

European Migration Network

**POLICIES ON RECEPTION, RETURN, INTEGRATION ARRANGEMENTS FOR,
AND NUMBERS OF, UNACCOMPANIED MINORS IN AUSTRIA**

The opinions presented in this report are those of the NCP Austria and do not represent
the position of the Austrian Ministry of the Interior.

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EXECUTIVE SUMMARY

This country report has been produced in the first half of 2009 in the framework of the European Migration Network (EMN). Its purpose is to illustrate the policies on reception, return and integration arrangements for unaccompanied minors in Austria, and contains statistical information thereof. The overall objective is to assist political decision-makers at European and national level and to compare the situation of unaccompanied minors in 24 EU countries. Further, the report aims at filling knowledge gaps and allows for drawing conclusions that then can be used for making targeted improvements in the treatment of unaccompanied minors. The main findings of the national reports will be combined in a synthesis report in the end of 2009.

Austria has a long tradition as asylum country and has in this context also received and still receives great numbers of unaccompanied minors: After a decrease of asylum-seeking unaccompanied minors in Austria from 2002-2006, since 2006, the numbers of asylum-seeking unaccompanied minors in Austria is rising again. In 2008, of the total 12.841 asylum applications made, 874 have been filed by unaccompanied minors, mainly originating from Afghanistan, Moldova, Nigeria, the Russian Federation and Somalia. Moreover, Austria, being located in the centre of Europe, is a transit as well as a destination country for unaccompanied minors who are victims of human trafficking, especially for children from South Eastern Europe but also from Africa.

The situation of unaccompanied minors coming to Austria first became a public issue in Austria in 1990 on an initiative of UNHCR, when a first report on unaccompanied refugee children in Austria was issued. At least since the “Human rights Campaign for refugee children” (Menschenrechte für Kinderflüchtlinge) in 1999, unaccompanied minors have been put on the political agenda. Important improvements and developments with regard to the legal situation and the reception and integration conditions of unaccompanied minors have taken place since then.

Specific provisions of the Austrian legislative system take into account the vulnerable situation of unaccompanied minors. The Asylum Act 2005 sets safeguards to protect the rights of unaccompanied minors, in particular with regard to legal representation.

With regard to care provisions for unaccompanied minors, the Basic Welfare Agreement

stipulates comprehensive care provisions for unaccompanied minors. The care provided goes beyond that for adults and comprises in addition to boarding, lodging, clothes and health care also psychological support, education, language courses, development of an integration plan, discussion of future perspectives, support with family reunification, family tracing and assistance in daily life in form of sports and leisure activities or household work. However, guardianship is not explicitly regulated for unaccompanied minors.

While the detention pending deportation of minors is not generally prohibited by the Aliens' Police Act, two circular letters of the Federal Ministry of the Interior take up a differentiated approach and prohibit the detention of minors under the age of 14 and set additional standards for minors older than 14. With regard to forced removal of unaccompanied minors, very little information is available; concerning voluntary return, additional safeguards are applied by the operating organizations, the crisis centre of the city of Vienna „Drehscheibe“ and the International Organization for Migration (IOM).

With regard to good practices, several existing projects could be identified for the reception and integration of unaccompanied minors:

First, the cooperation between different stakeholders in the framework of working groups and roundtables on the national level represent important fora for discussions and constitute possibilities of exchange between the different actors in the field. Further, information and knowledge sharing, information, experience, good practice and knowledge is seen by Austrian government as a key for successful cooperation among all actors involved with unaccompanied minors. In this context, a range of different projects have been carried out during the last years, i.e. with regard to exchange of good practices in combating child trafficking and on reception, protection and treatment of unaccompanied minors.

Concerning reception arrangements as such, the reception arrangements for unaccompanied minors in the Initial Reception Centre for asylum seekers in Traiskirchen and the project “Welcome” that offers primary care, psycho-social support, German language courses and leisure activities for unaccompanied minors have been identified.

The project “connecting people” run by the non-governmental organization “asylkoordination österreich”, which seeks at offering young refugees and asylum seekers orientation and safety through the establishment of a long-term and stable relationship with a so-called godmother/godfather is seen as good practice for integration measures.

Further, the placement of unaccompanied minors in “Production Schools” (Produktionsschulen), which ease the transition from school to vocational training or professional life, also turned out to be of special importance.

Finally, a good practice with regard to cooperation with countries of origin of unaccompanied minors could be found in the Vienna centre for victims of child-trafficking, the crisis centre “Drehscheibe”, which takes care of unaccompanied minors and arranges, if possible, the secure repatriation and reintegration into the home country.

In the context of continuously growing numbers of unaccompanied minors coming to Austria, however, new challenges have emerged. Against this background, continued joint efforts of all stakeholders in the support of unaccompanied minors are necessary for the successful integration and reception of this particularly vulnerable group.

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1. INTRODUCTION: PURPOSE AND METHODOLOGY FOLLOWED

This country report for Austria has been carried out on the initiative of the European Migration Network (EMN)¹ and represents one of 24 country reports² which are elaborated by the EMN National Contact Points. The main findings of all 24 country reports will be consolidated in a Synthesis Report³ by the end of 2009.

1.1. Purpose

Unaccompanied minors are a particularly vulnerable group: in many cases, they have undergone a series of traumatising experiences before and during the flight/journey from their countries of origin. Having arrived in the country of destination, they find themselves in an unknown environment which is furthermore characterised by lack of care and protection by parents or other guardians. In this context, the report intends to provide an overview of the situation and treatment of this particularly vulnerable group. The specific aims of the study are to provide information on policies on reception, integration and return of unaccompanied minors received by Austria and statistics thereof.

The study is primarily intended for entities concerned with (development of policies on) unaccompanied minors, such as national government ministers/officials, international bodies and NGOs as well as officials of the EU institutions, but may also be interesting to a wider public audience working with unaccompanied minors.

1.2. Methodology

This country study follows the methodology applied by the European Migration Network (EMN). This methodology does not engage in primary research per se, but draws on and evaluates collected data, literature and information, making data more accessible. In order to update and complete the existing literature on unaccompanied minors in Austria (i.e.

¹ For further information on the European Migration Network see 2008/381/EC: Council Decision of 14 May 2008 establishing a European Migration Network. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008D0381:EN:NOT>

² Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Malta, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom.

³ The report will be publicly available on the website of the European Migration Network. <http://emn.sarenet.es/>

Matuschek 1991; Fronek, 1998; Fronek/ Messinger 2002; Sperl/ Lukas/ Sax 2003/ IOM 2008), interviews with key participants and observers have taken place. Furthermore, a questionnaire⁴ has been sent to different governmental and non-governmental stakeholders. A number of eleven experts working on the subject of- or together with unaccompanied minors have responded to this questionnaire. Officials, representatives of non-governmental organizations and associations involved with issues related to unaccompanied minors as well as other stakeholders were invaluable sources for the elaboration of the National Report. At this point, the authors would like to express once again their gratitude to all the respondents for their cooperation which was imperative for the elaboration of the study.

The reference date for the analysis of the situation of unaccompanied minors in Austria is 31 June 2009. For information on the situation of unaccompanied minors in Austria for the beginning and for the end of the 1990s and the beginning of the 2000s, the reader is referred to the above mentioned studies.

For information on the views of asylum-seeking separated children on their situation in Austria as such, reference is made to the thematic study of the Fundamental Rights Agency of the European Union implemented by the International Organization of Migration (IOM) “Separated Asylum-seeking Children in EU Member States: an Examination of Living Conditions, Provisions and Decision-Making Procedures in Selected EU Member States through Child Centred Participatory Research”⁵ which will be published in late 2009.⁶

The years 2002-2008 serve, as far as possible, as reference years for the statistics provided. The statistical data referred to in this report was provided by the different actors involved in this field:

- *Statistics on unaccompanied minors in the asylum process*: since 2001, asylum applications of unaccompanied minors are recorded electronically in the framework of the Asylum Seeker Information System (AsylwerberInneninformationssystem, AIS) of the Federal Ministry of the Interior⁷.
- *Statistics on unaccompanied minors in the Basic Welfare System*: are recorded in the care information system of the Austrian Basic Welfare System.

⁴ For further information please consult Annex 2.

⁵ Working title.

⁶ For further information see http://www.fra.europa.eu/fraWebsite/home/home_en.htm

⁷ The statistics provided can be downloaded from the Website of the Federal Ministry of the Interior: http://www.bmi.gv.at/cms/BMI_AsyIwesen/statistik/start.aspx. (consulted on 30 June 2009).

- *Statistics on minors that are victims of human trafficking*: as indicative number, statistics for the region of Vienna are provided by the centre for victims of child trafficking „Drehscheibe“ and the “Intervention Centre for Trafficked Women LEFÖ” (Interventionsstelle für Betroffene des Frauenhandels IBF).
- *Statistics on minors in detention*: Parliamentary Question on Unaccompanied Minors (2002): 4199/AB XXI.GP.⁸
- *Statistics on voluntary returns of unaccompanied minors* have been provided by the International Organization for Migration (IOM) Vienna and the centre for victims of child trafficking of the city of Vienna “Drehscheibe”.
- Further statistics have been taken as cited from published thematic reports, annual reports or the websites of actors involved.

In order also to improve comparability, *terms* and *definitions* given are taken from the EMN Glossary which is publicly accessible on the website of the EMN⁹.

As this study can only give a short and simplified insight into the current situation of unaccompanied minors in Austria, it must be emphasized that its development is subject to an ongoing process which envisages further modifications and changes¹⁰.

Furthermore, the report looks at the complex system of migration and asylum in Austria in a simplified way and seeks to provide a general overview rather than an integral enumeration of all particulars with regard to the situation of unaccompanied minors. Therefore, the study does not claim to provide a complete and detailed picture of all regulations and facets, but intends to represent an outline of the situation of unaccompanied minors as such.

The study was written by Mária Temesvári, legal adviser at the National Contact Point to the EMN at IOM Vienna, and Elisabeth Petzl, researcher at the National Contact Point to the EMN at IOM Vienna, under the close supervision of Heike Wagner, Head of Research at IOM Vienna, and David Reizenzein, Head of Unit of the Austrian Programs, Research and Implementation Unit at IOM Vienna. We also very much thank Peter Zimmermann, Unaccompanied Minor Focal Point at IOM Vienna, and Gudrun Kroner, researcher at IOM Vienna, who have further contributed to the elaboration of the study.

⁸ http://www.parlament.gv.at/PG/DE/XXI/AB/AB_04199/pmh.shtml (retrieved on 31 May 2009)

⁹ <http://emn.sarenet.es/Downloads/download.do;jsessionid=6331DA27238E810B2F541E0AFAC9488E?fileID=743> (consulted on 31 July 2009)

¹⁰ In the framework of the intended revision of the asylum and alien’s legislation in 2009, modifications with relation to the age assessment of unaccompanied minors are envisaged.

1.3. Structure

The study is based on current information and statistics available in Austria and follows specifications adopted by the EMN to facilitate comparisons with other National Reports:

In *chapter 1*, further to the purpose, structure and methodology of the report, the definition of unaccompanied minors, the international legal framework and general developments of the situation of unaccompanied minors in Austria are illustrated.

In *chapter 2*, motivations of unaccompanied minors for seeking entry into Austria are given by indicating known reasons¹¹ on why unaccompanied minors seek entry into Austria and on their preliminary situation and circumstances.

Chapter 3 summarizes the most important statistics on unaccompanied minors in Austria.

Chapter 4 outlines the legislative and institutional framework for the treatment of unaccompanied minors in entry procedures.

Reception arrangements, including integration measures, are in the focus of *chapter 5*. In a broad sense, this relates to the process of receiving unaccompanied minors in Austria. Reception arrangements within this study relate to the procedures and practices followed upon entry of an unaccompanied minor in Austria, including placement, protection, psychological care, detention, notification of the youth welfare service, provision of access to legal representation, integration measures, age assessment, family reunification as well as detention of illegally-residing minors.

Chapter 6 gives an overview of the practices followed for the assisted voluntary as well as forced return of unaccompanied minors and the reintegration of unaccompanied minors in third countries.

In *chapter 7* summarises identified good practices in the treatment of unaccompanied minors and lessons learnt in their treatment.

¹¹ Results are based on the outcomes of the undertaken questionnaire.

The *Annex* includes the bibliography of sources used to produce the National Report tables with more detailed statistics on unaccompanied minors in Austria, the questionnaire sent to the different stakeholders, as well as the guide for the semi-structured interviews.

1.4. Definition of unaccompanied minors¹²

According to UNHCR¹³ and the UN Committee on the Rights of the Child¹⁴, an unaccompanied minor is “a person under 18, unless the law applicable to the child stipulates a younger age of majority, who is separated from both parents and is not under the care of another adult who has such responsibility, whether by law or by custom”.

In the framework of this study, unaccompanied minors are referred to as defined in the Directive of the European Parliament and the Council 2003/9/EC which defines an unaccompanied minor as “a third country national or stateless person below the age of eighteen, who arrives 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, or a minor who is left unaccompanied after they have entered the territory of the Member States”.¹⁵ This means that, by definition, unaccompanied minors who are EU nationals are excluded. However, in order to better place in context unaccompanied minors who are third-country nationals, in some sub-sections of different chapters, also the situation of unaccompanied EU national minors are taken into account.

In the national context the term “unaccompanied minor” is defined in the framework of the Austrian Settlement and Residence Act (Niederlassungs- und Aufenthaltsgesetz) as a foreign minor national who is non-accompanied by an adult person responsible for the legal representation of the minor. Furthermore, on the federal level the Basic Welfare Act of Salzburg and Tirol contains definitions of unaccompanied minors.¹⁶ Notably, the definition applied by the Basic Welfare Act of Tirol is more detailed as it also refers to children who are not accompanied by a legal representative according to customary law and it explicitly

¹² Within the framework of this study, the terms “children” and “minors” are used interchangeably and refer to persons under the age of 18 years. (Sec. 21, para. 2, Austrian Civil Code (Allgemeines Bürgerliches Gesetzbuch))

¹³ UNHCR 1997: Guidelines on Policies and Procedures in dealing with Unaccompanied Children seeking Asylum.

¹⁴ UN General Comment No. 6 (2005) „Treatment of Unaccompanied Minors and Separated Children outside their country of origin“ of the UN Committee on the rights of the child.

¹⁵ Definition as in Article 2(f) of Council Directive 2001/55/EC available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0055:EN:NOT>

¹⁶ Tyrol Basic Welfare Support Act, Tiroler Grundversorgungsgesetz, LGBl. Nr. 21/2006, Art. 4; Salzburg Basic Welfare Support Act, Salzburger Grundversorgungsgesetz, LGBl Nr 35/2007.

mentions children who have been left behind in Austria. It is common to all definitions that they comprise also EU nationals.

In everyday language, unaccompanied minors in Austria are often referred to as “UMF”. “UMF” stands for both “unaccompanied minor foreigner” (unbegleitete minderjähriger Fremder) mostly meaning children who did not apply for asylum, and for “unaccompanied minor refugee” (unbegleitete minderjähriger Flüchtling) which contrary to the wording sometimes means asylum-seeking unaccompanied minor as well as sometimes unaccompanied minor refugee. This overlapping denotation can be seen as problematic as it may lead to confusion and to exclusion rather than inclusion of certain groups of children (i.e. unaccompanied minors outside the asylum procedure) in the term.

Concerning the definition of minority age the commentaries¹⁷ to the Austrian aliens law refer to the definitions of the Austrian Civil Code (Allgemeines Bürgerliches Gesetzbuch). Accordingly a person who has not reached the age of 18 is considered to be a minor.¹⁸ Furthermore it is distinguished between under-age minors (unmündiger Minderjährige), who are children under the age of 14, and minors of age (mündiger Minderjährige) who are older than 14 years and have limited contractual capability. Minors of age can, for instance, sign work contracts. This distinction is also reflected in the Austrian asylum law, in particular, concerning filing and submitting of an asylum application. While children, regardless of their age, can file an asylum application, only minors of age have the capacity to file and submit the application without a guardian or legal representative.¹⁹

On the other hand, the Aliens’ Police Act (Fremdenpolizeigesetz) has dissenting provision with regard to the capacity to act. According to Art 12 Aliens’ Police Act minors above the age of 16 generally have the capacity to act and the presence of the legal representative is not obligatory for aliens’ police procedures (entry procedures, detention, expulsion, visa, etc.).²⁰

¹⁷ Vorblatt und Erläuterungen, Regierungsvorlage betreffend Bundesgesetz, mit dem das Asylgesetz 2005, das Fremdenpolizeigesetz 2005 und das Niederlassungs- und Aufenthaltsgesetz geändert werden, available at: http://www.parlinkom.gv.at/PG/DE/XXIV/II/00088/fname_150562.pdf (consulted 31 September 2009).

¹⁸ Art. 21 Civil Code.

¹⁹ See below Chapter 3 Reception Arrangements.

²⁰ Art. 12 FPG.

1.5. International Legal Framework

Austria has signed and ratified the most relevant international treaties and conventions relevant for child rights: the Convention on the Rights of the Child and its supplementing Protocols, the Geneva Convention and Protocol Relating to the Status of Refugees 1951 (Protocol 1967), the Hague Convention on the Protection of Children and the European Convention on Human Rights.

1.6. Awareness of the situation of unaccompanied minors in Austria

The situation of unaccompanied minors coming to Austria was first discussed in 1990 on an initiative of UNHCR, when a first study on unaccompanied refugee children in Austria²¹ was released; in its framework, workshops with experts from non-governmental organizations and public authorities were held at which recommendations for the improvement of the situation of unaccompanied minors were given. A further study²² evaluating the situation of unaccompanied minors in Austria was initiated by UNICEF Austria and the non-governmental organization “asylkoordination österreich” on the occasion of the “UN Year of Human Rights”. In the framework of the study, the Austrian public should be made aware of the situation of unaccompanied minors. In the follow-up of the study, a working group and network of the different stakeholders²³ involved in the topic was established. The network organised the “Human Rights Campaign for Refugee Children” (Menschenrechte für Kinderflüchtlinge) in 1999 which formulated further recommendations and helped to put unaccompanied minors entirely on the political agenda.

A further working group has been established in form of a Round Table on Child Trafficking in 2007 on the initiative of UNICEF Austria, the International Organization for Migration (IOM) and the crisis centre “Drehscheibe”. It includes representatives of the non governmental organisations ECPAT Austria, International Federation for Educative

²¹ Matuschek 1991.

²² Fronek 1998.

²³ The working group is composed of non-governmental organizations (e.g. asylkoordination Österreich, ZEBRA, Caritas Graz, Volkshilfe, Integrationshaus Wien, Deserteurs- und Flüchtlingsberatung, Evangelischer Flüchtlingsdienst, Kinderstimme) , international organisations such as IOM and UNHCR and governmental authorities (e.g. municipality of Vienna, MA 11) and individuals who seek exchange and cooperation to become active in a joint manner. Since this moment, the working group meets on a regularly basis (every six weeks). For further information see <http://asyl.at/umf/>.

Communities (FICE), LEFÖ – Counselling, Education and Support for Migrant Women and the Ludwig Boltzmann Institute of Human Rights (BIM).

During last years, important improvements and developments with regard to the legal situation and the reception and integration conditions of unaccompanied minors have taken place. The adoption of the Basic Welfare Agreement between the Federal State and the Federal Provinces that set the standards for the care of asylum applicants can be seen as important step forward in this regard.

Further, sharing information, experience, good practice and knowledge is seen by Austrian government as key for cooperation among all actors involved with unaccompanied minors, especially also with regard to the fight against trafficking in children. In this context, in 2004, the Federal Ministry of the Interior together with the International Organization for Migration (IOM) organized a workshop for law enforcement on the exchange of information, best practices and lessons learnt on trafficking in minors which formed part of the IOM Vienna AGIS 2003 project “Victim assistance for minors in the EU, candidate and third countries”.

In the attempt to further support increasing cooperation and understanding between the member states of the European Union as well as with third countries, which was identified as key challenge of the Austrian Presidency of the Council of the European Union, the project “Comprehensive Training for Law Enforcement Authorities and Responsible for Trafficking in Children/Minors” was carried out with financial support by the European Commission under AGIS 2005. Following these preparations, the “Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking”²⁴ was published in 2006.

The government of Austria further engaged with the government of Belgium, Bulgaria, the Czech Republic, Poland and Romania in the exchange of information and best practices on first reception, protection and treatment of unaccompanied minors in the framework of the project “Exchange of information and best practices on first reception, protection and treatment of unaccompanied minors. Manual of best practices and recommendations”²⁵ implemented by the IOM in 2008.

²⁴ International Organization for Migration (2007): Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking. Retrieved on 15 June 2009 at: http://www.iomvienna.at/files/Upload/Resource_Book_on_Child_Trafficking_open_version_1.pdf.

²⁵ International Organization for Migration (2008): Exchange of information and best practices on first reception, protection and treatment of unaccompanied minors. Manual of best practices and recommendations. September

In its combat against trafficking, in 2007, a National Plan for Action against Trafficking in Human Beings, established by the National Task Force against Trafficking, has been adopted. In this context, a Working Group on Child Trafficking²⁶ has been installed and reconfirmed in the Second National Action Plan²⁷ for the period of 2009-2011. This Working Group has published a first report on “Child Trafficking in Austria”²⁸ in February 2009 which provides a catalogue with proposals for further measures.

2008. Retrieved on 15 June 2009 at:
<http://www.belgium.iom.int/document/EUAMMANUALFINAIA4FOrmat.pdf>

²⁶ The Working Group is composed e.g. of representatives of the Federal Ministry for Economy, Family and Youth (chair), the Federal Ministry of European and International Affairs, the Federal Ministry of the Interior, the Federal Ministry of Justice, the Governments of the Federal Provinces, as well the non-governmental organisations ECPAT („End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes“)-Austria, LEFÖ-IBF (Intervention centre for women that are victims of human trafficking) and the BIM (Boltzmann Institute for Human Rights). Since November 2008 also Unicef Austria and IOM (International Organization for Migration) are members of the working group.

²⁷ http://www.bmeia.gv.at/fileadmin/user_upload/bmeia/media/2-Aussenpolitik_Zentrale/Menschenrechte/NAP_Menschenhandel.pdf

²⁸ Bundesministerium für Wirtschaft, Familie und Jugend (2009): Kinderhandel in Österreich. Bericht der Arbeitsgruppe Kinderhandel) im Rahmen der Task Force Menschenhandel. Prävention von Kinderhandel und Schutz der Opfer von Kinderhandel. Wien. Retrieved on 15 September on http://www.bmeia.gv.at/fileadmin/user_upload/bmeia/media/2-Aussenpolitik_Zentrale/Menschenrechte/090220_letzte_Version_Bericht_AG_Kinderhandel.pdf

2. MOTIVATION(S) FOR SEEKING ENTRY INTO AUSTRIA AND STATISTICS

The following chapter is based on the findings of a written expert survey²⁹ which has been conducted amongst stakeholders working with unaccompanied minors in Austria as little research exists on this topic in Austria. When looking at motivations of unaccompanied minors who come to Austria, it has to be taken into account that, on the one hand, many of them can be interconnected; moreover, the possibility is given that unaccompanied minors enter Austria for more than one of the reasons stated. On the other hand, it should be kept in mind that some motivations are also strongly linked to the respective country and region of origin of the unaccompanied minor.

It also has to be taken into account that the circumstances under which unaccompanied minors come to Austria differ from each other greatly: the decision to migrate can be taken by the minors themselves (e.g. because of the loss of a central family member in the country of origin, death or imprisonment of parents). However, this decision can also be taken by the parents (e.g. sending away the eldest son for protection who is often, together with the father, the most endangered family member, especially in Afghanistan and Chechnya), other family members or other guardians, i.e. religious communities. Furthermore, minors can arrive as designated “child” of another family, mostly for the purpose of slavery and exploitation, or he or she could get separated from family members during the flight transfer.

In many cases, unaccompanied minors are smuggled, or in the worst case trafficked, and often suffer from traumatic experiences on their journey (e.g. death of companions, long periods of deprivation of day-light, wrong information by smugglers/traffickers). Moreover, a great part of them suffers from the heavy psychological pressure of having to/wanting to support their family financially as families sometimes have taken on huge amounts of debts, in order to finance the journey of the minor. Adding to all these psychological burdens is the insecurity of their situation of not knowing what will happen or where they will be sent to, also upon their arrival in Europe (e.g. Dublin II Regulation).

Analysing the findings of the expert survey, several categories of motivations that incite unaccompanied minors to leave their country could be identified:

²⁹ For further information see chapter 1.

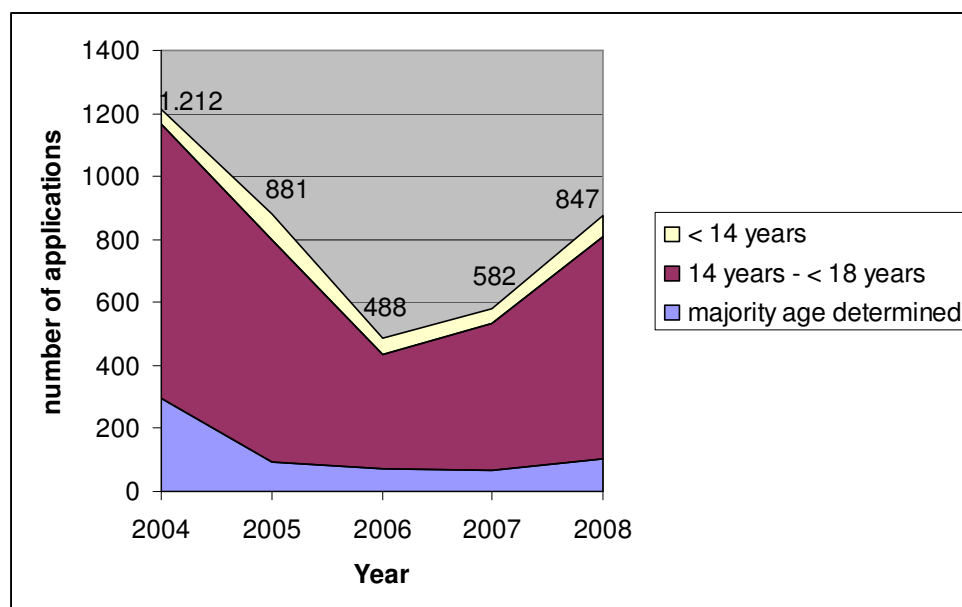
- **Political reasons:** Although motivations cited by the respondents differ region- and country-wise, in general, political reasons were quoted as main causes for unaccompanied minors coming to Austria: especially, threats, persecutions and war, the belonging to a(n) (ethnic) minority, political instability, riots and torture in the country of origin were stated to induce unaccompanied minors to seek refuge in Austria. The prevalence of political reasons could be resulting from the fact that most documented unaccompanied minors that come to Austria originate from conflict and post-conflict countries such as Afghanistan, Nigeria, the Russian Federation (Chechnya) and Somalia.
- **Economic reasons:** Next to political reasons, also economic ones such as lack of perspectives in the country of origin, calamitous living conditions, lack of resources and poverty combined with the search to financially support the family via remittances are named by Austrian experts to be a basis for unaccompanied minors to be leaving their country of origin (e.g. Moldova).
- **Social reasons:** Social reasons i.e. child-exploitation and child-abuse, the loss of central family members and the general aspiration for a “life in Europe” as well as religious reasons can play an important role.
- **Family reunification:** In some cases, Austria is chosen as destination country in order to reunite with other family members (e.g. older siblings, uncles, aunts, cousins).
- **Transit to other countries:** It has to be specified that some unaccompanied minors, especially those coming from Afghanistan, have not chosen Austria as country of destination per se but intend/intended to go to another country, i.e. Scandinavian countries or the United Kingdom, as some respondents confirmed.
- **Misleading information:** It was furthermore acknowledged that the significance of the word “asylum” and false information in the country of origin on asylum procedures constitute a motivation with regard to the desire of unaccompanied minors to search refuge in Austria.
- **Victims of human trafficking:** Findings showed that unaccompanied minors can be

victims of human trafficking. Especially known are cases of unaccompanied minors from Romania, Bulgaria and Moldova as well as girls from Nigeria that are related to human trafficking.

3. STATISTICS ON UNACCOMPANIED MINORS³⁰

3.1. Unaccompanied minors³¹ in the asylum procedure

In 2008, 847 asylum applicants have lodged their asylum applications as unaccompanied minors. This figure lies beyond the number of 1.212 asylum applications logged as such in 2004 and 881 such applications in 2005; however, after a decline to 488 asylum applications in 2006, since 2007 (582 applications), the trend of rising numbers of asylum applications of unaccompanied minors continues. This trend seems also to persist in 2009: In the first five months of 2009, 425 applicants have lodged their asylum applications as unaccompanied minors.



Source: Federal Ministry of the Interior, Asylum statistics 2004-2008. Own illustration.

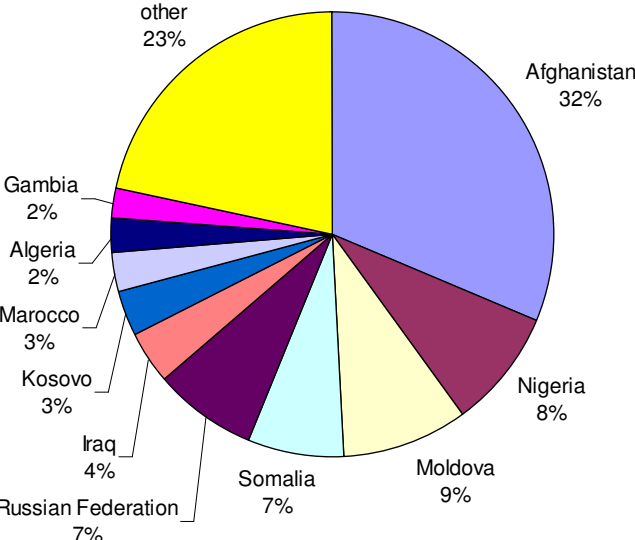
With the exception of 2004, when in the case of 24% of all asylum applications of unaccompanied minors majority-age of the applicant was determined by the Austrian authorities, the share of applicants for which majority age has been determined lay between 10-15%.

³⁰ For further statistics, see the statistical data in the Annex.

³¹ The Austrian asylum statistics of the Austrian Federal Ministry of the Interior refer to unaccompanied asylum-seeking minors. According to Art. 2 (1 (17)) of the Settlement and Residence Act, an unaccompanied minor is “a person below the age of 18 who is unaccompanied by an adult legal representative.” The statistics show the total numbers of applications that have been filed by applicants that stated to be unaccompanied minors.

Those most asylum-seeking unaccompanied minors³² in Austria are between 14-<18 years old. In the years 2004-2008, 71,9-80,8% of asylum applications of unaccompanied minors have been lodged by children aged 14- <18. Most of them were male.

With regard to countries of origin³³, since 2005, Afghanistan has steadily become the most important country (2005: 11,7%; 2008: 31,4%) unaccompanied minors have been made by unaccompanied minors from Afghanistan). Other important countries of origin of asylum-seeking unaccompanied minors in 2008 were Moldova (9,3%), Nigeria (8,4%), the Russian Federation (7,4%) and Somalia (6,8%).



Source: Federal Ministry of the Interior, Asylum statistics 2004-2008. Own illustration.

More detailed recorded statistics with regard to sex asylum-seeking unaccompanied minors (also segregated by age) on the national level are not available. Taking into account the gender distribution of unaccompanied minors in the Initial Reception Centre in Traiskirchen, of the 84 asylum unaccompanied minors seeking asylum (taken care of by the NGO Verein.Menschen.Leben), 6 (7,1%) have been girls.³⁴

³² These figures do not include asylum applicants that have filed their asylum application as unaccompanied minor and for who majority age has been determined.

³³ These figures do not include asylum applicants that have filed their asylum application as unaccompanied minor and for who majority age has been determined.

³⁴ Data has been provided by Verein.Menschen.Leben by email on 24 June 2009.

3.2. Unaccompanied minors in the Austrian Basic Welfare System

In total, in the end of May 2009, 710 unaccompanied minors have been provided for in the Austrian Basic Welfare System³⁵. Regarding statistics on the provincial level, most of them have been living of the Federal Province of Lower Austria (141), followed by Vienna (102), Styria (84), Upper Austria (81), Tirol (43), Salzburg (27) and Vorarlberg (25). Three unaccompanied minors covered by the basic welfare system have been living in Carinthia (3) and none in Burgenland (0).

3.3. Child trafficking

Being situated in the centre of Europe, Austria functions as a transit as well as a destination country for unaccompanied minors who are victims of human trafficking: especially for children from South Eastern Europe (i.e. Bulgaria, Romania, Moldova, Georgia, Serbia and Slovakia) but also from Africa (female minors from Nigeria).³⁶

With regard to statistics on these children, little data on the national scale is available as currently, systematic collection of comparative data relating to trafficking in human beings or child trafficking is not taking place.³⁷ In this context, in particular cases of trafficking in organs and trafficking for the purpose of adoption are not well documented.³⁸ Looking at reports of Austrian non-governmental organizations³⁹, in 2007, it can be assumed that at least 50 under-aged minors have been victims of trafficking in human beings.

³⁵ Ständesmeldung des Betreuungsinformationssystems über die Gewährleistung der vorübergehenden Grundversorgung für hilfs- und schutzbedürftige Fremde in Österreich (entsprechend der Grundversorgungsvereinbarung gemäß Art. 15a B-VG). For further information on the Basic Welfare System see Chapter 4.5.2. Care. For further information see chapter 4 on Reception Arrangements, including Integration Measures.

³⁶ Bundesministerium für Wirtschaft, Familie und Jugend (2009): Kinderhandel in Österreich. Bericht der Arbeitsgruppe Kinderhandel im Rahmen der Task Force Menschenhandel. Prävention von Kinderhandel und Schutz der Opfer von Kinderhandel. Wien.

³⁷ Nowak, Manfred (2008): FRA Thematic Study on Child Trafficking. Austria. Vienna.

<http://www.fra.europa.eu/fraWebsite/attachments/Child-trafficking-09-country-at.pdf>

(retrieved on 15 August 2009): 12.; ECPAT Österreich (2008): Schattenbericht zur nationalen Implementierung des Fakultativprotokolls zum Übereinkommen über die Rechte des Kindes betreffend den Verkauf von Kindern, die Kinderprostitution und die Kinderpornographie.

http://www.kinderrechte.gv.at/home/upload/50%20thema/tm_0810_schattenbericht_zum_opsc-deutsch-final.pdf (retrieved on 31 August 2009): 7.; Bundesministerium für Wirtschaft, Familie und Jugend 2009.

³⁸ ECPAT Österreich (2008).

³⁹ ECPAT Österreich (2008): 7.

Surveys of the “Austrian Task Force in Human Trafficking”⁴⁰ have shown that cases of child trafficking are rarely perceived in the Federal Provinces, with the exception of Vienna.⁴¹ It was for the first time in 1998 that the authorities picked up minor foreigners in Vienna who claimed to have no accommodation.⁴² At that time, only about 30 children were picked up but the numbers increased rapidly in the following years. In this context, in 2003, the crisis centre “„Drehscheibe“,” which is administered by the Viennese Youth Welfare Authority and takes care of foreign children that are victims of human trafficking, was established.

Looking at reports of this centre, insight on the extent of the phenomenon (for the region of the Federal Province of Vienna) can be won: After an increase (99 children in 2003, 315 in 2004, 701 in 2005) in the number of children⁴³ who have been picked up by the police while having committed crimes (e.g. theft) and then been brought to the centre, the number decreased to 319 in 2006 and to 72 in 2007. In 2008, 88 unaccompanied minors without a regular residence title have been taken to the crisis centre. In the first half of 2009, 67 were counted.⁴⁴ In most cases the children had the age of 11-14 years; 14 being the age of criminal responsibility. In 2008, 28 children were from Bulgaria, 10 from Romania, 8 from the Russian Federation, 7 from Chechnya and Hungary each, 5 from Slovakia, 3 from Bosnia, 2 from Poland and 1 each from Serbia and Croatia. Thereof, 95% of the children from Bulgaria, 70% of the ones from Romania and 100% of the ones from Hungary, Slovakia, Kosovo and Bosnia have been Roma.⁴⁵ In the first half of 2009, most received children came from Bulgaria (14), Hungary (9) and Slovakia (9).⁴⁶

Furthermore, the “Intervention Centre for Trafficked Women” (Interventionsstelle für Betroffene des Frauenhandels, IBF) administered by the non-governmental organization LEFÖ⁴⁷ does in some cases also take care of trafficked women below the age of 18. In 2006, 8% of all women taken care of were between 17 and 18 years of age; in 2007, 18 persons

⁴⁰ <http://www.entwicklung.at/en/press-releases/austrian-task-force-marks-eu-day-against-human-trafficking.html>

⁴¹ Bundesministerium für Wirtschaft, Familie und Jugend, 2009.

⁴² Presentation by Ms. Grete Laska, Vice-Mayor and Vice-Governor, Executive city councilor for Education, Youth, Information and Sports, Vienna, Austria Alliance Against Trafficking in Persons Conference, Vienna, 26-27 May 2008. Child Trafficking: Responses and Challenges at Local Level. The City of Vienna takes measures for the protection of trafficked children. Retrieved from http://www.osce.org/documents/cthb/2008/05/31287_en.pdf on 30 July 2009.

⁴³ Note that these statistics do not reflect the actual number of affected children (children are counted more than once). (Nowak, 2008: 13) Some of the children have been – often with new names and a changed appearance – picked up several times. (Bundesministerium für Wirtschaft, Familie und Jugend, 2009: 14)

⁴⁴ Information provided by „Drehscheibe“ per email on 23 July 2009.

⁴⁵ Bundesministerium für Wirtschaft, Familie und Jugend, 2009.

⁴⁶ Statistics provided by Drehscheibe via email on 23 July 2009.

⁴⁷ For further information see <http://www.lefoe.at/>

have been below the age of 18.⁴⁸ In 2008, out of 88, 5 third country nationals, who were identified as victims of trafficking in human beings by the centre, have been below maturity age.⁴⁹

Statistics on children going missing from care institutions in Austria are not available. Observations made by non-governmental organization and other stakeholders however show that a number of unaccompanied minors hosted in the Initial Reception Centre for asylum-seekers and other reception centres leave the institutions. More research on this topic would be essential in order to seize the actual size and prevalence of this phenomenon.

⁴⁸ Information provided by LEFÖ by email. Cited in Nowak 2008: 13.

⁴⁹ Information provided by LEFÖ by email on 11 September 2009.

4. ENTRY PROCEDURES, INCLUDING BORDER CONTROL

This section focuses on entry procedures for unaccompanied minors in Austria. The visa and border procedures are described; in this context special attention is paid to the airport procedures for asylum applicants. It is furthermore referred to apprehensions and trainings of police officers that should facilitate the identification of unaccompanied minors. Wherever necessary, distinction is made between asylum-seeking children and minors who do not apply for asylum.

For the entry to Austria, unaccompanied minors have to provide a valid travel document and a visa according to the general provisions.⁵⁰ Nevertheless, the issue of visa only plays a limited role for unaccompanied minors. Minors under 14 cannot apply for a visa themselves, while children over 14 have to prove the consent of the legal representative. Thus, by definition it is difficult for unaccompanied minors to apply for a visa.⁵¹ According to consulted experts, most children enter Austria irregularly, while children from other EU Member States enter regularly, as no visa requirement are in force.

Since 21 December 2007, Austria has only with Lichtenstein Schengen external borders. There are furthermore border posts at the International Airports. However, there are only very few unaccompanied minors arriving at the airport, especially because for minors under age it is very difficult to get on an airplane alone due to the internal practice of the airline companies and due to the visa regulations. Experience shows that those few, who arrive by plane in most cases claim asylum. For all asylum seekers at the airport, a special procedure is in force that stipulates that no asylum seeker can be refused at the border without previous consent of the UNHCR.⁵²

For some unaccompanied minors, the first contact is primarily made with the police. When an unaccompanied minor is apprehended, the police immediately informs the locally responsible Youth Welfare Authorities (Jugendwohlfahrtsträger). If the apprehended unaccompanied minor applies for asylum, he or she is transferred to an Initial Reception Centre for asylum-seekers (Erstaufnahmestelle). Since two of the three Initial Reception Centres, namely the one in Thalham and the Initial Reception Centre at the Airport Schwechat have no special

⁵⁰ Art. 15 Aliens' Police Act.

⁵¹ Art. 25 (3) Aliens' Police Act.

⁵² Art. 32 Asylum Act, see also: Putzer/Rohrböck: 2007, 197.

facilities for unaccompanied minors, unaccompanied minors are usually transferred to the Initial Reception Centre in Traiskirchen which has special reception provisions for unaccompanied minors.⁵³ Some asylum-seeking unaccompanied minors arrive directly at the Initial Reception Centre Traiskirchen by themselves.

Since many children are apprehended by the police, identification of unaccompanied minors and training of police officers is a crucial question. The issue of human trafficking is part of the curriculum of the police and border officers⁵⁴ and also the International Organization for Migration (IOM) in cooperation with the Austrian Federal Ministry of the Interior, has organised different training programmes in this field.⁵⁵ However, police officers do not receive special training on how to identify or deal with unaccompanied minors arriving in Austria who are not victims of trafficking.⁵⁶

⁵³ Interview with a governmental official..

⁵⁴ Bundesministerium für Wirtschaft, Familie und Jugend, 2009.

⁵⁵ E.g. International Organization for Migration (2006): Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking. Vienna. Co-financed by the European Commission (AGIS Programme 2005) and the Austrian Federal Ministry of the Interior.

⁵⁶ Interview with a governmental official.

5. RECEPTION ARRANGEMENTS INCLUDING INTEGRATION MEASURES

5.1. General Institutional and Legal Framework

While the Austrian asylum procedure contains several specific provisions for unaccompanied minors, the legislation concerning residence and settlement does not significantly differ from that for adults.⁵⁷

Looking at the institutional framework it is important to mention the special role of the Youth Welfare Authorities concerning the care and legal representation of unaccompanied minors and also their role as guardians. The Youth Welfare Authorities are established regionally at the municipalities (Magistrate) and district commissions (Bezirkshauptmannschaften). The duties of the Youth Welfare Authorities are set out in the Austrian Civil Code and cover a wide range of issues in the field of child protection such as assistance of families in need, educational counselling, crisis intervention and the organization of a foster parent system. Furthermore, the Youth Welfare Authorities are in charge of the legal representation and guardianship of minors in cases where for certain reasons, the parents are not able to take care of the child. The actual competencies of the Youth Welfare are described in the respective chapters. Additionally, different NGOs are involved in the care of the unaccompanied minors, either based on special agreements with the authorities or in form of different projects.

When dealing with unaccompanied minors outside an asylum procedure, it is mostly referred to children who are victims of trafficking.⁵⁸ Nevertheless, it is acknowledged that there might be cases where the child is not victim of trafficking. Furthermore many cases cannot be categorised to only one group, therefore also asylum-seeking children can be victims of human trafficking. However, due to lack of identification, there is very little information available about these minors.⁵⁹

5.2. International protection (including application for asylum) and residence

5.2.1. International protection

For unaccompanied minors the Asylum Act (Asylgesetz) and the different basic care acts

⁵⁷ For further information, please consult the extensive description on the report on general structure and institutional setting of migration and asylum policies in Austria in National Contact Point Austria to the EMN (2008): Organisation of Asylum and Migration Policies in the European Member States. National Report for Austria. www.emn.at

⁵⁸ For detailed information on this topic see Nowak, 2008.

⁵⁹ Bericht der AG-Kinderhandel, 18 February 2009.

contain provisions that take into account the vulnerable situation of this group.⁶⁰ Most issues are discussed in the following sections under reception arrangements, family reunification and age assessment, thus only the application for asylum is highlighted here.

The Austrian asylum legislation divides the asylum procedure into two phases. Phase one is the admission procedure, during which the competence of Austria is clarified (Dublin II Regulation, principle of safe third country, etc.). Phase two is the actual asylum procedure in which it is decided whether the asylum seeker can be granted asylum according to the Geneva Convention on Refugees, or a subsidiary protection status.

During the first phase, the asylum seekers are accommodated in one of the Initial Reception Centres, and in the case of unaccompanied minors, in the one in Traiskirchen (see above). In the second phase, asylum seekers are assigned to an accommodation facility of one of the Federal Provinces.

(Unaccompanied) minors can file an application regardless of their age.⁶¹ Minors over 14 can also submit their application in person, while for children under 14 years of age, this is done by the legal advisor of the Initial Reception Centre who is in charge of the legal representation of minors from the moment of their arrival at the Initial Reception Centre.⁶² Upon admission to the actual asylum procedure, the regionally competent Youth Welfare Authority is in charge of the legal representation.

The Federal Asylum Office (Bundesasylamt) is the first instance authority for asylum applications and the Asylum Court (Asylgerichtshof) acts as second instance. Since 1 July 2008, the possibility to appeal to the Administrative Court (Verwaltungsgerichtshof) no longer exists.

Vogelsang has analysed the case law of the Asylum Court and of its predecessor, the Independent Federal Asylum Senate (Unabhängiger Bundesasylsenat, UBAS; acting until 30 June 2008), and found that no clearly identifiable category for minors has emerged. He mentioned in his findings only a few examples of cases, in which special reasons for granting

⁶⁰ Schumacher/Peyrl: 2007, 213.

⁶¹ An application can be filed informally: an application for asylum is considered as filed as soon as an asylum seeker has notified toward an organ of the public security (especially towards police) his/her intention to seek protection in Austria against persecution. At the same time the submission of an asylum application is only possible at one of the Initial Reception Centres, to which all asylum seekers are transferred after having filed an application for asylum.

⁶² Art. 16 Asylum Act.

asylum to minors or granting them subsidiary protection were recognized. These were reasons such as fleeing from civil war, and since children belong to the most vulnerable group; forced recruitment to military service; being an orphan in certain cases, etc. He observed that inconsistencies in the statements of minors have often been affiliated with the minors' age and therefore been reviewed less strictly. As far as the assessment of internal flight alternatives was concerned, the Asylum Court has been known to take the individual situation of the minor into account.⁶³

5.2.2. Residence

Concerning residence and settlement, the general provisions of the Settlement and Residence Act (Niederlassungs- und Aufenthaltsgesetz) constitute the relevant legal base. Since most unaccompanied minors enter Austria irregularly and also due to their specific situation, the residence and settlement permit for humanitarian purposes is the most important form of residence.

Due to a decision of the Constitutional Court (Verfassungsgerichtshof),⁶⁴ the system of humanitarian residence and settlement permits has been reformed in April 2009, thus, at this moment, only its legal framework can be described. The underlying idea of the new permits is that persons who are irregularly-residing in Austria – either because their asylum application has been rejected or because they do not have a valid residence title but cannot be returned for certain legal or factual reasons, can regularise their stay. For most provisions, an existing private or family life in Austria according to Art. 8 ECHR (European Convention of Human Rights) is a precondition. In particular, the length of the stay, the existence of a family life, the level of integration, connections to the country of origin, the criminal record, etc. have to be taken into account. By definition, family life will not play an important role for unaccompanied minors. Thus, the residence permit “special protection”⁶⁵ has to be primarily considered when dealing with unaccompanied minors:

A residence permit “special protection” can be granted to victims of human trafficking – upon application or ex officio for the period of the criminal prosecution and for the assertion/enforcement of claims under private law (e.g. damages) connected to the criminal

⁶³ Vogelsang, 2009: 162.

⁶⁴ Constitutional Court, VfGH, Case No. G246/07, 27 June 2008.

⁶⁵ Art. 69a Settlement and Residence Act.

proceedings.⁶⁶ The residence permit has to be granted even if the applicant does not meet all general requirements for a residence or settlement permit as defined under Art. 11. Settlement and Residence Act. Criminal or civil procedures are a precondition for the issuance of the residence permit and the permit is valid for 6 months. After 12 month residence in Austria the third country national can apply for a “settlement permit – unlimited” which allows long term stay in Austria and grants free access to the labour market (Art. 43 (3) Settlement and Residence Act) if the conditions according to Art. 69a still prevail.

Furthermore, a very recent governmental proposal⁶⁷ to amend the Settlement and Residence Act foresees a specific residence permit for unaccompanied minors under Art. 69a to protect the best interest of the child.

Additionally, with the amendment of the Residence and Settlement Act, new provisions have been introduced explicitly dealing with unaccompanied minors which take into account their vulnerable situation. The amendment facilitates the application for a settlement and residence permit. For example in contrast to adults, unaccompanied minors can file their application *in Austria* or the Federal Ministry of the Interior can refrain from legal representation of the minor when applying and issuing the residence or settlement permit.⁶⁸

5.3. Age Assessment

The Austrian legislation contains provisions concerning age assessment. Art. 12 Aliens Police Act (Fremdenpolizeigesetz) stipulates with regard to the Aliens’ Police (Fremdenpolizei) procedure that age assessment belongs to the competencies of the Aliens’ Police. Additionally, the Aliens’ Police *can* consult a public health officer, however, this is not obligatory. If a person claims to be a minor, the Aliens’ Police has to contact the Youth Welfare Authority. The non-cooperation of the person concerned has to be taken into account when viewing evidence for the age assessment.⁶⁹

With regard to the asylum procedure, no specific regulations on age assessment can be found in the Asylum Act. The Independent Federal Asylum Senate (Unabhängiger

⁶⁶ This provision replaces the previous Art. 72 (2) and transposes the EU Directive 2004/81/EC.

⁶⁷ Parlament, Fremdenrechtsänderungsgesetz, available at: http://www.parlament.gv.at/PG/DE/XXIV/I/I_00330/pmh.shtml (consulted on 1 september 2009).

⁶⁸ Art. 19 and 21 Settlement and Residence Act.

⁶⁹ Art. 12 (4) Aliens’ Police Act.

Bundesasylsenat), its successor, the Asylum Court as well as the Administrative Court have dealt on several cases involving the age assessment issue. On the basis of the extensive case law, the following criteria for assessing a person's age have been identified:⁷⁰

- obligatory involvement of skilled experts;⁷¹
- the qualification of the expert, methods applied and information on the reliability of these methods have to be indicated in the opinion;⁷²
- the officers of the Independent Federal Asylum Senate do not qualify as skilled experts, even if they have long experience with asylum-seeking minors;⁷³
- refraining from an expert opinion is only possible in limited cases where the age of the applicant is evident or obvious;
- an expert opinion can be indefinite or it can indicate only a margin, thus in doubt the age indicated by the applicant is relevant;⁷⁴

In practice, age assessment is based on an expert opinion that contains a combination of at least two different methods: inspection by a doctor as well as a dental analysis or the examination of the clavicle and the carpus in form of a magnetic resonance tomography (MRT). Age assessment in the asylum procedure is currently under legislative review. The Federal Ministry of the Interior has recently proposed an amendment to the Asylum Act, which would allow X-ray examinations if the age of the asylum seeker is doubted. The refusal of the asylum seeker to participate in the examination is taken into account in the consideration of evidence.⁷⁵

5.4. Detention

Two different forms of detention have to be distinguished: criminal detention and detention pending deportation in connection with the asylum or aliens' procedure.⁷⁶ With regard to

⁷⁰ See also Vogelsang: 2009, 208.

⁷¹ Administrative Court, Case No. 2005/01/0463, 16 June 2007.

⁷² Asylum Court, Case No. S 400.131-1/2008/2E, 14 July 2008.

⁷³ Administrative Court, Case No. 2005/01/0415, 22 November 2005, 21. Administrative Court, Case No. 2005/20/0267, 21 December 2006.

⁷⁴ Administrative Court, Case No. 2005/01/0463, 16 June 2007.

⁷⁵ Federal Ministry of the Interior http://www.bmi.gv.at/cms/bmi_begutachtungen/ (consulted on 30 June).

⁷⁶ Detention pending deportation is a procedural security measure in connection with the imposition of a residence ban or expulsion order, a security measure in connection with a deportation, forcible return or transit

criminal detention, the general legal framework is applicable to unaccompanied minors. Children can be held liable after they have reached the age of 14 years under the Austrian Penal Code (Strafgesetzbuch). Once a criminal procedure is initiated against the minor, the Youth Welfare Authority has to be involved. Sentenced juvenile offenders are detained in special facilities which are separated from the adults' area and where education can be provided.

In terms of detention pending deportation, the Aliens' Police Act does not prohibit the detention of (unaccompanied) minors as such; however, it should only be imposed as "last resort".⁷⁷ This has been repeated in two circular letters of the Federal Ministry of the Interior in which detention has been explicitly prohibited with regard to minors under the age of 14.⁷⁸ For minors under the age of 16, the Detention Regulation (Anhalteordnung) allows detention only if special premises are provided where appropriate care can be guaranteed.⁷⁹ This provision complies with the requirements of the Return Directive.⁸⁰ However, the Human Rights Advisory Board (Menschenrechtsbeirat) has reported that children-friendly accommodation and occupation is not provided.⁸¹

In general, detention is carried out in the premises of the police. No separate facilities or detention centres exist for detention pending deportation. The detention places are distributed centrally in order to guarantee an equal balance nationwide. Minors are primarily detained in Vienna since it has one of the highest quality of care and psychological support. In principle, children are kept separately from adults or together with women. Only boys between the ages of 16 and 18 years are accommodated together with men.⁸²

The Federal Ministry of the Interior is currently planning to establish a separate facility. However, this has not been established, yet. The detention centre will allow families to stay together and will provide possibilities of leisure activities for children, such as a playground

order. (Art. 76 Aliens' Police Act). Under specific conditions it can be also imposed during the asylum procedure.

⁷⁷ Art. Art. 77 Aliens' Police Act.

⁷⁸ Circular Letter No. 31.340/12-III/16/99, 9 December 1999 and 31.340/17-III/16/00, 10 April 2000, Vogelsang: 2009, 418.

⁷⁹ Art. 4 Detention Regulation.

⁸⁰ Art. 17 the of the Directive on common standards and procedures in Member States for returning illegally staying third-country nationals

⁸¹ Menschenrechtsbeirat, available at:

http://www.menschenrechtsbeirat.at/cms/index.php?option=com_content&task=view&id=224&Itemid=76 (consulted on 1 September 2009).

⁸² Interview with a governmental official.

or a separate room for games.⁸³

There are no statistics on unaccompanied minors in detention pending deportation as such – according to reports by experts, however, most of the minors detained in detention pending deportation are unaccompanied: figures⁸⁴ on minors in detention pending deportation in general show that numbers of minors detained below the age of 16 have gone down since the year 2001, when 995 minors below the age of 16 had been detained. In 2008, 20 have been in detention pending deportation. With regard to minors detained above the age of 16, figures have gone down as well, staying however, on a higher level, with in 2008, 161 minors above 16, detained.

Instead of detention pending deportation, “more lenient measures” are recommended by law.⁸⁵ More lenient measures encompass in particular accommodation in premises specified by the Aliens’ Police or a regular reporting obligation.⁸⁶ In practice, this means that children have to remain in specialised facilities within the basic welfare system.⁸⁷

5.5. Guardianship and Care

Concerning reception arrangements (including placement, guardianship, and legal representation) of asylum-seeking children, different basic welfare acts serve as relevant provisions.⁸⁸ Additionally, the provisions of the federal Youth Welfare Act (Jugendwohlfahrtsgesetz)⁸⁹ and the Youth Welfare Acts of the Federal Provinces have to be taken into account.⁹⁰ Both with regard to youth welfare⁹¹ and basic welfare for asylum seekers⁹², the competencies are shared between the Federal State and the Federal Provinces.

⁸³ Interview with a governmental official.

⁸⁴ Parliamentary question to the Austrian Federal Ministry of the Interior of 21 April 2009 answered on 19 June 2009.

Available at: http://www.parlament.gv.at/PG/DE/XXIV/AB/AB_01753/fname_161968.pdf on 15 July 2009. (consulted on 1 September 2009). For more detailed statistics see Annex 1.

⁸⁵ Art. 77 Aliens’ Police Act.

⁸⁶ Idem.

⁸⁷ Vogelsang: 2009, 417. For further information on the basic welfare system please confer to Section 4.5.

⁸⁸ The Basic Welfare Agreement regulates the distribution of the competencies between the Federal State and Federal Provinces and lays down the benefits which have to be provided by all parties to the Agreement. These provisions have to be transposed in federal and provincial legislation. Asylum seekers can only claim rights based on the latter.

⁸⁹ Youth Welfare Act 1989.

⁹⁰ Priewasser/Brandl (2007): National Report done by the Odysseus Network for the European Commission on the Implementation of the Directive on reception conditions for asylum seekers in Austria: 58.

⁹¹ Art. 12 Federal Constitutional Act.

⁹² Basic Welfare Agreement.

The “National Coalition für die Umsetzung der UN-Kinderrechtskonvention” has observed that this division has resulted into regional discrepancies with regard to the quality of care provided for children.⁹³

5.5.1 Guardianship

Guardianship for unaccompanied minors is not regulated explicitly under Austrian law. According to the general rule, the Youth Welfare Authority has to be appointed by the courts as a guardian if no suitable person like a close relative can be found.⁹⁴ In such cases the Youth Welfare Authorities are obliged to become the guardian for the unaccompanied minors, following the case law of the Supreme Court (Oberster Gerichtshof) from 2005.⁹⁵ Until this decision, the Youth Welfare Authorities were reluctant to take over the guardianship for unaccompanied minors.

Theoretically, also foster parents can be entrusted with guardianship; however, according to the NGO “asylkoordination österreich”, this happens in less than 5% of the cases.⁹⁶ Although the number of the appointed guardians has increased following these decisions of the Supreme Court, “asylkoordination österreich” observed major regional differences regarding guardianship practices.⁹⁷

Furthermore, it is unclear when guardians can be appointed at the earliest. On the one hand it is argued that when a child is found in Austria whose parents are unknown, the Youth Welfare Authority becomes *ex lege* the guardian until a final decision is taken by a court.⁹⁸ However, this view is not shared by every court and every legal scholar. On the one hand, one court argues that a guardian cannot be appointed in the first six months because the habitual residence required by the Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of infants is not established (Hague

⁹³ National Coalition für die Umsetzung der UN-Kinderrechtskonvention (sic), Österreich, (2004): Ergänzender Bericht der National Coalition zum Zweiten Staatenbericht der österreichischen Bundesregierung gemäß Art. 44 UN-Konvention über die Rechte des Kindes. <http://www.kinderrechte.gv.at/home/in-oesterreich/monitoring/content.htm> (consulted on 23 July 2009).

⁹⁴ Art. 213 Civil Code. Assessment of Kinder- und Jugendanwaltschaft Steiermark and of the NGO asylkoordination österreich, in the framework of a UNHCR project concerning guardianship in Austria, available at: http://www.asyl.at/umf/umf/guardianship_austria.pdf (consulted on 26 June 2009).

⁹⁵ Supreme Court, Case No. 7 Ob 209/05v, 19 October 2005 or Case No. 4Ob7/06t, 14 February 2006.

⁹⁶ Assessment of Kinder- und Jugendanwaltschaft Steiermark and of Asylkoordination in the framework of a UNHCR project concerning guardianship in Austria. http://www.asyl.at/umf/umf/guardianship_austria.pdf (consulted on 29 June 2009)

⁹⁷ *Idem*.

⁹⁸ Art. 211 Civil Code. See also Hacker, 2002, 110. Pursuant to the case law of the Supreme Court Art. 211 Civil Code applies also to foreign nationals (Highest Court, Case No. 8Ob120/04m, 22 December 2004) thus also to separated children.

Convention).⁹⁹ On the other hand, it is claimed that the *ex lege* guardianship does not apply to third country nationals.¹⁰⁰

Guardianship includes care, education, property administration and legal representation. According to the case law of the Supreme Court of Austria this goes beyond the services provided in the framework of the basic welfare support for asylum seekers.¹⁰¹ Although guardians are in charge of the legal representation of unaccompanied minors, the Asylum Act contains specific provisions concerning the legal representation in the asylum procedure. During the admission procedure the legal representation of unaccompanied minors is carried out by the legal adviser at the Initial Reception Centre. Upon admission to the regular asylum procedure, the responsibility is conferred to the Youth Welfare Authority.¹⁰² Notably, these provisions refer only to the legal representation with regard to the asylum procedure. Any other legal issues fall into the competency of guardians, thus mostly into the competency of the Youth Welfare Authority. From the separation of the competencies during the admission procedure follows the division that the legal adviser is responsible for all legal steps of the child during the admission procedure and the Youth Welfare Authority is in charge of any other legal issue, such as for example, consent to a medical intervention.

The following table shall illustrate this division of the competencies:

Asylum Procedure	Admission Procedure	Actual Asylum Procedure
Guardianship	- Youth Welfare Authority (theoretically also foster parent or other relatives) - appointed by the courts	- Youth Welfare Authority (theoretically also foster parent or other relatives) - appointed by the courts
Legal representation during asylum procedure	Legal adviser	Youth Welfare Service

Scheme 1: Own scheme

Additionally, the Aliens’ Police Act has its own system of legal representation that differs from that of the Asylum Act. According to Art. 12 of the Aliens’ Police Act, only minors below the age of 16 obligatorily have to be represented by the Youth Welfare Authorities in

⁹⁹ Regional Court Wieners Neustadt, Case No. 16 R96/09w, 30 March 2009.

¹⁰⁰ Koziol/Welser, 2005:510.

¹⁰¹ Art. 144 Civil Code, Koziol/Welser: 2002, 510.

¹⁰² Art 16 Asylum Act.

the aliens' police procedures (entry procedures, detention, expulsion, visa, etc.). Minors above the age of 16 generally have the capacity to act.¹⁰³ The result of this division shows that while a 16-year old minor is represented in the asylum procedure by the Youth Welfare Authority, he/she is not represented when he/she is in detention pending deportation.¹⁰⁴

5.5.2 Care

Although guardianship already comprises care, care is also provided in the framework of the basic welfare support system for asylum seekers. This was one of the reasons why the Youth Welfare Authorities refused to take over the guardianship for unaccompanied minors until the Supreme Court decision mentioned above came into being. The Youth Welfare Authorities argued that legal representation in the asylum procedure as well as sufficient care in the framework of the basic welfare system is provided and thus that unaccompanied minors are not endangered.¹⁰⁵

Concerning care-taking of unaccompanied minors, the Federal Basic Welfare Agreement between the Federal State and the Federal States (Grundversorgungsvereinbarung), the Federal Basic Welfare Act (Grundversorgungsgesetz) and the Welfare Acts of the Federal Provinces¹⁰⁶ constitute the relevant provisions. Furthermore, the youth welfare acts of the Federal Provinces are also applicable for unaccompanied minors.¹⁰⁷ The financial costs for the basic welfare are borne by the Federal State and by the Federal Provinces at a ratio of 6:4. The Federal State as well as the Federal Provinces have in many cases outsourced the management of care facilities to NGOs or private companies.¹⁰⁸ The services provided for unaccompanied minors go beyond those for adults and include in addition to boarding, lodging, clothing and health care also psychological support, education, development of an integration plan, discussion of future perspectives, support with family reunification, family

¹⁰³ Art. 12 FPG.

¹⁰⁴ ECPAT Austria, 2008.

¹⁰⁵ See above. Supreme Court, Case No. 7 Ob 209/05v, 19 October 2005.

¹⁰⁶ Burgenland Care Act (Burgenländisches Landesbetreuungsgesetz), Carinthia Basic Welfare Support Act, (Kärntner Grundversorgungsgesetz), Salzburg Basic Welfare Support Act (Salzburger Grundversorgungsgesetz), Styria Care Act (Steiermärkisches Betreuungsgesetz), Tyrol Basic Welfare Support Act (Tiroler Grundversorgungsgesetz), Upper Austria Basic Welfare Support Act (NÖ Grundversorgungsgesetz), Vienna Basic Welfare Support Act (Wiener Grundversorgungsgesetz), Vorarlberg Social Aid Act (Vorarlberger Sozialhilfegesetz).

¹⁰⁷ Due to limited space, reference is only made to the provisions of the Basic Welfare Agreement, based on this Agreement, the Federal State and the Federal Provinces have to adopt their legislations in order to guarantee the rights set out in the Agreement.

¹⁰⁸ In the Initial Reception Centre in Traiskirchen, the private company European Homecare is in charge of the care for asylum seekers.

tracing and assistance in daily life in form of sports and leisure activities or household work.¹⁰⁹

According to the distribution of the competences in the Basic Welfare Agreement, the Federal State is responsible for the care of the children during the admission procedure. For this purpose, a separate building has been designated at the Initial Reception Centre Traiskirchen, which is broadly known as “House 9”. House 9 offers accommodation for up to 78 children between 14-18 years. In March 2009, approximately 50% of the unaccompanied minors were hosted in this facility only.¹¹⁰ Girls are primarily accommodated in the Women’s House (House 8). In case there is no place left in House 9, boys are put together with other adults. Children under the age of 14 are not accommodated in the Initial Reception Centre in Traiskirchen, but in special care facilities of the Youth Welfare Authority.

In the Initial Reception Centre Traiskirchen, the NGO “Verein.Menschen.Leben” is in charge of the care of children: They offer 24/7 professional care, orientation sessions for new children, German courses as well as psychological and legal support, and organise leisure activities and excursions. As in the ideal case, the admission procedure does not take longer than 20 days and thus schooling is not organised. In reality, however, the admission procedure can take several weeks.¹¹¹ According to the Separated Children in Europe Programme unaccompanied minors should remain in Traiskirchen for as short as possible. Since the numbers of asylum-seeking children in Austria is growing, it is difficult to find adequate care facilities outside of the Initial Reception Centre. On average, unaccompanied minors stay for two month in the Initial Reception Centre, whereas in 2007 it was less than two weeks.¹¹²

Upon admission to the regular asylum procedure, children are assigned to the care facilities of the Federal Provinces. Depending on the needs of the child, he or she is accommodated in special shared accommodation groups (Wohngruppen) for minors with special needs, in special accommodation centres (Wohnheime) for minors unable to care for themselves, other suitable supervised accommodation (betreutes Wohnen), or in an individual accommodation.¹¹³ In Vienna, for example, accommodation for unaccompanied minor asylum

¹⁰⁹ Art. 7 Basic Welfare Agreement.

¹¹⁰ Separated Children in Europe Programme (2009): Newsletter 31. July 2009. http://www.separated-children-europe-programme.org/separated_children/publications/newsletter/Newsletter_No_31.pdf (retrieved on 30 August 2009).

¹¹¹ Protocol, Task Force Menschenhandel - UAG Kinderhandel, 9 June 2009.

¹¹² Separated Children in Europe Programme (2009): Newsletter 31. July 2009.

¹¹³ Art. 7 Basic Welfare Agreement.

seekers is managed by Fonds Soziales Wien. Fonds Soziales Wien has contracted five institutions that offer altogether 80 places for unaccompanied minors in Vienna. The NGOs Caritas, Don Bosco, Verein ZeitRaum and Integrationshaus altogether offer one residential unit, two hostels and two supervised premises for the care and accommodation of minors. Since recently, according to the Separated Children in Europe Programme in Austria, unaccompanied minors are accommodated in some Federal Provinces in guesthouses. Since 2005, it has become a common practice that NGOs take over responsibilities to care for unaccompanied minors; this development is reported on and marks a serious backlash in the fight for appropriate accommodation facilities.¹¹⁴

The benefits set out in the Basic Welfare Agreement have to be provided also for irregularly-resident minors who have not filed an asylum application, if they cannot be returned to their country of origin “for factual or legal reasons”¹¹⁵ – for example because the identity of the child cannot be established, etc. However, there is little information available on the actual reception arrangements of unaccompanied minors who are not asylum seekers. Only one institution, the crisis centre “„Drehscheibe“”- run by the Youth Welfare Authority of the City of Vienna, - is known to be specialized on the reception for this particular group.¹¹⁶ „Drehscheibe“ provides temporary shelter for 10 minors between 14-18 years.¹¹⁷ The children originate mostly from Bulgaria, Romania, Hungary, Moldova, Ukraine, Georgia, Azerbaijan or the Czech Republic and are very often identified as victims of human trafficking. Five social pedagogues are in charge of the care for these children. Every child receives boarding, clothes and psychological care if needed. Furthermore „Drehscheibe“ organises the family tracing and the return to the country of origin. If a child cannot be returned (i.e. because no family member can be found and if there is no youth welfare system in the country of origin), the Crisis Centre supports children to obtain a residence title, which is mostly a residence permit “special protection.”¹¹⁸

In the other Federal Provinces, minors who cannot be accommodated in the framework of the Basic Welfare are often placed in the care facilities of the Youth Welfare Authority.¹¹⁹ In Lower Austria for example, minors under 14 are accommodated in care institutions of the

¹¹⁴ Separated Children in Europe Programme (2009): Newsletter 31. July 2009.

¹¹⁵ Art. 2 Basic Welfare Agreement.

¹¹⁶ Supreme Court, Case No. 4Ob7/06t, 14 February 2006.

¹¹⁷ Children under 14 are placed in reception facilities of the Fond Soziales Wien, an institution established by the City of Vienna.

¹¹⁸ Art. 69a Settlement and Residence Act

¹¹⁹ Bundesministerium für Wirtschaft, Familie und Jugend 2009.

Youth Welfare together with Austrian children, while minors above 14 are placed in specific accommodations for unaccompanied minors. Costs that exceed the basic welfare are borne by the Youth Welfare. The same applies for the costs for minors who do not receive basic welfare according to the relevant basic welfare act.

The establishment of federal or regional victim protection centres has been discussed in the framework of the Working Group Child Trafficking (Arbeitsgruppe Kinderhandel)¹²⁰ and is also supported by the Federal Ministry of the Interior, however these plans have not been realised yet.¹²¹

5.6. Health care

The Basic Welfare Agreement sets out the provisions concerning health care; accordingly, medical treatment has to be granted to every person who receives basic welfare support. As far as emergency health care is concerned, access cannot be limited. The benefits for unaccompanied minors go beyond those for adults and comprise also of social and psychological support when needed. Moreover, the Basic Welfare Agreement explicitly stipulates that “such persons shall be assisted by initial clarification and stabilization measures whose purpose should be to strengthen their emotional state and create a basis of trust”.¹²²

In practice, instead of an “E-Card” (health insurance card for Austrian nationals) minors are granted an insurance number they have to refer to in case of medical treatment.¹²³ Concrete access to psychological care and its quality depend on each accommodation facility.¹²⁴

Unaccompanied minors who do not fall under the basic welfare system only have access to emergency health care.¹²⁵

5.7. Family disputes

The Settlement and Residence Act provides the possibility to carry out DNA analysis where

¹²⁰ The working group is composed of representatives of different ministries, NGOs, the research institutions as well as of representatives of international organisations. For further information see Chapter 7.1.

¹²¹ Bundesministerium für Wirtschaft, Familie und Jugend, 2009.

¹²² Art. 6 and 7 Basic Welfare Agreement.

¹²³ Schumacher/Peyrl, 2007: 218.

¹²⁴ Priewasser/Brandl, 2007.

¹²⁵ FRA Thematic Study on child trafficking Austria. <http://www.fra.europa.eu/fraWebsite/attachments/Child-trafficking-09-country-at.pdf> (consulted on 1 September 2009)

family relations are disputed. A DNA test can only be carried out on voluntary basis and has to be financed by the applicant and in this case by the unaccompanied minor.¹²⁶

There is no formalized legal procedure to solve family disputes during the asylum procedure or in the aliens' police procedures. However, an amendment to the Asylum Act and to the Aliens' Police Act proposed recently by the Federal Ministry of the Interior foresees analogous provisions as in the Settlement and Residence Act.¹²⁷

5.8. Family tracing

Family tracing is carried out within the regular asylum procedure and – if needed – in the aliens' procedure.

With regard to asylum-seeking minors, the Basic Welfare Agreement sets out that special assistance has to be provided for minors when they are searching for their family members.¹²⁸ As part of the special care for minors, this primarily falls into the competency of the respective care institution or Youth Welfare Authority.¹²⁹

The Red Cross offers a "Tracking Service" ("Suchdienst") for recognised refugees and persons with a subsidiary protection status. This service includes legal advice, support when searching family members in the country of origin and clarification of financial perspectives. Furthermore, together with IOM, the Red Cross organizes necessary travel documents, visas and the journey to Austria.¹³⁰

In the aliens' procedure, for example prior to a return procedure, family tracing is done by the Aliens' Police on a case by case basis. This is mostly limited to the establishment of contacts with diplomatic authorities of the country of origin in Austria.

5.9. Family reunification

With regard to family reunification three situations have to be distinguished: scenario one

¹²⁶ Art. 29 Settlement and Residence Act.

¹²⁷ Federal Ministry of the Interior http://www.bmi.gv.at/cms/bmi_begutachtungen/ (consulted on 30 June 2009)

¹²⁸ Art 7 (3 (4)) Basic Welfare Agreement between the Federal State and the Federal Provinces

¹²⁹ National Report done by the Odysseus Network for the European Commission on the Implementation of the Directive on reception conditions for asylum seekers in Austria, Priewasser/Brandl:2007, 59.

¹³⁰ Rotes Kreuz, Suchdienst. <http://www.rotekreuz.at/suchdienst/> (consulted on 30 June 2009)-

refers to an unaccompanied minor who holds a residence permit for humanitarian purposes, scenario two includes cases where the unaccompanied minor is in the asylum procedure. This situation can encompass cases during the admission procedure according to the Dublin II Regulation and cases upon the admission to the regular procedure. The third situation refers to cases where the child has refugee or subsidiary protection status.

a) Unaccompanied minors holding a residence title for humanitarian purposes

The Settlement and Residence Act regulates the family reunification of third country nationals holding a settlement or residence permit; these provisions also include settlement and residence permits for humanitarian purposes.¹³¹ However, it remains questionable whether or to which extent these provisions are relevant for unaccompanied minors, since family reunification for third country nationals is limited to the nuclear family which includes the spouse and minor children, but not the parents.

b) Unaccompanied minors in the asylum procedure

The concept of “family member” in the Asylum Act comprises of a spouse and minor children and, in case of unaccompanied minors also parents, provided that the family ties already existed in the country of origin.¹³² The definition used by the Dublin II Regulation goes even beyond this, and includes also guardians.

With regard to the admission procedure for unaccompanied minors, the Dublin II Regulation stipulates explicitly that the Member State in which a member of his or her family is regularly present, is responsible for the asylum application, provided that this is in the best interest of the minor.¹³³ This would mean for an unaccompanied minor in Austria that she or he can be transferred to another European Union Member State if the parents are for example already in an asylum procedure or if they have already received a refugee status there.

If a minor is admitted to the regular asylum procedure and has been granted international protection in Austria and a family member applies for asylum in another European Union Member State after that, the Dublin II Regulation applies vice versa: Family members applying for asylum in another European Union Member State can be transferred to Austria if desired by the persons concerned.¹³⁴ Each application is examined separately; however, all family members receive the same status, with the granting of asylum status having

¹³¹ Art. 46 and 66 Settlement and Residence Act.

¹³² Art. 2 (22) Asylum Act.

¹³³ Art. 6 Dublin II Regulation.

¹³⁴ Art. 7 and 8 Dublin II Regulation.

precedence.¹³⁵

c) Unaccompanied minors as recognised refugees

The Austrian Asylum Act does not regulate family reunification of unaccompanied minors as recognised refugees separately to adults, thus the general rules apply. Family members of a recognised refugee or of a person with subsidiary protection status have to be granted the same status – in case of family members of a person with subsidiary protection, the asylum status can also be granted provided that it is not possible to continue family life in another country.¹³⁶ The definition of “family members” is the same as for asylum-seeking children. Applications can be filed also outside of Austria at the diplomatic authorities abroad.¹³⁷

5.10. Integration measures

Integration measures primarily encompass German language courses and education.

Education is mandatory for every child resident in Austria between 6 and 15 years, including unaccompanied minors.¹³⁸ However, in practice, asylum-seeking children are not enrolled in schools in the first 6 months after their arrival in Austria. After 6 months children are usually enrolled in a school. Children who do not speak German have to be enrolled in the first year as “extraordinary pupils” (“außerordentliche Schüler”), which means that they have to attend all compulsory classes. At the end of the school year, they are not graded for their performance, but receive only a certificate of attendance.¹³⁹ However, it has been reported that the schools are often overburdened with the reception of unaccompanied minors.¹⁴⁰

Minors over the age of 15 can be enrolled as “extraordinary pupils”, only if all minors fulfilling the criteria for ordinary pupils have already been enrolled to school.¹⁴¹

Furthermore, according to the Basic Welfare Support Agreement, an integration plan has to be developed and, in the interest of the child’s self-preservation, the existing schooling,

¹³⁵ Art. 34 (4) Asylum Act.

¹³⁶ Art. 34 (2 and 3) Asylum Act.

¹³⁷ Art. 35 Asylum Act.

¹³⁸ Art. 1 and 3 Act on Compulsory School Attendance. See also National Coalition für die Umsetzung der UN-Kinderrechtskonvention Österreich, 2004: 27.

¹³⁹ Art. 4 and 18 School Act (Schulunterrichtsgesetz)

¹⁴⁰ National Coalition, p. 27.

¹⁴¹ Art. 4 School Act.

education and vocational activities have to be taken into consideration.

Language courses are part of the basic welfare support for asylum-seeking unaccompanied minors.¹⁴² Additionally, the Asylum Act contains special provisions for persons with international protection.¹⁴³

Different integration measures are provided in form of specific projects. One example is the mentoring programme “connecting people” of the NGO asylkoordination österreich. In the framework of the project, contact persons, so called godfathers or godmothers, assist unaccompanied minors in practical matters on a voluntary basis such as in finding a job, attending school and learning German, as well as providing emotional support.¹⁴⁴

Similar mentoring programmes have been developed during the last years e.g. “dUNDu - Patenschaften für unbegleitete minderjährige Fremde” provided for unaccompanied asylum-seeking children in Upper Austria by the NGO “Volkshilfe Flüchtlings- und MigrantInnenbetreuung”¹⁴⁵ and “Be Friends”¹⁴⁶, by Diakonie Flüchtlingsdienst”.

5.11. Employment

Generally, the Austrian legislation – which also applies to unaccompanied minors – prohibits employment of children below 15 years of age, or until ending obligatory education.¹⁴⁷

Additionally, the Basic Welfare Agreement does not allow employment or self-employment in the first three months after the application for asylum; after that, unaccompanied minors have access to the labour market if they have obtained a work permit.¹⁴⁸ The work permits are subject to quota restrictions and a labour market test is applied. Beyond that, asylum seekers can carry out auxiliary activities (cleaning, work in the kitchen, etc) in the accommodation facilities. The remuneration for this work depends on the management of the accommodation facility (in Burgenland for example Euro 3-5 per hour).¹⁴⁹ If an asylum seeker is employed,

¹⁴² Art. 9 Basic Welfare Agreement.

¹⁴³ Art. 68 as part of the general integration assistance provided by the Austrian Integration Fund.

¹⁴⁴ For further information on this project see chapter 6.1. Good practices.

¹⁴⁵ http://www.freiwilligenweb.at/index.php?id=CH0747&projekt_id=113 (consulted on 29 June 2009)

¹⁴⁶ <http://fluechtlingsdienst.diakonie.at/goto/de/was/betreuung-von-jugendlichen/laura-gatner-haus/besondere-aktivitaeten>

¹⁴⁷ Some exceptions are possible e.g. household work after school, as actors or in theatre performances. (Art 5-6 Act concerning employment of children and adolescents 1987)

¹⁴⁸ Art. 7 Federal Basic Welfare Act, Art. 4 Aliens' Employment Act.

¹⁴⁹ Priewasser/Brandl, 2007.

the basic welfare support can be limited.

Unaccompanied minors with refugee or subsidiary protection status have free access to work.¹⁵⁰

¹⁵⁰ Art. 1 Aliens' Employment Act.

6. RETURN PRACTICE, INCLUDING REINTEGRATION

6.1. Forced Return

There is no specific legislative framework concerning the *forced return* of children. Under the general conditions, unaccompanied minors with a negative (final) decision can be forcibly returned to their country of origin. Upon return, monitoring can be carried out by the NGO “Verein Menschenrechte” based on an agreement with the Federal Ministry of the Interior. However, no comprehensive monitoring is in force, monitoring is rather done on a case by case basis. It has been reported that forced return of unaccompanied minors is not a common phenomenon. Nevertheless, if a minor is returned psychological support can be granted or the child can be accompanied by a female police officer. The same applies for transfers according to the Dublin II Regulation.¹⁵¹ Readmission Agreements between Austria and third countries do not contain any specific provisions with regard to unaccompanied minors.¹⁵²

The "Directive on common standards and procedures in Member States for returning illegally staying third-country nationals" has not yet been transposed and also because of the lack of the information on the actual return of unaccompanied minors, it cannot be compared with the provisions set out in the directive.

6.2. Voluntary Return

In Austria, *assisted voluntary return* programs are offered by the Austrian Federal Ministry of the Interior to asylum applicants, to persons whose asylum claims have been rejected, or who do not have the right to residence in Austria as well as persons who have filed an asylum application and have decided to withdraw their application and who want to return to their country of origin on a voluntary basis. While NGOs (e.g. Caritas, Diakonie, Verein Menschenrechte) are offering return counseling to this group, the International Organization for Migration (IOM) is tasked with the logistical arrangements of the return.¹⁵³ Additionally,

¹⁵¹ Interview with an official.

¹⁵² Additionally to the EC Readmission Agreements have been concluded with the following non-EU countries: Croatia, Switzerland, Liechtenstein, Serbia (-Montenegro), Tunisia, Bosnia-Herzegovina and the Former Yugoslavian Republic Mecedonia.

¹⁵³ For further information on assisted voluntary return, see National Contact Point Austria to the EMN (2006): Return Migration in Austria.

the crisis centre „Drehscheibe“ organizes the voluntary return of children received by the institution. The practices of IOM and of „Drehscheibe“ are discussed in the following sections.

5.2.1. Voluntary Return organised by the International Organization for Migration Vienna

With regard to assisted voluntary return of unaccompanied minors, the same provisions as for voluntary adult returnees apply: the costs for the flight as well as a reintegration allowance are granted by the Austrian Federal Ministry of the Interior. However, in accordance of an agreement with the Austrian Federal Ministry of the Interior, the IOM follows certain additional principles and standards to the normal return procedure in cases of the returnee being a separated child: repatriation and reintegration of unaccompanied minors are carried out in accordance with the “best interest of the child” and the UNHCR guidelines on repatriation. A high degree of sensitivity and specialization requested in the direct assistance of victims of trafficking and reintegration measures are seen as obligatory in order to assure the needs of the victims and to avoiding re-trafficking. Furthermore, unaccompanied minors are only assisted in their voluntary return if the guardian has signed the voluntary return agreement. Thus, a minor cannot decide independently whether he or she wants to return voluntarily; but the wish of the child has to be taken into account. Furthermore, in order to evaluate the situation of the unaccompanied minor upon return and to assure that the voluntary return is done in the best interest of the child, a family assessment is processed by the IOM office in the country of origin. In case of suspicions of the minor being a victim of human trafficking, the voluntary return procedure for the respective minor can be refused by the IOM. In other cases, it can be decided that the unaccompanied minor is not returned to the parents but is entrusted to a youth welfare institution in the country of origin, provided that this is in the best interest of the child.

Considering the actual return procedure, two different approaches are being followed: children below the age of 12 are both assisted and accompanied by an IOM operations officer, and gender and linguistic abilities of the officer are taken into account. Another option is for the child to be supported and accompanied by the Unaccompanied Minor Service of the airline during the flight (possible for children between the age of 5 -12 years). Children above the age of 12 are considered to be able to take a flight alone on a direct flight, but are, assisted

by IOM staff with the departure procedure and at transfers. In any case, IOM ensures that the child is only received by the person agreed upon at the outset (i.e. family members, youth welfare institution) upon arrival in the country of origin.

Looking at statistics on unaccompanied minors¹⁵⁴ having returned on a voluntary basis with the help of the IOM Vienna, in general, it has been reported that in proportion to the total number of voluntary returnees, only a few cases a year occur: in 2005, of 1.406 returnees, 18 (1,3%) have been unaccompanied minors, in 2006, there have been 8 cases (0,4% of 2.122), in 2007, 5 (0,2% of 2.069) and in 2008, 9 (0,3% of the total of 2.655 returnees) cases.

Most of the voluntary returning unaccompanied minors have been boys with the aged of above 15 years. In the last years, especially minors from the Former Republic of Yugoslavia (especially Kosovo, Bosnia & Herzegovina, Serbia) have returned voluntarily only some months before their 18th birthday - the moment, where they usually would have received a negative asylum decision. Other countries of return in the past were Romania and Bulgaria; currently, unaccompanied minors return voluntarily also to Afghanistan, Moldova, the Russian Federation and India.

5.2.2. Voluntary Return organised by „Drehscheibe“

The return of unaccompanied minors, who are received by the crisis centre „Drehscheibe“, is organised by the organization itself or in cooperation with the IOM or other organizations: In 2008, of the 88 children received by the „Drehscheibe“ in Vienna, 25 have been assisted in their voluntary return by „Drehscheibe“: 6 to Bulgaria, 4 each to Romania, Hungary and Chechnya, 3 to Russia, 2 to Poland and each 1 each to Serbia and China.¹⁵⁵

In the first half of 2009, of the 64 picked up children picked up, 20 have been returned to their country of origin: 6 to Romania, 5 each to Bulgaria and Slovakia, 2 to Hungary and 1 each to Poland and French Guyana.¹⁵⁶

When an unaccompanied minor is received by „Drehscheibe“, the staff tries to establish a relationship of mutual trust in order to provide comprehensive support to the minor. If it is in the best interest of the child and if he/she wishes to return to the country of origin, the organization contacts both the diplomatic and the youth authorities of the country of origin,

¹⁵⁴ For more detailed statistics see Annex 1.

¹⁵⁵ Bundesministerium für Wirtschaft, Familie und Jugend, 2009.

¹⁵⁶ Statistics provided by Drehscheibe via email on 23 July 2009.

who help with family tracing or - if return to the family is not possible – with the finding of suitable accommodation in the welfare system of the respective country.¹⁵⁷

„Drehscheibe“ has established good cooperation with the diplomatic and youth authorities of the main countries of origin of EU national minors.¹⁵⁸ With the Romanian and Bulgarian agencies responsible for children, specific cooperation agreements have been concluded to ensure reintegration and monitoring.

During their journey, children can be accompanied by social pedagogues of the „Drehscheibe“.

Upon arrival, the authorities or family members receive the child. Reporting on the reintegration of the child is carried out for six months upon return.¹⁵⁹ Furthermore, in order to facilitate sustainable return, „Drehscheibe“ organises trainings for officials and supports the authorities in the establishment of crisis centres for returned children in the countries of origin.¹⁶⁰

¹⁵⁷ Nachbaur 2007: 34.

¹⁵⁸ Bundesministerium für Wirtschaft, Familie und Jugend, 2009.

¹⁵⁹ First Austrian Report to Combat Human Trafficking (2009):

http://www.kinderrechte.gv.at/home/upload/50%20thema/tm_0810_mh-bericht_letzte_version_080804.pdf

(consulted on 30 June 2009)

¹⁶⁰ Stadt Wien: <http://www.wien.gv.at/vtx/vtx-rk-xlink?SEITE=020070516007> (consulted on 30 June 2009).

7. CONCLUDING REMARKS: GOOD PRACTICE AND LESSONS LEARNT

Good practices in the treatment of unaccompanied minors and the lessons learnt in the treatment of them in Austria are further outlined below. They are based on the finding of interviews carried out and the above explained questionnaire¹⁶¹ diffused among different involved stakeholders (e.g. non-governmental organizations, government institutions, guardians, care workers, etc.). The following raised points do not represent an exhaustive list of all items but refer to the most recurring comments received.

7.1. Good practices

Cooperation between different stakeholders

Working groups and Roundtables¹⁶² (Working Group on Unaccompanied Refugee Minors (Arbeitsgruppe Unbegleitete Minderjährige Flüchtlinge), the Working Group on Child Trafficking (Arbeitsgruppe Kinderhandel) and the Roundtable Child Trafficking (Runder Tisch Kinderhandel) which have been developed for the coordination of activities constitute fora for discussion and possibilities of exchange between the different actors in the field; within their framework, good practices in the different Federal Provinces and lessons learnt can be exchanged and interlinked.

Information and knowledge sharing

Sharing information, experience, good practice and knowledge is seen by the Austrian government as a key for successful cooperation among all actors involved with unaccompanied minors. In this context, a range of different projects have been carried out during the last years, i.e. the project “Comprehensive Training for Law Enforcement Authorities and Responsible for Trafficking in Children/Minors” was undertaken with financial support by the European Commission under AGIS 2005, the “Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking”¹⁶³ was

¹⁶¹ For further information see Chapter 1.2.

¹⁶² For further information see Chapter 1.6.

¹⁶³ International Organization for Migration (2007): Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking. Retrieved on 15 June 2009 at: http://www.iomvienna.at/files/Upload/Resource_Book_on_Child_Trafficking_open_version_1.pdf.

published in 2006 and the “Exchange of information and best practices on first reception, protection and treatment of unaccompanied minors. Manual of Best Practices and Recommendations”¹⁶⁴ was implemented by the IOM in 2008.

Reception

With regard to reception arrangements, the **clearing house for unaccompanied minors “House 9”** in the Initial Reception Centre for asylum seekers in Traiskirchen,¹⁶⁵ mandated by the Austrian Federal Ministry of the Interior and run by the non-governmental organization Verein.Menschen.Leben, has been identified as good practice by the consulted experts. Verein.Menschen.Leben offers 78 reception places with 12 care-takers. Activities of the centre range from the organization of orientation sessions for arriving asylum seekers, escorts to doctoral visits, psychological care, legal advice, German language courses, leisure activities (e.g. football, table tennis, volleyball) and the organization of participation of the unaccompanied minors in different projects (landscape gardening, renovation, music sessions). Furthermore, weekly excursions (e.g. swimming, hiking, toboggan, and museums) are organised.

Besides, the project **“Welcome”**¹⁶⁶ (the currently ongoing project is called Welcome VII) has been alluded. The project is funded by the Federal Province Steiermark and is implemented by the non-governmental organization Caritas in cooperation with two other non-governmental organizations, Zebra¹⁶⁷ and Omega¹⁶⁸, in the city of Graz. “Welcome” offers primary care (accommodation, boarding, basic equipment), psycho-social support (both individual or in groups), German language courses and leisure activities for unaccompanied minors.

Integration

Looking for best practices in the field of integration, first and foremost the project **“connecting people”**¹⁶⁹, which seeks at offering young refugees and asylum seekers

¹⁶⁴ IOM 2008.

¹⁶⁵ For further information see http://www.menschen-leben.at/index.php?option=com_content&task=blogcategory&id=13&Itemid=33

¹⁶⁶ For further information see <http://www.zebra.or.at/projekte8.php>

¹⁶⁷ For further information see www.zebra.or.at/

¹⁶⁸ For further information see www.omega-graz.at/

¹⁶⁹ For further information see www.asyl.at/connectingpeople

orientation and safety, could be identified as good practice. Initiated in 2001 with financial support of the non-governmental organization UNICEF Austria, it is run by the non-governmental organization “asylkoordination österreich”. The project aims at providing unaccompanied minors with a long-term and stable relationship with a so-called godmother/godfather who would like to support unaccompanied minors in their daily lives. Activities are very broad and involve support during the asylum procedure and other administrative procedure, leisure activities, private tutoring and help to in learning German, support to find a job, etc. Before assigning a godmother/godfather to an unaccompanied minor, they undergo a preparatory course of 16 hours organised by “asylkoordination österreich”. Furthermore, additional support and monitoring via regular exchange and information meetings, further trainings and the organization of common events for godparents and godchildren throughout the godparenthood are organised. Currently, around 130 mentoring places are hosted by connecting people; around 80 interested volunteers are waiting for a further mentorship.

Apart from Vienna, the project “connecting people” was also established in Graz (through Verein Zebra) and Munich (through Caritas). Furthermore, similar projects have been implemented by other non-governmental organizations and religious institutions (e.g. “Be friends” project¹⁷⁰, implemented by Diakonie Flüchlingsdienst, “dUNDu - Patenschaften für unbegleitete minderjährige Fremde”¹⁷¹ of Volkshilfe or “Buddy System” of the “Integrationshaus”¹⁷²).

Taking into account the importance of integration into the labour market for the integration into the Austrian society as such, the “**project EPIMA**”¹⁷³, an initiative for the development of educational- and integration measures for young asylum seekers in Austria is seen as good practice. EPIMA seeks to counter specific disadvantages of young asylum seekers, (e.g. language problems, disorientation and missing information on jobs and apprenticeship and lack of education) through the establishment of qualification models. In the period of summer 2005 to autumn 2007, around 140 young asylum seekers have participated in the programme. The project emphasized on the acquisition of skills and information on jobs and the enabling

¹⁷⁰ For further information see <http://fluechtlingsdienst.diakonie.at/goto/de/was/betreuung-von-jugendlichen/laura-gatner-haus/besondere-aktivitaeten>

¹⁷¹ For further information see http://www.freiwilligenweb.at/index.php?id=CH0747&projekt_id=113

¹⁷² For further information see <http://www.integrationshaus.at/cgi-bin/page.pl?id=272;lang=de>

¹⁷³ The currently last project phase, lasting from 2005 to 2007 was called EPIMA 2. For further information see http://www.epima.at/epima_1.htm

of experiences in different areas of work which should allow of a later quick integration into the labour market upon receipt of a work permit; beyond that, the acquired skills are seen as important also in case of return to the country of origin or the continuation to another country.

Further, the placement of unaccompanied minors in so called “**Production Schools**”¹⁷⁴ (Produktionsschulen) also turned out to be of special importance. The action implemented by the Austrian Labour Market Service (Arbeitsmarktservice, AMS) is meant to be a special educational measure for young adolescents (15-25 years) – nationals as well as those with migration background – who remain unsuccessful in finding a proper apprenticeship position. Vocational trainings for a duration of one year are offered in the field of graphic design, computing, textile, wood and metal processing.

Finally, also the integration of unaccompanied minors into local **sports clubs** has been very positively commented on and believed to be of benefit for the successful integration of unaccompanied minors.

Cooperation with countries of origin

Another good practice could be found in the Vienna centre for victims of child-trafficking, the crisis “**Drehscheibe**”. In this institution, financed and run by the Municipality of Vienna¹⁷⁵ (Magistrat 11), 10 children-victims of trafficking can be hosted at the same time. The tasks of the crisis centre range from reception of unaccompanied minors who were picked-up in Vienna and who do not claim asylum, health care, psychological support (stabilization after traumatic experiences, repatriation procedures such as registration of the offences and clarification and the assessment whether secure repatriation is possible and the arranging secure repatriation into the home country (with IOM and other organizations). Beyond this, the reintegration process of voluntary returned unaccompanied minors in their countries of origin is monitored in order to guarantee the sustainability of the return.

An important part of their work is also the transfer of practical know-how through training courses for national practitioners working in the countries of origin to guarantee the best possible care and help for the children.

7.2. Lessons learnt from interviews with stakeholders

¹⁷⁴ For further information see <http://www.produktionsschule.at/>.

¹⁷⁵ www.wien.gv.at/menschen/magelf/

In the framework of the undertaken research, a number of lessons have been learnt that will play an important role in the tackling of key challenges for the well-being of unaccompanied minors.

- ***Importance of cooperation between different stakeholders and countries of origin:*** In order to assure sound reception and integration conditions for unaccompanied minors in Austria, good and strong cooperation between all stakeholders involved is vital. In this context, the two working groups, “Working Group on Unaccompanied Refugee Minors” and “Working Group on Child-trafficking”, mentioned earlier as good practices, can be seen as important measures in this regard. Further, cooperation with countries of origin, as mentioned in the good practice of the crisis centre of the city of Vienna “Drehscheibe” is seen as essential step in this regard.
- ***Importance of financial support:*** During the last years, a growing number of initiatives and support have led to important improvements with regard to the reception conditions of unaccompanied minors. Especially, the great involvement of volunteers and the commitment and dedication of individuals in this respect is remarkable. A lack of resources, due to increasing labour and overhead costs, results in negative effects on various areas important for the well-being of unaccompanied minors: Leisure activities which have been possible in the past have to be cut and human resources foreseen for care are restricted. Financial constraints hamper projects, even if a great number of volunteers are involved. In this context, increased financial support for the care and support of unaccompanied minors would be needed.
- ***Control and clear distribution of competences for guardianship:*** Guardians play an essential role for the care of unaccompanied minors. Even though the same provisions for unaccompanied minors are applicable as for Austrian nationals, a need for consistent implementation of the provisions has been expressed. In particular, it has been highlighted that the guardians should perform all their obligations set out by the laws and the cooperation between guardians and care facilities should be improved. Furthermore, it has been reported that although in most of the cases the Youth Welfare Authorities are appointed as guardians, the appointment procedures have a long duration.

- ***Extension of psychological care provisions and interpretation services:*** The fact that unaccompanied minors who are covered by the Basic Welfare System are integrated in the Austrian social security system, has been described as very good. Experts have however expressed concerns with regard to translation possibilities for doctor visits. For these reasons, an extension of the offer for interpretation and escorts for unaccompanied minors to the doctors are suggested. Furthermore, psychological care for unaccompanied minors who in many cases are traumatised has been reported as too little. For these traumatised children offers of adequate psychological care, therapies and specialised institutions (that can offer more intensive care through an adequate number of staff) are seen as essential.
- ***Access to the educational system:*** Access to the Austrian educational system for unaccompanied minors that are of school age and especially also the openness and willingness of schools to host unaccompanied minors has been commented on as very positive. Nevertheless, improved integration measures into the education system through a greater offer of integration and language training offers for children with migration background and additional support teachers have been recommended, as extended care and provision offers for unaccompanied minors (e.g. one-to-one care for minors with special learning needs) and are seen as necessary. Furthermore, concerns have been expressed on the fact that most asylum-seeking unaccompanied minors in Austria are above school age; for this reason, schooling is not mandatory for them any more; in this context, a lack of offers for the completion of secondary school diplomas (Hauptschule), especially in some Federal Provinces exist. For this group of children, eased access to vocational training (e.g. Produktionsschulen) as well as higher education and an eased transition from secondary schooling to vocational and higher education is seen as vital.
- ***Extension of the offer of German classes:*** The good knowledge of the German language is an indispensable precondition for a successful path of education and formation as well as for the integration of unaccompanied minors. Unaccompanied minors have been reported to be eager to learn the language, especially in their attempt to get to know Austrian peers. The number of German classes as foreseen currently is seen by the experts as insufficient for this undertaking. Furthermore, it is reported that

limited financial means have a negative effect not only the quantity but also the quality of German classes, especially in small accommodation centres. In this light, a higher number of German courses granted and an increased number of well trained staff for proper language training is needed.

- ***Support of mentoring programmes:*** In order to assure the integration of unaccompanied minors into the Austrian society, reinforced integration measures are needed. Currently, contacts that unaccompanied minors have with the Austrian society are described as too little. This is especially regrettable as unaccompanied minors aspire for such contacts. In order to foster contacts of unaccompanied minors with Austrian nationals, various projects, as mentioned above, have been developed by non-governmental organizations in the course of the last years. However, further measures in this field are needed. In this context, the integration of unaccompanied minors into local sport clubs has proven to be of success and help in this respect.
- ***Change in age assessment procedures based on the “best interest of the child”:*** A controversial and heavily discussed issue in Austria are methods of conducting age assessment on unaccompanied minors. While the need for an elevated number of assessments is disputed, the outcomes of such assessments with the methods in place are problematic. Accordingly, a more reliable approach with regard to methods and practices used which takes into account the vulnerable situation of separated children and the respect for the human rights of each minor is indispensable. Most importantly, the assurance that decisions on age are taken in the best interest of the child is vital. In this respect, practices that not only consider the physical age but also the physiological age of children are considered as fundamental.

7.3. Concluding Remarks

During the last few years, the situation of unaccompanied minors has continuously gained more and more importance both on the political agenda as well as in the general awareness in Austria: the Austrian government together with the Federal Provinces have undertaken a significant number of initiatives for the improvement of the situation of unaccompanied minors in Austria. The adoption of the Basic Welfare Agreement between the Federal State and Federal Provinces in 2005 that set the standards for the care of asylum applicants can be seen as important step forward in this regard.

As a consequence of the growing numbers of unaccompanied minors coming to Austria during the last years, however, new challenges have emerged e.g. with regard to capacities of care and reception facilities for the successful integration and reception of this particularly vulnerable group. In this context, continued effort and extension of financial means for assuring the wellbeing of unaccompanied minors in Austria is essential. The governmental authorities can in this endeavour build on strong support and commitment of volunteers of the Austrian civil society e.g. in mentoring programmes.

With regard to research and knowledge on this topic, data collection has improved during the last years, particularly since the middle of 2001 when the Federal Ministry of the Interior started to centrally gather specific data, systematic and publicly available statistics on unaccompanied minors are still missing. Detailed information on the asylum procedure and on the measures taken by the Aliens' Police gathered by the Federal Ministry of the Interior as central authority would be important, as well as complementary and standardised statistics regarding accommodation, care and employment of unaccompanied minors gathered e.g. by the Youth Welfare Authority. Concerning the situation of unaccompanied minors outside the Basic Welfare System, little information is available. In this context, further research on this particularly vulnerable group as well as on children going missing from care institutions are seen as essential.

ANNEXES

ANNEX 1

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ANNEX 2

Statistics

I) Statistics on asylum- seeking unaccompanied minors in Austria 2002- May 2009¹⁷⁶

Table 1: Asylum applications (unaccompanied minors) in Austria 2004- mid 2009

Year	Total ¹⁷⁷	< 14 years	14 - < 18 years	majority age determined
2004	1.212	43	871	298
2005	881	81	709	91
2006	488	53	361	74
2007	582	50	466	66
2008	874	64	706	104
Jan.-May 2009 ¹⁷⁸	425	22	379	24

Table 2: Ten main countries of origin of asylum-seeking unaccompanied minors in Austria 2004-2008

2004				2005			
Country of citizenship	< 14	14- < 18	Total	Country of citizenship	< 14	14- < 18	Total
Nigeria	4	231	235	Afghanistan	5	88	93
Moldova	10	114	124	Nigeria	x	74	74
Gambia	2	76	78	Russian Federation	21	53	74
Georgia	1	61	62	Moldova	12	58	70
India	x	41	41	India	1	63	64
Mongolia	1	35	36	Serbia and Montenegro	12	48	60
Algeria	4	32	36	Mongolei	5	34	39
Russian Federation	6	26	32	Georgien	1	29	30
PR of China	2	26	28	Algeria	5	25	30
Liberia	x	24	24	Belarus	x	27	27
other	13	205	218	other	19	210	229
Total	43	871	914	Total	81	709	790

¹⁷⁶ Source of Statistics 2002-2003: UNHCR (2004): Trends in unaccompanied and separated children seeking asylum in industrialized countries. Geneva. Statistics 2004-2009: Bundesministerium für Inneres: Asylstatistik 2004-2009.

¹⁷⁷ These figures represent the total number of asylum applications that have been filed by applicants that stated to be unaccompanied minors.

¹⁷⁸ Data as of 31 May 2009 of the Austrian Federal Ministry of the Interior. Asylstatistiken.

2006			
Country of citizenship	< 14	14- < 18	Total
Afghanistan	2	44	46
Nigeria	x	40	40
Russian Federation	25	31	56
Algeria	3	22	25
India	x	22	22
Marocco	1	22	23
Moldova	x	22	22
Mongolia	3	22	25
Serbia	6	21	27
Gambia	1	16	17
other	12	99	111
Total	53	361	414

2007			
Country of citizenship	< 14	14- < 18	Total
Afghanistan	4	96	100
Moldova	7	59	66
Somalia	2	47	49
Nigeria	x	29	29
Serbia	4	27	31
Russian Federation	19	24	43
Gambia	x	23	23
India	x	18	18
Mongolia	1	17	18
Marocco	1	16	17
other	12	110	122
Total	50	466	516

2008			
Country of citizenship	< 14	14- < 18	Total
Afghanistan	12	230	242
Moldova	11	61	72
Nigeria	1	64	65
Russian Federation	11	46	57
Somalia	x	53	53
Iraq	1	30	31
Kosovo	2	23	25
Marocco	2	20	22
Algeria	x	19	19
Gambia	x	18	18
other	24	142	166
Total	64	706	770

January-May 2009			
Country of citizenship	< 14	14- < 18	Total
Afghanistan	4	137	141
Nigeria	x	49	49
Somalia	x	24	24
Moldova	1	23	24
Russian Federation	7	17	24
Gambia	x	15	15
Algeria	x	14	14
Kosovo	6	8	14
Serbia	x	11	11
Mongolia	x	8	8
other	4	73	77
Total	22	379	401

II) Unaccompanied minors in the Basic Welfare System¹⁷⁹

Table 3: Unaccompanied minors in the Austrian Basic Welfare System, 19 May 2009

UAM in Basic Welfare System	
Burgenland	0
Carinthia	3
Lower Austria	141
Upper Austria	81
Salzburg	27
Steiermark	84
Tyrol	43
Vorarlberg	25
Vienna	102
Initial Reception Centre Traiskirchen	200
Initial Reception Centre Thalham	4
Total	710

¹⁷⁹ Standesmeldung des Betreuungsinformationssystems über die Gewährleistung der vorübergehenden Grundversorgung für hilfs- und schutzbedürftige Fremde in Österreich (entsprechend der Grundversorgungsvereinbarung gemäß Art. 15a B-VG).

III Statistics on minors in detention in Austria 2000-2009¹⁸⁰

Table 4: Minors in detention pending deportation (accompanied and unaccompanied) in Austria 2000- mid 2009 by age groups

Age	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009 ¹⁸¹
14 – 16 years	416	995	58	69	25	14	14	31	20	2
16 – 18 years	601	1727	293	307	250	157	171	132	161	18

IV Statistics on voluntary returns of unaccompanied minors 2005-2008¹⁸²

Table 5: Voluntary returns of unaccompanied minors from Austria operated by IOM Vienna

AVRs operated by IOM Vienna			
Year	Total	UAMs	in %
2005	1.406	18	1,3%
2006	2.122	8	0,4%
2007	2.069	5	0,2%
2008	2.655	9	0,3%

Tables 6: Voluntary returns of unaccompanied minors from Austria operated by IOM Vienna 2005-2008 by 5 main countries of origin

2005	
Bulgaria	9
Romania	4
Mongolia	1
Guinea	1
Turkey	1
Bosnia & Herzegovina	1
Estonia	1
Total	18

2006	
Kosovo	3
Iraq	1
Chile	1
Turkey	1
Bosnia & Herzegovina	1
Russian Federation	1
Total	8

2007	
Bosnia and Herzegovina	2
Afghanistan	1
Albania	1
Mongolia	1
Total	5

2008	
Serbia	3
Kosovo	2
Afghanistan	1
Moldova	1
Russian Federation	1
India	1
Total	9

¹⁸⁰ Parliamentary question to the Austrian Federal Ministry of the Interior of 21 April 2009 answered on 19 June 2009. Retrieved from http://www.parlament.gv.at/PG/DE/XXIV/AB/AB_01753/fname_161968.pdf on 15 July 2009.

¹⁸¹ As of 19 June 2009.

¹⁸² Statistics provided by International Organization for Migration (IOM) Vienna.

Table 7: Voluntary returns of unaccompanied minors from Austria operated by IOM Vienna 2005-2008 by sex

Year	female	male	total
2005	4	14	18
2006	1	7	8
2007	2	3	5
2008	1	7	9

Table 8: Voluntary returns of unaccompanied minors from Austria operated by IOM Vienna 2005-2008 by age

Year	12	13	14	15	16	17	Total
2005	1	1	4	2	5	5	18
2006	x	x	x	3	x	5	8
2007	x	1	x	x	x	4	5
2008	x	x	x	1	2	6	9

Table 9: Voluntary Returns organised by the crisis centre „Drehscheibe“ 2008 and 2009 first half¹⁸³

Returns organised by „Drehscheibe“ 2008	
Bulgaria	6
Romania	4
Hungary	4
Chechnya	4
Russia	3
Poland	2
Serbia	1
China	1
Total	25

Returns organised by „Drehscheibe“ 1 st half 2009	
Romania	6
Bulgaria	5
Slovakia	5
Hungary	1
Poland	1
French Guyana	1
Total	20

¹⁸³ Statistics for 2008: Source: Bundesministerium für Wirtschaft, Familie und Jugend, 2009. Statistics for the first half of 2009 have been provided by Drehscheibe via email on 23 July 2009.

ANNEX 3

Questionnaire

1. Characteristics of unaccompanied minors in Austria:

- 1.1. According to your own experience, what are the most frequent **motivations/reasons** for which unaccompanied minors do come/are sent to Austria?
- 1.2. Are there **specific relations** between **countries of origin** and **motivations of unaccompanied minors coming to Austria** that could be identified?
- 1.3. According to your own experience, under which **general conditions** do unaccompanied minors principally come to Austria? (e.g. separation from parents while escaping/when arriving in Austria, parents' death in Austria, sent by the family, etc.)

2. Situation of unaccompanied minors in Austria:

- 1.4. Do you think that the **access to schools** and to the **health care system** for unaccompanied minors in Austria is sufficiently regulated? If not, what would be the most important issues to be improved?
- 1.5. According to you, are **admission, guardianship** and **integration practices** sufficiently adapted to the needs of unaccompanied minors? If not, what would be the most important issues to be improved?
- 1.6. According to your own experience, are unaccompanied minors deported from Austria? If applicable, how does the **deportation** take place?
- 1.7. According to your own experience, are unaccompanied minors taken in **detention pending deportation**? If yes, in which cases are they taken in detention pending deportation?

3. Good practices and comments:

- 3.1. Can you identify “**Good Practices**” and “**Lessons learned**“ with regard to admission/integration of unaccompanied minors in Austria? If yes, please name them.
- 3.2. Which further **proposals/suggestions** would you have concerning the improvement of the situation of unaccompanied m

ANNEX 4

Guide for semi-structured interviews

Unaccompanied minors in general: Please characterise UAMs and their situation in (Austria). What are the most important institutions/organizations dealing with UAMs?

Living Conditions and Care: What are the living conditions and the care of unaccompanied minors in your country?

- types of accommodation/ care /living conditions
- accommodations when child turns 18
- main challenges
- evaluation and suggested changes

Legal guardianship: How is the legal guardianship of unaccompanied minors appointed?

- duties, frequency of contact
- waiting time for appointments
- assessment and suggestions

Health Care: How are health care and medical care of UAM working?

- access to health care (incl. interpreters)
- possibility of psychological counselling or treatment
- consideration of gender- and culture-sensitive aspects
- evaluation and suggestions

Employment: What are the possibilities of employment for UAM?

- legal framework / access to labour market
- kind of employment (e.g. duties, formal/informal, kind of contract)
- adolescents' wishes concerning employment and own opinion
- evaluation and suggestions

Schooling and Vocational training: What are your experiences concerning school and education of unaccompanied minors?

- kinds of school/course/vocational training
- language courses
- access
- evaluation and suggestions

Integration: In your opinion, how are unaccompanied minors integrated in your country?

- Integration measures (kind, sufficient?)
- treatment of UAM by 'nationals'
- form and extent of contact between UAM and 'nationals', subjective importance of it
- discrimination of UAM
- evaluation & suggestions

Asylum-seeking procedures: What are your experiences concerning asylum-seeking procedures?

- legal adviser / information /age assessment
- length of asylum procedure
- interview situation (incl. presence of person of trust)
- evaluation and suggestions

Detention: Do you have any experiences with the detention of unaccompanied minors?

- Detention pending deportation or detained in another way?
- why/how long detained
- Conditions within institution (nutrition, health care, facilities etc.)
- availability of legal adviser, person of trust
- Information why detained?
- Need for improvement? What kind?
- suggestions

Family tracing and family reunification: Can you tell me something about the practice of family tracing and family reunification in your country?

- how common
- family tracing procedure / return procedure
- evaluation & suggestions

Good practices and lessons learned: Can you tell me about other good practices or lessons learned from previous experiences?

Any other issue: Is there anything else you want to add?