

EMN INFORM

Policies, practices and data on unaccompanied minors in the EU Member States and Norway

1. INTRODUCTION

This EMN Inform summarises the findings from the 2015 EMN Synthesis Report *Policies, practices and data on unaccompanied minors*.¹ The Study aimed to update the findings of the 2008-2009 EMN Study *Policies on reception, return and integration arrangements for, and numbers of, unaccompanied minors*² and to provide up-to-date information and comparable data on the numbers and state of protection of unaccompanied minors (UAMs) arriving in the EU. The key findings from the Study are set out below.

2. KEY POINTS TO NOTE:

- ★ Unaccompanied minors (UAMs), for the purpose of this Study, are children (as defined by the UN CRC) from third countries, who arrive on the territory of an EU Member State unaccompanied by an adult responsible for them, or who are left unaccompanied after they have entered the territory of the Member State.
- ★ The number of UAMs seeking asylum in the EU has increased steadily since 2010, reaching a total of **24,075** minors in 2014 or 4% of the total number of asylum applicants in 2014, according

to Eurostat (see Figure 1 below). Sweden (29%), Germany (18%), Italy (10%), Austria (8%) and the United Kingdom (8%) have received the highest numbers of UAMs in the EU, taken together representing more than 70% of the total of all UAMs applying for asylum in 2014.

- ★ The majority of UAMs applying for asylum in the EU are **boys** (86%) and the rest are **girls** (14%). Most of these minors are **between 16 and 17 years old** (65%), with only a small proportion being less than 14 years old. The **main countries of origin** of these minors are Afghanistan, Eritrea, Syria, Somalia, The Gambia and Morocco.
- ★ The number of UAMs who arrive in the EU and are **not seeking asylum** is unknown and only a few Member States can provide data on minors in this situation: however, it is clear that this number reached more than 8,500 in 2013. A considerable proportion of these minors have arrived in Italy, with a number of other (Member) States also reporting data on UAMs in this situation. There is a general lack of comprehensive and comparable data on the numbers of and outcomes for non-asylum seeking UAMs, but also those minors seeking asylum in the EU.

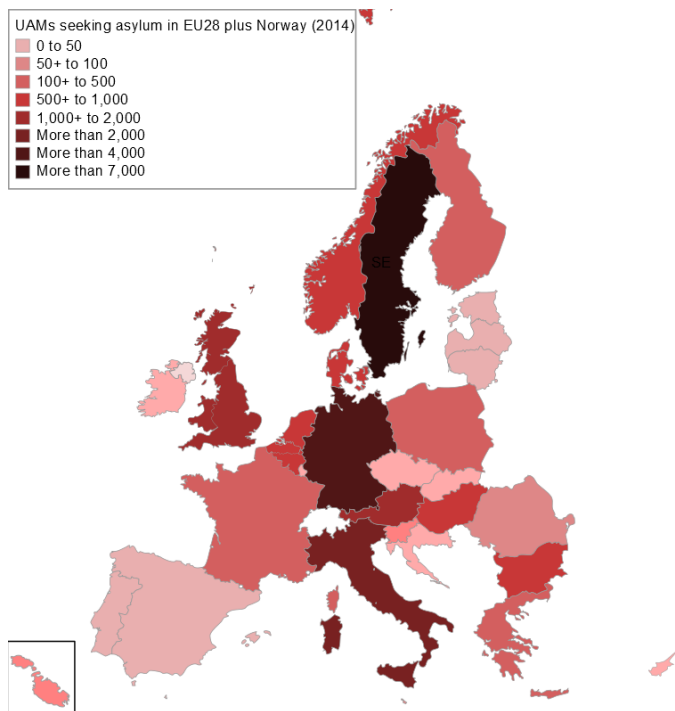
¹ The Synthesis Report was prepared on the basis of National Contributions from 26 Member States (**Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovak Republic,**

Slovenia, Spain, Sweden, the United Kingdom) and Norway, prepared according to Common Specifications developed by the EMN to the extent possible, comparability of data.

²<https://emn.gov.pl/download/75/14011/0EMNSynthesisReportUnaccompaniedMinorsFINALVersionMay2010.pdf>

- ★ The Study identifies a number of **gaps and challenges that still need to be addressed to ensure all UAMs benefit from the same level of protection**. Overall, whilst many provisions and measures are available for asylum-seeking UAMs and those granted international protection (under the EU *acquis* and international legislation), this is *not* always the case for *non*-asylum seeking UAMs. At present, these UAMs do not appear to benefit from the same level of protection either in law or in practice.
- ★ The Study highlights a number of **good practices** which have been adopted by some (Member) States since 2009, which could be useful to policy-makers to contribute to policy and practices to strengthen the protection of UAMs in the EU, whilst avoiding the 'inequalities' between asylum- and non-asylum seeking minors identified by the research presented here.

Figure 1 Number of asylum-seeking UAMs in 2014 in EU28 plus Norway, by country



Source: Eurostat, 2014

What motivates UAMs to come to the EU?

The reasons and motivations of UAMs coming to the EU are **not always known**, for example, because UAMs may not fully articulate these due to their early age or trauma, or may be reluctant to reveal them before authorities in the (Member) States. UAMs have different reasons and motivations for fleeing their country of origin in the first place. Even though most (Member) States report that asylum-seeking UAMs may fear persecution, harm and/ or human rights violations in their country of origin, whilst non-asylum seeking UAMs often arrive in the EU because they are seeking better education and job opportunities, the

reasons and motivations of UAMs arriving in the EU may not always align with their migration status. In many cases, the decision to migrate is not made by the minor, but instead by their family.

What motivates UAMs to travel to a particular (Member) State?

Motives for travelling to a particular Member State are multiple and rarely stand-alone; however, the three main motives identified in the Study are reunification with family members, joining diaspora/ migrant communities, and economic and aspirational reasons, including education and judgments about UAMs' chances to obtain a residence permit and a job. However, in spite of these preferences for a particular (Member) State of destination, in reality, where a UAM actually arrives, is trafficked or smuggled, or is intercepted, can be **unintentional and wholly dependent on external factors**.

What are the entry procedures for asylum and non-asylum seeking UAMs?

UAMs not seeking asylum are subject to the entry conditions applicable to third country nationals (TCNs) wishing to enter the EU. The documents required by UAMs to legally enter the EU include a valid visa and travel document (in most cases passport). In line with international obligations, asylum-seeking UAMs will always be allowed entry into the EU territory, regardless of whether they meet the entry requirements.

For non-asylum seeking UAMs, a **distinction** can be made between (Member) States that *can* refuse entry to all TCNs who do not fulfil the entry conditions, including unaccompanied minors, and those that apply a special policy to UAMs based on humanitarian grounds and always grant non-asylum seeking UAMs access to the territory, regardless of whether they fulfil the entry conditions. Where no special policy applies, non-asylum seeking UAMs who do not fulfil the entry conditions may be ordered to return to their country of origin (subject to conditions set out in the Return Directive being met).

In line with the EU *acquis*, (Member) States have special (minimum) safeguards in place for UAMs applying for asylum in the EU. These safeguards may vary across (Member) States, however, depending on the phase of the asylum procedure. As for non-asylum seeking UAMs, a **distinction** can be made between (Member) States that do not have legislation acknowledging this group of UAMs and generally directs all UAMs to the asylum procedure and (Member) States whose legislation does not distinguish between asylum- and non-asylum seeking UAMs who then benefit from similar provisions.

What age assessment and guardianship arrangements are in place for UAMs?

For reasons of vulnerability, border guards/ police authorities in most (Member) States' refer UAMs to

child protection authorities. This is done either immediately, or – in case of doubt about the authenticity of documents (or lack thereof) – border guards/ police authorities may first ask for an age assessment, before referring UAMs to child protection services. Procedures for age assessment aim to determine the status of a minor where there is doubt about his/ her age; however, age assessment **methods differ** across (Member) States, and **different approaches are also taken** with regard to the outcome of the age assessment.

Member States appoint a representative to asylum-seeking UAMs (in line with the provisions of the recast Asylum Procedures Directive). The **timing for the appointment of a representative also differs** between (Member) States, where in the majority of cases a representative is appointed upon registration of an asylum claim, on arrival at the reception centre, or prior to the asylum application. Most (Member) States also appoint a representative to non-asylum seeking UAMs applying the same guardianship system; however, this is not true in all cases, where different systems of guardianship apply based on the UAM's migration status.

What residence permit options are available for UAMs?

During their stay within the EU territory, UAMs can be granted EU harmonised protection statuses (covered by the EU acquis) and non-EU harmonised protection statuses (based on the Geneva Convention, on the principle of *non-refoulement*, or on other various grounds). Different types of permits may be granted by (Member) States, depending on whether the UAM is applying for asylum or not. In general, (Member) States grant a permanent or long-term residence permit to asylum-seeking UAMs and temporary residence permits to non-asylum seeking UAMs, such as individual protection or permits based on humanitarian or compassionate grounds.

What reception facilities are available for UAMs?

Most (Member) States apply a **similar reception system for all UAMs**, hosting asylum- and non-asylum seeking minors in similar facilities. A small number of (Member) States have different reception systems, depending on the migration status of the UAM and thus allocate asylum and non-asylum seeking UAMs to different facilities. Most (Member) States accommodate asylum-seeking UAMs in separate reception facilities specifically for minors, foster families, or designated areas for minors within the mainstream reception facility.

What material and non-material reception conditions are available for UAMs?

(Member) States provide for material reception conditions – including housing, food and clothing, as

well as a daily allowance – for both asylum- and non-asylum seeking UAMs; **no differentiation seems to be made**. These may be provided in kind or in the form of a financial allowance, vouchers, or a combination of both.

Most (Member) States also provide for non-material reception conditions, such as access to legal advice, healthcare, education and employment. For asylum-seeking UAMs and those granted international protection, the recast Asylum Procedures Directive and recast Qualification Directive lay down certain common reception standards and content of the protection that is provided by (Member) States. As for non-asylum seeking UAMs, this Study shows that these minors benefit from **similar rights** afforded to asylum-seeking UAMs, however, exceptions may apply.

How are durable solutions for UAMs arranged in Member States?

Durable solutions for UAMs based on an individual assessment of the best interests of the child are usually not defined in legislation in most (Member) States, though some (Member) States have plans to introduce such a provision in the future. Most (Member) States have made efforts to identify durable solutions for UAMs, including integration, family reunification or return. A 'best interests' determination procedure is in place to support the competent authority's decision on a durable solution for the UAM in several (Member) States, but is not reported consistently across all. The competent authorities deciding on a durable solution for the UAM, as well as the timeframe for the determination procedure differ across (Member) States.

What provisions are in place to prevent UAMs going missing or absconding from reception and/ or care?

Information on the number and profile of UAMs who go missing or abscond from reception and/ or care facilities is limited in (Member) States at present. Possible reasons for the disappearance of these minors include, among others, transit to another (Member) State; fear of a negative decision on application for international protection and/ or fear of removal; UAMs falling victim to re-trafficking in human beings; or fear that the age assessment will not confirm that they are minors. Most (Member) States apply **measures to prevent** UAMs from absconding and a number of them have established protocols for cooperation between all relevant authorities dealing with UAMs.

As for **measures to respond** to disappearances, the practice in most (Member) States is for the police to undertake a preliminary/ full investigation, at which point a missing person's alert may also be launched. Most (Member) States also report the use of National Hotlines for Missing Children³.

³ The European Hotline (116 000) for Missing Children can be dialled from 27 Member States.

What happens to a UAM on turning 18 years of age?

Two thirds of all UAMs applying for asylum in 2009-2013 were aged 16 to 17 years and were/ are therefore already close to the age of majority. Until the age of 16, UAMs are treated first and foremost as children and measures are in place to protect them whatever their migration status; at 18 however, the migration status of UAMs takes precedence. This has implications in terms of access to rights such as accommodation, education and/ or employment and above all, on legality of residence

UAMs turning 18 years of age may experience no change in residence permit provisions if they have been granted international protection in the respective (Member) State. Access to rights for these former UAMs will be the same as adult refugees or other migrants benefiting from international protection. On the contrary, non-asylum seeking UAMs turning 18 years of age may be treated as adult migrants with irregular status and may be returned to their country of origin without a valid reason to remain in the (Member) State (e.g. completing education).

The Study found that at present there are few measures available in the (Member) States to support UAMs preparing for this transition. After-care services, in several (Member) States this may include accommodation and/ or related support provided until a UAM is of a certain age, i.e. 21-25 years old. Monitoring is being implemented by a number of (Member) States to ensure UAMs' effective transition to adulthood, though such mechanisms are not reported consistently across all (Member) States.

Can UAMs be returned to their country of origin?

Most (Member) States provide for the possibility of *voluntary* return of UAMs (if conditions set out in the Return Directive are met), as well as reintegration support. With regard to the latter, a small number of (Member) States have reported that reintegration plans have not yet been developed. Where available, most of the programmes provide information and counselling and undertake an assessment of the reintegration needs of the minor with the involvement of social services.

Provided that the above conditions to ensure the best interests of the minor are met, several (Member) States may *forcibly* return UAMs. In practice, however, such a procedure is carefully considered on a case-by-case basis; however, in practice, such forced returns are unlikely to take place across the (Member) States even where the possibility exists.

Can UAMs be detained and what alternatives to detention are in place?

With regard to detention of UAMs whilst awaiting return – which should be a measure of last resort and for the shortest amount possible – **differences** exist between (Member) States, with some of them detaining UAMs awaiting return and others not

adopting such a measure at all. Special conditions, taking into account the child's best interests apply in practice to the detention of UAMs, including age and/ or time limits, and/ or appropriate facilities whereby minors are held separately from adults.

Finally, UAMs are entitled to alternatives to detention in most (Member) States. Some examples of alternatives to detention in the (Member) States include special youth centres/ shelters, social institutions or reception facilities which are tailored to minors' needs and where UAMs are held separately from adults, or interim measures (e.g. obligation to report to the police).

How do the EU and international legislative frameworks provide for UAMs?

The EU has committed to a number of international conventions which have placed an obligation on (Member) States to take appropriate protection and prevention measures in relation to migrants and/ or children, including the UN Conventions on refugees (1951) and rights of the child (1989), and the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms. Since 2009, the Union has been working towards improving its Common European Asylum System (CEAS) and the recast of the Asylum Procedures, Reception Conditions and Qualification Directives, as well as the Dublin III-Regulation have as a result strengthened the (legal/ legally ensured) protection of children and the rights of UAMs in particular. In addition, the EU has recognised as essential to protect children, including UAMs, from trafficking in human beings by introducing a new Anti-Trafficking Directive in 2011.

However, despite the considerable improvements to the EU asylum *acquis* – including procedural guarantees such as right to legal representation, right to be heard, right to family reunification or rules for taking the principle of the child's best interests into account in procedures – potential gaps remain in the legislation. In addition, this Study also found that whilst the EU has set out rules and standards regarding the protection of UAMs applying for asylum, only a few specific provisions are available in the legislation for UAMs who arrive in the Union without applying for international protection.

3. FURTHER INFORMATION

You may obtain further details on this EMN Inform and/ or on any other aspect of the EMN, from HOME-EMN@ec.europa.eu.

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