] did not have a fixed timeframe and based it on the individual circumstances.

Some (Member) States sought to improve the **effectiveness of return** of unaccompanied minors by adopting new control measures to prevent absconding.[356] For example, in the **Netherlands**, control measures include an obligation to report regularly to the authorities, guarantee statements by third parties, the submission of a security deposit, producing (a copy) of an airplane ticket and withholding of a travel or identity document. **Norway** launched a project which promotes closer cooperation between authorities responsible for issuing the return decision, those implementing AVR(R) and those in charge of forced removal. In practice, the focus on return is ensured throughout the entire asylum process, from the admission phase to return - starting return-based measures like family tracing, verification and assessing the care situation in the home country as quickly as possible.

Measures have also been designed by some (Member) States) to mitigate the **negative effect of a return decision** on an unaccompanied minor, regardless of whether the return was carried out (forcibly or voluntarily) until the age of 18. These consisted of:

- General return counselling services during the period of voluntary departure to prepare the minor for his/ her return. If the return is postponed until the age of 18, counselling is provided to prepare the minor to reach adulthood with a clear perspective on his/ her stay or return in the country of origin.[357]
- Reception services including accommodation in reception centres, basic livelihood and access to education until the return can be executed.[358]
- Additional psychological support to help minors cope with the stress associated with the uncertainties of the return process and help them plan their future.

4.2.2. Support and safeguards during and after return

Pre-departure counselling and information

A few (Member) States provide general pre-departure counselling to the minor and his/ her legal guardian and/ or social worker.[359] The purpose of the counselling is to give to the persons concerned all relevant information on the return, to outline possible alternative durable solutions, and ensuring that they are genuinely involved throughout the process. Counselling is also used to acquire information about the minors' family and their community as well as to define a tailored return and reintegration plan. In **Belgium**, the Voluntary Return Unit of the State Agency for the reception of Asylum seekers, Fedasil, organised information sessions for legal guardians about available AVR programmes and to share positive stories of effective returns.

Family tracing

All (Member) States **attempt to trace the family of the minor**, in order to assess whether return is feasible and to prepare for return, while respecting the

347 AT, DE, EE, HU, SI, UK.
348 DE.
349 AT, CZ, DE, ES (Public Prosecutor also responsible for ensuring the best interests of the child), FI, HR, LU (new collegiate body composed of members of different state authorities, as well as the ad-hoc administrator of the minor), UK.
350 IT, LV (Orphan's and Custody court).
351 [2015] IECA 210.
352 AT, CZ, DE, EE, FI, HU, LU, LV, MT, PT, SI, SE, SK, NO.
353 AT, BE, BG, CZ, DE, EE, FI, HU, IE, LV, LU, MT, NL, PT, SI, SK, NO.
354 AT, HR, SE, NO.
355 DE, FI, NL, SI.
356 AT, FI, HR, LV, NL, UK, NL, SE, UK, NO.
357 AT, BE, NL, NO.
358 AT, FI, LU, NL.
359 AT, BE, FI, IE, LV, FI, PT.

'do no harm' principle, according to which special attention should be posed to ensure the security of both the claimant and the traced persons. The procedure is usually started by (Member) States authorities, conducted either by the immigration authorities,[360] the Border Guard,[361] the child's social worker,[362] and/ or implementing partners such as the Red Cross and IOM.[363] Family tracing is usually done in cooperation with consulate services and other partners in the country of return. There are cases when the unaccompanied minor can submit a request for family tracing him-/ herself (including in the context of return), for example, to the Red Cross or the IOM.[364]

Generally, the minor is required to cooperate in all measures aimed at identifying family members, regardless of the party performing these measures.[365] The legal guardian and, if applicable, the social worker following the case can also be heard and asked to cooperate with the procedure in a majority of (Member) States.[366]

Existing regional initiatives have also been used to assist (Member) States to trace returnees' families. For example, under the European Union Return Liaison Officers programme, liaison officers appointed in selected countries of return assisted with family tracing. Furthermore, the service providers working within the European Reintegration Network programme (ERIN), in certain third countries are also mandated to provide assistance with family tracing in relation to unaccompanied minors.

Ensuring adequate reception upon arrival

For the return of unaccompanied minors who are not joining a family member, in compliance with the EU Return Directive, (Member) States are obligated to ensure that adequate reception facilities are provided in the country of return. In general, the term 'adequate' is not further detailed in national legislation, with the exception of the **Netherlands**, and it is broadly intended as a place where the minor can be best taken care of and considering his/ her needs.

In **Sweden**, the adequateness of the reception facility is assessed against Art. 6 and Art. 27 of the UN CRC, hence, the assessment includes the child's right to life, the obligation to ensure to the maximum extent possible the survival and development of the child and the obligation to ensure a standard of living adequate for the child's physical, mental, spiritual, moral and social development. All (Member) States reporting on their practices in the enforcement of the return stated that the assessment was based on the information disclosed by the child and in cooperation with local consulate offices and other local partners, also through on-the-spot assessments of the facility.

Some (Member) States would in theory also consider returning an unaccompanied minor to a reception facility[367] but in practice it rarely happened that such a facility could be identified.

Practical travel arrangements

Practical arrangements for the departure, such as the organisation of travel documents and booking of flights, were taken care by the implementing organisation, i.e. IOM for voluntary returns, in the majority of (Member) States having performed returns,[368] while in some cases the procedures were led by State agencies relying on the consular services in the country, when needed travel documents.[369] As a safeguard, all (Member) States appoint a social worker or another official (but not necessarily a government official) to escort the minor during the travel, after which they are handed over to the family member or the locally appointed legal guardian. Depending on the age and maturity of the minor, he/ she can be escorted only up to a certain point of the travel (e.g. only to the airport).

Transition measures

Few (Member) States adopted transition measures for unaccompanied minors approaching the age of 18. **Latvia** provides for an extension of the period of return up to one year if the minor is attending school or if other humanitarian considerations apply. In the **Netherlands**, unaccompanied minors approaching the age of 18 years are moved to a small residential facility, to facilitate their transfer to an asylum-seekers' centre.

There are no active agreements between (Member) States and countries of return specifically about the return of unaccompanied minors, besides general readmission agreements which, while also applying to unaccompanied minors, do not directly target them. The only exception is the bilateral readmission agreement between **Sweden** and Kosovo, which states that the parties shall ensure adequate reception facilities for unaccompanied minors who cannot be returned to a member of their family or to a nominated guardian.

4.2.3. Reintegration assistance for unaccompanied minors

Reintegration assistance in the case of forced return is provided by the **Netherlands** and **Sweden**, as part of their participation in the European Reintegration Network, for some countries of origin (Afghanistan, Morocco and Iraq (southern and central).

Two (Member) States make available reintegration assistance for unaccompanied minors who depart voluntarily, combining in-cash and in-kind support.[370] A majority of (Member) States provide reintegration assistance in combination with the assisted voluntary return programmes.[371] Generally, reintegration packages consist of cash support and may also include reception, counselling and assistance

360 AT, BG, DE (by the Youth Welfare Offices), FI, LT, NL, SE, UK, NO.
361 EE, LT, LV, PL.
362 IE.
363 AT, BE, BG, CZ, DE, EE, FI, HR, HU, IE, IT, LT, LU, PL.
364 AT, LU, NL.
365 AT, BE, BE, FI, HR, LV, NL.
366 BE, FI, IE, HR, NL.
367 EE, FI, HU, SE, NO.
368 AT, BE, BG, FI, HU, IE, IT, LU, NL.
369 HR, LU (only for Western Balkan countries with the exception of Kosovo), SE.
370 SI, UK. Whilst there is no reintegration assistance specific to unaccompanied minors in the UK, they are eligible to take up an assisted voluntary return package at the higher value (£2 000) paid to families with children. Additionally, an unaccompanied child whose asylum claim has been refused will not be expected to return unless there are safe and adequate reception arrangements available.
371 AT, DE, BE, EE, FI, IE, IT, LT, LU, LV, MT NL, SI, SE, SK, UK, NO.

to access education and housing in the country of destination. These programmes are not specifically tailored to unaccompanied minors but rather target all returnees. **Belgium** re-designed its reintegration support package to also address the living conditions of the whole family. Under this package, each parent in the country of origin can be granted an additional in-kind reintegration support of €700, which can be used for a 'family project' to make the return of the unaccompanied minor to his family more acceptable. As part of a pilot action to encourage the voluntary return and reintegration of unaccompanied minors to their countries of origin, **France** provides reintegration measures for minors in selected countries of origin, including supporting education and vocational training, as well as working on the reconstitution of the family unit. The project includes preventive work through information and awareness-raising campaigns for unaccompanied minors on the dangers of illegal immigration and the possibilities of legal entry and stay in the EU, as well as a feasibility study to determine adequate reception facilities in accordance with Article 10 of the Return Directive, when family reunification is not possible.[372]

Monitoring of return and reintegration of unaccompanied minors in their country of return depends on the specific set-up of the AVRR project and is conducted by the organisation providing this service[373] while no specific monitoring was done by any (Member) State authority on forced returns or on reintegration of returnees forcibly returned. The monitoring was typically conducted over a period of three up to 18 months, and it was done through meetings, visits and contacts with local reintegration partners. Topics like reception, education, job placement (internship) and medical welfare of the unaccompanied minor are discussed on an individual basis. The monitoring focusses on the disbursement of the reintegration assistance and financial aspects rather than on its impact in terms of reintegration of the returnee.

4.3. ALTERNATIVES TO RETURN OF UNACCOMPANIED MINORS

(Member) States have different alternatives to return in place to deal with unaccompanied minors who cannot be returned and do not qualify for international protection or do not meet conditions for residence.

A **tolerated status**, is granted by few (Member) States, usually coupled with a postponement of the removal until the conditions for the issuance of a return decision exist (e.g. impediments to orderly return cease to exist, or the minor reaches the age of 18 or 21 years).[374]

In other (Member) States, the unaccompanied minors are granted a **temporary residence permit.**[375] In the **Netherlands**, a temporary residence permit can be granted only if return cannot be implemented within three years since the last residency application and under certain conditions (e.g. the unaccompanied minor cannot be returned because of no fault of his/ her own and could prove that he/ she made efforts to made return possible).

The possibility of **'regularisation'** is foreseen after several years in the (Member) State on a temporary residence permit,[376] or with a tolerated status,[377] or after an application for regularisation is lodged.[378] In **Austria**, authorities can issue *ex officio* a Red-White-Red Card Plus to unaccompanied minors as an alternative to return, generally valid for 12 months (renewable). Furthermore, regularisation is also possible when the return cannot be enforced for more than one year; in these cases, a residence permit for individual protection is issued either on application or ex-officio. In **Germany**, a residence permit can be granted for the same reason after 18 months. Reasons to obtain the residence permits include humanitarian reasons,[379] education reasons,[380] and employment.[381] In **Belgium**, regularisation can also happen on medical ground. However, in this case the residence permit is granted for a period of up to one year and it is conditional on the existence of the illness that justified it. If after five years those conditions persist the unaccompanied minor can be granted a permanent residence permit. In **Luxembourg**, additional conditions to be granted a temporary permit include, among others,[382] being in the school system for at least four years and having lodged the application before turning 21 years old. The minor or young adult will be issued a residence permit for salaried worker or a residence permit for private reasons if he/ she fulfils the conditions of the corresponding articles in the Immigration Law.[383] Similarly, in **Germany** unaccompanied minors can be granted a residence permit after four years of residence and successful school attendance or completion of school or vocational training. In **Latvia**, a minor can also apply for citizenship if he or she has been residing continuously in the national territory for at least five years with a temporary residence permit.

Some (Member) States do **not have legislation granting temporary residency or tolerated status**, **nor for otherwise regularising** unaccompanied minors who receive a negative decision on their status and cannot be removed.[384] In four of them, the child is moved under the responsibility of the childcare system.[385]

In **Finland**, the national mechanism for the assessment of the best interest of the child foresees a single stage where an asylum and return decision are issued following the same procedure: this means that if an unaccompanied

372 The action "Organisation of joint reintegration projects towards unaccompanied minors" is financed by the EU through the Asylum, Migration and Integration Fund (AMIF) - return management, and the participating Member States (FR, together with BE, EL, ES, IT and NL).
373 AT, BE, BG, IE, LV, LT, LU, MT, NL, UL, NO.
374 AT, BE, DE, HR, LU, MT, SK, UK (maximum 30 months or until 17.5 years old).
375 ES, IE, LT, NL, SE, SI (if the minor's guardian believed that grounds existed), UK.
376 LT (five years), LU (after four years of residence), LV, SE, SI, UK (maximum 30 months or until 17.5 years old).
377 DE (after four years or after the completion of vocational training while holding tolerated status for the purpose of that training).
378 BE, LU (before the age of 21), UK (after they turned 18).
379 BE, DE, EE, LU, LV.
380 EE, LU, LV, SE (if return could not be applied).
381 LU, DE.
382 Article 89 (1) points 1 and 2 of the amended law of 29 August 2008 as amended by Law of 18 December 2015 on international protection and temporary protection.
383 Article 89 (2) of the amended law of 29 August 2008 as amended by Law of 18 December 2015 on international protection and temporary protection.
384 BG, FI, HU, IE, PL.
385 BG, CZ, HU, PL.

minor cannot be returned in practice, he/she is not issued a return decision and is granted a residence permit based on humanitarian grounds instead. If the unaccompanied minor is granted a return decision but by the time the return is enforced the reception conditions in the country of destination are not adequate anymore, the Immigration Service analyses the case again and may opt to grant a residence permit at this stage. **Norway** does not foresee any alternative to return or grounds to postpone return decisions, unless for exceptional circumstances such as health issues.

4.3.1. State guarantees to safeguard the well-being of unaccompained minors who cannot be returned

(Member) States reported that unaccompanied minors who found themselves in a legal limbo of being denied a status but unable to return experienced several negative effects, including stress, frustration, depression and self-destructive behaviour.[386]

In four (Member) States, the appointed guardian was responsible for ensuring respect of the minor's rights and represent his/ her interests, in the period between the issuance of the negative decision and the execution of return.[387]

To mitigate those negative effects, unaccompanied minors who cannot be immediately returned usually maintain access to humanitarian assistance and access to rights including accommodation, employment, healthcare, education, and other basic material needs.[388] In those (Member) States where unaccompanied minors become the responsibility of the child care services after a negative decision, any care is continued until their return. In **Austria**, minors with a tolerated status are not entitled to integration benefits.

4.4. CHALLENGES

In addition to the general problems to enforce the return of unaccompanied minors described above, (Member) States pointed out a couple of other challenges associated with the return of unaccompanied minors, in relation to:

- **Obtaining parental consent**: Parents often did not wish to be traced, or, when found, did not want to give their consent to the return of their child. Consequently, unaccompanied minors could not return even when they wished to return.[389]
- **Age determination and lack of documents**:[390] verifying false claims about identity, age, nationality and other personal data were identified as a great challenge for national institutions. Checking the facts was made even more difficult by the **poor cooperation with the country of origin** and authorities responsible for identity validation and the issuance of documents for the purpose of return,[391] which delayed the process of identification and issuance of travel documents.

386 AT, BE, DE, IE, NL, UK.
387 HR, LU, SI.
388 AT, BE, EE, HR, IE, LT, LU, LV, NL, SE, SI, UK.
389 BE, DE, EE, IT, NL, SE, UK.
390 ES, HR, IT, LU.
391 LV, SE, SI.

5. DISAPPEARANCES OF UNACCOMPANIED MINORS FROM CARE FACILITIES OR FOLLOWING A RETURN DECISION

According to Missing Children Europe,[392] at least 10 000 migrant and refugee children have gone missing after having arrived in Europe, with many feared to be trafficked for the purpose of labour and sexual exploitation. Unaccompanied minors going missing from care facilities is a major concern both in transit and destination countries in the EU.[393] Since 2007,[394] (Member) States are required to reserve the number 116 000 as a hotline to report missing children, including unaccompanied minors. The Commission subsequently proposed ten principles of an integrated child protection system in 2015, which also specifically targets children in migration.[395] In the same year, the Commission responded to the higher influx of asylum-seekers by announcing a strategy to address missing and unaccompanied children in its 2015 European Agenda for Migration, which was based on the Action Plan on Unaccompanied Minors (2010-2014).[396]

5.1. PROFILE OF UNACCOMPANIED MINORS DISAPPEARING IN THE EU MEMBER STATES PLUS NORWAY

Most (Member) States[397] reported that there was a lack of official statistics on unaccompanied minors who disappear from care facilities before or after status determination or following a return decision. This is mainly due to the lack of streamlined data collection processes within or across different national authorities and bodies, including the lack of a unified definition of the term unaccompanied minor. It is therefore not possible to provide a precise overview of the scale of the phenomenon in the (Member) States, nor to distinguish between unaccompanied minors who abscond on their own and those who might disappear due to, for example, abduction or trafficking in human beings.

Nevertheless, estimates provided by fourteen (Member) States suggest that the number of unaccompanied minors disappearing from care facilities and/ or following a return decision varies significantly, from 2 440, 853 and 507 unaccompanied minors respectively missing in **Italy**, **Bulgaria** and **Germany** in 2017, to 3 unaccompanied minors missing in **Latvia** and none in **Estonia** during the same year (Table 6.1). Similarly, in **France**, there are only a few cases of unaccompanied minors who disappear from care facilities once they are taken into care by child welfare services, as they tend to stay in the care system. Any disappearances are mainly reported during the first phase of shelter, before assessment of the unaccompanied minor.

Recent research suggests that most unaccompanied minors who disappear undergo traumatic experiences; are subject to unsafe living conditions, child trafficking and exploitation; have no family network; and are in need of psychological care.[398]

5.2. POSSIBLE REASONS FOR THE DISAPPERANCE OF UNACCOMPANIED MINORS

In most (Member) States,[399] the majority of unaccompanied minors disappear before having filed an asylum application, or during the asylum procedure. This is either linked to unaccompanied minors not having yet reached their final destination country[400] and/ or the fear of receiving a negative asylum decision[401] or being deported after having received a negative asylum decision.[402]

392 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
393 European Union agency for Fundamental Rights, 2016. http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-children
394 Commission Decision of 15 February 2007 on reserving the national numbering range beginning with 116 for harmonised numbers for harmonised services of social value (notified under document number C(2007) 249) (Text with EEA relevance). http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32007D0116
395 European Parliament, 2017. Disappearance of migrant children in Europe. http://www.europarl.europa.eu/EPRS/EPRS-AaG-599292-Disappearance-migrant-children-in-Europe-FINAL.pdf
396 European Commission, 2010. Communication from the Commission to the European Parliament and the Council. Action Plan on Unaccompanied Minors (2010-2014). http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0213:FIN:en:PDF
397 AT, BE, CZ, DE, EE, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK, UK, NO.
398 Child Focus, the European Centre for Missing and Sexually Exploited Children. http://www.childfocus.be/en
399 AT, BG, CZ, EE, FI, HR, HU, IE, LT, LU, LV, MT, NL, PL, SE, SI, SK, UK, NO.
400 AT, BG, DE, EE, ES, HR, HU, LU, LV, MT, PL, PT, SI, SK, UK.
401 AT, BE, DE, IE, LV, NL, SE, NO.
402 FI, IE.

Table 6.1: Estimated number of unaccompanied minors disappearing from care facilities and/ or following a return decision, 2014-2017[403]

	2014	2015	2016	2017
Belgium[404]	156	166	448	570
Bulgaria	496	794	857	853
Germany[405]	146	1 873	1 402	507[406]
Estonia	1	1	1	0
Finland	6	53	97	32[407]
Hungary	1 072	2 563	1 408	N/A
Italy[408]	3 707	6 135	6 561	2 440
Luxembourg[409]	6	12	21	7
Latvia	1	2	1	8
Lithuania[410]	50	22	22	10
Slovakia	19	20	18	20
Slovenia[411]	62	34	228	193
Portugal	8	30	14	8
Norway	32	55	149	122

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

5.3. MEASURES TO PREVENT AND REACT TO DISAPPEARANCE OF UNACCOMPANIED MINORS

Despite indications of an increasing number of missing unaccompanied minors, few (Member) States have preventive measures in place. In most cases they refer to:

- Preventative counselling in care and reception facilities,[412] which aims at understanding the immediate and long-term intentions of the child and informing the child about the dangers and risks associated with their disappearance.
- Tracing procedures, including fingerprints and photos.[413]
- Emergency hotlines at European and national level.[414]

Some (Member) States, such as **Ireland**, the **Netherlands** and the **United Kingdom** have developed specific management prevention strategies or child protection plans for children who go missing and/ or are at a high risk of becoming victims of violence and harm, in particular as regards child trafficking. In this context, **Ireland** developed a risk assessment tool, the so-called Absence Management Plan, which lays out the guidelines carers should follow if a child goes missing from their care. The plan stipulates that the Police must be immediately informed and a Missing Child from Care Report must be completed by the carer, along with photographs of the child. The report is distributed to the Child Care Manager in the child's local area, who in turn disseminates the information throughout the country to other Child Care Managers.

Other (Member) States, notably **Italy** and **Sweden** have developed measures to improve overall cooperation and information-sharing to prevent the disappearance of unaccompanied minors (see Box 11 and Box 12).

403 Some of these unaccompanied minors not seeking asylum will have subsequently been granted some form of legal/ residence status by the (Member) States.
404 Disappearances of unaccompanied minors accommodated in the reception network of Fedasil.
405 Data reflect the number of unaccompanied minors reported as missing and still missing in DE and not the total number of minors reported as missing. The increase in the number of alerts in 2014/2015 can be explained with the larger total amount of forced migration by unaccompanied minors to DE. As this movement persisted, the reporting conduct of the DE police forces in connection with alerts for missing unaccompanied minors also changed. The datasets on unaccompanied minors have been specially marked since then, making them easier to analyse. Also, reports are frequently not made when the unaccompanied minors who have been reported missing are found again. Such a report may also be missing when unaccompanied minors travel on to another country independently. One may also presume that at least some of the missing persons reports are caused by the fact of multiple records having been created within the Initial Distribution of Asylum Seekers (EASY) system. The analysis of the joint file can therefore only provide an estimate of the situation.
406 Data for the first half of 2017.
407 Data for January to December 2017.
408 Data referring to years 2014, 2015, 2016 represent the stock of disappeared unaccompanied minors recorded over the years and relating to ones still under age. From 2017, the year in which the Minors Information System was set up, it is provided annual data, such as that indicated in the table for 2017.
409 Data refers to persons who, at the time they applied for asylum, claimed to be unaccompanied minors.
410 Data include period from 1 January 2014 to 31 December 2017.
411 Data reflect the number of unaccompanied minors absconding from accommodation facilities in SI.
412 AT, BE, CZ, DE, EE, FI, HR, HU, IE, LU, NL, SE, SI, SK, UK, NO.
413 BG, CZ, DE, EE, HU, IE, LV, SE, SK, UK.
414 BE, EE, FI, IE, LV.

Box 10: My Future project – Belgium

In September 2014, Belgium introduced the so-called My Future project which was put in place for young people who are not in the possession of a residence permit and for which there is a risk of disappearance before they reach the age of majority. The My Future project consists of three elements: professional, intensive training, an information trajectory mainly about voluntary return, irregular stay and migration to other countries, and individual and group coaching sessions.

Box 11: Memorandum of understanding (MoU) on information-sharing in relation to missing unaccompanied minors – Italy

In Italy, the Office of the Extraordinary Commissioner of the Government for Missing Persons has signed a MoU on information-sharing related to unaccompanied minors, together with the general director of Immigration and Integration Policies from the Ministry of Labour and Social Policies.

The Prefecture of Rome, together with the Ministry of Interior and Office of the Extraordinary Commissioner of the Government for Missing Persons has created a protocol with the Municipality of Rome, the Public Prosecutor's Office at the Court for Minors of Rome, the Ordinary Court of Rome, the University of Rome "Sapienza" and the Association of Municipalities (ANCI) aimed at the establishment of an operational control room at the Prefecture of Rome for: the creation of monitoring systems, in-depth study of the phenomenon of disappearances of unaccompanied minors aimed at exchange of information and shared actions to strengthen the protection of the minors; the continuous support for minors in conditions of particular vulnerability by NGOs present in the territory; the promotion at local level of an institutional sensitivity and, at national level, of public information.

Box 12: Cooperation plans for regional and local authorities – Sweden

In February 2017, based on the results of a survey, Sweden's County Administrative Boards launched a method guide [metodstöd] to be used nationally and with a view to improve and increase regional and local cooperation on instances of disappearances of unaccompanied minors. Several of the County Administrative Boards are actively working on this and, as a result, several regional action plans havebeen developed, for example, the County Administrative Board of Stockholm has developed a regional plan, containing checklists, definitions and standardised practices for actors involved with regard to both prevention and response to the disappearance of minors.[415]

5.4. MEASURES TO REPORT AND RESPOND TO DISAPPEARANCES OF UNACCOMPANIED MINORS

Most (Member) States[416] follow a standardised procedure to report incidents of unaccompanied minors disappearing from guardians or carers, reception and/ or care facilities. The standard reporting mechanism involves informing the relevant childcare, social and immigration services, and the police of the disappearance of the unaccompanied minor. A missing person's report is filed at the latest within or after 24 hours by the police.[417] In **Ireland**, once the police has been notified, they are responsible for undertaking the investigation into the minor's disappearance, including entering alerts on missing persons into national and European and international missing persons databases, as in the case of some other (Member) States, such as Schengen Information System (SIS)[418] and Interpol.[419]

While these standard practices are often not underpinned by national guidelines or protocols, a number of (Member) States referred to specific joint collaboration agreements and/ or protocols between national authorities, which have been introduced recently, including in the cases of **Belgium**, **Ireland**, **Lithuania** and the **Netherlands**. These lay out how the responsible authorities involved, i.e. care facilities, guardians, social services and the police, are to collaborate in the case of a disappearance of a minor, referring to a pre-defined communication and collaboration chain.

The disappearance of an unaccompanied minor may in some (Member) States result in their status or permit to stay being terminated or withdrawn.[420]

5.5. CHALLENGES AND GOOD PRACTICES

The most common challenges mentioned by (Member) States include the lack of a standardised action

415 The Stockholm County Administrative Board's website has comprehensive information, including key plans and documents for regional cooperation, available at: http://www.lansstyrelsen.se/Stockholm/Sv/manniska-och-samhalle/manskliga-rattigheter/ensamkommande-barn-som-forsvinner/Sidor/Regional-strategi-och-samverkan.aspx
416 AT, BE, BG, CZ, DE, EE, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, SE, SI, SK, UK, NO.
417 AT, BE, BG, CZ, DE, EE, FI, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL, SE, SI, SK, UK, NO.
418 AT, DE, MT.
419 CZ.
420 AT (if the unaccompanied minor is still in the asylum procedure, i.e. before status determination), EE, FI, HR, LU, SE, SI, SK, UK.

plan and coordination strategy between national[421] and cross-border authorities,[422] which results in losing track of the unaccompanied minors' whereabouts; difficulties associated with the collection and sharing of data,[423] including the definition of the term unaccompanied minor; guaranteeing the safety of unaccompanied minors;[424] and the development and implementation of preventative measures.[425]

Box 13: AMINA (Safeguarding Migrant Children across Europe) – Sweden

AMINA (Safeguarding Migrant Children across Europe) is an ongoing EU-wide project that initiated in May 2017 by Missing Children Europe. The project aims to close the protection gaps that lead to the disappearance and exploitation of children in migration in Europe. It provides children with access to information on the rights they are entitled to and on the opportunities and services they can access in different countries in the EU through the development of an app. In addition, Missing Children Europe and its partners have identified best practices and practical guidelines on how to better cooperate in prevention, response and aftercare of missing unaccompanied minors.

In this context, Sweden's participation is specifically aimed at contributing to the development of establishing good practices among (Member) States on how to approach situations where minors abscond (disappear) in one (Member) State and resurface (are encountered) in another (Member) State.[426]

421 BE, NL, PL, SE, NO.
422 PL, UK.
423 DE, PL.
424 AT, BG, IE, SI.
425 LT, PL, SK.
426 For more information, see http://aminameanssafe.eu/.

6. CONCLUSIONS

A number of conclusions emerge from this Study in relation to the care and integration arrangements for unaccompanied minors, which vary depending on their immigration status, i.e. whether they are seeking asylum, not seeking asylum, granted international protection or granted another status. In some (Member) States, the type and scope of support offered to unaccompanied minors is more extensive for minors who are granted international protection, or who are considered more likely to be granted this status.

Unaccompanied minors are treated first and foremost as children and receive the same care as children with national or EU citizenship looked after by the state, commencing prior to status determination

The care of unaccompanied minors is a clear **priority** for (Member) States, commencing from the moment these minors are identified on their territory, i.e. before status determination. Overall, similar accommodation and guardianship arrangements apply to *all* unaccompanied minors, irrespective of immigration status. Nevertheless, some exceptions apply, whereby in a small number of (Member) States asylum- and non-asylum seeking unaccompanied minors may be hosted in separate accommodation facilities initially.

Overall, (Member) States have identified the need for improving both accommodation and guardianship arrangements for unaccompanied minors, with serious **gaps in the provision of guardians** to minors reported in many (Member) States, such as lack of clarity around the role and qualifications of a guardian, cases where guardians were not appointed, or dysfunctional guardianship systems, whereby appointed guardians may be responsible for thousands of unaccompanied minors.

Not all unaccompanied minors benefit from the same level of protection, which appears to be higher following status determination and for unaccompanied minors with certain statuses only

Unaccompanied minors who have obtained international protection, who are covered by EU law, naturally continue to benefit from the same care and integration support as afforded to them during the asylum procedure. And, in some (Member) States, unaccompanied minors with refugee or subsidiary protection status appear to benefit from a **higher level of protection** (than during the asylum procedure).

Moreover, often the protection of unaccompanied minors with refugee or subsidiary protection status is also **more extensive** than the one offered to minors with alternative or temporary statuses. Unaccompanied minors in about half of the (Member) States may be granted such a status, which is not regulated under EU law. (Member) States are especially divided when it comes to providing integration support to unaccompanied minors, whereby half of them apply different integration measures, depending on the status of the minor. This is the case, for example, in terms of unaccompanied minors' access to healthcare or social welfare, whereby those with a residence permit may be more likely to access such supports. As well, although stricter policies apply to all children in terms of accessing the labour market, unaccompanied minors with alternative or temporary statuses in particular may be denied the right to work altogether in some (Member) States.

There is a lack of a 'best interests' determination procedure set in law or policy, which takes account of unaccompanied minors' specific need for protection, in the (Member) States

Although individual plans guide the care of unaccompanied minors in many cases, less than a third of (Member) States appear to have a specific procedure to assess the **'best interests of the child'** in order to support decision-making on the most appropriate individual care for the unaccompanied minor, or some form of guidance on this for professionals working with children, specifically adapted to unaccompanied minors. The **lack of guidance** on assessing the child's best interests in general and unaccompanied minors in particular, as well as the **lack of specific requirements for social workers** and other practitioners set in law or policy to have, for example, knowledge of immigration and unaccompanied minors has been identified as a challenge by several (Member) States – and could potentially lead to **gaps in the protection** of unaccompanied minors.

Finland and the **United Kingdom** appear to be the only (Member) States among those who contributed to the Study which has issued specific guidelines for those in charge of the care of unaccompanied minors and child victims of trafficking. Further guidelines on specific durable solutions for unaccompanied minors such as family reunification exist in two other (Member) States, **Finland** and the **Netherlands**, via NGOs or national authorities.

Nearly all unaccompanied minors are between the ages of 14 and 17 years, i.e. close to the age of majority; however, only about a third of (Member) States appear to have a combination of transition arrangements for those turning 18 years before, during and/ or after their transition to adulthood

The vast majority of unaccompanied minors, at least those applying for asylum for whom data is available at EU level, are between the ages of 16 and 17 years, followed by the ages of 14 and 15 years. Despite this, transition arrangements to cater for the continued vulnerability of young unaccompanied migrants are available only in about a third of (Member) States.

The most 'supportive' transition arrangements for unaccompanied minors turning 18 years appear to be available in **Belgium**, **Germany**, **Finland**, **France**, **Ireland**, **the Netherlands**, **Poland**, **Sweden** and the **United Kingdom.** In these (Member) States, minors benefit from a combination of supports available before, during and/ or after the transition to adulthood, for example: all of these (Member) States offer **supported accommodation** in order to encourage minors' autonomy in preparation for their transition to adulthood, or prepare independence plans which are reviewed close to the minor's 18th birthday. All of these (Member) States furthermore have **after-care systems** in place, providing accommodation and/ or integration support to former unaccompanied minors for a temporary period until they become of a certain age, for example up to 25 years in **Belgium**, **Poland** and the **United Kingdom**. **Sweden** and the **Netherlands** have produced guidelines for staff working with young adults in the transition period; and the **United Kingdom** appears to plan for such a transition more than a year in advance. Further monitoring of unaccompanied minors' transition to adulthood is implemented in **Finland** and **Ireland**.

At least five (Member) States, including **Bulgaria**, **Croatia**, **Estonia**, **Lithuania** and **Luxembourg** appear to provide limited after-care support to unaccompanied minors turning 18. Almost no transitional rules exist for minors in the return procedure in general.

The number of voluntary and forced returns of unaccompanied minors implemented by (Member) States is generally low, plus at least three (Member) States do not return minors by law or policy

Almost **no specific measures are in place in the (Member) States to encourage the voluntary departure** of unaccompanied minors, except for financial support (as part of AVR(R) programmes), counselling and provision of information. Similarly, **few specific measures to enforce the removal** of unaccompanied minors exist at present, apart from family tracing which is attempted by all (Member) States in order to assess whether return is feasible, plus making arrangements to ensure adequate reception in the country of origin of the minor. The latter is generally not detailed further in national legislation, except in five (Member) States where it is broadly understood as a place where the minor can be best taken care of considering his/ her needs.

Alternatives to the return of unaccompanied minors exist in about a third of (Member) States, including tolerated status and the possibility for 'regularisation' after having spent a certain period on a temporary residence permit, or following an application for regularisation. At least four (Member) States, including **Bulgaria**, **Finland**, **Hungary**, **Ireland** and **Norway** do not have legislation granting temporary residence or tolerated status, nor provide for regularisation of unaccompanied minors who receive a negative decision on status and cannot be removed – meaning that these minors risk being in a legal limbo. In two countries (Bulgaria and Norway), unaccompanied minors are moved under the responsibility of the childcare system.

Unaccompanied minors whose application for a status has been rejected in practice continue to be cared for by the state until departure from a (Member) State

Unaccompanied minors whose application for a status has been rejected are usually expected to fulfil their **return obligation**, though this study shows that the number of returns of unaccompanied minors is, where data are available, generally low. In practice, (Member) States **continue to care** for unaccompanied minors who have received a negative decision on status until their return to their country of origin takes place or can be enforced. The role of guardians in safeguarding the rights of these minors until departure has been highlighted by a third of (Member) States. But it is **not clear to what extent targeted support** such as counselling for minors who may experience negative effects as a result of being denied a status and/ or being unable to return to their country of origin is systematically provided across (Member) States.

Overall, there is a lack of comprehensive and comparable data on the numbers of and outcomes for unaccompanied minors – including specific integration outcomes, but also return – as well as of disappearances of unaccompanied minors

The current obligation for (Member) States to provide annual data on unaccompanied minors applying for international protection means that there is very limited understanding around other unaccompanied minors who may have entered irregularly, been a victim of trafficking or otherwise fall outside the asylum system.

Thus, it is not possible to assess the real scale of unaccompanied minors in the EU at present, nor to uncover specific issues which affect these children, such as the risk of absconding or disappearing from care facilities, before or after a return decision. A number of suggestions for improving data collection on unaccompanied minors were made by the EMN in 2014,[427] which still stand at present, including:

- Systematic collection from (Member) States of annual disaggregated data on unaccompanied minors who are not applying for international protection, but seeking alternative statuses, disaggregated by age and sex, grounds for stay granted to non-asylum seeking minors or other possible outcomes for such children (e.g. return);

427 2014 EMN study Policies, Practices and Data on Unaccompanied Minors in the EU Member States and Norway, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_policies_practices_and_data_on_unaccompanied_minors_in_the_eu_member_states_and_norway_synthesis_report_final_eu_2015.pdf

- Development of common indicators on outcomes for unaccompanied minors, including those turning 18 years of age, disaggregated by sex and type of outcome (e.g. permanent/ temporary residence permit, education, employment, return, etc.);
- Development of a standardised method to record the disappearances of unaccompanied minors, with annual data collection on the total number of minors reported as missing and/ or absconding from care (and those then accounted for), disaggregated by age, sex, nationality, type of disappearance in terms of the status of the minor, including a distinction between the numbers of children and numbers of cases of disappearances of unaccompanied minors.

ANNEX 1. OVERVIEW OF THE INTERNATIONAL AND EU LEGISLATIVE FRAMEWORK ON UNACCOMPANIED MINORS

INTRODUCTION

At present, the notion "unaccompanied minor" is not defined in public international law treaties. The most important and nearly universally accepted international instrument with regard to the protection of the rights of children – the United Nations Convention on the Rights of the Child (CRC)[428] – contains obligations for states to respect the rights of children irrespective of whether these children are accompanied or represented by an adult or not, though one of its articles specifically refers to the need to provide appropriate protection to minors in the asylum process, and the 1951 UN Convention Relating to the Status of Refugees (the Refugee Convention)[429] refers to the need to ensure protection of children, including unaccompanied ones, from a perspective of family unity.

All EU Member States have ratified the CRC and the Refugee Convention, and most of them are bound[430] by other treaties guaranteeing rights of children, such as the Covenant on Civil and Political Rights[431] and the Covenant on Social, Cultural and Economic Rights.[432] Member States have to respect these obligations in their national law, not only when they legislate autonomously but also when they implement EU legal acts. The EU is not a formal member of the aforementioned public international law treaties. Nevertheless, the EU has committed to respect core human rights treaties, such as the CRC and the Refugee Convention.[433] A membership of the EU in the European Convention of Human Rights (ECHR) is foreseen in the Treaty Establishing the European Union (TEU). Preparations regarding the membership are currently on hold following the Advisory Opinion of the Court of Justice of the European Union (ECJ) from December 2015.[434] The commitment to a membership however is still on the legislative agenda.[435]

The Charter of Fundamental Rights of the European Union does not explicitly refer to rights of unaccompanied minors either, but Article 24 (2) states that the child's best interest must be a primary consideration in all actions relating to children.[436] According to Art. 51 the Charter applies to the institutions and bodies of the Union and to Member States when they are implementing Union Law.

The increased arrivals of unaccompanied minors applying for international protection in the (Member) States in recent years[437] has however made it clear that additional guarantees are necessary to protect unaccompanied children as they are particularly vulnerable,[438] both because of their situation as children and because of the fact that they are not accompanied, as acknowledged by jurisprudence of the European Court of Human Rights (ECtHR).[439]

INTERNATIONAL AND EU LEGISLATION ON UNACCOMPANIED MINORS

There is no international, nor EU law solely dedicated to unaccompanied minors. Legal instruments in the realm of child protection and migration and asylum both apply to the situation of these minors.

INTERNATIONAL INSTRUMENTS

The CRC applies to children in general and defines in Article 1 a child as "every human being below the age

428 Convention on the Rights of the Child, 20 November 1989, http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx
429 Convention Relating to the Status of Refugees, 28 July 1951, 189 UNTS 150.
430 See for the status of ratification https://treaties.un.org/pages/Treaties.aspx?id=4.
431 International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171.
432 International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 993 UNTS 3.
433 Convention Relating to the Status of Refugees, 28 July 1951, 189 UNTS 150.
434 ECJ, Opinion 2/13, 18 December 2014, ECLI:EU:C:2014:2454.
435 See Legislative Train Schedule. Completion of EU Accession to the ECHR: "During the Justice and Home Affairs Council meeting on 8 December 2017, ministers were briefed by the Commission on the next steps regarding the accession and they expressed the legal and political importance of this process." Available on http://www.europarl.europa.eu/legislative-train/theme-area-of-justice-and-fundamental-rights/file-completion-of-eu-accession-to-the-echr.
436 Charter of Fundamental Rights of the European Union, OJ 2012 C 326, 391 (current version, entry into force 1 December 2011).
437 See the data in the Communication from the Commission to the European Parliament and the Council, The protection of Children in Migration, COM(2017) 211 final, 12.4.2017. The Communication refers to the fact that in 2015 and 2016 around thirty per cent of asylum applicants in the EU were children and that there has been a six-fold increase in the total number of child asylum applicants in the last six years.
438 See the judgment M.S.S. v. Belgium and Greece, where the ECtHR for the first time applied the concept of vulnerability in the context of international protection. M.S.S. v. Belgium and Greece, App no 30696/09 (ECtHR, 21 January 2011) 53 EHRR 2.
439 P. Czech, 'General and Specific Vulnerability of Protection-Seekers in the EU: Is there an Adequate Response to their Needs?' Together with U. Brandl, in: F. Ippolito, S. Iglesias Sánchez, (eds.), Protecting Vulnerable Groups: The European Human Rights Framework, (Oxford, Portland, Oregon 2015), 247-270. A. Timmer, 'A Quiet Revolution: Vulnerability in the European Court of Human Rights' in M. A. Fineman and A. Grear (eds.), Vulnerability. Reflections on a New Ethical Foundation for Law and Politics (Ashgate, Farnham 2013), 161.

of eighteen years unless under the law applicable to the child, majority is attained earlier."

The Convention refers to the age of 18 years but allows states to set a lower age for attaining majority.[440] It does not address the situation where minority cannot be established, or where it is disputed. Art. 22 directly refers to unaccompanied refugee children and obliges Member States to take appropriate measures to ensure that a child, whether accompanied or unaccompanied, who is "seeking refugee status or who is considered a refugee" shall receive appropriate protection and humanitarian assistance. The Convention does not contain an exact definition of "unaccompanied" minors – but refers to a minor not accompanied by an adult.

General Comment No. 6 adopted by the Committee on the Rights of the Child in 2005[441] contains a list of recommendations addressed to States on how to practically implement the obligations contained in Art. 22 CRC and to interpret the whole of the CRC in the case of unaccompanied minors. This General Comment also refers to the notion "unaccompanied", which is defined as minors "who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so".[442] The Comment also contains a section, where obligations of States after status determination are listed[443] and where the goal to find durable solutions is addressed under the heading "family reunification, return and other forms of durable solutions".[444]

Other UN Human Rights Treaties contain provisions on the protection of the right to family life and also special rights for children. The Covenant on Civil and Political Rights[445] provides for the protection of family life in its Art. 12 and guarantees special rights for children in Art. 24. There are no special guarantees for unaccompanied minors. The UN Covenant on Social, Cultural and Economic Rights[446] also contains guarantees for the protection of children in Art. 10, but does not refer to unaccompanied minors either. The same goes for the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.[447]

The Refugee Convention does not deal with procedures in general and does not guarantee special rights for children. However, the Final Act of the Conference that adopted the 1951 Convention refers to the need to provide for family unity and recommends "Governments to take the necessary measures for the protection of the refugee's family especially with a view to: [...] (2) The protection of refugees who are minors, in particular unaccompanied children and girls, with special reference to guardianship and adoption."

In 2016, the General Assembly of the United Nations adopted a resolution with the title "New York Declaration for Refugees and Migrants".[448] This Declaration refers to unaccompanied minors twice. In paragraph 23, the "special needs of all people in vulnerable situations ... including ... children, especially those who are unaccompanied or separated from their families" are recognised. Paragraph 32 refers to the protection of human rights and fundamental freedoms of refugee and migrant children and continues that this "will apply particularly to unaccompanied children and those separated from their families."

The Hague Convention on Parental Responsibility and Measures for the Protection of Children, while not providing specific rights to unaccompanied minors,[449] is however essential for unaccompanied children also after status determination, as it gives jurisdiction to the authorities to take measures directed to the protection of refugee children.

At regional level, the ECHR does not contain provisions guaranteeing special rights of children or unaccompanied minors. However, the ECHR provides for the protection of the right to family life in Art. 8 which, in exceptional cases, has been used to oblige States to unite children with family members and allow them to enter the country and to stay there.

Though there are no explicit guarantees for unaccompanied minors in the ECHR, the European Court of Human Rights (ECtHR) has developed a consistent jurisprudence obliging Member States to take the vulnerability of minors into account. The ECtHR also refers to the special vulnerability of applicants for international protection. In several cases the ECtHR found that minor unaccompanied asylum seekers are in a state of particular vulnerability referring to two reasons, namely their situation as children and the fact that they are not accompanied.[450] Moreover, the ECtHR constantly stresses the obligations of Member States deriving from the CRC. According to the ECtHR, the CRC obliges States to take into account the best interests of the child (Art. 3 CRC), to respect the needs of children when they are deprived of their liberty (Art. 37 CRC) and to take appropriate measures to ensure that a child who is seeking refugee status shall, whether unaccompanied or accompanied, receive appropriate protection and humanitarian assistance (Art. 22 CRC).[451]

Within the auspices of the Council of Europe, the Convention on the Exercise of Children's Rights,[452] through its Art. 1 aims to grant children procedural rights and to facilitate the exercise of these rights by ensuring that children are themselves or through other persons or bodies, informed and allowed to participate in proceedings affecting them before a judicial authority.

440 With regards to a reduced protection for persons between 16 and 18 years see Committee on the Rights of the Child, 'The Rights of All Children in the Context of International Migration', Report of the 2012 Day of General Discussion, p. 8: "24. The practice, in some States, of having lower standards of protection to children above the age of 16 years was also raised. It was restated that equal standards of protection should be provided to all children regardless of age."
441 CRC, General Comment No. 6, Treatment of unaccompanied and separated children outside their country of origin, CRC/GC/2005/6, 1September 2005.
442 Supra, p. 6.
443 Supra, p. 21.
444 Supra, section VII, p. 22.
445 International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171.
446 International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 993 UNTS 3,
447 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 25 May 2000, G.A. Res. 54/263, Annex II.
448 United Nations General Assembly, Resolution 71/1 adopted on 19 September 2016, New York Declaration for Refugees and Migrants.
449 Hague Convention on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children, 19 October 1996, available at http://www.hcch.net/index_en.php?act=conventions.text&cid=70.
450 See e.g. ECtHR, Rahimi v. Greece, App. No. 8687/08, 5 April 2011, § 86.
451 ECtHR, Muskhadzhiyeva and Others v. Belgium, App. No. 41442/07, 19 January 2010, § 62; ECtHR, Popov v. France App. nos. 39472/07 and 39474/07, 19 January 2012, 91.
452 European Convention on the Exercise of Children's Rights, 25 January 1996, CETS 160.

The Council of Europe published a document with the title "Protection of Migrants and Asylum-Seekers: States' Main Legal Obligations under the Council of Europe Conventions."[453] The purpose of the document is to summarise the legal obligations and applicable standards developed by the relevant Committees, and to serve as guidance for States. It contains a section on "Additional Safeguards for Vulnerable Groups", where standards applicable to minors, including unaccompanied minors are listed.[454]

The document also points to the safeguards developed by ECtHR case law. It stresses the importance of special safeguards for asylum seekers who are unaccompanied minors. The safeguards include the need to appoint a guardian and/ or representative. Unaccompanied minors shall be provided with extra protection and accommodated in a specialised establishment for children.

EU LEGISLATION

EU Directives and Regulations building the CEAS contain norms guaranteeing rights of children and especially rights of unaccompanied minors applying for international protection. The EU *acquis*, especially the revised legal acts establishing the second phase of the CEAS improved the protection of unaccompanied minors considerably.

The proposals for the legal acts reforming the CEAS and transferring it into its third phase were published by the Commission in 2016. All proposals contain certain improvements for unaccompanied minors.[455] These legislative developments are mostly a reaction to the factual situation and strongly influenced by the jurisprudence of the ECJ, the ECtHR and also by activities of the European Parliament, especially its resolution of 12 September 2013. In this Resolution the Parliament called on the Commission to adopt a number of strategic guidelines in areas which are core to the protection of unaccompanied minors, namely access to the territory and identification of unaccompanied minors, in order to assess the individual circumstances and specific protection needs and prevention of detention of unaccompanied minors. In 2017, the EU Guidelines on the promotion and protection of the rights of the child[456] renewed the EU's commitment to promote and protect the rights of the child, including all refugee and migrant children, regardless of their status such as unaccompanied minors and those without family.

The Qualification, Asylum Procedures and Reception Conditions Directive and the Dublin III-Regulation define unaccompanied minors identically as "third-country nationals or stateless persons below the age of 18, who arrive on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person; it includes minors who are left unaccompanied after they have entered the territory of the Member States."

The Asylum Procedures Directive[457] contains procedural guarantees for unaccompanied minors, especially with regard to the conduct of the personal interview and with regard to information obligations for States. Art. 25 also provides for legal representation of unaccompanied minors. The Directive also determines that Member States may regulate the question if and under which circumstances a minor – including an unaccompanied minor – can make an application on his/ her own behalf and when it has to be lodged by a representative. Thus, States have the possibility to control the access of unaccompanied minors to status determination proceedings.

The Reception Conditions Directive[458] ensures that a uniform level of reception conditions is guaranteed to all applicants for international protection. The Directive allows detention for unaccompanied minors only as a measure of last resort (Art. 10) and regulates the detention conditions for unaccompanied minors as well. The Directive obliges States to trace family members of unaccompanied minors, which is essential to reach the goal of uniting them with their families. In general, the Directive establishes detailed rules for the reception and treatment of minors, including unaccompanied minors (see especially Art. 24). Art. 21 defines special categories of vulnerable applicants (including unaccompanied minors) and obliges States to account the specific situation of these vulnerable persons.

Art. 31 Qualification Directive[459] contains rights of unaccompanied minors who have been granted international protection. These rights include legal representation, family unity with siblings, tracing of family members and placement in suitable accommodation for minors. Furthermore, the Qualification Directive establishes that all (Member) States must provide access for unaccompanied minors to certain rights, such as employment (Art. 26), education (Art. 27), procedures for recognition of qualifications (Art. 28), social welfare (Art. 29) and healthcare (Art. 30).

The recast of the Dublin Regulation[460] provides for guarantees for unaccompanied minors during the process of establishing the State responsible for examining the application. It contains specific obligations on the treatment of minors, including unaccompanied minors, for example: the obligation to ensure that a representative represents and/ or assists unaccompanied minors with respect to all procedures provided for in this Regulation (Art. 6 (2)); and the criterion that unaccompanied minors should be united with family members or siblings who are legally

453 Protection of Migrants and Asylum-Seekers: States' Main Legal Obligations under the Council of Europe Conventions, available on https://rm.coe.int/168046e355.
454 Supra: "The particular needs of vulnerable groups, such as children, and other individuals at particular risk, shall be duly taken into account at all stages. In particular, special safeguards for asylum seekers who are unaccompanied minors should be ensured. These include the need to appoint a guardian and/ or representative. Unaccompanied minors shall be provided with extra protection and care and shall be protected from all forms of violence, abuse and exploitation. They should, as a rule, be accommodated in a specialised establishment for children. They shall not be held in centres that are 'ill-adapted to the presence of children'. Deprivation of liberty of children shall be a measure of last resort, limited to the exceptional situations where the deprivation of liberty of the minor would be in the best interest of the minor – to preserve the family unity for example. Children deprived of their liberty should enjoy the same right to education as children at liberty." (Footnotes omitted, emphasis added).
455 See with links to the Proposals European Commission - Press release, Completing the reform of the Common European Asylum System: towards an efficient, fair and humane asylum policy, Brussels, 13 July 2016, available on http://europa.eu/rapid/press-release_IP-16-2433_en.htm.
456 EU Guidelines on the promotion and protection of the rights of the child, https://eeas.europa.eu/sites/eeas/files/eu_guidelines_rights_of_child_0.pdf
457 Directive 2013/32/EU of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ 2013 L 180, 60.
458 Directive 2013/33/EU of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), OJ 2013 L 180, 96.
459 Directive 2011/95/EU 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 2011 L 337, 9.
460 Regulation 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, OJ 2013 L 180, 29 June 2013, 31.

present (Art. 8). The Regulation further stresses that specific procedural guarantees for unaccompanied minors are necessary "on account of their particular vulnerability",[461] including in order to guarantee the best interests of the child. The 2014 amendment to the Dublin III-Implementing Regulation[462] created additional obligations for Member States with regard to the identification of family members present in a Member State.

According to the Eurodac Regulation[463] Member States have to take fingerprints of every applicant for international protection of at least 14 years of age. The Regulation provides for rights of data subjects; applicants who are minors have to be informed of these in an age appropriate manner. There are no implementation rules about the age appropriateness of the information, nor special provisions with regard to unaccompanied minors.

The proposal for a new Regulation foresees that fingerprints shall be taken from every applicant older than 6 years.[464] This is supposed to help to reunite lost children with their families.[465]

The Return Directive[466] is of key importance for applicants whose claim for international protection has been dismissed in a final decision and who have to leave the country. Art. 5 Return Directive stipulates that Member States have to take due account of the best interests of the child when they implement the Directive. Art. 10 Return Directive regulates return and removal of unaccompanied minors; this Article requires that states, before deciding to issue a return decision in respect of an unaccompanied minor, have to provide assistance to the minor by appropriate bodies other than the authorities enforcing return. There are no further details about the implementation of the assistance in the Implementing Regulation. The authorities have to make sure that the minor is returned to a member of his/ her family, a nominated guardian or adequate reception facilities in the state of return. The ECtHR pointed to the vulnerability of (unaccompanied) minors in the *Tarakhel* judgment.[467] The Court required that "it is important to bear in mind that the child's extreme vulnerability is the decisive factor and takes precedence over considerations relating to the status of illegal immigrant".[468] With regard to unaccompanied minors, the Court concluded that "the Convention on the Rights of the Child encourages States to take the appropriate measures to ensure that a child who is seeking to obtain refugee status enjoys protection and humanitarian assistance, whether the child is alone or accompanied by his or her parents".[469]

The Family Reunification Directive[470] is of core importance for unaccompanied minors with refugee status, as it contains a special provision for reunification of these minors with family members. Article 10 obliges Member States to authorise the entry and residence of first-degree relatives in the direct ascending line of unaccompanied minors without applying the conditions laid down in Article 4(2)(a). Legal guardians or any other member of the family, where the refugee has no relatives in the direct ascending line or such relatives cannot be traced may be authorised to enter and reside for the purposes of family reunification of his/ her legal guardian or any other member of the family, where the refugee has no relatives in the direct ascending line or such relatives cannot be traced.

Other EU legal instruments contain further provisions which should ensure the protection and rights of unaccompanied minors. The Anti-Trafficking Directive[471] is to be seen as an important step in the enhancement of their protection. Art. 16 of the Directive contains detailed rules on assistance, support and protection for unaccompanied minors who are victims of trafficking. The Preamble rightly stresses the importance of extended protection mechanism for unaccompanied minors in this area. Art. 20 of the Directive on combating sexual abuse and exploitation[472] obliges Member States to appoint a special representative to protect unaccompanied child victims in criminal investigations and proceedings. Art. 24 of the Directive establishing minimum standards on the rights, support and protection of victims of crime[473] also provides for the appointment of such a representative.

461 Supra, recital 13.
462 Commission Implementing Regulation 118/2014 of 30 January 2014 amending Regulation 1560/2003 laying down detailed rules for the application of Council Regulation 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, OJ 2014, L 39, 1.
463 Regulation 603/2013 of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation 604/2013 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 and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, OJ 2013 L 180, 1.
464 Proposal for a Regulation of the on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 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], for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast), COM(2016) 272, 4.5.2016
465 Supra, 13: "It would also strengthen the protection of unaccompanied minors who do not always formally seek international protection and who abscond from care institutions or child social services under which their care has been assigned. Under the current legal and technical framework their identity cannot be established."
466 Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ 2008 L 348, 98.
467 ECtHR, Tarakhel v. Switzerland, Appl. 29217/12, 4 November 2014, § 99.
468 Supra.
469 Fn. 49.
470 Directive 2003/86/EC of 22 September 2003 on the right to family reunification, OJ 2003, L 251, 12.Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification
471 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, OJ 2011 L 101, 1.
472 Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, OJ 2011 L 335, 1.
473 Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ 2012 L 315, 57.

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

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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

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Sweden www.emnsweden.se

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