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Ministry of Immigration  
and Integration

The Danish  
Immigration Service

## Morocco

### *Situation of Unaccompanied Minors*

Report based on interviews in Morocco, 9 to 18 October 2016

*Copenhagen, March 2017*

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## Disclaimer

This report was written according to the European Asylum Support Office (EASO) Country of Origin Information report methodology.<sup>1</sup> The report is based on approved notes from meetings with carefully selected sources. Statements from all sources are used in the report, and all statements are referenced.

This report is not, and does not purport to be, a detailed or comprehensive survey of all aspects of the issues addressed in the report. It should be weighed against other available country of origin information on the situation of minors in Morocco with regard to the policy and legislative framework protecting minors, their possibility for being placed in a residential care centre, the existence of standards of care at such centres as well as existing experiences with minors who return to Morocco after a period of migration in Europe.

The report does not include policy recommendations or analysis. The information in the report does not necessarily reflect the opinion of the Danish Immigration Service (DIS).

Furthermore, this report is not conclusive as to the determination or merit of any particular claim to refugee status or asylum. Terminology used should not be regarded as indicative of a particular legal position.

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<sup>1</sup> European Union: European Asylum Support Office (EASO), EASO Country of Origin Information report methodology, 10 July 2012. Available at <http://www.refworld.org/docid/4ffc33d32.html>

## Abbreviations

**AGEVEC** – *L'Académie Engins Lourds et Véhicules Commerciaux*

**CAPC** – *Centre d'Accompagnement Post Carcéral*

**CNDH** – *Conseil national des droits de l'Homme* – in English: National Human Rights Council

**CPE** – *centres de protection de l'enfance* – in English: Child Protection Centres

**EASO** - European Union: European Asylum Support Office

**EPS** – *établissements de protection sociale* – in English: Social Protection Institutions

**FORSATY** – Favorable Opportunities to Reinforce Self-Advancement for Today's Youth

**FYROM** – Former Yugoslav Republic of Macedonia

**IOM** – International Organization for Migration – in French : *OIM – L'Organisation Internationale pour les Migrations*

**LGBT** – Lesbian, Gay, Bisexual and Transgender

**LGBTIQ** – Lesbian, Gay, Bisexual, Transgender, Intersex and Queer

**LMPE** – *Ligue Marocaine pour la Protection de l'Enfance* – in English : Moroccan League for the Protection of Children

**MAD** – Moroccan Dirham

**MCMREAM** – *Ministère chargé des Marocains Résidant à l'Étranger et des Affaires de la Migration* – in English : Ministry of Moroccans Residing Abroad and Migration Affairs

**MSFFDS** – *Ministère de la Solidarité, de la Femme, de la Famille et du Développement Social* – in English: Ministry of Solidarity, Women, Family and Social Development

**NGO** – Non-governmental organisation – in French: *ONG – Organisation non gouvernementale*

**OFPPT** – *Office de la Formation Professionnelle et de la Promotion du Travail* – in English: Office for Occupational Training and Promotion of Employment

**PANE** – *Plan d'Action National pour l'Enfance*

**PPIPEM** – *Politique Publique Intégrée de Protection de l'Enfance* – in English : integrated public policy on child protection

**SNMA** – *Stratégie Nationale de Migration et d'Asile* – in English : National Immigration and Asylum Strategy

**UNFPA** – United Nations Population Fund

**UNICEF** – United Nations Children's Fund

**UNIDO** – United Nations Industrial Development Organization

**USAID** – U.S. Agency for International Development

## Executive summary

Out of a total population in Morocco of 34.8 million, the group aged 10-24 years accounts for 25 percent. The youth unemployment rate is as high as 28 percent among people aged 15 to 34 years. Economic reasons are one of the push factors of migration among Moroccan youth, combined with a feeling of deprivation of political rights and social factors such as persistent violence within the extended family. Albeit many young people living in the streets wish to emigrate, only few attempt to do so without the moral encouragement and financial backing from the family. Many Moroccan minors who migrated illegally to Europe refuse to return voluntarily to Morocco due to the perceived shame connected with unsuccessful migration.

In Morocco, institutional placement of minors in residential care centres is on the rise. Many impoverished families perceive child care centres as a way to improve their children's chances in life. Children who have been registered by the authorities as 'children in a difficult situation' can be placed by the courts in foster families or in a care centre.

The governmental agency, National Mutual Assistance (*Entraide Nationale*) under the authority of the Ministry of Solidarity, Women, Family and Social Development (MSFFSD) is responsible for the large majority of residential care centres in Morocco. The smaller group of Child Protection Centres, aimed for accommodating minors in conflict with the law, are placed under a different authority, the Ministry of Youth and Sports. Sources commented that children, who are not in conflict with the law, are placed in the same centres. Different private organisations are also running centers for minors with different social needs.

With regard to the capacity of the existing child care centres to meet the need for shelter and social services, it is suboptimal according to one organisation. Although there are centres across the country, the increase in the number of children being placed in centres has created waiting lists in certain institutions.

Moroccan adolescents at the age of 15-17 years can be admitted into child care centres where younger children live. There are no specific centers dedicated to this group. However, there are programmes offering vocational training and life skills to this age group.

Currently, there are no national procedures in place for the reception of unaccompanied minors who return from migration. Minors who return from a period of migration without contact to their family may be considered a 'child in a difficult situation' and may benefit from social protection services available to this group of minors. It is the opinion of the Moroccan authorities that a child in a difficult situation must be reintegrated into the family. A few organisations have gained experience in assisting the return, or attempted return, of minors who migrated to Europe.

The Moroccan legislation only contains minimum standards concerning the budget for food and for the physical environment, but there are no standards for the quality of care for children in need of social protection. Different organisations developed their own guidelines for reception, accommodation, medical care, education etc. of minors in need of social protection.

Moroccan minors do not hold a National Identity Card until the age of 16 years. Minors cannot be requested to give fingerprints, hence there is no registry of fingerprints for minors. The National Mutual Assistance is represented in all regions of the country and is capable of searching for the parents or other relatives of the minor. In case a minor is detained in Morocco without ID papers, organisations can assist in having ID documents issued.

## Methodology

This report is based on interviews with sources in Morocco conducted by the Country of Origin Information Division, Danish Immigration Service (DIS) in Rabat, Casablanca and Meknes from 9 - 18 October 2016. The purpose of the interviews was to collect up to date information on issues recurring in cases regarding Moroccan asylum seekers in Denmark with regard to the situation of unaccompanied minors, the situation of LGBT people and double jeopardy. The findings regarding LGBT people and double jeopardy are reported in separate reports.

The present report focuses on the situation of minors in Morocco, including the policy and legislative framework protecting minors, their possibility for being placed in a residential care centre, the existence of standards of care at such centres as well as existing experiences with minors who return to Morocco after a period of migration in Europe.

The terms of reference for the mission were drawn up by DIS in consultation with the Danish Refugee Appeals Board as well as a Danish advisory group on COI.<sup>2</sup> The terms of reference are included at Appendix D to this report.

In the process of compiling the report, the delegation interviewed 14 sources, comprising representatives from the Moroccan authorities, western embassies, international organisations, academics, and non-governmental organisations (NGOs), including four residential care centres. The Danish Embassy in Rabat and UNICEF provided valuable assistance in identifying some of the interlocutors relevant to the terms of reference. The Danish Embassy also provided logistical assistance during the mission. The sources interviewed were selected by the delegation based on their expertise, merit and experience relevant to the mission. When planning the field visits outside of Rabat, the delegation was offered the choice between different Child Protection Centres by the government representative and decided to visit the centre in Meknes. The delegation also attempted to meet two NGOs Orient-Occident and Caritas Morocco in Casablanca; however, they were not available at the time of the delegation's visit. In addition to the empirical data material gathered from the interviews, the report is also based on available reports as well as academic articles and books of relevance for the terms of reference.

The sources consulted are listed in Appendix C. The interviews were conducted in either French or English according to the convenience of the interlocutors. Meeting notes, originally recorded in French, have been translated into English. All the notes of meetings are provided in English in Appendix A. Notes for those interviews which were originally conducted in French are provided in Appendix B. A brief description of the source is included in the meeting notes.

The interlocutors were asked how they wished to be introduced and quoted, and all sources are introduced and quoted according to their own wishes. 13 sources are referred to by their name and/or the name of their organisation, in accordance with their own request on this matter. One source, the representative from the Ministry of Justice and Liberties, requested not to be mentioned by name. A visit was made to a

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<sup>2</sup> The group consists of Danish Refugee Council, Amnesty International in Denmark, Danish Institute for Human Rights, Dignity, representatives of two Christian organisations (Danish European Mission and Open Doors), the National Commissioner of Police and the Danish Bar and Law Society (representing asylum lawyers).



residential care centre, Centre Lalla Hasnae, in Casablanca on 11 October 2016, however, the source did not have time for a meeting for which reason there is no meeting note.

The sources consulted were informed about the purpose of the mission and the fact that their statements would be included in a report that would be made publically available.

The meeting notes were validated by the sources. All notes were forwarded to the interlocutors for their approval and amendment, allowing the opportunity to offer corrections or comment on their statements. All but two sources, the Ministry of Foreign Affairs and Cooperation and the Moroccan League for Protection of Children, Casablanca, approved their statements. Both sources were contacted by email and informed that the delegation would include the note in the report if no response was received by the deadline. The delegation never received any response from these sources.

The report is a synthesis of the sources' statements and does not include all details from the meeting notes. In the report, care has been taken to present the views of the interlocutors as accurately and transparently as possible and reference is made by number to the specific paragraphs in the meeting notes in foot notes in the report. All sources' approved statements are found in their full extent in Appendix A and B of this report.

The report was finalised in January 2017.

The report is available on the websites of DIS, [www.newtodenmark.dk](http://www.newtodenmark.dk) and thus is available to all stakeholders in the refugee status determination process as well as to the general public.

# 1. Background

## 1.1 Living and care arrangements in contemporary Morocco: 'Models of care'

Morocco is a youthful country. Out of a total population of 34.8 million, the group aged 10-24 years accounts for 25 percent.<sup>3</sup> For the large majority of children and adolescents, their upbringing takes place within the natal family. Family is a fundamental social institution in Moroccan society and a privileged place for the conservation of traditions, nurture and caregiving.<sup>4</sup> Traditionally, Moroccan families have been characterised by hierarchical relations where the authority of the father as head of household dominated over other members of the household. The family home was also the place of intergenerational solidarity, practical assistance and mutual dependency between children and parents.<sup>5</sup>

Whereas these characteristics to a large extent remain stable, the size, composition and role of Moroccan families have changed over time. Since 1980, the number of children per woman has decreased from 5.91 to 2.4,<sup>6</sup> meaning that each family has fewer children who are likely to contribute financially and practically to their parents in their old age. This demographic transition has been followed by a change in the composition of the family structure so that nuclear families (60.3 percent in 2005) now dominate over multi-generational families (37.3 percent same year).<sup>7</sup> At the same time, a growing number of children and adolescents, especially in urban areas, complete primary school and continue through secondary and tertiary education. As more young people spend their formative years in the education system, the average age of marriage has been postponed, meaning that the group of single young adults living with their family has expanded.<sup>8</sup>

In a situation with high unemployment rates, especially among young people, the Moroccan youth's economic dependency on the family remains high. Yet the social influence of peers, as well as teachers and other adults outside of the family unit, has been growing compared to the influence which has traditionally been exercised by the family. Combined with a rapid increase in the use of internet and mobile phones, an increasing part of the socialisation of Moroccan youth takes place outside of the family home.<sup>9</sup> These changes have contributed to an individualisation process among youth and adolescents distancing them

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<sup>3</sup> UNFPA (2016). The State of World Population 2016. Demographic indicators. Available at [https://www.unfpa.org/sites/default/files/sowp/downloads/The\\_State\\_of\\_World\\_Population\\_2016\\_-\\_English.pdf](https://www.unfpa.org/sites/default/files/sowp/downloads/The_State_of_World_Population_2016_-_English.pdf)

faroc - Haut Commissariat au Plan (2014). Note d'information à l'occasion de la journée internationale de la jeunesse. Available at : [http://www.hcp.ma/La-journee-internationale-de-la-jeunesse\\_a1051.html](http://www.hcp.ma/La-journee-internationale-de-la-jeunesse_a1051.html)

<sup>4</sup> Bargach J (2002). Orphans of Islam: Family, Abandonment, and Secret Adoption in Morocco: 163. Rowman & Lottlefield Publishers.

<sup>5</sup> Desrues T (2012). Moroccan Youth and the Forming of a New Generation: Social Change, Collective Action and Political Activism in Mediterranean Politics 17:1, 23 – 40.

<sup>6</sup> UNFPA (2016). The State of World Population 2016. Demographic indicators. Available at [https://www.unfpa.org/sites/default/files/sowp/downloads/The\\_State\\_of\\_World\\_Population\\_2016\\_-\\_English.pdf](https://www.unfpa.org/sites/default/files/sowp/downloads/The_State_of_World_Population_2016_-_English.pdf)

<sup>7</sup> El Harras M. (2005). Les mutations de la famille au Maroc Available at [http://www.albacharia.ma/xmlui/bitstream/handle/123456789/31436/1211Les\\_mutations\\_de\\_la\\_famille\\_au\\_Maroc\\_\(2006\)4.pdf?sequence=1](http://www.albacharia.ma/xmlui/bitstream/handle/123456789/31436/1211Les_mutations_de_la_famille_au_Maroc_(2006)4.pdf?sequence=1)

<sup>8</sup> Hegasy S. (2007). Young Authority: Quantitative and Qualitative Insight into Youth, Youth Culture, and State Power in Contemporary Morocco in *The Journal of North Africa Studies* 12:1, 19-36

<sup>9</sup> Hegasy S. (2007). Young Authority: Quantitative and Qualitative Insight into Youth, Youth Culture, and State Power in Contemporary Morocco in *The Journal of North Africa Studies* 12:1, 19-36, Bargach J (2002). Orphans of Islam: Family, Abandonment, and Secret Adoption in Morocco: 163. Rowman & Lottlefield Publishers.

from the family and fuelling a process where young people are more likely to resist decisions taken by the family if they feel that these decisions interfere unfairly with their personal life.<sup>10</sup>

Whereas most children and adolescents live with their family, the phenomenon of abandoned children is far from unknown in Morocco.<sup>11</sup> At least four different models of care have existed for children and adolescents outside of family care including institutionalised placement; family or customary adoption to a foster family; informal or extralegal adoption within the family; and legal guardianship of a minor (taking the *kafala*<sup>12</sup> of a child).<sup>13</sup> The political recognition of the existence of abandoned children as a societal problem in Morocco occurred in 1993 when a bill was passed in Parliament. This bill formally recognized abandoned children as a social category and sought to systematize their *kafala*.<sup>14</sup>

## 1.2 Drivers of migration among Moroccan youth

Over the past 60 years Morocco has become an important emigration country with four million Moroccans living abroad, three million hereof in southern and western Europe.<sup>15</sup> However, due to its geographical location, Morocco is no longer only a country of emigration but is increasingly becoming one of transit for sub-Saharan en route to Europe as well as one of immigration for people from West and Central Africa.<sup>16</sup>

According to the International Organization for Migration (IOM) the majority of Moroccans who migrate to Europe are males aged 25 to 34 years, originally from the regions Oriental and Tadla-Azilal as well as from Casablanca. The majority have not completed tertiary education.<sup>17</sup>

Economic reasons are among the most important push factors for migration according to several sources.<sup>18</sup> These reasons include poor employment opportunities for many low- and high-skilled young people in a situation where unemployment rates are estimated to reach 28 percent among people aged 15-34 years.<sup>19</sup> Although many Moroccans are increasingly completing tertiary education, according to a source from USAID, many experience that they lack the required employability skills to be able to get a position in the job market.<sup>20</sup> Another push factor is lowered prices for reaching Europe. IOM explained that before the Syrian refugee crisis, the price that the emigrants paid to smugglers to go to Europe was estimated to have

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<sup>10</sup> Desrues T (2012). Moroccan Youth and the Forming of a New Generation: Social Change, Collective Action and Political Activism in Mediterranean Politics 17:1, 23 – 40.

<sup>11</sup> Bargach J (2005). An Ambiguous Discourse of Rights: The 2004 Family Law Reform in Morocco in *Hawwa*, 3: 2, 245 – 266.

<sup>12</sup> *Kafala*, according the Ministry of Solidarity, Women, Family and Social Development (MSFFDS), is to take responsibility for an abandoned child which implies the obligation to assume the protection, education and support of an abandoned child in the same way a father would do so towards his own child. *Kafala* does not entitle to filiation and inheritance. Ministry of Solidarity, Women, Family and Social Development (MSFFDS): 12

<sup>13</sup> Bargach J (2002). Orphans of Islam: Family, Abandonment, and Secret Adoption in Morocco: pp 27-28. Rowman & Lottfield Publishers.

<sup>14</sup> Bargach J (2002). Orphans of Islam: Family, Abandonment, and Secret Adoption in Morocco: pp 34-36. Rowman & Lottfield Publishers.

<sup>15</sup> de Haas H (2014). Morocco: Setting the Stage for Becoming a Migration Transition Country? Published by the Migration Policy Institute. Available at <http://www.migrationpolicy.org/article/morocco-setting-stage-becoming-migration-transition-country>

<sup>16</sup> IOM: 95, de Haas H (2014). Morocco: Setting the Stage for Becoming a Migration Transition Country? Published by the Migration Policy Institute. Available at <http://www.migrationpolicy.org/article/morocco-setting-stage-becoming-migration-transition-country>

<sup>17</sup> IOM : 95, 105

<sup>18</sup> IOM : 110, Bayti : 110

<sup>19</sup> USAID: 60

<sup>20</sup> USAID : 60

been approximately 3,500 to 4,000 EUR. At the time of the mass migrant flow in 2015, prices had drastically gone down to approximately 1,000 EUR. By comparison, a monthly salary for a lower middle class family is approximately 150 EUR.<sup>21</sup>

Social factors also contribute to reasons for migration. Many young people experience that despite their diplomas, they lack the required social connections to get a desired job.<sup>22</sup> The same source also added that many young people feel deprived of fully benefitting from their political rights. Further to that, Bayti noted that persistent violence within the extended family combined with a generalised perception of living in a precarious situation, motivated young people to leave their family for a future in Europe.<sup>23</sup>

The pull factors for migration include aspirations of accessing employment opportunities combined with a diffuse dream of prospects to be found in Europe. In this regard, a migration project becomes an uncertain but hopeful path to fulfilling own potential.<sup>24</sup> According to the National Mutual Assistance, the facilitating factors in the decision to engage in illegal migration included some level of family support. Albeit many of the young people who live in the streets are potentially eager to migrate, few attempt to do so without some level of moral encouragement and financial backing from the family, according to the Director of the National Mutual Assistance. By consequence, in most cases of minors who migrate to Europe have some level of family support, a view which was corroborated by IOM.<sup>25</sup> Further to this, the National Mutual Assistance noted that young people who migrate do not come from the poorest families nor are they children who have been placed at an institution.<sup>26</sup> By contrast, IOM said that the families that they had met with are living in grinding poverty.<sup>27</sup>

According to Bayti, most minors who have engaged in illegal migration to Europe refuse to return voluntarily to Morocco, and this reluctance is explained by the perceived shame that is connected to an unsuccessful migration project.<sup>28</sup> Bayti as well as IOM said that to return from Europe without 'having made it' is negatively perceived in the local community and thus falls back on the family of the returnee.<sup>29</sup> For the minors, such a return is experienced as a frustrating set back and they therefore, according to Bayti, actively try to avoid any contact with their family.<sup>30</sup>

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<sup>21</sup> IOM: 97

<sup>22</sup> USAID : 63

<sup>23</sup> Bayti : 110

<sup>24</sup> Bayti : 110

<sup>25</sup> National Mutual Assistance: 24, IOM: 103

<sup>26</sup> National Mutual Assistance: 24

<sup>27</sup> IOM: 103

<sup>28</sup> Bayti: 110

<sup>29</sup> Bayti: 110, IOM: 101

<sup>30</sup> Bayti: 110

## 2. Social Protection Available to Minors in Vulnerable Situations

### 2.1 The Moroccan legislative framework protecting minors

Morocco ratified the International Convention for the Rights of the Child in 1993.<sup>31</sup>

With regard to the national legislation, sources pointed to the Act no. 14-05<sup>32</sup> that contains regulations and standards on establishment, management and operation of governmental as well as non-governmental social protection centres<sup>33</sup>. As for standards for social protection centres, Act no. 14-05 regulates minimum standards for the budget for food and organisation of the physical environment.<sup>34</sup> Further information on control or regular inspection of the standards of quality can be found in section 3.2 Standards of care and monitoring.

Further to Moroccan national legislation on child protection, sources pointed to Act no. 15-01<sup>35</sup> that regulates the implementation of *kafala*, the notion of adoption/guardianship in accordance with sharia law which implies the protection, education and support of an abandoned child.<sup>36</sup> Reference is made to section 2.3 Possibilities for adoption/guardianship (*kafala*)

In accordance with the Code of Penal Procedure, a Moroccan judge of first instance can refer 'a child in a difficult situation' to a Child Protection Centre (*Centres de protection de l'enfance* – CPE).<sup>37</sup> The definition of 'a child in a difficult situation' is stipulated in the Code of Penal Procedure.<sup>38</sup>

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<sup>31</sup> Ministry of Foreign Affairs and Cooperation: 1, UNICEF: 80

<sup>32</sup> Act no. 14-05 Law on social protection centres:

Dahir n° 1-06-154 du 30 chaoual 1427 (22 novembre 2006) portant promulgation de la loi n° 14-05 relative aux conditions d'ouverture et de gestion des établissements de protection sociale.

<http://adala.justice.gov.ma/production/html/Fr/149381.htm>

<sup>33</sup> Ministry of Solidarity, Women, Family and Social Development (MSFFDS): 11, National Mutual Assistance: 28-29, UNICEF: 80

<sup>34</sup> National Mutual Assistance: 28

<sup>35</sup> The *kafala* law (La loi *kafala*)

Bulletin Officiel n° : 5036 du 05/09/2002 - Page : 914 : Dahir n° 1-02-172 du 1er rabii II 1423 (13 juin 2002) portant promulgation de la loi n°15-01 relative à la prise en charge (la *kafala*) des enfants abandonnés

<http://adala.justice.gov.ma/FR/DocumentViewer.aspx?id=121780.htm> (ADALA MAROC Portail Juridique et Judiciaire du Ministère de la Justice et des Libertés du Maroc)

Information on *kafala*-procedures can be found in the meeting note Ministry of Solidarity, Women, Family and Social

<sup>36</sup> Ministry of Solidarity, Women, Family and Social Development (MSFFDS): 12, Ministry of Justice and Liberties: 5-7, UNICEF: 73

<sup>37</sup> Ministry of Youth and Sports: 39, National Mutual Assistance: 37

<sup>38</sup> Code of Penal Procedure (Dahir 1.02.255 du 25 rajab 1423 (3 octobre 2002), portant promulgation de la Loi n° 22.01 formant le code de Procédure Pénale), Article 513 'a child in a difficult situation' (translation from French, Appendix F): *A minor under the age of sixteen (16) is considered to be in a difficult situation when his or her physical, intellectual, mental, moral security or his or her education is exposed to danger due to his or her contact with delinquents or persons who are exposed to crime or known for their misbehavior or who have a criminal record or if he or she rebels against the authority of his or her parents, of the person who has custody of the minor, of his or her guardian, of his or her kafil, of the person or institution being in charge of his or her protection, or if he or she has the habit of fleeing from the educational institution where he or she receives his or her studies or education or if he or she has left his or her home or if he or she does not have a suitable place to stay.*

## 2.2 Governmental and non-governmental organisations working with social protection of minors

### *Governmental organisations*

The Ministry of Solidarity, Women, Family and Social Development (MSFFDS) is responsible for the promotion and protection of children's rights in Morocco. An agency under this ministry, National Mutual Assistance (*Entraide Nationale*), is responsible for the provision of social services as well as monitoring and social data collection with regard to Social Protection Institutions (*établissements de protection sociale – EPS*) on a national and regional level.<sup>39</sup> All residential care centers, private and public, are under the supervision of National Mutual Assistance.<sup>40</sup> The Social Protection Institutions (EPS) are socio-educational institutions with a mandate to re-educate and facilitate the reintegration of children into their foster family. There are 1,200 such institutions all over Morocco.<sup>41</sup>

The Ministry of Youth and Sports is responsible to the Child Protection Centres (*Centres de protection de l'enfance – CPE*). The Child Protection Centres (CPE) are socio-educational centres where a minor might be placed for a determined period of time upon court order. These centres are the only centres in Morocco that are authorised by the Moroccan government to receive minors who are in contact with the judicial system.<sup>42</sup> In total there are 20 Child Protection Centres (CPE); in order to separate girls from boys, five out of 20 centres are reserved for girls below the age of 18 years.<sup>43</sup> The delegation paid a visit to the Child Protection Centre in Meknes.<sup>44</sup>

The Ministry of Youth and Sports and UNICEF both stated that to place a child in an institution must remain a solution of last resort.<sup>45</sup> UNICEF commented that children who are victims and/or witness of a crime, migrant children and even vulnerable children deprived of family care are also accommodated in the same center.<sup>46</sup>

### *Non-governmental organisations*

Private organisations like Bayti and Moroccan League for the Protection of Children (LMPE) are running centres for minors of different profiles.<sup>47</sup>

The delegation paid a visit to Bayti in Casablanca that works with boys and girls of all ages, but the largest group consists of preteens and teenage boys (aged 11 until 18). The categories of minors which are not admitted to the association include mentally disabled children with epilepsy, minors with serious drug abuse problems or children who have been abandoned at birth.<sup>48</sup> Bayti has primarily gained experience in

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<sup>39</sup> National Mutual Assistance, introduction and footnote

<sup>40</sup> UNICEF: 71

<sup>41</sup> National Mutual Assistance: 26

<sup>42</sup> Ministry of Youth and Sports: 38

<sup>43</sup> Ministry of Youth and Sports: 38, Child Protection Centre in Meknes: 47

<sup>44</sup> The meeting note is included in Appendix A

<sup>45</sup> Ministry of Youth and Sports: 40, UNICEF: 72

<sup>46</sup> UNICEF: 71

<sup>47</sup> Reference is made to meeting notes with Bayti, and Moroccan League for the Protection of Children (LMPE) Rabat and Casablanca

<sup>48</sup> Bayti: 108

the field of working with and for children living in difficult situations. Assistance to children and adolescents offered by Bayti follows a well-established procedure.<sup>49</sup>

The delegation also visited the Moroccan League for the Protection of Children (LMPE) in Rabat that takes care of girls and boys, young people from the age of 10 to 17 including those living with disabilities. The children who are admitted at Centre Lalla Meriem are without family. There are also children who find themselves in a difficult situation, e.g. cases of children who are vulnerable because one or both of the parents are in prison or suffer from a chronic disease such as HIV/AIDS or a mental disorder. The centre also receives children at risk, e.g. children from divided families or children of migrants. Minors who migrate to Europe and who return to Morocco are not admitted by the League.<sup>50</sup>

The delegation furthermore visited the Moroccan League for the Protection of Children (LMPE) in Casablanca that consists of a kindergarten and a shelter for mothers. Children aged up to 6 attend full-day kindergarten and are offered meals during daytime. The women who stay at the shelter are women who have become pregnant outside of marriage.<sup>51</sup>

### **2.3 Possibilities for adoption/guardianship (*kafala*)**

For an abandoned child or for the child of a family unfit at taking care of a child, *kafala*<sup>52</sup>, (adoption/guardianship) which is Sharia law, is an alternative<sup>53</sup>. The Ministry of Justice and Liberties noted that there is no formal age limit for *kafala*, but in reality only small children are being adopted.<sup>54</sup> Moroccan League for the Protection of children (LMPE) in Rabat noted that only children up to the age of three could be adopted by new parents.<sup>55</sup> The Moroccan League for Children (LMPE) in Casablanca said that children were usually adopted by new parents before the age of one month.<sup>56</sup> However, in this respect the Ministry of Justice and Liberties added that in case an unaccompanied Moroccan minor returned to Morocco, it was not excluded by law that the minor could be adopted/be given guardianship (*kafala*). This would be decided on a case by case basis if there was a claim.<sup>57</sup>

UNICEF called for a review of the *kafala*, which does not fully respond to the needs of the children. Current *kafala* procedures show discrepancies between practice and the interpretation of the law. Applicable norms do not always comply with the principles of non-discrimination and the best interest of the child. Regional disparities are noticed, especially regarding lengthy *kafala* procedures, accessibility of information, degree of preparation of children for *kafala*, insufficient coordination of actors and absence of clear definition of their roles and responsibilities.<sup>58</sup>

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<sup>49</sup> Bayti: 111. For further information on the admission procedure, reference is made to meeting note Bayti in Appendix A

<sup>50</sup> Moroccan League for the Protection of Children (LMPE) in Rabat: 120, 121

<sup>51</sup> Moroccan League for the Protection of Children (LMPE) in Casablanca: 132-134

<sup>52</sup> *Kafala*, according the Ministry of Solidarity, Women, Family and Social Development (MSFFDS), is to take responsibility for an abandoned child which implies the obligation to assume the protection, education and support of an abandoned child in the same way a father would do so towards his own child. *Kafala* does not entitle to filiation and inheritance. Ministry of Solidarity, Women, Family and Social Development (MSFFDS): 12

<sup>53</sup> Ministry of Justice and Liberties: 5

<sup>54</sup> Ministry of Justice and Liberties: 6

<sup>55</sup> Moroccan League for the Protection of Children (LMPE) in Rabat: 126

<sup>56</sup> Moroccan League for the Protection of Children (LMPE) in Casablanca: 135

<sup>57</sup> Ministry of Justice and Liberties: 7

<sup>58</sup> UNICEF: 73

## 2.4 Establishing identity documents for minors in vulnerable situations

According to UNICEF, 14 percent of all children are not registered in the civil registries, including children of unmarried parents. A woman encounters challenges in registering her child if she does not show evidence of a relationship to the father of the child. A marriage certificate (*acte de mariage*) must be presented at the registration of a child. UNICEF added, however, that assistance is given to single mothers in registering children and that for these women there is no obligation to present a marriage certificate. A survey made by the Ministry of Health showed that in 2011, 94 percent of children were registered in the public state register.<sup>59</sup>

The National Mutual Assistance stated that Moroccan minors do not hold individual identity papers (National Identity Card) before the age of 16, unless they have been placed in a public institution by a juvenile court judge. In this case, it has been necessary to determine the child's identity in order to create an individual file regarding the child.<sup>60</sup>

The Ministry of Justice and Liberties as well as the Ministry of Foreign Affairs and Cooperation stated that only citizens who have reached the age of 18 are required to give fingerprints by the authorities.<sup>61</sup> Hence, there is no register with the fingerprints of minors. The Ministry of Justice and Liberties added that children in a difficult situation are not always registered by their families, however, in these cases the authorities can assist in registering the child.<sup>62</sup> The Ministry of Foreign Affairs and Coordination stated that a birth certificate is not sufficient in determining whether or not a person is a Moroccan national. It is solely the passport or a copy of the passport that with certainty can confirm Moroccan nationality.<sup>63</sup> The National Mutual Assistance commented that in order to determine the true identity of a person who fails to show any identity papers, it frequently becomes a matter of credibility on the part of the particular person's statement. However, this credibility is often challenged by the ambiguous nature of the narratives given by unaccompanied minor migrants.<sup>64</sup>

The Ministry of Foreign Affairs and Cooperation said that it is also important to identify the child's family in order to decide whether it is capable of providing an acceptable framework for the reintegration of the child.<sup>65</sup> The National Mutual Assistance stated that as a public institution being present across all the different provinces in Morocco and given its skilled human resources, the National Mutual Assistance is well situated to conduct a search for the parents or other family members through its nationwide representations (in cooperation with the local authorities).<sup>66</sup>

UNICEF stated that in case a child in detention does not have any ID documents, there are organisations that can help the child acquire new ID papers. For instance, the 'Mohamed VI Foundation for the Reinsertion of Detainees' assists in this regard. UNICEF had seen some concrete examples of children who did not have any ID and who had new documents issued.<sup>67</sup>

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<sup>59</sup> UNICEF: 84

<sup>60</sup> National Mutual Assistance: 33

<sup>61</sup> Ministry of Foreign Affairs and Cooperation: 2, Ministry of Justice and Liberties: 8

<sup>62</sup> Ministry of Justice and Liberties: 8

<sup>63</sup> Ministry of Foreign Affairs and Cooperation: 2

<sup>64</sup> National Mutual Assistance: 33

<sup>65</sup> Ministry of Foreign Affairs and Cooperation: 2

<sup>66</sup> National Mutual Assistance: 32

<sup>67</sup> UNICEF: 91



IOM, who has gained experience in providing assistance to minors returning from Greece to Morocco, said that in order to establish Moroccan nationality and to identify the family of a migrant, IOM uses the birth certificate (*carnet de naissance*) as a key document.<sup>68</sup> While in Greece, many Moroccans burn their ID documents in order to conceal their nationality and be able to pass as Syrians. In order to get their Moroccan ID documents back, Moroccan migrants in Greece may ask IOM for assistance. Moroccan embassies and consulates are in charge of identification of the migrants, and IOM closely collaborate with them in the destination/transit country with assistance from the presumed family in Morocco.<sup>69</sup>

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<sup>68</sup> IOM: 101

<sup>69</sup> IOM: 99

### 3. Residential Care Centres in Morocco

#### 3.1 Placement of children in residential care centres

In Morocco, placement of children and youth in care centres is on the rise.<sup>70</sup> UNICEF stated that currently, an estimation of 100,000 children between the age of 0 and 18 are living in public and private care centres. Seven percent of these children are orphans.<sup>71</sup> The National Mutual Assistance (*Entraide Nationale*) and UNICEF both said that the majority of children are placed in child care centres due to poverty and lack of access to education facilities. Many families living in poverty view child care centres as a way to improve their children's chances in life in the sense that they will live under improved material conditions and have access to better education than what local communities can offer and thus seek to place their children temporarily in such a centre.<sup>72</sup> UNICEF further commented that this contributes to families' dependency on social protection services provided by the public sector, and it deprives children of sound psychological, cognitive and emotional development.<sup>73</sup>

The National Mutual Assistance stated that children living in difficult situations who have been registered as such by the authorities are placed by court order in foster families or in Social Protection Institutions (*établissements de protection sociale - EPS*) or in Child Protection Centres (*Centres de protection de l'enfance - CPE*)<sup>74</sup>.<sup>75</sup>

Regarding placement of minors into residential care centres, UNICEF stated that minors who can be placed in a residential care centre by court decision are abandoned children, children living in poverty and children in contact with the law.<sup>76</sup>

According to the Ministry of Youth and Sports, placement by court decision is based on a social inquiry of the child in question, the parents or the child's guardian.<sup>77</sup> The National Mutual Assistance and Bayti explained that in cases where a Moroccan child has been registered by the authorities as a 'child in a difficult situation', 'in danger or in a risky situation' (living in the streets, in contact with the law, drug addiction, etc.), the child's case is submitted to a juvenile court judge in a court of first instance. In such a case, a social inquiry is opened.<sup>78</sup>

Sources pointed to different possible measures towards minors that the judges at the Moroccan courts can take:

Children who have committed an offence are placed in a Child Protection Centre (CPE). These centres receive boys and girls aged between 12 and 18 years. Boys are placed in centres separately from girls.<sup>79</sup> Minors who have not committed an offense, but are categorised as 'a child in a difficult situation'<sup>80</sup>, may

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<sup>70</sup> UNICEF: 70, National Mutual Assistance: 27, Child Protection Centre in Meknes: 49

<sup>71</sup> UNICEF: 70

<sup>72</sup> UNICEF: 70, National Mutual Assistance: 27

<sup>73</sup> UNICEF: 70

<sup>74</sup> Sometimes referred to as *Centres de sauvegarde de l'enfance* CSE.

<sup>75</sup> National Mutual Assistance: 26

<sup>76</sup> UNICEF: 76-77

<sup>77</sup> Ministry of Youth and Sports: 39

<sup>78</sup> National Mutual Assistance: 37, Bayti: 111. For further information on the social inquiry, reference is made to Bayti: 111-112

<sup>79</sup> Ministry of Youth and Sports: 38, Child Protection Centre in Meknes: 47-48

<sup>80</sup> Code of Penal Procedure (Dahir 1.02.255 du 25 rajab 1423 (3 octobre 2002), portant promulgation de la Loi n° 22.01 formant le code de Procédure Pénale), Article 513 'a child in a difficult situation' (translation from French, Appendix

also be placed in a Child Protection Centre (CPE).<sup>81</sup> However, for minors in this group, the authorities seek to facilitate their social integration into the family which is primarily the case for minors below the age of 15 years<sup>82</sup> and his case will not be assessed within the framework of the Code of Penal Procedure.<sup>83</sup>

Apart from penalties involving the placing in a Child Protection Centre (CPS), the juvenile judge may also decide that the minor must serve an alternative penalty, such as supervised probation.<sup>84</sup> According to UNICEF, this measure is referred to as the 'monitored freedom' (*liberté surveillée*) and implies that a child is referred to a probation officer (*délégué*), employed by the Ministry of Youth and Sports or a volunteer under the supervision of that same Ministry. UNICEF commented that there are limited resources and that the number of probation officers is insufficient compared to the number of cases put under monitoring.<sup>85</sup>

For children who have committed an offense, other placement facilities include: medical facilities, professional training facilities or an observation centre which is in fact located in the child protection centre (CPE). This service is used during the court process to enable the educators to assess the attitude/behaviour of the child and to provide information to the judge's decision.<sup>86</sup>

UNICEF added that the judge can also decide to place the child with a 'trustworthy person'. Moroccan law does not yet provide for temporary placements such as foster families.<sup>87</sup>

UNICEF commented that the Moroccan court system is still highly punitive towards minors, but at the same time it offers alternatives aiming for educating children in different categories: children in conflict with the law, children victims of violence, abuse or exploitation, and children in a difficult situation.<sup>88</sup> Often these children, of all three categories, will be placed by a judge in the Child Protection Centre (CPE).<sup>89</sup>

Children that have committed serious offenses will be detained in prison facilities: *Centres de réforme et d'éducation*, in principle separated from adults.<sup>90</sup> National Mutual Assistance corroborated that children in conflict with the law, may be placed in a juvenile detention institution.<sup>91</sup>

On placement in associations, Bayti explained that if the judge decides to place the child in a Bayti facility, there are two possibilities: residential care in which the child will be living in a Bayti home (this possibility is applied when a child has lost contact with his or her family) or day-care (in cases where a child has

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F): A minor under the age of sixteen (16) is considered to be in a difficult situation when his or her physical, intellectual, mental, moral security or his or her education is exposed to danger due to his or her contact with delinquents or persons who are exposed to crime or known for their misbehavior or who have a criminal record or if he or she rebels against the authority of his or her parents, of the person who has custody of the minor, of his or her guardian, of his or her *kafil*, of the person or institution being in charge of his or her protection, or if he or she has the habit of fleeing from the educational institution where he or she receives his or her studies or education or if he or she has left his or her home or if he or she does not have a suitable place to stay.

<sup>81</sup> Ministry of Youth and Sports: 40, Child Protection Centre in Meknes: 54, UNICEF: 87

<sup>82</sup> Ministry of Youth and Sports: 40, Bayti: 112

<sup>83</sup> Bayti: 112

<sup>84</sup> Ministry of Youth and Sports: 39

<sup>85</sup> UNICEF: 88

<sup>86</sup> UNICEF: 79

<sup>87</sup> UNICEF: 77

<sup>88</sup> UNICEF: 87

<sup>89</sup> UNICEF: 87, Ministry of Youth and Sports: 40, Child Protection Centre in Meknes: 54

<sup>90</sup> UNICEF: 87

<sup>91</sup> National Mutual Assistance: 37

maintained some level of contact with their family). In all cases, an individual plan will be drawn up. The plan is based on a thorough analysis of the root causes for the current problems.<sup>92</sup>

### **3.2 Standards of care and monitoring**

According to National Mutual Assistance, Act no. 14-05 contains the minimum standards concerning the budget for food as well as for the organisation of the physical environment.<sup>93</sup> By contrast, UNICEF noted that there are no standards regulating physical space and food.<sup>94</sup>

It is stipulated in Act no. 14-05 that control committees are established at provincial level to make inspection visits at Social Protection Institutions (EPS) at least twice a year.<sup>95</sup> Bayti commented that the standards laid down in Act no. 14-05 solely concern physical space and not educational standards and standards on work procedures setting a framework for the quality of care for children in need of social protection and care that regulates the work by private associations.<sup>96</sup>

With regard to the minimum standards in the Child Protection Centres (CPE), the Ministry of Youth and Sports informed the delegation that a manual on procedures applicable to the provision of residential care for minors who have been admitted at a Child Protection Centre (CPE) was published in 2015. This manual contains information on standards for reception of minors, the persons who are authorised to intervene in the child's admission to a Child Protection Centre, the notification of parents and the search for the family of origin as well as what a child can expect in terms of quantities of food and psychosocial support (immediate or long term).<sup>97</sup> The Child Protection Centre (CPE) in Meknes stated that basic medical care, schooling and educational activities are provided at the centre. A commission visits the centres regularly (at a three-month intervals) in order to follow the implementation of the commission's recommendations.<sup>98</sup>

UNICEF commented that there is no national legislation setting minimum standards of care covering the child care centres. Standards of care for physical space, nutrition, education, health care and pedagogical interventions are decided individually at each centre. UNICEF specifically pointed to the absence of institutionalised psychosocial service towards youths, even though this dimension must be addressed in order for youths in a difficult situation to reintegrate in society.<sup>99</sup>

Bayti explained that they had developed guidelines that set out procedures for reception of a minor into a Bayti facility as well as standards of care for children in difficult situations. During a minor's stay in a Bayti home, he or she attends the local school. If they have not yet reached the level required to follow standard education in the public school system, Bayti will ensure their access to vocational training, apprenticeship or job placement in consultation with public or private centres. With regard to medical care in the Bayti residential care centers, the minors have access to medical care through the public health care system and a network of various volunteer medical specialists. Mental health is attended to by a child psychiatry unit (a

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<sup>92</sup> Bayti: 111-112. For further information on the placement procedure to a Bayti facility, reference is made to meeting note Bayti, Appendix A, sections 111-112

<sup>93</sup> National Mutual Assistance: 28

<sup>94</sup> UNICEF: 82

<sup>95</sup> National Mutual Assistance: 29

<sup>96</sup> Bayti: 116

<sup>97</sup> Ministry of Youth and Sports: 41-42 For further information on the manual 'Guideline and Procedures for Child Protection Centres in Morocco', reference is made to meeting note 'Child Protection Centre in Meknes', Appendix A, section 'Monitoring of standards of care at the Centre'

<sup>98</sup> Child Protection Centre in Meknes: 48

<sup>99</sup> UNICEF: 82

friend of the association). As for medicine, Bayti covers the costs with a 30 percent discount offered by pharmacies that cooperate with the association.<sup>100</sup>

The Moroccan League for the Protection of Children (LMPE), Rabat stated that in case of need, children will receive medical care at the centre. However, in case of serious illness, the children are urgently transferred to the nearest hospital. As for education, the large majority of the children staying at Centre Lalla Meriem attend primary school, but there are also children who attend nursery school, secondary school and who receive non-formal education.<sup>101</sup>

### **3.3 Initiatives supporting 15 to 17 years old youth**

UNICEF stated that minors aged 15 to 17 years can be admitted in protection/care centres where younger children also live. There are no specific centres dedicated to this group of adolescents.<sup>102</sup> However, several sources pointed to programmes designated for vocational training and life skills. Among these initiatives, USAID mentioned career centres at universities and vocational training institutes in Casablanca, Marrakesh and Tangiers, as well as a project implemented in cooperation with IOM in Tangier and Tetuan aimed at reducing marginalisation of 14 to 25 year olds.<sup>103</sup> UNICEF pointed to the possibility of attending programmes on vocational training and life skills designated for youth at the age of 15 to 17 years in the Child Protection Centres (CPE).<sup>104</sup>

Bayti offers services covering particular needs of teenagers aged 15 to 17 (coaching, individual talks, assistance in connection with requests for traineeships, drafting CVs, psychological care and support, etc.).<sup>105</sup>

The Moroccan League for the Protection of Children (LMPE) in Rabat runs a number of programmes targeting different groups of children and youth out of which one programme regards the care of children and young people who are likely to migrate illegally to Europe.<sup>106 107</sup>

### **3.4 Geographical coverage and capacity of residential care centres**

Sources noted that there are 1,200 Social Protection Institutions (EPS) and 20 Child Protection Centres (CPE) across the country.<sup>108</sup> According to UNICEF, there are currently state-run child care centres in all 12 regions of Morocco.<sup>109</sup>

The Moroccan League for the Protection of Children (LMPE) notes on their website that the organisation offers education for children in different regions across the country.<sup>110</sup>

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<sup>100</sup> Bayti: 114-116

<sup>101</sup> Moroccan League for the Protection of Children (LMPE), Rabat: 122-23

<sup>102</sup> UNICEF: 93

<sup>103</sup> USAID: 61-63

<sup>104</sup> UNICEF: 93-94

<sup>105</sup> Bayti: 117

<sup>106</sup> Moroccan League for the Protection of Children (LMPE) in Rabat: 129

<sup>107</sup> For further information on programmes on education and training of youths at the age of 15 to 18 years old, reference is made to Appendix A: USAID: 61-63 UNICEF: 93-94, Bayti 117, Moroccan League for the Protection of Children (LMPE) Rabat: 129

<sup>108</sup> Ministry of Youth and Sports: 38, Child Protection Centre in Meknes: 47, National Mutual Assistance: 26

<sup>109</sup> UNICEF: 72

<sup>110</sup> The Moroccan League for the Protection of Children, Presentation:

[http://lmpe.org.ma/?page\\_id=294](http://lmpe.org.ma/?page_id=294)

Recently, the Moroccan Government initiated the establishment of twenty new centres in order to cover the need for institutional placement of children.<sup>111</sup> Bayti noted that currently, the number of minors who are confronted with problems in terms of social protection, education, access to medical care and housing by far exceed the capacity of the associations that provide shelter or protection against violence.<sup>112</sup>

With regard to the capacity of the Child Protection Centres (CPE), UNICEF commented that the majority of the Child Protection Centres (CPE) are large scale and accommodate more than 50 children with two to three educators at the best.<sup>113</sup> Different from this statement, the Child Protection Centre in Meknes informed the delegation that it has a capacity of 80, but only 50 boys have been placed in the centre.<sup>114</sup>

## **4. Return of Minors to Morocco**

### **4.1 No procedures in place for Moroccan unaccompanied minors upon return**

Currently, there are no national procedures in place for the reception of unaccompanied minors who return from migration.<sup>115</sup> A person under 18 who returns from abroad and appears to the authorities as having no contact with his or her family or guardians may, according to National Mutual Assistance and UNICEF, be recognised within the social category of ‘children living in difficult situations’ and benefit from the social protection services available to this group of children.<sup>116</sup> This assessment was corroborated by an example from the field offered by a Director of a Child Protection Centre (*Centre de protection de l’enfance, Meknes*) who explained that such a child might, upon court order, qualify for reception at a child protection centre. Here he (or she) will benefit from residential care similar to that offered to other minors within the category of ‘children living in difficult situations’.<sup>117</sup>

The Ministry of Foreign Affairs and Cooperation and the Ministry of Solidarity, Women, Family and Social Development (MSFFDS) both stated that the best solution for a child in a difficult situation/an abandoned child is to be reintegrated in the family or to avoid separation from a family environment.<sup>118</sup>

Presently, the National Mutual Assistance is far more experienced within the field of prevention of irregular migration rather than in the field of reintegration of returnees.<sup>119</sup>

### **4.2 Experiences and Attempts of Return of Minors**

In 2013, the governments of Morocco and Spain signed an agreement aimed at strengthening the prevention of illegal migration between the two countries through improved border surveillance and readmission of irregular immigrants.<sup>120</sup> However, in practice Spain has not sent back unaccompanied

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<sup>111</sup> National Mutual Assistance: 26

<sup>112</sup> Bayti: 109

<sup>113</sup> UNICEF: 71

<sup>114</sup> Child Protection Centre in Meknes: 48

<sup>115</sup> UNICEF : 92

<sup>116</sup> National Mutual Assistance: 36, UNICEF: 92

<sup>117</sup> Child Protection Centre, Meknes: 50

<sup>118</sup> Ministry of Foreign Affairs and Cooperation: 1, Ministry of Solidarity, Women, Family and Social Development (MSFFDS): 15

<sup>119</sup> National Mutual Assistance: 25

<sup>120</sup> Ministry of Foreign Affairs and Cooperation: 3; Ministry of Solidarity, Women, Family and Social Development : 17,

minors to Morocco because Morocco was not found to be able to offer the required reception and social protection to minors.<sup>121</sup>

Several organisations in Morocco have gained experience in assisted return of minors from Europe to Morocco. Among those organisations the International Organization for Migration (IOM) is playing a lead role.<sup>122</sup> IOM has in particular helped Moroccans wishing to leave Greece in the past few years. In the case of voluntary assisted return of a minor, the first step is for the IOM mission in the country of destination to re-establish the identity documents in case the minor has disposed of his documents. This is done through the Moroccan embassies and consulates. Second step is to establish contact with the natal family to explore the possibilities for a family reunification. IOM in Morocco will interview the different members of the family in order to assess whether the family has the required social, affective and material resources to take back the child. IOM emphasised that the organisation's participation in assisted returns is preconditioned by two factors: the expressed willingness of the minor to return voluntarily; and the capability and willingness of the family of origin to engage in a family reunification.<sup>123</sup>

During the Syrian refugee crisis, according to IOM, Moroccans emigrated by the thousands to Europe. In Greece, the migrants who wanted to go further into Europe via the Former Yugoslav Republic of Macedonia (FYROM) found themselves in a precarious situation which motivated a considerable number of Moroccans to return to Morocco. The number of voluntary returnees from Europe in 2016 peaked at approximately 1,174. There has been a considerable rise of returning minors from Greece to Morocco facilitated by IOM.<sup>124</sup>

IOM explained that the family of the minor is often reluctant to let their child return which is often based on two factors: the fact that the family paid for the trip and the fact that the return of a migrant is seen as a defeat for the whole family. A returning migrant is likely to be met with a negative reaction from his or her own family and local community.<sup>125</sup>

IOM has implemented, in collaboration with the National Mutual Assistance, a project aimed at preventing illegal migration to Italy from Khouribga, located in the North of Morocco.<sup>126</sup> Another joint project which was supported by Spanish cooperation and implemented in Beni Mellan and Nador aimed to offer potential migrants to Europe better prospects for staying in their home country.<sup>127</sup>

Bayti, which is an officially registered NGO, has been involved in attempts to bring back minors aged 16-17, who have been denied residency in Sweden, to Morocco.<sup>128</sup> Bayti was part of a project which began in 2014 with a strategic focus on the family of origin as well as on the minor in Sweden. Skilled staff members from Bayti initiated individual contact over the phone with the Moroccan minors in Sweden with the hope of engaging a dialogue about their return to Morocco. At the same time, Bayti staff went to their families in

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<sup>121</sup> Embassy of Spain: 66

<sup>122</sup> IOM : 98-103

<sup>123</sup> IOM: 96

<sup>124</sup> IOM: 96

<sup>125</sup> IOM: 101

<sup>126</sup> National Mutual Assistance: 35

<sup>127</sup> National Mutual Assistance: 35

<sup>128</sup> Bayti : 118. For further information on the project carried out by Bayti in cooperation with Swedish authorities, reference is made to report by Barnrattsbyran, Peter Leander, March 2016, *De öönskade, En rapport om de ensamkommande marockanska barnen i Sverige*. Available at: [http://barnrattsbyran.se/wp-content/uploads/2016/09/Rapport\\_ADEL\\_A5-kopia.pdf](http://barnrattsbyran.se/wp-content/uploads/2016/09/Rapport_ADEL_A5-kopia.pdf)

their homes to discuss under which terms a family reunification would be possible. In all attempted cases Bayti succeeded in locating the biological family of the minor or his guardian. The experiences from this project were unsuccessful: in no case was a minor brought back to Morocco via the interventions from this project. According to Bayti, the reasons were multiple. First, the conditions for family reunification turned out to be poor in that the families lived in conditions of material hardship. Families, in particular the father, were often reluctant to accept the return of the child to the family home. Secondly, it was difficult for Bayti staff to establish the required trust-based relations with the minors over the phone to engage in a dialogue about their return. The minors showed a general distrust in the intentions of their interlocutors from Bayti and never fully engaged in the dialogue.<sup>129</sup>

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<sup>129</sup> Bayti: 100



## **Appendix A: Meeting Notes (English version)**

### **Governmental Organisations**

#### **1 Ministry of Foreign Affairs and Cooperation**

##### **Interview with Mustapha El Bouzaoui, Consular and Social Affairs**

10 October 2016, Rabat

The conversation with Mustapha El Bouzaoui began with an assessment of the socio-political situation in the Moroccan society. The Director of the Department of Consular and Social Affairs offered a statement about the three issues submitted by the Danish Mission in the following order: the situation of unaccompanied minors, the situation of LGBT persons and double punishment. He emphasized the need for subsequent consulting the ministries and associations specializing in each field in order to provide further information.

##### **The situation for minors living without their parents**

1. For the Government of the Kingdom of Morocco the conditions for children who do not have any contact or who have only a little contact with their family must be examined in the context of the best interests of the child. Morocco has ratified the International Convention for the Rights of the Child in 1993 and the Government is eager to respect the principles laid down in it. The Government recognizes that the rapid socio-economic changes that the country currently undergoes constitute a challenge to the stability of the Moroccan family. Hence, the phenomenon in terms of being abandoned by the family or refusing to return to the family-wise environment is not at all an unknown phenomenon. On an overall basis, the Moroccan Government makes efforts to create conditions that are necessary for the welfare of children who are in difficult situations. The Government's diagnosis is that it must be done through the reintegration of the family. The Government recognises that the migration of unaccompanied minors is more complex than the migration of adults, and therefore it is necessary to develop a multidimensional approach to the phenomenon of migration of Moroccan children who are crossing borders in order to reach Europe. One of such approaches is to fight against traffickers of minor migrants. Currently, the Government does not have enough data to establish the extent of this phenomenon.
2. When the Moroccan authorities receive a request from a foreign country regarding a minor who is presumed to be a Moroccan national, the relevant authorities examine each particular case. First, it is a matter of examining the information indicating that the person in question is in reality of Moroccan nationality. In order to reach a conclusion, a birth certificate is not sufficient. It is solely the passport or a copy of the passport that with certainty can confirm the Moroccan nationality. There is no register with the fingerprints of minors. Moreover, it is also important to identify the child's family in order to decide whether it is capable of providing an acceptable framework for the reintegration of the child. Sometimes it is necessary to initiate a mediation process between the parents and the child in order to be able to re-establish the contact. There are parents who decline the return of their child. Finally, it is necessary to evaluate whether a possible return to the family environment is in the best interest of the child. An important aspect of this evaluation is to get to know whether the child who has become accustomed to the mores and manners in a third party country for a long period might thrive in his childhood milieu.

3. In 2013, Morocco signed a bilateral agreement with Spain that provides a legal framework dealing with unaccompanied minor migrants. Morocco has committed itself to fight against trafficking of migrants in cooperation with neighbouring countries, mainly by focusing on border security and the protection of minors.
  4. Mr. Mustapha El Bouazaoui referred to a project targeting street children carried out by *Entraide Nationale* (National Mutual Assistance). According to data from this project, the number of children living in the street is on the decline.
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## 2 Ministry of Justice and Liberties

### Department of Criminal Cases and Pardon

Rabat, 17 October 2016

#### Adoption/guardianship, *kafala*, of a child

5. To adopt or take guardianship, *kafala*, of a child constitutes a family alternative for an abandoned child and a child born into a family that is unfit to take care of the child. The *kafala* of a child depends on a court order made under the *kafala* procedure in accordance with the Muslim faith. The child may be adopted either by a married couple or by an unmarried woman.
6. The age limit for a child to be adopted under the *kafala* procedure is 18 years, but in reality, children are adopted at a young age.
7. In a case where an unaccompanied minor migrant has returned to Morocco, the legislation<sup>130</sup> does not exclude that this child may be adopted by means of *kafala*. A decision is made case by case if there is a claim.

#### Identification

8. In Morocco, citizens may be requested to give fingerprints from the age of 18. The fingerprints are registered in the national register. Morocco has made efforts to register all its citizens. Children who are in a difficult situation have not always been registered by their family and in such cases, the State may assist with registration of the child. The court will decide whether the child is abandoned.

#### Juvenile judges

9. The judges who are in charge of the cases regarding minors get specialized training, however that is not sufficient to prepare them for all particular cases that they might be confronted with. The judges who are in charge of the cases regarding minors also deal with the cases concerning adults. The Director of the Department of Criminal Cases and Pardon would like the judges to be

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<sup>130</sup> The *Kafala* Act: Bulletin Officiel no. 5036 dated 5 September 2002 – page: 914: Dahir [decree] no. 1-02-172 dated 1<sup>st</sup> rabii II 1423 (13 June 2002) regarding the enactment of the Care (*kafala*) of Abandoned Children Act no. 15-01. <http://adala.justice.gov.ma/FR/DocumentViewer.aspx?id=121780.htm> (ADALA MAROC legal and judicial web portal of the Moroccan Ministry of Justice and Liberties)

specialised in order to increase their focus. In Morocco, a judge and a prosecutor assume the same function as a magistrate.

10. When the imprisonment of a minor is deemed necessary, the minor is given half of the sentenced that is applicable to adults.
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### **3 Ministry of Solidarity, Women, Family and Social Development (MSFFDS)**

#### **Interview with Mr. Mohamed Ait Aazizi, Director of the Department of the Protection of the Family, Children and Older Persons**

Rabat, 13 October 2016

*The Child Division under the MSFFDS is responsible for the promotion and protection of children's rights.*

#### **Legislation**

11. The Moroccan legislation ensures the protection of abandoned children. For the past years, Morocco has been engaged in the process of a comprehensive legislative reform involving multiple dimensions of child protection. This reform comprised the Penal Code and the Code of Penal Procedure, the revision of Act no. 14-05 regarding the establishment, management and operation of Social Protection Centres (établissements de protection sociale - EPS) that will be repealed by the draft bill no. 65-15 regarding social protection centres, Act no. 19-12 regarding domestic workers promulgated in the Official Bulletin on 22 August 2016. All those acts and draft bills have a direct impact on the child's right to protection.
12. The control of the implementation of *Kafala* is laid down in Act no. 15-01 promulgated by Dahir [decree] no. 1-02-172 dated 13 June 2002 that stipulates as follows:
  - To take responsibility for (*Kafala*) an abandoned child [implies] the obligation to assume the protection, education and support of an abandoned child in the same way a father would do so towards his own child. *Kafala* does not entitle to filiation and inheritance.
  - The guardianship judge of the jurisdiction where the person who assumes *Kafala* for a child resides, is under an obligation to monitor and control the situation of the child and to ensure that this person honours the obligations which are incumbent on him.
  - In order to ensure that this supervision is efficient, the judge may resort to inquiries that he finds useful through the Prosecution, local authorities, social workers or, in general, any competent person.

#### **Integrated Public Child Protection Policy in Morocco (PPIPEM) and the National Immigration and Asylum Strategy (SNMA)**

13. In order to ensure that protection against any sort of violence and that a protective environment is efficient for children, the Ministry of Solidarity, Women, Family and Social Development launched a process in 2013 which has led to the development of an *Integrated Public Child Protection Policy in*

*Morocco* (PPIPEM). This process involved all relevant stakeholders, including government departments, parliamentarians, private associations, the private sector, international partners, and with the participation of children themselves. The PPIPEM was adopted on 3<sup>rd</sup> June 2015 by the Ministerial Commission responsible for the supervision of the implementation of national policies and plans regarding the advancement of the conditions for children and the protection of their rights. The chairperson of this commission was the Head of the Government.

14. The objective of the National Immigration and Asylum Strategy is to ensure a better integration of immigrants and improved administration of migration inflows within the framework of a coherent, global and responsible policy based on values of human dignity. This strategy is based on a situational analysis of the stakes concerning immigration and asylum. It is in accordance with the Royal Directives and constitutes a continuation of the measures taken by the Ministry of Moroccans Residing Abroad and Migration Affairs (MCMREAM) in cooperation with other national institutions, international institutions and civil society.
15. The return of any child under 18 from migration to a social protection centre is conditioned by the best interests of the child in the framework of the return procedure. The decision concerning the minor's placement should be made by the Juvenile Court Judge on the basis of his or her detailed knowledge of the child's case files. According to the Moroccan Government, the best solution for an abandoned child is to be placed in a foster family and to avoid any separation from a family environment.
16. Illegal emigration is prevented through two approaches. First, MSFFDS seeks to address departure conditions for those who seek to emigrate through awareness raising activities among families about the risks linked to migration. Secondly, the border guard authorities under the Ministry of the Interior and the Ministry of Foreign Affairs and Cooperation contribute to the prevention of illegal emigration.
17. Morocco has entered into a readmission agreement with Spain and has made considerable investments in the prevention of illegal emigration. In order for Denmark to obtain a similar agreement regarding the readmission of Moroccan minors from Denmark, the two countries would have to engage in bilateral negotiations at a ministerial level.

### **Standardisation of child protection structures, services and practices**

18. The aspirations and willingness which are expressed in the PPIPEM is to build an integrated child protection system in Morocco that is adapted to the local institutional, social, economic and cultural context. The system should benefit from appropriate funding and have the right instruments to ensure an efficient protection of children in accordance with existing national and international standards.
19. Currently, there are more than 1,500 Social Protection Centres (EPS) in Morocco mandated to offer care to both males and females in need of social protection, as well as to children who are in a situation characterised by hardship, uncertainty or poverty. More than 154 structures among those centres, most of which are run by private associations, are mandated to provide care to children with disabilities. These structures are funded by a variety of agencies.
20. A child who is admitted to a social protection centre may benefit from assistance on a long-term or a short-term basis and may be provided with full or partial accommodation. The services offered include accommodation, food, basic medical care and socio-educational follow-up carried out with

respect for the physical, mental and psychosocial integrity of the person as well as for his or her dignity, age and gender..

21. The accommodation of children in difficult situations is carried out by the Social Protection Centres (EPS). Those centres are operating within Act no. 14-05 regarding the conditions of the establishment and management of social protection centres. At present, the Department of the Protection of the Family, Children and Older Persons is launching a reform of the social centre system based on an assessment carried out in 2013. For that reason, the revision of Act no. 14-05 is in process.

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## 4 National Mutual Assistance (Entraide Nationale)

### Interview with Mr. Abdelmonnime El Madani, Director

17 October 2016, Rabat

*The National Mutual Assistance (l'Entraide Nationale) was initially founded as a private social foundation<sup>131</sup>, but became subsequently a public foundation with a legal personality and financial autonomy, i.e. a status that it has kept until today. Its objective is to provide different types of aid and assistance to people and to contribute to the strengthening of family and social values. The National Mutual Assistance is responsible for 3,988 centres of which 928 are specifically intended for abandoned children, children with disabilities and children in a difficult situation. The National Mutual Assistance offers financial support and human resources to a number of private organisations which are engaged in social service provision at a local level.*

### The issue of migration of unaccompanied minors

22. The Director stated that after being a country which for some time has been known for generating a high number of illegal migrants, Morocco has increasingly become a transit country for migrants who to a large extent come from West and Central Africa. This turn has created two challenges: on one hand, meeting the basic needs of migrants of all nationalities who find themselves in a very precarious situation on Moroccan territory and on the other hand, meeting the basic needs of Moroccan migrants who return after staying abroad.
23. As for the migration of unaccompanied minors, the Director noted that the National Mutual Assistance is not in possession of sufficient qualitative and quantitative data to assess the extent of this phenomenon. It is the policy of the Moroccan Government to facilitate re-education and social reintegration of all children from broken families, including unaccompanied minor migrants. The Director emphasised that in the framework of the national policy, the National Mutual Assistance is

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<sup>131</sup> The National Mutual Assistance (*Entraide Nationale*) was founded by dahir (decree) no. 1-57-099 dated 27 April 1957 and became a public foundation by decree no. 2-71-625 dated 28 February 1972. The EN is currently under the Ministry of Solidarity, Women, Family and Social Development. According to its new strategic approach, its measures are carried out through three main components: 1) provision of social services; 2) provision of services 'through various points of contact' and 3) monitoring and social data collection. The National Mutual Assistance may be requested to contribute to establishing institutions and associations with a mandate to facilitate access to employment and social integration of vulnerable population groups. On a national level, the organisational structure of the National Mutual Assistance is based on the principle of deconcentration of a number of activities and assignments within ten regionals coordination units that represent the National Mutual Assistance at a regional level and within 82 provincial delegations placed in the prefectures and provinces of Morocco.

ready to engage in those children by virtue of its mandate and its expertise in terms of family reunification. The Director emphasised that within the official framework of cooperation the National Mutual Assistance is very willing to cooperate with those European countries where a high number of unaccompanied minor migrants are found to improve their access to basic services after their voluntary return to Morocco.

24. One of the explanatory factors for the migration of minors, is, according to the Director, the high number of children living in the streets with limited contact with their family of origin. In the streets the idea of migration as a possibility develops over time among those children. The street, with its insecurity and violence, can be characterised as a 'migration generating motor'. A second factor is the influence of the socio-family environment. According to the Director, only few minors make the decision to attempt to migrate without being encouraged to do so, either passively or actively, by their family or other parts of their social network. Therefore, he excluded the possibility that unaccompanied minor migrants belong to the group of abandoned children or orphans. Children who originate from the poorest social groups, such as children from rural areas or orphans by both parents, are not in possession of the required resources to engage in migration. According to information from juvenile court judges, very few children who have been placed in institutions escape from these institutions. Hence, it is not very likely that children from institutions become illegal migrants.
25. The Director added that the National Mutual Assistance is an institution that seeks to strengthen its role as a social service provider reaching out to child migrants. However, the National Mutual Assistance has more experience in the field of prevention of migration and has not yet obtained solid operational experience within the field of voluntary return of Moroccan minors. At present, its experience base is limited to cooperation in some provinces with other organisations seeking to support and accompany migrants who accept to return voluntarily from Italy. In addition to this experience, the National Mutual Assistance has contributed to the development of teaching modules with the United Nations Population Fund (UNFPA). These modules seek to prevent illegal migration.

### **Institutionalisation of children in difficult situations**

26. Children living in difficult situations who have been registered as such by the authorities are placed by court order in foster families or in Social Protection Institutions (établissements de protection sociale - EPS) or in Child Protection Centres (Centres de protection de l'enfance - CPE).<sup>132</sup> The Social Protection Institutions are socio-educational institutions with a mandate to re-educate and facilitate the reintegration of children into their foster family. There are 1,200 such institutions all over Morocco. The beneficiaries are children who are in difficult situations for socio-economic reasons, children who are victims of violence and children who are disabled. Recently, the government has initiated the establishment of twenty new centres in order to cover the need for institutional placement of children. By contrast, as a general rule the Child Protection Centres are mandated to admit minors in conflict with the law.
27. According to the Director, there has been an increase in the demand for institutional placement of children on the part of the poorest families, especially with a view of improving their access to education. In certain institutions, there are even waiting lists. Poor families seem to prefer to place their children in a public institution rather than confront the problems within the family, with the hope of improving their children's chances of achieving better education outcomes. This increase in

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<sup>132</sup> Sometimes referred to as Centres de sauvegarde de l'enfance CSE.

demand for residential care is a topic of concern because it is counter to the Government's wish to protect the unity of the family. The Government is seeking to counteract this development through a new approach, i.e. the so-called 'care at a distance'. It implies that children are not admitted as boarders into an institution, but are provided with different forms of material and educational assistance. Currently, the National Mutual Assistance is preparing itself to meet those challenges within the framework of the national platform for the Integrated public policy 2016 to 2020 for child protection in Morocco.

### **Standards regarding social protection institutions (Social Protection Institutions)**

28. The EPS are regulated by Act no. 14-05 passed in 2006 which contains the regulations and standards applicable to social protection institutions. This Act seeks to establish and harmonise standards for quality applicable to the provision of care for children living in difficult situations. However, this Act contains the minimum standards concerning the budget for food as well as for the organisation of the physical environment. Within the framework of the preparation of a new act about social protection institutions, specific attention has been invested in the development of minimum standards for the quality of education, children's access to services that reflect their individuality, medical care, educational approach and the quality of the food in appropriate quantities.
29. Prior to passing of the Act no. 14-05 there was insufficient monitoring of the provision of services to children in difficult situations. This act stipulates the establishment of a control committee. According to Act no. 14-05, the control committees which are established at a provincial level consist of several members who must make inspection visits at the EPS at least twice a year in order to ensure that the requirements of Act no. 14-05 and regulations that are specific for each institution are being met.
30. Furthermore, in order to offer the best possible conditions for improved monitoring of financial management of the institutions, it has been laid down that external audits of their performance must be carried out by independent consulting firms. The results of this audit must be reported in an annual report for each particular institution.
31. Through the Ministry of Solidarity, Women, Family and Social Development, the National Mutual Assistance has numerous national and international partners, including nationwide child protection associations, the National Human Rights Council, UNICEF and the International Organization for Migration (IOM). The Director of the National Mutual Assistance explained that together with his partners he has initiated a comprehensive work in terms of the development of procedures for the provision of residential care within the Social Protection Institutions.

### **Identification of minors living in difficult situations**

32. According to the Director, one of the main elements within the process of taking back unaccompanied minor migrants is to determine their true identity. As a public institution being present across all the different provinces in Morocco and given its skilled human resources, the National Mutual Assistance is well situated to conduct a search for the parents or other family members through its nationwide representations (in cooperation with the local authorities).
33. Moroccan minors do not hold individual identity papers (National Identity Card) before the age of 16 unless they have been placed in a public institution by a juvenile court judge. In this case it has

been necessary to determine the child's identity in order to establish an individual file of the child. Moreover, minors who are in possession of individual identity papers, e.g. a passport, frequently destroy their own documents during their travels. To determine the true identity of a person who fails to show any identity papers, frequently becomes a matter of credibility on the part of the particular person's statement. However, this credibility is often challenged by the ambiguous nature of the narratives given by unaccompanied minor migrants.

34. The Director noted that even though it is feasible to identify the family of origin, even in the absence of identity papers, it still remains difficult to reach a point of family reunification. To establish the conditions for family reunification, there must be a certain level of expertise in terms of psychology as well as sufficient time so that relations based on confidence may be established and sustained.

#### **Activities assisting minor migrants to return**

35. The National Mutual Assistance and IOM have been jointly responsible for a programme seeking to coordinate the voluntary return of Moroccan migrants. The objective of this programme was to reduce illegal migration of minors from the Khouribga region in Morocco to Italy. Another collective action between International Organization for Migration and the National Mutual Assistance was a project offering support to minors who were potential illegal migrants in Beni Mellal and Nador. This project was supported by the Spanish Agency for International Development Cooperation.
36. Migrants who are under 18 may benefit from social protection services provided that they are registered by the authorities. According to the Director, they might be considered as belonging to the category of children in difficult situations.
37. In accordance with standard procedure, a juvenile court judge in a court of first instance decides where a child living in a difficult situation in conflict with the law should be placed. As for children in conflict with the law, the judge may decide to place the child in question in a juvenile detention institution or in a child protection centre under the Ministry of Youth and Sports.

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## **5 Ministry of Youth and Sports**

### **Interview with Yaccine Bellarab, Director of Cooperation, Communication and Law Studies, Mohammed Bouhafid, Head of Department of Child Protection Centres**

13 October 2016, Rabat

*The objective of the conversation with the representatives of the Ministry of Youth and Sports was to achieve a better understanding of the provision of social protection services to of children living in difficult situations and about Child Protection Centres (CPE) in Morocco.<sup>133</sup> The Social Protection Centres are institutions whose task is to monitor and re-educate minors who are in conflict with the law.*

38. The Director introduced the conversation by stating that at present there are 20 Child Protection Centres across the country with a total of 1,000 minors who are placed in the centres. In order to separate the girls from the boys, five of the CPEs are reserved for girls under 18. The CPEs are

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<sup>133</sup> They are also known under the name of Safeguard Centres.



socio-educational centres where a minor might be placed for a determined period of time upon court order. Normally, this period of admission varies between two months and one year. The Director noted that the CPSs are the only institutions that are authorised by the Moroccan Government to receive minors who are in contact with the judicial system. The Director added that the responsibility for the CPEs is placed with the Ministry of Youth and Sports in order to be able to treat the minors as persons who have made a mistake rather than persons who have committed a crime.

39. The juvenile judge makes a decision regarding the placing in a CPE pursuant to sections 471 and 481 of the Code of Penal Procedure. The decision is made by the judge based on a social analysis of the child in question, his or her parents or, if there are no biological parents, the child's guardian. Apart from penalties involving the placing in a CPS, the juvenile judge may also decide that the minor must serve an alternative penalty, such as supervised probation.

### **Mixing of children in difficult situations with children in conflict with the law**

40. The target groups of those public institutions are preteenagers and teenagers aged 12 to 18 who have committed various criminal offences.<sup>134</sup> However, young persons who are defined as being in a 'difficult situation' under the Code of Penal Procedure may also be placed in a CPE. The Director emphasised that as for minors characterised as being in a 'difficult situation', the authorities seek to facilitate their social integration into the family. This is primarily the case if the minor is very young (less than 15). To place a child in an institution must remain a solution of last resort. Hence, it is a decision that is made only when efforts to establish a social network, which is capable of taking care of the minor, have been tried out and failed.

### **Norms and standards for the operation of Child Protection Centres**

41. In order to harmonise existing standards regarding the function of all 20 CPEs in Morocco the Ministry has taken the initiative to develop manuals for the Child Protection Centres. This initiative has been organised through a reflection group consisting of representatives from relevant ministries, non-governmental organisations like Association Bayti and international partners. The reflection group developed a manual that was published in 2015 and that contains information about procedures applicable to the provision of residential care for minors who have been admitted at a Child Protection Centre. This manual defines minimum standards regarding residential care based on national legislation and international conventions. Those standards also take into consideration the remarks made by institutions monitoring the human rights situation in Morocco, such as the National Council of Human Rights (Conseil National des Droits de l'Homme). A committee monitoring the placing of minors established by the Ministry of Youth and Sports is currently in the process of being developed.
42. The manual contains information about minimum standards regarding reception of children, the persons who are authorised to intervene in the child's admission to a Child Protection Centre, the notification of parents and the search for the family of origin as well as what a child can expect in terms of quantities of food and psychosocial support (immediate or long term). Furthermore the manual sets minimum standards for a child's right to access required medical consultations as well as how children should be informed about their rights and duties during their stay in a Child Protection Centre, etc.

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<sup>134</sup> It should be noted that there have been some cases of children below the age of 12 years who have been placed in a CPE.

43. At present, those standards are not incorporated into the current Moroccan legislation. The Director emphasised the need for minimum quality standards and for their subsequent introduction in the institutions in question.

### **Youth Council**

44. The Director emphasised the Government's willingness to adopt a human rights approach based on democratic values in accordance with the Convention on the Rights of the Child. This willingness is also applicable to the re-education of young persons in conflict with the law and those who are in difficult situations. For example, the Director referred to the right to participation as a key element in this engagement. Every Child Protection Centre must have a youth council through which the youth in their capacity as citizens may express themselves, to the management. At a national level, there is a National Youth Council with representatives of all centres.

### **Regulations regarding youth at risk of illegal migration**

45. The Moroccan Government is concerned about the illegal migration of young people and is actively seeking to prevent it. The efforts to counteract illegal migration include support to young people who wander through the northern part of Morocco, with the intention to migrate into Europe. To strengthen these efforts, an interdepartmental committee has been established. The objective of this committee is to reflect on the conditions for establishing centres for young persons who are at risk of illegal immigration into Europe. Projects addressing illegal child and youth migration have already been launched through 'the Mohammed VI Foundation for promotion of social engagement, education and vocational training'. The activities of the Foundation are centred on three main pillars: training, re-education and assisted reintegration.
46. Other projects carried out in cooperation with the Spanish Agency for International Development Cooperation and USAID focus on the insecurity and exclusion of unemployed youths. These projects include for example income generating activities, micro projects for youths and the strengthening of their capacities and life skills. The target groups of those projects are youths without a criminal record, but who may be characterised as vulnerable. In principle, centres which target vulnerable young people might include youths who return to Morocco after period of time as migrants on the European continent. According to the Director's analysis, the rate of illegal emigration has already decreased as a consequence of these efforts.

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## **6 Centre de Sauvegarde (Child Protection Centre) in Meknes**

### **Interview with Abdouh Abdessamad, sociologist, Director,**

Meknes, 15 October 2016

*The Child protection centres ('Centres de Protection de l'Enfance or Centre de Sauvegarde) in Morocco are mandated to evaluate and re-educate minors who are in conflict with the law and children who are in a*

*difficult situation according to Chapter III of the Code of Penal Procedure. Child protection centres are under the regulations of the Ministry of Youth and Sports.*<sup>135</sup>

47. Among the twenty child protection centres in Morocco placed across the country, fifteen are reserved for boys.
48. The delegation paid a visit to the Child Protection Centre in Meknes. The centre is capable of providing accommodation to 80 children. At the point of time of the visit 50 children, all boys, were being accommodated at the centre. Basic medical care, schooling and educational activities are provided at the centre. The Director emphasised that the Child Protection Centre in Meknes is recognised for its high quality and for having made considerable progress in terms of enhancing the welfare of the minors residing at the centre.
49. Upon instruction by a judge at juvenile courts, a child who has committed a criminal offence or who is found in a difficult situation may be admitted at a child protection centre. The identification procedure regarding the child is carried out by the authorities. According to the Director, the number of children who are placed in an institution is increasing because of the current changes in the family structure in Morocco. These changes are primarily due to the current migration away from rural areas to the cities. As a consequence, extended family networks with their capacity for care lose influence to smaller family units.
50. According to the Director, a child or a young person who has spent a period of time as a migrant in Europe and who subsequently returns to Morocco without being in contact with his or her family might be characterised as ‘a child in a difficult situation’. This category comprises abandoned children or so-called ‘illegitimate’ children who are born outside of marriage or who are not accepted by the paternal family. Such a child might be placed in a child protection centre by court order. Previously the Director was employed at the Child Protection Centre in Tit Mellil near Casablanca where he followed an adolescent boy who had been placed in this centre after his return from Europe. The Centre in Tit Mellil is currently closed due to renovation.

### **Monitoring of standards of care at the Centre**

51. The ‘Guidelines and Procedures for Child Protection Centres in Morocco’ has been developed through an inclusive and multi-sectorial approach with the participation of the public sector representatives, civil society organisations and the United States Department of State. The guidelines set standards based on certain guiding principles such as the best interests of the child and non-discrimination. The guidelines describe standards for the procedures to be followed at the child’s reception into a centre (the Delegation was shown the form to be completed by the Director), the physical space, disciplinary measures, medical care and evaluation standards for the monitoring of the activities at the child protection centres, etc. The guideline is also a tool to ensure children’s right to be heard when they have complaints about their situation; for example, the guideline notes that children and young people have a right to express themselves to the Director. The guideline contains four parts offering information on specific standards for disciplinary measures; how to make a complaint for children; accommodation; and management of safety and security issues to avoid health hazards at the centres. The manual does not address the issue of psychological support. The centre in Meknes has developed a plan that sets out what children and young people can expect in terms of quantity of food and access to education and vocational training.

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<sup>135</sup> Website of the Ministry of Youth and Sports <http://www.mjs.gov.ma/fr>

52. The Ministry of Youth and Sports has established a commission with a mandate to monitor the child protection centres. The commission visit the centres regularly (at a three-month intervals) in order to follow the implementation of the commission's recommendations.
53. At the age of 18 years, the young person must return to the family. In some cases, the centre follows the young person for a period of up to three months.

#### **Mixing of children in difficult situations with children in conflict with the law**

54. In child protection centres in Morocco, children in difficult situations are accommodated in the same centres as children who are in conflict with the law. At the Child Protection Centre in Meknes, the Director underlined that an effort was made to separate these two categories in order to avoid that children who are in conflict with the law influence children who are not. However, children in conflict with the law have access to the same projects as those for children in difficult situations.

#### **Children's Council**

55. All child protection centres in Morocco have established a Children's Council. This council serves as a mechanism which allows children and young people to participate in matters concerning their stay at the centre. The objective is to establish a framework for active participation for children and young people at the centres. The Delegation met the president of the council at the Child Protection Centre in Meknes, an adolescent boy of 17 years who had spent 18 months at the centre. The president is elected by the other children and young people at the centre by a show of hands.
56. At the centre, the president of the council is responsible for seeking to enhance an environment of cooperation among the minors, e.g. through offering to tutor a child or a young person who has recently arrived at the centre. Another responsibility is to ensure the cooperation between the staff and the children and to help coordinate the organisation of sports and workshop activities.

#### **Possibilities to leave the centre**

57. When a certain level of confidence has been established between the young person and the management of the centre, the young person will be allowed to leave the centre with a proviso, e.g. in order to do shopping. As to young persons who are placed at the centre due to a conflict with the law, their possibilities for leave are limited. It occurs that a young person escapes from the centre.

#### **Reintegration into society of young persons**

58. The Director offered two examples of young persons who had been placed in a child protection centre and who had succeeded in being reintegrated into society: one of them is now employed as an educationalist at the centre although he committed a serious crime as a minor. The other person who originates from the Ivory Coast had been employed as a cook at the centre.

#### **Re-education of adolescent girls**

59. In total, there are five child protection centres for adolescent girls in Morocco. Often the reason for placing a girl under 18 at a centre is prostitution or unwanted pregnancy. In general, adolescent

girls are more difficult to reintegrate into their families than adolescent boys because the adolescent girls are more likely to lose status. Hence, the families are difficult to persuade to take her back to stay with them.

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## **Diplomatic representations**

### **7 US Agency for International Development (USAID), Morocco**

#### **Interview with US Agency for International Development, LeAnna Marr, Director, Program Management Office**

Rabat, 14 October 2016

*US Agency for International Development (USAID)<sup>136</sup> is a state agency that provides humanitarian, economic and development assistance throughout the world based on the goals of US foreign policy. In Morocco they are focusing on three sectors: Youth employability, Democracy and Governance and Basic Education. The five year strategy for USAID in Morocco ends in 2018.*

60. In Morocco, USAID has a huge focus on youth as they represent over half of the population and approximately 80 percent of Morocco's unemployed are within the ages of 15 to 34 years old. The national unemployment rate is 10 percent, however, the unemployment rate for youth is estimated at 28 percent which contributes to undermining future economic development of the country. In general, many graduates are unable to find jobs equivalent to their education and training. A high number of young people possess theoretical skills, but they lack hands-on skills. At the same time employers complain about the fact that potential job candidates lack the required work-readiness skills; for instance technical firms which have established themselves in Morocco report difficulty finding staff with technical skills. Thus, there is a mismatch at the job market between the availability of employment opportunities and that of skilled youth.
61. In response to these challenges USAID has contributed to establish American style career centres in universities and vocational training institutes in Casablanca, Marrakech and Tangier to assist youth in the transition from graduate education to employment. These centres provide students and trainees with diagnostic tools to help them discover their potential, information on career pathways, preparation for work readiness (soft skills and job search skills), and opportunities to interact and learn real-time in the work environment. The program will also include a virtual career centre to offer online services to a maximum of the Moroccan youth. USAID career centres, including the online version, are open to all youth, including youth out of the higher educational and vocational training systems, people in jobs looking to change/improve jobs, etc. The target population of the Career Centre program is 15-29 years but if requesters of services are out of this interval they are not turned down and can still use the services.
62. Program Office Director LeAnna Marr further said that USAID partners with UNIDO and Volvo to establish a training academy offering hands-on training in maintenance of heavy duty industrial equipment and commercial vehicles. The project is being implemented in cooperation with the

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<sup>136</sup> USAID

<https://www.usaid.gov/who-we-are/mission-vision-values>

USAID Morocco Country Profile

<https://www.usaid.gov/morocco/fact-sheets/usaid-morocco-country-profile>

governmental organisation, Office for Occupational Training and Promotion of Employment (OFPPT). The training academy is housed in an OFPPT centre. In 2015 19 people were enrolled with the Volvo training programme. Moreover, Volvo is bridging the training they are offering in the sense that it now also includes students from the Ivory Coast and Senegal. In 2016, the AGEVEC<sup>137</sup> program has enrolled 65 students (39 Moroccans, 10 Senegalese, 15 Ivoirians) out of which 5 females.

### Initiatives to reduce youth marginalization

63. Morocco's youth are disproportionately affected by socioeconomic challenges such a lack of access to quality education, high unemployment rates and political disenfranchisement. This is particularly the case in the north of the country, where many young people lack the required skills and social support to become fully productive members of the workforce and their communities. Program Office Director LeAnna Marr noted that many Moroccan young people report feeling marginalised and disenfranchised in the sense that they are not politically active and that they easily get the impression that to be able to get a good job, one needs to have the right connections. Together with implementing partner International Organization for Migration (IOM), USAID is supporting a project for 14 to 25 years old that seeks to reduce these risks.<sup>138</sup> As part of the program, which is being implemented in Tangier and Tetuan, IOM is strengthening the capacity of smaller NGOs that work hands-on with young people who are at risk of social marginalization. The project offers positive opportunities for youth in non-formal education, vocational training and job counselling, extra-curricular activities, and in community engagement.
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<sup>137</sup> L'Académie Engins Lourds et Véhicules Commerciaux (AGEVEC) is an academy with the objective to give students technical and professional skills that will lead to employment as an engine technician. The academy addresses applicants at the age of 20 to 35 years if age

<http://agevec.org/>

<sup>138</sup> MID-TERM EVALUATION, February 2016

Favorable Opportunities to Reinforce Self-Advancement for Today's Youth (FORSATY)

[http://pdf.usaid.gov/pdf\\_docs/pa00kz43.pdf](http://pdf.usaid.gov/pdf_docs/pa00kz43.pdf)

## 8 Embassy of Spain

Luis Francisco de Jorge Mesas, Adviser on Legal Cooperation, Liaison Judge. Morocco

Rabat, 13 October 2016

### Border control by Spain and by Morocco

64. In case a Moroccan citizen does not have the permission to cross the land border between the Spanish enclaves Ceuta and Melilla and Morocco, he is accepted back by the Moroccan authorities and he will not be granted the right to ask for asylum by the Spanish authorities.
65. If a Moroccan national is caught crossing the sea border between Morocco and Spain on the Spanish side he must be identified as a Moroccan citizen in order to be readmitted to Morocco which is more difficult than is the case at the land border. Sub-Saharan migrants will not be accepted back to Morocco. In case the Moroccan citizen has a digital national ID card, identification can be done on the basis of a check for fingerprints in the national registry. However, in case the Moroccan citizen is a minor, fingerprints cannot be checked for as they are not registered among minors by the Moroccan authorities.
66. With regard to the possibility of sending minors back from Spain to Morocco, there is a readmission agreement<sup>139</sup> in force between the two countries, but in practice Spain is not able to send unaccompanied minors to Morocco because Spain cannot leave minors without protection. In case there are not enough guaranties of protection (the presence of a family and control by the Moroccan administration), they are not sent back.
67. There is a coordination of work between the police forces of Morocco and Spain. The cooperation works well also in case of a sudden large influx of migrants. The sea between the two countries is being monitored by satellites 24 hours per day which is connected to FRONTEX information sharing system. The system is able to detect even small boats.
68. The interlocutor noted that the preventive factors which include the satellite system, the coordination between Spain and Morocco as well as the preventive work the Moroccan authorities are carrying out on stopping boats with migrants sailing from Morocco towards Spain.
69. Spain works to prevent illegal migration into Spain from exceeding the influx which is occurring in other southern European countries.

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<sup>139</sup> Readmission Agreement between Spain and Morocco:

BOLETÍN OFICIAL DEL ESTADO, Núm. 70 Viernes 22 de marzo de 2013 Sec. I. Pág. 22750

MINISTERIO DE ASUNTOS EXTERIORES Y DE COOPERACIÓN

3140 Acuerdo entre el Reino de España y el Reino de Marruecos sobre la cooperación en materia de prevención de la emigración ilegal de menores no acompañados, su protección y su vuelta concertada, hecho «ad referendum» en Rabat el 6 de marzo de 2007.

## **International organisations**

### **9 United Nations Children's Fund (UNICEF), Morocco**

**Ms Malika El Atifi, Child Protection Specialist, Ms Mariama Diallo, Justice for Children Specialist, Aline Carruet, Intern**

Rabat, 10 October 2016

*UNICEF is a specialised humanitarian and development UN agency with a mandate to promote the rights and wellbeing of children and youth in the world. UNICEF works through and with local partners as well as with national governments providing technical and financial assistance in the field of child rights protection. In Morocco UNICEF is particularly concerned with addressing the needs of vulnerable children, especially those who are deprived of a family and community environment so that they are better protected against all forms of violence, abuse and exploitation, and their vulnerability is reduced.<sup>140</sup>*

#### **Children in care centres in Morocco**

70. In Morocco, placement of children and youth in care centres is on the rise. Currently, an estimation of 100,000 children at the age of 0 and 18 are living in public and private care centres. Seven percent of these children are orphans. The majority of children are placed in child care centres due to poverty and lack of access to education facilities. Many families living in poverty are seeing child care centres as a way to improve their children's chances in life in the sense that they will be living under improved material conditions and have access to better education than what the local communities can offer and thus seek to place their children temporarily in such a centre. This contributes to families' dependency on social protection services provided by the public sector, but would deprive children of sound psychological, cognitive and emotional development.
71. When children in Morocco are placed in institutions, they are referred to 'residential care centres' as opposed to 'day care centres'. There are two different supervising bodies that oversee the residential institutions for children in Morocco:
- *Entraide Nationale* (EN) supervises social care residential institutions for children in a difficult social and economic situation who are deprived of family care. Children with disabilities are accommodated in specialised institutions under the supervision of EN. All social care residential institutions, private and public, are under the supervision of EN.
  - In addition, the Ministry of Youth and Sports oversees around 25 child protection centers in the country (residential institutions). In principle, the child protection center was designed for children in conflict with the law, however, children who are victims and/or witness of a crime, migrant children and even vulnerable children deprived of family care are also accommodated in the same center. What is worse is the fact that the majority of the institutions is large scale and accommodates more than 50 children with 2 to 3 educators at the best.
72. There are currently state-run child care centres in all 12 regions of Morocco. However, these centres do not fully meet all minimum standards of care and they are inadequately equipped to address children's needs. UNICEF noted that in the child protection centres run by the Ministry of Youth and Sports, children in conflict with the law, live together with children who are victims and children in a difficult situation, such as abandoned children and street children who have no

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<sup>140</sup> L'UNICEF au Maroc : [http://www.unicef.org/morocco/french/overview\\_7534.html](http://www.unicef.org/morocco/french/overview_7534.html)



criminal record. UNICEF's position on institutional care centres for children is that placement in such facilities should be a measure of last resort.

73. The responsible public agency for placing children in social care centres as well as for running these centres is *Entraide Nationale*. The interlocutors further explained that the *Entraide Nationale* is in charge of supervising and supporting centres by providing funding and key staff like directors. NGOs are implicated in the process of admission of children and management of their placement. UNICEF added that staff working for *Entraide Nationale* does not have sufficiently required expertise with regard to child care, especially the needs of vulnerable children. UNICEF also called for a review of the legislative framework, in particular to the notion of 'adoption' according to the sharia law, the *kafala*, which is not fully responding to the needs of these children. Current *kafala* procedures show discrepancies between practice, the interpretation of the law and applicable norms which are not compliant with the principles of non-discrimination and the best interests of the child. Region disparities are noticed, especially regarding lengthy *kafala* procedures, accessibility of information, degree of preparation of children for *kafala*, insufficient coordination of actors and absence of clear definition of their roles and responsibilities.
74. Children placed in care and protection centres in Morocco run by the government and/or civil society organisations are divided into three groups: children in difficult situation, children victims of violence and abuses and children in conflict with the law.
75. There are 3 types of child care centres:
- 1) *Centre de Sauvegarde de l'Enfance*/Centre for children in contact with the law (closed and semi-closed institution) in which placement is based on judicial decision, this include different category of vulnerable children who care in contact with the law.
  - 2) Centre for social protection that include residential institutions for abandoned children, orphans , children with disability , children in difficult situation , and children who need shelters to access to education , all these centres are run by NGOs and supervised by *Entraide Nationale*.
  - 3) Centre for children in difficult situation, including children in the street, run by NGOs without the accreditation of *Entraide Nationale*.
76. Only the placements of abandoned children and children in contact with the law are based on a decision made by a judge. Other forms of placement are undertaken by families or NGOs who identifies the child.
77. Abandoned children who do not have any known relatives as well as children living in poverty can also be placed in a child care centre upon decision by a judge. Upon requisition of the Public Prosecutor, a request for a protection measure for a child in a difficult situation can be made. In this case, the judge, according to the penal procedural code, takes a protection measure which can include placing the child in a child protection centre. UNICEF added that the judge can also decide to place the child with a 'trustworthy person'. Moroccan law does not yet provide for temporary placements such as foster families.
78. Children who have committed an offence are placed in *Centre de Sauvegarde de l'Enfance*. UNICEF is supporting the work of local partners and relevant ministries to facilitate the reintegration of these children within their families or the extended family group. The EU funded HIMAYA project, currently run by the Ministry of Justice and Liberties, in collaboration with UNICEF and other key justice for children actors, focuses on improvement of access to justice for children in conflict with the law, children victims/witnesses and children in a difficult situation. HIMAYA focuses on applying

international norms and standards, generate evidence, reinforcing the capacities of professionals working with children and reinforcing the existing information systems.

79. For children who have committed an offence, other placement facilities include: medical facilities, professional training facilities or an observation centre which is in fact located in the *Centre de Sauvegarde de l'Enfance*. This service is used during the judgement process, to enable the educators to assess the attitude/ behaviour of the child and to provide information to the judge's decision. No physical limit exists between this service and others services dedicated to children deprived from liberty.

## Legislation and policy

80. Morocco ratified the Convention on the Rights of the Child in 1993. The law applicable to placement of children is the law of 14/05/2006 which is setting up rules for the management and the material framework of child care centres. The law does not contain any element of control or regular inspection of the standards of quality. The child care centres are audited but solely with regard to the physical space of the premises of the care centre. UNICEF stated that Morocco made certain progress with regard to legislation and that currently, focus is in the implementation of the legislation. There is a new draft law (number 65.15), that UNICEF has not yet seen, that is said to contain elements on standards of control on child care centres.
81. In June 2013, the government launched a new integrated public policy on child protection (*Politique Publique Intégrée de Protection de l'Enfance (PPIPEM)*<sup>141</sup>) that aims to set up a general coordination framework for child protection in the country. It includes provisions relating to fighting against all forms of violence, abuse and exploitation of children. However, there is not yet a national budget to support its strategic objective. UNICEF is currently accompanying the Government in budgetising the PPIPEM. Prior to the PPIPEM, a national action plan (*le Plan d'Action National pour l'Enfance (PANE 2006-2015)*<sup>142</sup>) had been developed with four strategic goals: a healthier life, improvement of education, protection against maltreatment, exploitation and violence and fight against HIV/AIDS.

## Established procedures for ensuring standard and quality

82. There is no national legislation setting minimum standards of care covering the child care centres. Standards of care for physical space, nutrition, education, health care and pedagogical interventions are decided individually at each centre. UNICEF specifically pointed to the absence of institutionalised psychosocial service towards youths, even though this dimension must be addressed in order for youths in a difficult situation to reintegrate in society.
83. According to UNICEF, seen from an overall perspective, there are insufficient alternative care forms for children at risk and the quality of child care centres in Morocco is insufficient.<sup>143</sup>

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<sup>141</sup> Politique publique intégrée de protection de l'enfance au Maroc

<http://www.social.gov.ma/fr/rubrique/consolidation-de-la-protection-de-l%E2%80%99enfance-0>

<sup>142</sup> PLAN D'ACTION NATIONAL POUR L'ENFANCE 2006-2015, ROYAUME DU MAROC, "Maroc digne de ses enfants" : [http://www.ondh.ma/sites/default/files/rapport\\_unicef\\_ok.pdf](http://www.ondh.ma/sites/default/files/rapport_unicef_ok.pdf)

<sup>143</sup> UNICEF is supporting the ministry of social development and the *Entraide Nationale* to develop standard operating procedures (SOP) for the services and structures used for residential institutional purpose.

## Registration

84. According to UNICEF, 14 percent of all children are not registered in the civil registries among these are families in which couples are not married. A woman encounters challenges to register her child if she does not show evidence of the relationship to the father of the child. A marriage certificate (*acte de mariage*) must be presented at the registration of a child. UNICEF added, however, that facilities are given to single mothers to register their child and that for these women there is no obligation to present the marriage certificate. A survey made by the Ministry of Health showed that in 2011 94 percent of the children got registered at the public state register. In urban areas the percentage was 96,8 percent and in the rural areas the percentage was 93,3 percent.

## Schools and Education

85. In the public centres for youth *Centre de Sauvegarde de l'Enfance*, some children attend school in the local community, others attend classes within the centres (*soutien scolaire*) to upgrade their scolarity level before integrating the classic curriculum. In other care centres the children attend school in the local community. UNICEF notices an increase of cases of families asking to have their child placed in a social protection centre in order for their child to access education.

## Sanctions

86. According to UNICEF the occurrence of violence and abuse is high in the child care centres as well as in the families.<sup>144</sup>

## Possibility for protection from the authorities

87. The child care centres are differently structured but there are very few alternatives to institutionalisation. The Moroccan court system is still highly punitive towards minors, but at the same time it offers alternatives aiming for educating children in different categories: children in conflict with the law, children victims of violence, abuse or exploitation, and children in a difficult situation. Often these children, of all three categories, will be placed by a judge in the *Centre de Sauvegarde de l'Enfance*. Children that have committed serious offenses will be detained in prison facilities: *Centres de réforme et d'éducation*, in principle separated from adults.

88. One alternative measure to placing a child in a child protection centre or prison facility, is the so-called 'monitored freedom' (*liberté surveillée*). This measure implies that a child is referred to a probation officer (*délégué*), employed by the Ministry of Youth and Sports or volunteer under the supervision of that same Ministry. However, UNICEF admits that there are limited resources and the number of probation officers is insufficient as compared to the number of cases to follow.

89. Judges in Morocco who are working with cases involving minors work with other sorts of cases as well. According to UNICEF's observations, a number of judges are aware of the needs of an

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<sup>144</sup> UNICEF further referred to

Hynd Ayoubi Idrissi (2014) *Etude sur la violence sexuelle à l'encontre des enfants au Maroc*  
[https://www.unicef.org/morocco/french/Etude\\_sur\\_la\\_VS\\_2014.pdf](https://www.unicef.org/morocco/french/Etude_sur_la_VS_2014.pdf)

La Ligue Marocaine pour la Protection de l'Enfance and UNICEF (2010) *Enfance abandonnée au Maroc Ampleur, état des lieux juridique et social, prise en charge, vécus*  
[https://www.unicef.org/morocco/french/2010-Etude\\_Enfance\\_abandon\\_UNICEF-LMPE.pdf](https://www.unicef.org/morocco/french/2010-Etude_Enfance_abandon_UNICEF-LMPE.pdf)

Berre, M. et al. (2006) *L'exploitation sexuelle des enfants Cas de Marrakech*.  
[https://www.unicef.org/morocco/french/Exploitation\\_Sexuelle1.pdf](https://www.unicef.org/morocco/french/Exploitation_Sexuelle1.pdf)

individual child whereas others are not. UNICEF notes variations in decisions made by the judges and the implementation of the rules.

90. UNICEF is working with national partners to improve knowledge of the judicial system among social workers in order to improve their capacity to prevent juvenile delinquency.
91. In case a child in detention does not have any ID documents there are organisations that can help the child to provide ID papers. For instance, the Mohamed VI Foundation for the Reinsertion of Detainees assists in this regard. UNICEF had seen some concrete examples on children who did not have any ID and who had new documents reissued. These children were placed in a *Centre de réforme et d'éducation*, and then followed up by a *Centre d'Accompagnement Post Carcéral* (CAPC) run by the *Mohammed VI Foundation*.

### **Unaccompanied minors returning to Morocco**

92. There is no specific reception procedure for unaccompanied minors returning from abroad. UNICEF is supporting programmes for children who have left the established system in Morocco; the system is open to minors in the category 'in difficult situation', which includes minors returning from abroad. The protection measures mentioned above provided in the current law apply to this category of children. It was added that it is rare that minors return from abroad on a voluntarily basis. From a legal perspective, an individual will be considered adult at the age of 18.

### **Centres for minors aged 15 to 18 years**

93. Minors aged 15 to 18 can be admitted in protection/care centres where younger children also live. There are no specific centres dedicated for this group of adolescents. However, there are programmes designated for vocational training and life skills. For instance, in the *Centre de Sauvegarde de l'Enfance*, there is a possibility to follow trainings in workshops where skilled professional trainers are available. The minor must leave the *Centre de Sauvegarde de l'Enfance* at the age of 18. Young people above the age of 18 that had been placed in the *Centre de Sauvegarde de l'Enfance* could benefit from such programmes, but it depends of the availability of follow-up services. UNICEF mentioned other programmes, funded by Canada: FORSA; one that takes place in Agadir related to the hotel sector where an association named *Widad* is training single mothers ages 15 to 30 years in making pastry; another organisation is running a programme that offers training as hair dressers and restaurant workers.
94. The NGO's CARITAS<sup>145</sup> and *Fondation Orient-Occident*<sup>146</sup> are working in the field of offering vocational training and life skills training for Moroccan youths as well as immigrants in Morocco.

UNICEF further referred to a list of useful publications:

1. Présentation du projet Himaya : [https://www.unicef.org/morocco/french/Himaya\\_Unicef\\_brochure\\_17mail2016.pdf](https://www.unicef.org/morocco/french/Himaya_Unicef_brochure_17mail2016.pdf)
2. Etude sur l'évaluation du système de justice des enfants (en cours de publication)
3. Analyse de situation des enfants au Maroc : <http://www.refworld.org/docid/566e67d74.html>

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<sup>145</sup> L'aide aux mineurs à risque au Maroc

<http://www.caritas.org/fr/2014/11/laide-aux-mineurs-risque-au-maroc/>

<sup>146</sup> Fondation Orient-Occident, Formation professionnelle

<http://www.fondation.orient-occident.org/spip.php?article37&lang=fr>

4. Rapport du CNDH sur la situation des enfants placés dans les centres de sauvegarde de l'enfance : <http://www.cndh.org.ma/fr/rapports-thematiques/enfants-dans-les-centres-de-sauvegarde-une-enfance-en-danger-pour-une-politique>
5. Rapport du CNDH sur la situation dans les prisons : <http://www.cndh.ma/fr/rapports-thematiques/rapport-sur-la-situation-dans-les-prisons>
6. Document de la Politique publique intégrée de protection de l'enfance et son Plan d'action <http://www.social.gov.ma/fr/rubrique/consolidation-de-la-protection-de-l%E2%80%99enfance-0>
7. Diagnostic sur l'institutionnalisation des enfants au Maroc (en cours de publication)
8. Rapport du Comité des droits de l'enfant de Genève : [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2F-MAR%2FCO%2F3-4](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2F-MAR%2FCO%2F3-4)
9. Rapport Child Notice : <https://www.unicef.be/wp-content/uploads/2016/06/cn-marokko-eng-def.pdf>
10. Rapport Caritas sur les enfants migrants non accompagnés [http://www.secours-catholique.org/sites/scinternet/files/publications/etude\\_mna\\_-\\_mdm\\_caritas\\_-\\_def-1.pdf](http://www.secours-catholique.org/sites/scinternet/files/publications/etude_mna_-_mdm_caritas_-_def-1.pdf)
11. Rapport Alianza para la Solidaridad sur les enfants migrants au Maroc
12. Analyse causale du phénomène du placement des enfants dans les institutions résidentielles [https://informationsociale.wordpress.com/2012/11/01/lentraide-nationale-et-lunicef-lacent-la-consultation-sur-lanalyse-causale-du-phenomene-du-placement-des-enfants-dans-les-institutions-residentielles/tdranalyse\\_causal\\_-\\_final1/](https://informationsociale.wordpress.com/2012/11/01/lentraide-nationale-et-lunicef-lacent-la-consultation-sur-lanalyse-causale-du-phenomene-du-placement-des-enfants-dans-les-institutions-residentielles/tdranalyse_causal_-_final1/)

## 10 International Organization for Migration (IOM), Morocco

### Interview with Chief of Mission Ana Fonseca, and Programme Manager Oussama El Baroudi

Rabat, 12 October 2016

*The objective of IOM in Morocco is to assist the Kingdom of Morocco including their governmental and non-governmental actors in all areas that relate to migration management at the policy and operational level. Different areas of intervention have been developed. In the framework of humanitarian assistance IOM Morocco aims to assist national as well as non-national vulnerable irregular migrants returning to and seeking to reintegrate their country of origin. Secondly, IOM's mandate is to strengthen the capacity of the Moroccan government and civil society actors in handling the influx of mixed migrants and in the socio-professional integration of regular migrants. Thirdly, IOM offers education and training as well as psycho-social assistance to Moroccan youths who are in a precarious situation.*<sup>147</sup>

### Emigration from Morocco to Europe

95. Morocco is at the same time a country of destination, transition and departure of migrants. By the end of 2015, a considerable rise in emigration towards Europe occurred, especially among men aged 25 to 34. These emigrants often travelled to Greece via Turkey and many are now returning to Morocco because all the borders on the Balkan routes have been closed.

<sup>147</sup> IOM Morocco: <http://ma.one.un.org/content/unct/morocco/fr/home/agencesun/OIM.html>

96. During the Syrian refugee crisis, Moroccans emigrated by thousands to Europe. These emigrants mainly came from specific areas in Casablanca named *Hay Mohammadi* and *Moulay Rachid* and from Oriental and Tadla Azilal regions. It was the impression of IOM Morocco that there is very few male youth left in the mentioned areas in Casablanca due to the emigration. In Greece the migrants who wanted to go further into Europe via the Former Yugoslav Republic of Macedonia (FYROM) found themselves in a precarious situation which motivated a considerable number of Moroccans to return to Morocco. The number of voluntary returnees from Europe in 2016 peaked at approximately 1,174. IOM has a programme with the Moroccan government facilitating voluntary returns. There is a considerable rise of returning minors from Greece to Morocco facilitated by IOM.
97. The price that the emigrants paid to smugglers to go to Europe is estimated to be approximately 3,500 to 4,000 EUR. At the time of the mass migrant flow in 2015, the prices were broken to approximately 1,000 EUR. To finance their travel, the emigrants, together with their families, would have to borrow money to pay the smugglers for their services. By comparison, a monthly salary for a lower middle class family is approximately 150 EUR.

### **IOMs return packages for Moroccan citizens in Europe**

98. The return package to Moroccans that IOM is offering depends on which country in Europe migrants return from. Returnees from Greece will be offered basic assistance at the unit cost of 1,500 EUR. Each migrant will be offered assistance to reintegrate in society, including assistance to find a job or training. With regard to minors returning, IOM insists on offering them two years of training.
99. While in Greece, many Moroccans burn their ID documents in order to conceal their nationality and be able to pass as Syrians. In order to get their Moroccan ID documents back, Moroccan migrants in Greece may ask IOM for assistance. Moroccan embassies and consulates are in charge of identification of the migrants and IOM closely collaborates with them in the destination/transit country with assistance from the presumed family in Morocco. Since Moroccan emigrants in Greece are in a precarious situation they are often more inclined to return voluntarily than emigrants who went to northern Europe.
100. The package of minors or ex minors returning voluntarily, could for instance include vocational training, health care, cash transfer to the family, and assisted mediation with the family. However, it is important to understand that returning a minor should be perceived as a long process which demands continuous attention. During the process, IOM talks to the minor about his or hers needs and wishes for training. In IOM's experience the youth is focused on their immediate needs rather than needs seen in a longer perspective.
101. In all cases of voluntary return of minors, IOM conducts a risk assessment that is based on interviews with the family of the minor and their reactions to the idea of reintegrating. In order to establish Moroccan nationality and to identify the family of a migrant, IOM uses the birth certificate (*carnet de naissance*) as a key document. During these assessments IOM has experienced that sometimes the father of the family refuses to participate in the discussion and sometimes the family avoids telling everything about their child. IOM shares these observations with the sending IOM mission who collaborates with the state body in charge of children and the sending IOM mission will be notified if the conditions for a return seem unfavourable. In all cases where the return of a minor was discouraged, the family was broken. In some cases the family refuses to let their child come back in which case IOM discourages the return. The refusal of the

family to let their child return is often based on two factors; the fact that the family paid for the trip; the fact that the return of a migrant is seen as a defeat for the whole family. A returning migrant can in most cases expect a negative reaction from his own family and their environment.

102. IOM will not facilitate the return if they assess that the minor's relationship with the family is not solid enough, in the sense that the minor will not be offered decent living conditions or if there is a risk that the minor will be subject to violence in the family.

103. In most cases there is a family; any young person who has migrated have maintained some level of contact with his family. The families that IOM has met with are living in grinding poverty. If a case turns up in which a minors does not have family relations, IOM will not facilitate that he is sent to a child care centre.

### **Meeting the challenges driving minors into irregular migration**

104. The factors which often drive young Moroccans to migrate are a lack of opportunities and a lack of skills. The employment opportunities available to youth are often limited to the agricultural sector or in the tourist sector. However, a long term strategy for collaboration with the Ministry of Immigration and the Ministry of Agriculture is necessary in order to confront the challenge of lacking opportunities. Another challenge is to empower youth to avoid falling into the hands of criminal networks and to enable youth to complete their education. IOM also mentioned circular migration as a way of affronting challenges with youth migrating under difficult circumstances. One example of circular migration is the flow from Morocco to Spain and back again of Moroccans seeking seasonal jobs in Spain.

### **Profile of emigrants**

105. The profile of those who emigrated from Morocco during the period of 2015 to 2016 were that they were mainly aged 25 to 34, male, coming from urban areas and had not completed a graduate degree. According to IOM the reasons for leaving Morocco is based on a dream of being offered a house and the possibility of education in Europe, but also motivated with lack of socio-economic opportunities in Morocco.

106. At the time of the financial crisis in 2009 and 2014 many Moroccans came back from Europe, also among those who stayed in Europe for periods between 2 and 15 years. The Moroccans who returned during 2015 and 2016 only stayed in Europe for a few months.

107. IOM Morocco does not have information on the profile of Moroccan minors migrating to northern Europe.

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## **Non-governmental organisations**

### **11 Bayti Association**

**Interview with Abderrahman Bounaim, Educational Coordinator, Early Childhood Programme, and Atika Doghmi, responsible for communication and partnerships**

11 October 2016, Casablanca

*The Bayti Association ('My Home') is an association which is officially registered as an NGO by the Moroccan State. It is implementing programmes in Casablanca, Essaoura and in Mnasra Region which promote the reintegration into society of children living in difficult situations. Bayti was founded in 1995 and has generated expertise in the field of care for street children, victims of violence and unaccompanied minor migrants. Bayti is recognised internationally for its technical expertise.*

108 The visit at the head office of the Bayti Association in Casablanca began with an introduction to the activities carried out by the association.<sup>148</sup> They are organised around three major issues: 1) assistance to minors; 2) technical capacity building of associations working with children in Morocco; and 3) advocacy for the protection of children's rights among parliamentarians, local authorities and other opinion leaders in Morocco. According to activity reports, the association has provided assistance to more than 18,000 children and has provided support to more than 10,000 families since 1995, thanks to a team of 41 professionals and a number of volunteers. The Association works with boys and girls of all ages, but the largest group consists of preteens and teenage boys (aged 11 to 17).<sup>149</sup> The categories of children which are not admitted to the association include mentally disabled children with epilepsy, children with serious drug abuse problems or children who have been abandoned at birth.

### **Situation for children living in the streets**

109 Recognising that Bayti does not have quantitative data which allows for a precise assessment of the actual number of minors living in difficult situations, Bayti staff members estimate that it is a phenomenon on the rise. The rise is caused by family abandonment and by economic, relational and social uncertainty combined with poverty and intra-family violence. According to their observations from the field and based on the number of cases submitted to Bayti by juvenile court judges, it is predominantly a matter of minors who live in the streets without or with limited contact to their family. The presence of preteens and teenage children who have lost parental care is concentrated in urban agglomerations of Tangier and Casablanca. These minors are confronted with multiple problems in terms of social protection, education, access to medical care and housing. The Bayti staff members noted that currently, the problems by far exceed the capacity of the associations that provide shelter or protection against violence.

110 According to an analysis carried out by Bayti, the explanatory factors of the migration of minors include the precarious character of their life situation, domestic violence, juvenile unemployment among vulnerable persons combined with an elusive dream about conquering Europe and accessing the fulfilment opportunities to be found in Europe. For a person who returns to Morocco after an unsuccessful period of time in Europe, the problems tend to continue. The Bayti staff members explained that migration failure is negatively perceived in the local community and added that for minors, a return constitutes another frustrating setback. It is shame that makes minors avoid any contact with their family of origin once they are back in Morocco. An amplifying effect of this refusal to take up contact with their family, is the fact that such a failure also falls back on the family. It is shame which sometimes leads family members to refuse contact with their child. According to Bayti's assessment, the family is the key factor that pushes their children towards

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<sup>148</sup> As the only association in the Maghreb countries among 24 prize winners from 12 countries (Maghreb, the Middle-East, Asia, Latin America), Bayti received the Stars Impact Award in 2015 together with a US\$ 50,000 scholarship for the impact of its work for the protection and care of children in difficult situations.

<sup>149</sup> Bayti Association's website <http://www.association-bayti.ma/index.php>



risky migration and at the same time a factor that may bring about a solution enabling existing family ties to be re-established.

### **Reception into a Bayti home, education and health status of children living in difficult situations**

111 Bayti has primarily gained an experience in the field of working with and for children living in difficult situations. Assistance to children and youth offered by Bayti follows a well-determined procedure. The staff members explained that in cases where a Moroccan child has been registered by the authorities as a child in a difficult situation, in danger or in a risky situation (living in the streets, in contact with the law, drug addiction, etc.), the child's case is submitted to a juvenile court judge in a court of first instance. In such a case, a social inquiry is opened. A social inquiry comprises an assessment of the existing family environment. It is carried out by a social worker who visits the family in order to evaluate its living conditions and its financial, educational and capacity for emotional support.

112 Based on the results of this inquiry, the judge may make a decision to refer the child to an association like Bayti, to a foster family or to its biological family. If the child is in conflict with the law and is younger than 15 years, his or her case will not be heard within the framework of the Code of Penal Procedure. If, by contrary, he or she is older than 15, the judge has a possibility of referring the youth to one of the child protection centres (*Centres de sauvegarde*). If the judge decides to place the child in a Bayti facility, there are two possibilities: residential care in which the child will be living in a Bayti home (this possibility is applied when a child has lost contact with his or her family) or day-care (in cases where a child has maintained some level of with their family). In all cases, an individual plan will be prepared. The plan is based on a thorough analysis of the root causes for the current problems. It may take up to two months to prepare such an analysis. Then work with psychosocial rehabilitation and competence strengthening (schooling, professional training and, if possible, job placement) will commence. At the same time, psychotherapeutic treatment of children and youth with behaviour problems will be initiated. The goal is for the child to gain autonomy at the age of 18 at the latest. After the 18<sup>th</sup> year of age, the youth is discharged from Bayti as the association does not provide assistance to individuals older than 18.

### **Establishing of identity documents**

113 Asked about Bayti's procedures in cases where a child without identity papers is being referred to Bayti, the staff members explained that such a situation does not create any insurmountable problems. It is possible to re-establish a person's case file and have identity papers issued.

### **Schooling**

114 In Morocco, schooling is compulsory until the age of 15. Children who are referred to Bayti have frequently dropped out of school or have never attended school. This is often the case with girls who have worked as child maids and who have been prevented from getting an education. During their stay in a Bayti home, the children attend the local school. If they have not yet reached the level required to follow standard education in the public school system, Bayti will ensure their access to vocational training, apprenticeship or job placement in consultation with public or private centres.

### **Medical care**

115 In the Bayti residential care centers, the child residents have access to medical care through the public health care system and a network of various volunteer medical specialists. Mental health is

attended to by a child psychiatry unit (a friend of the association). As to medicines, Bayti covers the costs with a 30% discount offered by pharmacies that cooperate with the association.

### **Norms and standards for care in social protection centres**

116 The interviewed Bayti staff members explained that its service provision is carried out within the legislative framework laid down in Act no. 14-05 concerning Social Protection Centres enforced by the Ministry of Solidarity, Women, Family and Social Development. The provisions of the Act are applicable to child protection services with a mandate to provide support to abandoned children, such as accommodation, food, medical care with due respect to the physical, moral and psychological integrity of the children and youth. However, the interviewed staff members explained that the standards laid down in Act no. 14-05 solely concern physical space and not educational standards, etc. Currently, there are no standards and work procedures setting a framework for the quality of care for children in need of social protection and care that regulate the work by private associations. However, Bayti has developed guidelines that set out procedures for reception of a minor into a Bayti facility as well as standards of care for children in difficult situations.

### **Services offered to teenagers between 15 and 18 years of age living in difficult situations**

117 Bayti offers services covering particular needs of teenagers aged 15 to 18 (coaching, individual talks, assistance in connection with requests for traineeships, drafting of CVs, psychological care and support, etc.). Bayti is prepared to support all minors in need of social protection, including those who reside outside of their country of origin. Bayti's assistance is offered on the condition that the minor expresses his or her will to return voluntarily to Morocco and that it is possible to establish a real contact with the minor's family.

### **Measures facilitating the return of unaccompanied minor migrants to Morocco**

118 Bayti has achieved experience in the field of assisted return and social reintegration of young Moroccans who have migrated to Europe through its participation in a Swedish project. Since 2014, this project has had the objective to offer assistance to minors who have tried their luck in Europe as migrants, to be reunited with their family. This project sought to facilitate voluntary return of those young persons and consisted of two elements: a youth approach and a family approach. A group of minors staying in Sweden, out of which the majority was aged 16 to 18 and who were likely to accept to return voluntarily to Morocco, had been identified by the Swedish authorities. Subsequently, staff members from Bayti established individual contact over the telephone with each of these minors in order to assess his situation. In general, the contact was difficult as the establishing of trust-based relations turned out to be complicated. The young persons mistrusted the intentions of their interlocutors from Bayti, and hence they were reluctant to confide in the Bayti staff. At the same time, a contact was established with their families in Morocco. Social workers from Bayti paid frequent visits to the biological families or to their guardians. In none of the cases was it impossible for the officials to identify the family of origin. However, the re-establishing of family ties was difficult: often the parents were living in misery and were reluctant to accept the return of their children. Family reintegration is difficult and requires long-term support and mediation work.

When asked about the result of this particular project, the Bayti staff members explained that so far this project has not led to any voluntary return to Morocco.

119 According to the assessment of the Bayti staff members, young persons who return after a long and unsuccessful stay in Europe find themselves in an even worse state than prior to their departure. It is a matter of a perceived failure, on the part of both the young person and his family.

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## **12 Moroccan League for the Protection of Children (LMPE), Rabat**

### **Interview with Mr. Yassbrahim and Mrs. Y. Elasafi, the Centre Lalla Meriem, Rabat**

Rabat, 12 October 2016

*The Moroccan League for the Protection of Children (LMPE) is a non-governmental and non-profit organisation. The League provides care to children who find themselves in a vulnerable situation and without support from their families. Through residential care centers, the League offers education for children in different regions across the country.*<sup>150</sup>

120 Accompanied by representatives of the Ministry of Solidarity, Women, Family and Social Development, the Delegation paid a visit to Centre Lalla Meriem in Rabat. This centre takes care of girls and boys, young people from the age of 10 to 18 including those living with disabilities.

121 The children who are admitted at Centre Lalla Meriem are without family. There are also children who find themselves in a difficult situation, e.g. cases of children who are vulnerable because one or both of the parents are in prison or suffer from a chronic disease such as HIV/AIDS or a mental disorder. It is often the mother who is in a difficult situation because of a chronic disease, but it could also be the child. The centre also receives children at risk, e.g. children from divided families or children of migrants. Minors who migrate to Europe and who return to Morocco are not admitted by the League.

122 In case of need, children will receive medical care at the centre. However, in case of serious illness, the children are urgently transferred to the nearest hospital.

123 As to education, the large majority of the children staying at Centre Lalla Meriem attend primary school, but there are also children who attend nursery school, secondary school and who receive non-formal education.

124 It should be noted that children living with less severe disabilities attend integrated classes with children without disabilities, and that two young persons attend on-the-job training.

125 A part from providing care to children who have lost the care of their family and children who are vulnerable for other reasons, the management of the centre seeks to facilitate an adoption procedure through the so-called *kafala* for all children about whom a judge has established that they have been subject of abandonment by their family of origin.

126 On the average, the adoption rate ranges from 45 to 50 percent, but with regional variations. In general, adoption into a new family through the framework of *kafala* happens at an early age (usually from immediately after birth until the age of 3).

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<sup>150</sup> The Moroccan League for the Protection of Children, Regional distribution of activities  
[http://lmpe.org.ma/?page\\_id=55](http://lmpe.org.ma/?page_id=55)

127 Mr. Yassine, who represented the central office of the League, referred to the Care (*kafala*) of Abandoned Children Act no. 15-01<sup>151</sup> according to which a child may be adopted by a couple or by a woman in accordance with the Muslim tradition. A centre under the League may not admit an abandoned child unless a judge has given his consent.

128 Act no. 15-01 stipulates that the adoptive parents must be Muslims, of good morals and must possess the necessary financial means to be able to accommodate and raise a child. The same act also specifies that the relation between the adoptive family and the adoptive child should be continuous. Mr Yassine emphasized that the majority of families willing to adopt an abandoned child prefer a girl because girls are perceived as more docile and helpful than boys. However, it is a fact that the number of families who accept to adopt a boy is increasing. Children who are characterized as so-called 'social cases' are not very likely to be adopted because they still have their biological parents.

129 Centre Lalla Meriem is responsible for a programme which facilitates access to education for young people. At the age of 18, a young person must, as a general rule, leave the centre, and in order to facilitate the transition from institutional care to independence, it is preferably that he or she has obtained an education before that point of time. In certain cases, where this goal has not been achieved, the Centre Lalla Meriem has allowed some young people to continue to live at the centre until the age of 23. Minors who migrate to Europe and who return to Morocco are not admitted by the league.

130 Centre Lalla Meriem run a number of programmes targeting different groups of children and youth. These programmes seek to prevent unwanted pregnancies among young women through awareness raising. Another programme seek to raise the number of adoptions under the so-called *kafala* procedure through awareness raising among potential adoptive families, and there is a programme regarding the care of children and young people who are likely to migrate illegally to Europe.

131 Mr. Yassine noted that the number of abandoned children remains stable. One explanation for this stability is that still more couples use family planning in order to avoid unwanted pregnancies. The League has conducted a survey which suggests that their activities targeting women at risk of experiencing an unplanned pregnancy have contributed to reduce the number of unwanted pregnancies.

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### **13 Moroccan League for the Protection of Children (LMPE), Casablanca** **Interview with Mrs. Amina Larakifazi, Casablanca, kindergarten and mother's shelter**

Casablanca, 11 October 2016

*The Moroccan League for the Protection of Children (LMPE) is a non-governmental and non-profit organisation. The League provides care to children who find themselves in a vulnerable situation and*

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<sup>151</sup> Kafala Act: Bulletin Officiel no. 5036 dated 27 jomada II 1423 (5 September 2002)

Dahir [decree] no. 1-02-172 dated 1<sup>st</sup> rabii II 1423 (13 June 2002) regarding the enactment of the Care (*kafala*) of Abandoned Children Act no. 15-01.

<http://adala.justice.gov.ma/production/legislation/fr/Nouveautes/enfants%20abandonne.pdf>

without support from their families. Through residential care centres, the League offers education for children in different regions across the country.<sup>152</sup>

132 Mrs. Larakifazi is responsible for the League's centre in Casablanca. The delegation paid a visit to the centre which consists of a kindergarten and a shelter for mothers.

133 Children aged up to 6 attend full-day kindergarten and are offered meals during daytime. The children originate partly from poor families partly from families who choose to enrol their child in this kindergarten because of the quality of its childcare.

134 The women who stay at the shelter are women who have become pregnant outside of marriage. During the last trimester of the pregnancy, they are living full-time in the shelter. Soon after a woman has given birth, she will decide whether she will keep her child or give it up for adoption through the adoption procedure, which according to *Sharia* law is named as 'kafala'.<sup>153</sup>

135 There are no time limits for the adoption of a child neither in the Act nor in the practice of *kafala*. However, in reality, the children that are being adopted are rarely older than one month. The children who are taken care of at the centre, all have a mother who is known by the centre.

136 According to Mrs. Larakifazi, 121 women have been received by the shelter in 2016. This number is decreasing. According to Mrs. Larakifazi, the reason is the fact that the social stigma towards unmarried mothers is becoming less severe. As a consequence, the adoption rate is also declining. Approximately 30 percent of all children who are born by a woman at the shelter are being adopted by new parents whereas another 30 percent of the children join their extended family together with the mother. There are also cases where the woman marries the father of the child and other cases where the mother loses the child in childbirth.

137 The League is offering a prevention programme for women which provides information about the risk of unwanted pregnancies.

138 Sex workers, women who use drugs and unmarried mothers in their second pregnancy are not admitted at the shelter.

139 The documents required from parents who would like to adopt a child under the *kafala* system are as follows: Birth certificate, national identity card, evidence of income and a declaration from the local police. No payment is required to adopt a child.

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<sup>152</sup> The Moroccan League for the Protection of Children, Presentation on website:

[http://lmpe.org.ma/?page\\_id=294](http://lmpe.org.ma/?page_id=294)

<sup>153</sup> The Moroccan League for the Protection of Children, Kafala on website:

[http://lmpe.org.ma/?page\\_id=44](http://lmpe.org.ma/?page_id=44)

Kafala Act: Bulletin Officiel no. 5036 dated 27 jomada II 1423 (5 September 2002)

Dahir [decree] no. 1-02-172 dated 1<sup>st</sup> rabii II 1423 (13 June 2002) regarding the enactment of the Care (*kafala*) of Abandoned Children Act no. 15-01.

<http://adala.justice.gov.ma/production/legislation/fr/Nouveautes/enfants%20abandonne.pdf>

## **Appendix B: meeting notes (French version)**

### **1. Ministère des Affaires Etrangères et de la Coopération**

**Entretien avec Mustapha El Bouazaoui, Affaires Consulaires et Sociales,**

10 octobre 2016, Rabat

L'entretien avec Mustapha El Baouzaoui a commencé avec un tour d'horizon de la situation socio-politique de la société marocaine. Le Directeur des Affaires Consulaires et Sociales s'est exprimé sur les trois thèmes de la mission danoise dans l'ordre suivant : la situation des mineurs non-accompagnés, la situation des personnes d'orientation LGBT et la double peine. Il a souligné le besoin de consulter par la suite les ministères et les associations spécialisées dans chaque domaine pour plus de renseignements.

#### **Situation pour les mineurs vivant sans leurs parents**

1. Pour le Gouvernement du Royaume du Maroc le sort des enfants vivants sans contact ou avec peu de contact avec leur famille doit obligatoirement être examiné dans le contexte de l'intérêt supérieur de l'enfant. Le Maroc a ratifié la Convention internationale des Droits de l'Enfant en 1993 et le Gouvernement tient au respect des principes qui y sont stipulés. Le Gouvernement reconnaît que la rapidité des changements socio-économiques que parcourt le pays actuellement pose un défi sur la stabilité de la famille marocaine. Donc, le phénomène d'abandon par la famille ou refus de réintégrer son milieu familial est loin d'être un phénomène inconnu. D'une façon globale, le Gouvernement marocain travaille pour créer des conditions nécessaires pour le bien-être des enfants en situation difficile et son diagnostic est que cela se passe à travers la réintégration en famille. Le Gouvernement reconnaît que la migration des mineurs non-accompagnés est plus complexe que celle des adultes et pour cela il faut une approche multidimensionnelle vis-à-vis le phénomène migratoire des enfants marocains qui traversent les frontières pour gagner l'Europe. Une de ces approches c'est de combattre les trafiqueurs de mineurs migrants. Actuellement, le Gouvernement ne possède pas de données qui leur permettent de chiffrer l'ampleur de ce phénomène.
2. Au moment où les autorités marocaines reçoivent une demande par un pays étranger concernant un mineur, présumé de nationalité marocaine, les autorités indiquées procèdent par une étude de cas par cas. D'une première instance, il s'agit d'examiner les indices indiquant s'il s'agit véritablement d'un mineur de nationalité marocaine. Pour en tirer une conclusion, l'acte de naissance n'est pas suffisant pour établir la nationalité, seul le passeport, ou une copie de passeport, pourra établir la nationalité marocaine avec certitude. Il n'existe pas un registre avec l'empreinte digitale des mineurs. Ensuite il importe d'identifier la famille de l'enfant pour décider si elle est en mesure de fournir un cadre acceptable de réintégration de l'enfant. Parfois, il faut entamer une médiation entre parents et enfant pour pouvoir rétablir le contact ; il y a des parents qui refusent le retour de leur enfant. Finalement, il faut évaluer si un éventuel retour vers le milieu familial est dans le meilleur intérêt de l'enfant. Un élément qui pèse dans cette évaluation est de savoir si l'enfant, qui s'est accommodé aux mœurs et aux manières de vivre dans un tiers pays pendant une période prolongée, pourrait-il véritablement s'épanouir dans son milieu d'enfance.

3. Actuellement, le Maroc a signé un accord bilatéral avec l'Espagne qui fournit un cadre juridique traitant des migrants mineurs non accompagnés. Le Maroc s'est engagé à combattre le trafic de migrants en collaboration avec les pays voisins, notamment la sécurité des frontières ainsi que la protection des mineurs.
  4. Mr. Mustapha El Bouzaoui a fait référence à un projet sur les enfants dans la rue mené par L'Entraide Nationale et selon les données de ce projet le nombre d'enfants vivant dans la rue est en train de baisser.
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## 2. Ministère de la Justice et de la Liberté

### Entretien avec un représentant des Affaires Pénales et des Grâces,

Rabat, le 17 octobre 2016

#### La prise en charge, *la kafala*, d'un enfant

5. La prise en charge à travers *la kafala*, d'un enfant est un alternatif de famille pour un enfant abandonné et pour un enfant issue d'une famille qui n'est pas apte à prendre en charge l'enfant. La *kafala* d'un enfant dépend d'une décision judiciaire selon la procédure *kafala* suivant la foi musulmane. L'enfant peut être adopté par soit un couple marié soit d'une femme célibataire.
6. La limite d'âge pour un enfant pris en adoption par la *kafala* est 18 ans, mais en réalité ce sont des enfants à petit âge qui sont adoptables.
7. Au cas où un mineur migrant non-accompagné qui est de retour au Maroc ce n'est pas exclue dans la loi<sup>154</sup> que cet enfant pourra être prise en charge à travers *la kafala*. Cela sera décidé cas par cas s'il y a une demande.

#### Identification

8. Au Maroc les citoyens peuvent être demandés de donner leurs empreintes digitales à partir de l'âge de 18 ans. Les empreintes sont enregistrées par l'état civil. L'état marocain a fait un effort pour faire enregistrer tous les citoyens. Les enfants qui se trouvent en situation difficile ne sont pas toujours été enregistrés par leur famille et dans ce cas l'état peut aider à enregistrer l'enfant. Le tribunal va décider si l'enfant est abandonné.

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<sup>154</sup> La loi kafala

Bulletin Officiel n° : 5036 du 05/09/2002 - Page : 914 : Dahir n° 1-02-172 du 1er rabii II 1423 (13 juin 2002) portant promulgation de la loi n°15-01 relative à la prise en charge (*la kafala*) des enfants abandonnés <http://adala.justice.gov.ma/FR/DocumentViewer.aspx?id=121780.htm> Portail Juridique et Judiciaire du Ministère de la Justice et des Libertés du Maroc)

## Juges de mineurs

9. Les juges qui sont chargés des cas de mineurs suivent une formation de spécialisation qui pourtant n'est pas suffisante pour les préparer à tous les cas d'éventualités ils peuvent rencontrer. Les juges qui sont chargés des cas de mineurs sont aussi chargés aux cas d'adultes. Le directeur des Affaires Pénales et des Grâces voudrait faire spécialiser les juges pour un meilleur focus. Au Maroc un juge et un procureur occupent la même fonction en tant que magistrat.
  10. Quand l'emprisonnement d'un mineur est jugé nécessaire, le mineur est puni de la moitié de la punition infligée aux adultes.
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### 3. Ministère de la Solidarité de la Femme et de la Famille et du Développement Social (MSFFDS)

#### Entretien avec M. Mohamed Ait Aazizi, Directeur de la Protection de la Famille, de l'Enfance et des Personnes Agées

Rabat, le 13 octobre 2016

*La Division de l'enfance du MSFFDS est chargée de la promotion et de la protection des droits de l'enfance.*

#### Législation

11. La législation marocaine assure la protection des enfants abandonnés. Le Maroc est engagé, depuis des années, dans une réforme législative de grande ampleur, touchant différents domaines de la protection de l'enfance. Cette réforme a concerné le code pénal et le code de procédure pénale, la révision de la loi 14.05 relative à l'ouverture et à la gestion des établissements de protection sociale, qui sera abrogée par le projet de loi 65.15 relative aux établissements de protection sociale, la loi n° 19.12 relative aux travailleurs domestiques publiée au bulletin officiel le 22 Août 2016. Toutes ces lois et projets de lois ont un impact direct sur le droit de l'enfant à la protection.
12. Le Contrôle de l'exécution de la *kafala* est stipulé dans la loi 15-01, promulguée par le Dahir n° 1-02-172 du 13 juin 2002 qui stipule que:
  - « La prise en charge (la *kafala*) d'un enfant abandonné est l'engagement de prendre en charge la protection, l'éducation et l'entretien d'un enfant abandonné au même titre que le ferait un père pour son enfant. La *kafala* ne donne pas de droit à la filiation ni à la succession »
  - « Le juge des tutelles dans la circonscription duquel est situé le lieu de résidence de la personne assurant la *Kafala*, est chargé de suivre et de contrôler la situation de l'enfant et de s'assurer que cette personne honore bien les obligations qui lui incombent. »



- Pour exercer efficacement cette surveillance, il peut faire procéder aux enquêtes qu'il juge utiles, par le ministère public, l'autorité locale, l'assistante sociale ou, de manière générale, par toute personne compétente.

### **Politique Publique Intégrée de Protection de l'Enfance au Maroc (PPIPEM) et La Stratégie Nationale d'Immigration et d'Asile (SNMA)**

13. Afin d'assurer une protection efficace de l'enfant contre toute forme de violence et un environnement protecteur, le Ministère de la Solidarité, de la Femme, de la Famille et du Développement Social, a lancé en 2013, le processus d'élaboration de *la Politique Publique Intégrée de Protection de l'Enfance au Maroc* (PPIPEM), en concertation avec l'ensemble des acteurs concernés, départements gouvernementaux, élus, associations, secteur privé, partenaires internationaux et avec la participation des enfants eux-mêmes. La PPIPEM a été adoptée le 03 juin 2015 par la Commission Ministérielle chargée de suivi de la mise en œuvre des politiques et plans nationaux dans le domaine de la promotion de la situation des enfants et la protection de leurs droits, présidée par le Chef du Gouvernement.
14. *La Stratégie Nationale d'Immigration et d'Asile* vise à assurer une meilleure intégration des immigrés et une meilleure gestion des flux migratoires dans le cadre d'une politique cohérente, globale, humaniste et responsable. Cette stratégie découle du diagnostic et de l'analyse des enjeux relatifs à l'immigration et à l'asile. Elle répond aux Hautes Orientations Royales et se place dans la continuité de l'action initiée par le Ministère chargé des Marocains Résidant à l'Étranger et des Affaires de la Migration (MCMREAM) en collaboration avec les autres acteurs institutionnels nationaux, internationaux ainsi que la société civile.
15. Le retour d'un migrant mineur marocain à un établissement de protection social est tributaire de l'intérêt supérieur de l'enfant dans la procédure de retour. Cette décision devrait être prise par le juge des mineurs en parfaite connaissance des éléments du dossier de l'enfant. À l'avis du Gouvernement marocain la meilleure solution pour un enfant abandonné c'est d'être placé dans une famille et d'éviter la séparation d'un environnement familiale.
16. Le MSFFDS travaille sur la prévention de l'émigration irrégulière autant que sur les conditions de sortie pour ceux qui veulent émigrer à travers la sensibilisation des familles sur les risques liées à la migration et les efforts déployés par la garde-frontière opérée par le Ministère de l'Intérieur et par le Ministère des Affaires Étrangères et de la Coopération.
17. Un accord de réadmission de mineurs est passé avec l'Espagne. Le Maroc a beaucoup investi dans la prévention contre l'émigration irrégulière. Pour avoir un tel accord de réadmission des mineurs marocains émigrés au Danemark, il faudrait le négocier dans un cadre interministériel entre le Maroc et le Danemark.

### **La standardisation des structures, des services et des pratiques de protection des enfants**

18. L'ambition et la volonté exprimées à travers la PPIPEM sont celles de construire un système intégré de protection de l'enfance au Maroc, qui s'articule au contexte institutionnel, social, économique et culturel du pays et soit doté des moyens et des outils nécessaires pour assurer une protection

effective des enfants conformément aux normes et standards nationaux et internationaux en la matière.

19. Actuellement, plus de 1500 établissements de protection sociale (EPS) existent au Maroc. L'objectif de ces établissements est de prendre en charge toute personne, des deux sexes, se trouvant dans une situation de difficulté, de précarité ou d'indigence. Plus de 154 structures parmi ces établissements, sont dédiées aux enfants en situation de handicap, gérées en majorité par des associations. Plusieurs acteurs participent à l'effort de financement de ces structures.
20. La prise en charge en fonction du type d'établissement de protection sociale, est permanente ou provisoire, totale ou partielle. Elle comprend des services d'accueil, d'hébergement, d'alimentation, des soins paramédicaux et le suivi socio-éducatif, dans le respect de l'intégrité physique des personnes prises en charge, de leur dignité, de leur âge, de leur sexe et de leur capacité physique, mentale et psychologique. Ainsi, dans ce volet, la PPIPEM envisage des mesures d'appui aux capacités humaines qui sont donc à fournir en s'appuyant sur les interventions existantes.
21. L'hébergement des enfants en situation difficile se fait dans les Établissements de Protection Sociale (EPS). Ces établissements sont gérés par la loi 14-05 relative aux conditions de création et de gestion des établissements de protection sociale. Ce département s'attèle, actuellement, à la réforme du système des centres sociaux sur la base d'un diagnostic effectué en 2013. Aussi, le chantier de la révision de la loi 14-05 est en cour.

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## 4. Entraide Nationale

### Entretien avec M. Abdelmonnime El Madani, Directeur de

Le 17 octobre 2016, Rabat

*Créée, d'abord, sous forme d'Établissement privé à caractère social<sup>155</sup>, l'Entraide Nationale (EN) a ensuite été érigée en Établissement Public doté de la personnalité civile et de l'autonomie financière, statut qu'elle conserve à ce jour. Elle s'assigne pour mission d'apporter toute forme d'aide et d'assistance aux populations et de concourir à la promotion familiale et sociale. L'Entraide Nationale gère 3988 centres dont 928 sont dédiés spécifiquement aux enfants abandonnés, aux enfants en situation de handicap et aux enfants en*

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<sup>155</sup> L'Entraide Nationale (EN) a été créé par le dahir n° 1-57-099 du 27 avril 1957 et est passé en établissement public par le décret n° 2-71-625 du 28 février 1972. L'EN est actuellement placée sous la tutelle du Ministère de la Solidarité, de la Femme, de la Famille et du Développement Social. Son intervention et selon sa nouvelle vision stratégique se fait à travers un dispositif d'intervention axé sur trois composantes essentielles : (i) Assistance Sociale ; (ii) Offre de prestations «à travers ses différents guichets» et (iii) Veille et Intelligence Sociale. Elle peut être appelée à participer à la création d'institutions et d'établissements destinés à faciliter l'accès au travail et à l'intégration sociale des populations en situation de grande vulnérabilité. Au niveau territorial, l'organisation de l'EN repose sur un principe de déconcentration d'un certain nombre d'activités et d'attributions au sein de dix coordinations régionales qui sont chargées de la représenter au niveau régional et de 82 délégations provinciales implantées au niveau des préfectures et des provinces du Royaume.

*situation difficile, et y apporte un soutien financier et un encadrement en ressources humaines pour bon nombre d'associations privées œuvrant dans le domaine du travail social de proximité.*

### **Problématique de la migration des mineurs non-accompagnés**

22. Le Directeur a fait le constat que le Maroc, après avoir été pendant un certain temps un pays émetteur de migrants irréguliers, est devenu plus un pays de transit pour des migrants venant majoritairement des pays d'Afrique centrale et d'Afrique de l'Ouest. Cette situation pose un double défi : d'un côté de répondre aux besoins des migrants démunis, de toutes les nationalités se trouvant sur le sol marocain ; d'un autre côté de répondre aux besoins des migrants de nationalité marocaine qui sont de retour après un séjour à l'étranger.
23. Concernant la migration des mineurs non accompagnés, le Directeur a noté que l'EN ne possède pas suffisamment de données qualitatives et quantitatives lui permettant de bien caractériser cette problématique. La politique du Gouvernement du Maroc est de faciliter la rééducation et la réinsertion sociale des enfants en rupture familiale, y compris les mineurs migrants non-accompagnés. Le Directeur a souligné que l'EN est prêt, dans la cadre de la politique nationale, à s'engager activement vis-à-vis de ces enfants de par sa vocation pour l'assistance sociale et son savoir-faire en matière du renouement avec la famille natale. A cet effet, le Directeur a souligné que l'EN est très favorable, selon les cadres officiels de coopération, à la collaboration avec les pays européens où se trouvent les migrants mineurs non-accompagnés pour une meilleure prise en charge après leur retour volontaire au Maroc.
24. Parmi les facteurs explicatifs de la migration des mineurs, le Directeur a mentionné que cette idée se développe au fil du temps parmi les enfants vivant en situation de rue avec peu de contact régulier avec leur famille natale. La rue, avec sa précarité et violence, est qualifiée de 'générateur de migration'. Deuxième facteur est l'influence du milieu socio-familial. D'après le Directeur, il y a peu de mineurs qui prennent la décision de tenter la migration sans recevoir un encouragement, passif ou actif, de la part de leur environnement socio-familial. Pour cela, il a exclu la possibilité que les mineurs migrants non-accompagnés fassent partie des enfants abandonnés ou orphelins. Les enfants originaires des milieux les plus démunis tels que les enfants vivants en zone rurale ou l'enfant orphelin de mère et de père ne disposent pas de ressources suffisantes pour entreprendre le projet de migration. Selon les informations des juges de mineurs, très peu d'enfants placés en institution prennent la fugue, donc c'est peu probable que ce sont des enfants institutionnalisés qui font la migration irrégulière.
25. Le Directeur a précisé que l'EN est une institution qui s'oriente à jouer un rôle grandissant dans la prestation des services sociaux aux enfants migrants. Toutefois, l'EN a plus d'expérience dans le domaine de prévention de migration et n'a pas encore accumulé une longue expérience opérationnelle dans le domaine du retour volontaire pour les mineurs marocains. A ce jour, l'expérience concrète se limite à une collaboration au niveau de quelques provinces avec d'autres organisations visant notamment l'appui et l'accompagnement aux migrants de retour volontaire d'Italie. En plus de cela, l'EN a contribué à l'élaboration des modules de prévention de la migration irrégulière avec le Fonds des Nations Unies pour la Population (FNUAP).

## **Institutionnalisation des enfants en situation difficile**

26. Les enfants en situation difficile qui sont répertoriés par les autorités sont placés, sous décision judiciaire, dans des familles d'accueil ou dans les établissements de protection sociale (EPS) ou les Centres de protection de l'enfance (CPE)<sup>156</sup>. Les EPS sont des établissements socioéducatifs ayant comme but la rééducation et la réintégration en famille des enfants qui leur sont confiés. On en compte 1200, répartis sur tout le territoire national. Les bénéficiaires sont des enfants en situation difficile pour des raisons socioéconomiques, des enfants victimes des violences et des enfants en situation de handicap. Le gouvernement a récemment construit vingt nouveaux établissements pour pouvoir couvrir la demande de placement institutionnel. Par contre les CPE reçoivent en principe des mineurs en conflit avec la loi.
27. Selon le Directeur on a pu constater une augmentation dans les demandes de placement institutionnel de la part des familles les plus démunies, notamment pour améliorer l'accès à l'éducation. Dans certaines institutions il y a même des listes d'attentes. Ces familles semblent préférer faire placer leurs enfants en établissement public plutôt que d'affronter les problèmes en famille par souci de donner aux enfants accès à une scolarité meilleure. Cette tendance est inquiétante étant donné qu'elle est en conflit avec le souci de la part du Gouvernement de protéger l'unité familiale. Le Gouvernement essaye d'y répondre par une nouvelle approche 'prise en charge à distance' où les enfants ne sont pas pris comme pensionnaires dans un établissement mais bénéficient quand même d'une assistance matérielle et pédagogique. Actuellement, l'EN se prépare à répondre à ces défis dans le cadre du programme national 2016-2020 de la Politique publique intégrée de la protection de l'enfance au Maroc.

## **Normes et standards relatifs aux établissements de protection sociale (EPS)**

28. Les EPS sont régis par la loi 14-05 promulguée en 2006 relative aux conditions d'ouverture et de gestion des établissements de protection sociale. Cette loi a comme objectif de mettre en place et d'harmoniser les standards de la qualité de la prise en charge des enfants en situation difficile. Toutefois, cette loi propose surtout des standards minimaux concernant le budget de la nourriture et l'aménagement de l'espace physique. En ce qui concerne la qualité d'éducation, l'individualisation des services, la prise en charge médicale, l'approche pédagogique et la qualité et la quantité de la nourriture, des efforts de standardisation des normes minimales ont été consentis dans le cadre de l'élaboration d'une nouvelle loi sur les EPS.
29. Avant l'introduction de la loi 14-05, il n'y avait pas assez de suivi du fonctionnement de la prise en charge des enfants en situation difficile. Cette loi prévoit un comité de contrôle des EPS. Selon la loi 14.05, le comité de contrôle institué à l'échelle provinciale comprend plusieurs membres et doit visiter au moins deux fois chaque année l'ensemble des EPS pour s'assurer du respect des dispositions de la loi 14.05 et des cahiers de charges propres à chaque établissement.
30. Par ailleurs, pour assurer un meilleur contrôle des fonds alloués par l'EN aux divers EPS, il est prévu que des audits externes par des bureaux d'études indépendants soient réalisés. L'objectif est de produire un rapport annuel sur la performance et la qualité de l'offre de services pour chaque

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<sup>156</sup> Parfois désignés sous le terme Centres de sauvegarde de l'enfance (CSE).

établissement.

31. A travers le Ministère de la Solidarité, de la Femme, de la famille et du Développement Social, l'EN a de nombreux partenaires nationaux et internationaux, notamment des associations d'envergure nationale en protection des mineurs, le Conseil National de Droits de l'Homme, l'UNICEF et l'Organisation internationale pour les migrations (OIM). Le Directeur de l'EN a expliqué qu'avec ses partenaires, un travail approfondi d'élaboration des procédures d'accueil dans les EPS a été initié.

#### **Identification des mineurs en situation difficile**

32. D'après le Directeur, un des éléments clefs dans la récupération des mineurs migrants non-accompagnés est le repérage identitaire. L'EN est en tant qu'Institution publique à vocation sociale présente sur tout le territoire du Maroc et ayant des ressources humaines compétentes en matière d'assistance sociale, pour mener une démarche de recherche des parents par le canal de ses représentations territoriales (en collaboration avec les autorités locales).
33. Les mineurs de nationalité marocaine ne disposent pas de documents d'identité (carte nationale d'identité) avant l'âge de 16 ans à moins qu'ils aient été placés dans un établissement public par un juge de mineurs ou on a nécessairement fait un dossier sur la base de l'identité de l'enfant. En outre, les mineurs possédant des documents d'identité, par exemple un passeport, font souvent de manière à se dégager de leurs documents pendant leur traversée. En l'absence des documents d'identité, l'identification de la nationalité devient souvent une question de crédibilité de la déclaration de l'individu. Cela est pourtant difficile à cause de l'ambiguïté des déclarations des mineurs migrants non-accompagnés.
34. Le Directeur a noté que même en l'absence de documents d'identité, il reste toujours faisable d'arriver à identifier la provenance familiale du mineur, pourtant il demeure plus difficile à faciliter le renouement du lien entre parents et enfants. Pour y réussir, il faut de l'expertise en matière de psychologie et du temps pour pouvoir créer et maintenir des rapports de confiance.

#### **Activités ayant comme but d'assister des mineurs migrants de retour**

35. L'EN et l'OIM ont mené ensemble un projet de partenariat visant à mettre en commun les efforts pour faciliter le retour volontaire des migrants de nationalité marocaine. Ce projet avait pour objectif de diminuer la migration irrégulière des mineurs de la région de Khouribga vers l'Italie. Une autre action collective a réuni les deux partenaires dans un autre projet destiné à apporter un appui aux mineurs candidats potentiels à l'émigration irrégulière au niveau de Beni Mellal et Nador avec l'appui de l'Agence Espagnole de Coopération.
36. Les mineurs migrants peuvent bénéficier de la protection à condition qu'ils soient repérés par les autorités. D'après le Directeur, ils pourraient être qualifiés d'enfants en situation difficile.
37. D'après la procédure normale, le placement des enfants en situation difficile ou en conflit avec la loi est décidé par un juge de mineur dans le tribunal de première instance. Pour les enfants en conflit avec la loi, le juge peut décider de placer cet enfant dans un établissement pénitencier pour mineurs ou dans un centre de protection de l'enfance relevant du Ministère de la Jeunesse et des

## 5. Ministère de la jeunesse et des sports

### **Entretien avec Yaccine Bellarab, Directeur de la Coopération, de la Communication et des Etudes Juridiques, Mohammed Bouhafid, Chef de Service des Centres de la Protection de l'Enfance**

Le 13 octobre 2016, Rabat

*Le but de l'entretien avec les représentants du Ministère de la Jeunesse et des sports était d'en savoir plus sur la prise en charge des enfants en situation difficile et sur les Centre de Protection de l'Enfance (CPE) au Maroc<sup>157</sup>. Les CSP désignent un groupe d'établissements ayant à charge l'observation et la rééducation des mineurs en conflits avec la loi.*

38. Le Directeur a commencé par expliquer qu'il y a actuellement vingt CPE distribués sur tout le territoire du Maroc avec au total un millier de mineurs qui y sont placés. Par souci de séparer les jeunes filles des jeunes garçons, cinq CPE sont réservés aux filles. Les CPE sont des centres socio-éducatifs où l'enfant mineur, sur décision judiciaire, pourrait être placé pour une période définie. Normalement, cette période varie entre deux mois à une année. Le Directeur a noté que les CSP sont les seules institutions mandatées par le Gouvernement Marocain à recevoir les mineurs qui sont en contact avec le système judiciaire. Le Directeur a rajouté que la responsabilité des CPE a été placée au Ministère de la Jeunesse et des Sports afin de pouvoir traité les mineurs comme ayant commis une faute plutôt que d'être des criminelles.
39. Le juge de mineurs prend la décision de placement d'un CPE en mettant en application les articles 471 et 481 des procédures du Code pénal. La décision est prise par le juge sur rapport d'une analyse sociale de l'enfant réalisée auprès du mineur lui-même, ses parents ou, en défaut de parents biologiques, son tuteur. En outre des peines de placement en CSP, le juge de mineurs peut également décider que le mineur doit purger une peine alternative telle que la liberté surveillée.

### **Mixité des enfants en situation difficile avec des enfants en conflit avec la loi**

40. Les groupes cibles de ces établissements publics sont les pré-adolescents et adolescents âgés de 12 à 18 ans (ans) qui ont commis de différentes infractions pénales<sup>158</sup>. Toutefois, des jeunes qui sont défini comme étant en 'situation difficile' selon les procédures du Code pénal<sup>159</sup> pourront

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<sup>157</sup> Ils sont également désignés par le terme Centre de Sauvegarde.

<sup>158</sup> Il faut noter qu'il y a eu quelques cas des enfants de moins de 12 ans qui ont été placé dans un CPE.

<sup>159</sup> Dans les procédures du Code pénal un enfant en situation difficile est défini comme « tout mineur n'ayant pas atteint l'âge de 18 ans dont la sécurité corporelle, mentale, psychologique ou morale ou son éducation est en danger à cause de sa fréquentation de personnes délinquantes ou connues pour leur mauvaise réputation ou ayant des antécédents judiciaires ; lorsqu'il se rebelle contre l'autorité de ses parents, la personne ayant sa garde, son tuteur, son tuteur datif, la personne qui le prend en charge, la personne ou l'établissement à qui il a été confié ; lorsqu'il s'habitue à fuir de l'établissement où il suit ses études ou sa formation ; lorsqu'il quitte son domicile ou lorsqu'il ne

également être placés dans un CPE. Le Directeur a souligné qu'en ce qui concerne les mineurs dits 'en situation difficile' le souhait est de faciliter leur réinsertion sociale en famille. Cela est surtout le cas si le mineur est de très bas âge (en dessous de 15 ans). Le placement en institution doit rester une solution du dernier recours. Par conséquent c'est une décision prise uniquement quand les efforts à l'identification d'un réseau sociale capable à prendre en charge le mineur sont épuisés.

### **Normes et standards relatives aux fonctionnements des CPE**

41. Pour harmoniser les normes et standards relatives aux fonctionnements de tous les vingt CPE au Maroc, le Ministère a pris l'initiative de développer des manuels des CPS. Cette initiative a été organisée autour d'un groupe de réflexion avec comme participants les ministères techniques indiqués, les associations privées telle que l'Association Bayti et les partenaires internationaux. Le groupe de réflexion a produit un manuel, publié en 2015, qui dispose des procédures d'accueil des mineurs qui sont reçus comme pensionnaire dans un CPE. Ce manuel donne des standards minimaux relatifs à l'accueil basé sur les lois nationales ainsi que les Conventions internationales. Ces standards prennent également note des observations faites par les organes de suivi des droits humains au Maroc tels que le Centre national de droits de l'Homme (le CNDH). Un comité de suivi sur le placement des mineurs, établi par le Ministère de la Jeunesse et des Sports, est en cours de développement.
42. Le manuel offre des standards minimaux relatifs au lieu d'accueil ; aux personnes habilitées à intervenir dans l'accueil de l'enfant ; à la notification des parents ou à la recherche des parents ; et à la prise en charge des besoins alimentaires, psychosociaux (immédiats et à long terme) ; aux visites médicales indiquées ; à la notification de l'enfant des droits et de règles de vie pendant son séjour au CPS; etc.
43. Au stade actuel, ces normes et standards ne sont pas incorporés dans la législation en vigueur au Maroc. Le Directeur a mis l'accent sur le besoin de fixer les normes de qualité minimale et ensuite mener un travail d'appropriation dans les institutions concernées.

### **Conseil des jeunes**

44. Le Directeur a souligné la volonté du Gouvernement de se fonder sur une approche des droits humains et de la démocratie selon la Convention relative aux droits de l'enfant. Cette volonté s'applique également au travail de rééducation des jeunes en conflit avec la loi ou ceux en situation difficile. Le Directeur a donné comme exemple d'un des éléments clés le droit à la participation. Chaque CPE dispose d'un conseil des jeunes à travers lesquels les jeunes peuvent s'exprimer en tant que citoyen devant la direction. Au niveau national il existe un Conseil national des jeunes avec des représentants de chaque centre.

### **Dispositions visant les jeunes en risque de migration irrégulière**

45. Le Gouvernement du Maroc est soucieux de prévenir la migration irrégulière de la jeunesse, notamment à travers la prévention de la migration irrégulière et la prise en charge de cas des mineurs qui sont trouvés vagabonder surtout au nord de notre pays dans l'intention de migration

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dispose pas d'un lieu adéquat où s'installer ». Unicef (2015). p. 85  
[https://www.unicef.nl/media/4278991/unc\\_rapport\\_child\\_notice\\_marokko\\_final\\_web.pdf](https://www.unicef.nl/media/4278991/unc_rapport_child_notice_marokko_final_web.pdf)

en Europe. Pour cela, un comité interministériel a été mis en place. L'objectif de ce comité était de réfléchir sur les conditions permettant l'établissement des centres visant des jeunes qui sont susceptibles de tenter la migration irrégulière vers l'Europe. Des projets de prévention de la migration irrégulière des enfants et des jeunes ont déjà été entamés à travers la Fondation Mohammed VI de Promotion des Œuvres Sociales de l'Éducation-Formation. Les activités de la Fondation sont organisées autour de trois grandes axes : formation ; rééducation ; et l'accompagnement vers une réintégration sociale.

46. D'autres projets en collaboration avec l'Agence Espagnole de Coopération et l'USAID autour des activités ayant comme but de la précarité et l'exclusion des jeunes en manque d'emploi. Ces activités sont entre autre les activités génératrices de revenu, des micro-projets pour jeunes et le renforcement de leurs capacités et leurs 'life skills'. Les groupes cibles de ces projets sont les jeunes qui n'ont pas eu des infractions pénales mais qui peuvent être qualifiés comme un groupe vulnérable. En principe, ces centres pourraient inclure les jeunes de retour d'une période de migration sur le continent européen. D'après l'analyse du Directeur, le taux d'émigration clandestine a déjà baissé grâce à ce genre d'interventions.

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## 6. Centre de Sauvegarde, Mèknes

### Entretien avec Abdouh Abdessamad, sociologue et directeur du centre

Meknès, 15 octobre 2016

*Les « centres de sauvegardes » au Maroc sont également nommés « centre de protection de l'enfance » (CPE) sont chargés d'observer et de rééduquer des enfants en conflit avec la loi et des enfants en situation difficile conformément au livre III du Code de Procédure Pénale. Les centres de sauvegarde sont sous la tutelle du Ministère de la Jeunesse et des Sport.<sup>160</sup>*

47. Parmi les vingt centres de sauvegarde au Maroc, qui sont repartis sur l'ensemble du territoire, quinze sont réservés aux garçons.
48. La délégation a fait la visite du Centre de Sauvegardes à Meknès. Le centre possède une capacité à 80 places dont 50 sont remplies par des garçons âgés de douze à dix-huit ans. La prise en charge médicale initiale, les activités scolaires et éducatives se font au centre. Le Directeur a souligné que le Centre de Sauvegarde à Meknès est reconnu comme un centre d'un très haut niveau de qualité qui a fait beaucoup de progrès en matière de prise en charge des mineurs.
49. Les centres de Sauvegarde accueillent, sur décision judiciaire des tribunaux de mineurs, les enfants qui ont commis des infractions pénales et les enfants en situation difficile. La procédure de l'indentification de l'enfant est prise en charge par les autorités. Selon le directeur le taux

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<sup>160</sup> Site d'internet du Ministère de la Jeunesse et des Sport <http://www.mjs.gov.ma/fr>



d'enfants placés aux structures hors de famille augmente dû au fait que le Maroc voit des changements dans les structures familiales. Cela s'explique notamment par l'exode rural qui a comme conséquence que les grandes familles perdent de l'influence par rapport à la petite famille.

50. Selon le directeur un enfant qui a passé une période de migration en Europe pour ensuite retourner au Maroc sans contact avec sa famille pourrait être qualifié comme « enfant en situation difficile ». Cette catégorie comprend les enfants abandonnés ou enfants dit « illégitimes » qui sont nés hors mariage et qui ne sont pas acceptés par la famille paternelle. Un tel enfant pourrait être placé dans un centre de sauvegarde sur décision judiciaire. Le Directeur travaillait auparavant au Centre de Sauvegarde de Tit Mellil (actuellement fermé pour des raisons de rénovation) près de Casablanca où il a observé un enfant qui avait été placé à ce centre après son retour de l'Europe.

### **Le suivi des standards du centre**

51. Le « Manuel de procédures des Centres de Protection de l'Enfance au Maroc » a été créé à travers une vision participative et multisectorielle y inclus le secteur public, la société civile, le Ministère des Affaires Etrangères et la Coopération des Etats Unis. Ce manuel donne des standards en ce qui concerne les principes référentiels (l'intérêt supérieur de l'enfant, la non-discrimination etc.), l'arrivée de l'enfant (la délégation a vu la fiche à remplir par le directeur), l'espace d'accueil, la discipline, la visite médicale, standards d'évaluation des centres de protection de l'enfance etc. Le manuel est entre autre un remède aux situations des protestations des enfants ; par exemple est-il stipulé dans le manuel que l'enfant a le droit de s'exprimer devant le directeur. Au manuel il y a quatre volets qui donnent des standards concrets ; à savoir les mesures disciplinaires ; les mesures de recours pour les enfants ; les mesures d'accueil ; et les mesures de gestion d'accidents et de sécurité. En ce qui concerne le suivi psychologique, il est absent. Le centre de Meknes a une planification concrète qui établit des normes pour la quantité de la nourriture, le suivi scolaire, professionnel et éducatif.
52. Le Ministère de la Jeunesse et des Sports a établi une commission qui exerce le suivi des Centres de Sauvegarde. La commission vient par trimestre pour voir des concrétisations de ses recommandations.
53. Après l'âge de 18 ans, le jeune quitte le centre pour aller chez sa famille. Le centre suit en quelques cas le jeune pour une période de deux à trois mois.

### **Mixité des enfants en situation difficile avec des enfants en conflit avec la loi**

54. Aux Centres de Sauvegarde au Maroc les enfants en situation difficile sont logés dans les mêmes centres que les enfants qui sont en conflit avec la loi. Au Centre de Sauvegarde à Meknès le directeur fait un effort pour séparer les enfants des deux catégories pour éviter que les enfants en conflit avec la loi puissent influencer les enfants qui ne le sont pas. Les enfants en conflit avec la loi ont accès aux projets pour les enfants en situation difficile.

### **Conseil des enfants**

55. Aux centres de sauvegarde au Maroc des Conseils des Enfants est institué en tant qu'un mécanisme de participation. Il a pour objectif de créer aux enfants un cadre de participation active aux centres.

La délégation a rencontré le président du conseil au Centre de Sauvegarde de Meknès, un jeune garçon âgé de 17 ans qui a passé 18 mois au centre. Le président est élu par les autres jeunes du centre par mains levées.

56. Au centre le président du conseil comme a tache de renforcer une ambiance de coopération entre les mineurs à travers, par exemple, la prise en charge de l'apprentissage des nouveaux arrivés. Aussi bien que la coopération avec les cadres éducatifs, le président du conseil a pour responsabilité la coordination pour faire du sport et des activités aux ateliers

#### **Possibilité de sortir**

57. Quand une certaine confiance a été créée entre le jeune et la direction du centre, le jeune pourra sortir du centre sous une garanti, par exemple pour faire une course. Quant aux jeunes qui sont placés au centre pour des raisons de conflit avec la loi il aura moins de permissions de sortir du centre. Il arrive qu'un jeune s'enfuit du centre.

#### **Réintégration sociale des jeunes**

58. Le directeur a donné deux exemples sur des jeunes qui ont été placés au centre de sauvegarde et qui ont réussi à être réintégré en société : l'un d'eux est employé en tant qu'éducateur au centre alors qu'il a commis un crime grave en tant que mineur ; l'autre qui est d'origine de la Côte d'Ivoire est employé en tant que chef de cuisine au centre.

#### **La rééducation des filles**

59. En totale il y a cinq centres de sauvegarde pour filles. Ces filles sont placées aux centres pour d'autre raison que les garçons. Souvent les filles sont placées aux centres pour des raisons de prostitution et des grossesses non-désirées. En général les filles sont plus difficiles à réintégrer dans leurs familles puisqu'elles perdent de statut social et pour cela c'est difficile de convaincre la famille de la reprendre.

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## **11. Association Bayti**

### **Entretien avec Abderrahman Bounaim, Coordonnateur pédagogique programme des petits et Atika Doghmi, Chargée de la communication/partenariats**

Le 11 octobre 2016, Casablanca

*L'Association Bayti ('Mon chez moi') est une ONG reconnue par l'état marocain qui gère des programmes qui œuvre pour la réinsertion en société des enfants en situation difficile. Créée en 1995 et implantée à Casablanca, Essaouira et dans la région de Mnasra, l'Association a accumulé une expertise en matière de prise en charge des enfants en situation de rue, victimes des violences ainsi que des migrants mineurs non-accompagnés. De façon globale, Bayti est reconnue par les partenaires internationaux pour son expertise technique.*

108. La visite au siège de l'Association Bayti à Casablanca a débuté par une introduction aux activités de l'Association.<sup>161</sup> Elles sont organisées autour de trois grandes axes : (i) la prise en charge du mineur ; (ii) le renforcement des capacités techniques des associations travaillant avec les enfants au Maroc; et (iii) le plaidoyer en faveur de la protection des droits de l'enfant auprès des élus, les autorités locale et d'autres leaders d'opinions au Maroc. Selon les rapports d'activités, l'Association a pris en charge plus de 18.000 enfants et a apporté un soutien à plus de 10.000 familles depuis 1995 grâce à une équipe de 41 professionnels et un nombre de bénévoles. L'Association travaille avec les enfants garçons et filles de toute tranche d'âge mais l'effectif le plus élevé est les garçons préadolescents et adolescents (âgé de 11 à 17 ans).<sup>162</sup> L'Association ne prend pas en charge les enfants souffrant des handicaps mentaux, des épileptiques les enfants qui ont des problèmes de toxicomanie sévères, ou les enfants abandonnés à la naissance.

### **La situation des enfants vivant en situation de rue**

109. Sans posséder des données quantitatives permettant de chiffrer l'ampleur des mineurs en situation difficile, les agents de l'Association Bayti estime que ce phénomène est en augmentation. Cela s'explique par les abandons familiaux et par la précarité économique, relationnel et sociale en plus de la pauvreté et la violence intra-familiale. Selon leurs observations faites sur le terrain et basé sur le nombre de cas qui est référés vers l'Association de la part des juges de mineurs, il s'agit notamment des mineurs vivant en situation de rue sans contact ou avec très peu de contact avec leur famille. La présence de ces préadolescents et adolescents est concentrée dans les conglomérations urbaines de Tanger et de Casablanca. Leurs problèmes en matière de protection sociale, d'éducation, d'accès aux services de santé et de logement sont multiples. Les agents de l'Association ont fait le constat qu'actuellement, les problèmes dépassent largement la capacité des associations en mesure d'apporter un abri ou une protection contre les violences.

110. Les facteurs explicatifs de la migration des mineurs sont, d'après l'analyse faite de l'Association, la précarité, la violence au sein de la famille en combinaison avec un rêve flou de gagner l'Europe et ses possibilités d'épanouissement et le chômage des jeunes en situation de vulnérabilité. Pour ceux qui retournent après un séjour en Europe sans y avoir réussi, les problèmes ont tendance à continuer. Expliquant que l'échec en migration est mal vu dans les quartiers, les agents de l'Association ont noté que pour les mineurs, le retour constitue encore une défaite mal vécue. C'est la honte qui pousse les mineurs à éviter tout contact avec leur famille natale une fois de retour au Maroc. Un effet amplificateur de ce refus de contact, est que l'échec retombe également sur la famille. Cette honte mène parfois les parents à refuser le contact avec l'enfant. D'après le diagnostic de l'Association, la famille est à la fois le facteur clé qui pousse les enfants vers la migration risquée et le facteur qui est en mesure d'apporter une solution permettant le renouement des liens familiaux.

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<sup>161</sup> Seule association au Maghreb parmi 24 lauréats provenant de 12 pays (Maghreb, Orient, Asie, Amérique Latine) Bayti a reçu le prix Stars Impact 2015, assorti d'une bourse de 50 000 \$ US pour l'impact de son travail de protection et de prise en charge des enfants en situation difficile

<sup>162</sup> Site d'internet d'Association Bayti <http://www.association-bayti.ma/index.php>

## **Accueil, éducation et santé des enfants en situation difficile**

111. L'Association possède surtout une expérience en matière de travail avec et pour les enfants en situation de difficulté. La prise en charge des enfants et jeunes par Bayti suit une procédure bien établie. L'Association a expliqué que dans le cas où un enfant marocain est répertorié comme étant en situation difficile, en danger ou en risque par les autorités (vivant dans la rue, étant en contact avec la loi, toxicomanes, etc.) son cas est présenté devant un juge de mineur dans le Tribunal de première instance. A ce moment, une enquête sociale est ouverte. L'enquête sociale comprend un diagnostic sur l'environnement familial fait par une assistante sociale qui se déplace vers la famille pour évaluer ses conditions de vie et sa capacité économique, éducative et affective.
112. Sur la base des résultats de cette enquête, le juge peut prendre la décision de référer l'enfant vers une association tel que l'Association Bayti, vers une famille d'accueil ou vers sa famille biologique. Si l'enfant est en conflit avec la loi et est âgé de moins de 15 ans, son cas n'est pas examiné dans le cadre des Code de Procédure Pénal. Si, par contre, il est âgé de 15 ans et plus, le juge a la possibilité de lui référer vers les centres de sauvegarde. Si le juge décide de placer l'enfant dans un foyer de Bayti, il y a deux possibilités : la prise en charge totale où l'enfant loge au foyer de Bayti (pour les enfants en rupture avec leur famille) ou la prise en charge de jour (pour les enfants qui ont contact avec leur famille). Dans tous les cas, un plan individuel est développé. Le plan se base sur une analyse approfondie des causes menant aux problèmes actuels. Une analyse qui peut prendre jusqu'à deux mois à réaliser. Ensuite commence un travail de réhabilitation psychosociale et de renforcement des compétences (scolaires, formation professionnels, ou, si possible, stage insertion emploi) en parallèle avec un traitement psychothérapeutique pour les enfants et jeunes représentants des troubles de comportement. Le but est d'arriver à l'autonomisation de l'enfant au plus tard à l'âge de 18 ans. Après l'âge de 18 ans, l'Association ne lui prendra plus en charge.

### **Le repérage identitaire**

113. Sur la question de savoir comment procède l'Association dans le cas où un enfant sans papiers d'identité est référé vers elles, les agents de l'Association ont expliqué que cela ne pose pas de problème insurmontable car il y a possibilité de reconstituer son dossier et lui établir des papiers d'identité.

### **Scolarité**

114. Au Maroc, la scolarité est obligatoire jusqu'à l'âge de 15 ans. Les enfants qui sont référés vers Bayti sont souvent en échec scolaire et/ou jamais scolarisés. Cela est notamment le cas des petites filles. Pendant leur prise en charge par Bayti, les enfants pensionnaires sont inscrits dans l'école publique locale. Dans le cas où ils n'ont pas le niveau scolaire pour suivre l'enseignement formelle normal, Bayti assure leur accès à l'éducation non-formelle, à l'apprentissage ou aux stages d'insertion d'emploi en concertation avec les centres étatiques et privés.

### **Prise en charge médicale**

115. Dans les foyers de l'Associations, les enfants pensionnaires ont accès à la prise en charge médicale à travers la santé publique et le réseau de médecin toutes spécialités confondues

bénévoles. La santé mentale est également prise en charge par l'unité de pédopsychiatrie (amie de l'association). Quant aux médicaments, l'association les prend en charge sur ses propres fonds avec des remises de 30% offertes par des pharmacies collaborateurs avec l'association.

### **Normes et standards relatives aux établissements de la protection sociale**

116. Les agents de l'Association ont expliqué que la prise en charge des enfants par Bayti est faite dans le cadre des normes et standards d'accueil établi par la loi no 14-05 relative aux établissements de la protection sociale (EPS) réalisée par le Ministère de la Solidarité, de la Femme, de la Famille et du Développement Social. Les dispositions de cette loi s'appliquent, entre autre, aux établissements dont le but est la protection sociale des enfants abandonnés y compris l'hébergement, l'alimentation, les soins de santé dans le respect de l'intégrité physique, morale et psychologique des personnes prises en charge. Toutefois, les agents de l'Association ont expliqué que les normes et standards stipulés dans la loi 14-05 traitent uniquement des standards relatives à l'espace physiques et non pas aux standards pédagogiques, etc. Actuellement, il n'y a pas de normes et des procédures de travail traitant de la qualité de la prise en charge des enfants en situations difficile par les associations privée. Toutefois, Bayti a mis en place un guide de procédures d'accueil et de prise en charge des enfants en situation difficile.

### **Services offerts aux adolescents âgés de 15 à 18 ans en situation difficile**

117. L'Association Bayti offre des activités qui répondent aux besoins spécifiques des adolescents âgés de 15 à 18 ans (coaching, entretiens individuels, assistance à la requête des stages, rédaction de CV, prise en charge et soutien psychologique etc.). L'Association reste prête à soutenir tous mineurs, y compris ceux qui se trouvent à l'extérieur du pays. L'assistance de Bayti est conditionnée par la volonté exprimée du mineur à retourner volontairement au Maroc et sur la possibilité de pouvoir établir un contact réel avec la famille du mineur.

### **Interventions visant à faciliter le retour des migrants mineurs non-accompagnés vers le Maroc**

118. L'Association a gagné une expérience en matière de retour et de réinsertion sociale des jeunes marocains ayant circulé en espace européen à travers sa participation dans un projet suédois. Depuis 2014 ce projet a eu comme objectif d'assister les mineurs migrants qui ont tenté leur chance en Europe à être réunie avec leur famille. Ce projet visant à assister le retour volontaire de ces jeunes avait deux volets : Une approche jeune et une approche famille. Un groupe de mineurs, dont la majorité avait entre 16 et 18 ans, résident en Suède susceptibles d'accepter de rentrer volontairement au Maroc ont été identifiés par les autorités suédoises. Ensuite les agents de Bayti ont établi un contact individuel par téléphone avec le jeune mineur pour faire un diagnostic de sa situation. D'une manière générale, le contact a été difficile car l'établissement des rapports de confiance était compliqué. Les jeunes se méfiaient des intentions des interlocuteurs de Bayti et pour cela ils ne se sont pas confiés aux agents de Bayti. Parallèlement, un contact a été établi avec la famille au Maroc. Des assistants sociaux de l'Association ont rendu des visites répétées chez les parents biologiques ou chez le tuteur. En aucun cas, les agents ont été dans l'impossibilité d'identifier la famille biologique. Toutefois, le renouement avec la famille a été difficile : souvent les parents vivaient dans la misère et ont été réticente à accepter le retour de leurs enfants au sein de la famille. La réintégration familiale est difficile et exige un travail d'accompagnement et de

médiation de long halène.

Demandé sur le bilan de ce projet précis, les agents de Bayti ont expliqué que jusqu'à présent ce projet n'a pas abouti à des cas de retour volontaire vers le Maroc.

119. D'après le diagnostic des agents de Bayti, les jeunes qui retournent après un séjour mal réussi en Europe sont dans un pire état qu'au départ sur plusieurs dimensions. Il s'agit d'un deuxième sentiment d'échec à la fois chez le jeune et chez sa famille.
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## 12. Ligue Marocaine pour la protection de l'Enfance (LMPE), Rabat

**Ligue Marocaine pour la Protection de l'Enfance (LMPE), Centre Lalla Meriem, Rabat, Mr. Yassbrahim et Mme Y. Elasafi**

Rabat, 12 octobre 2016

*La Ligue Marocaine pour la Protection de l'Enfance (LMPE) est une organisation non gouvernementale marocaine, à but non lucratif d'utilité publique. LMPE prend en charge des enfants en situation de vulnérabilité, privés de famille, à travers des centres d'accueil socio-éducatifs au niveau de différentes régions du Royaume.<sup>163</sup>*

120. Avec des représentants du Ministère de la Solidarité, de la Femme, de la Famille et du Développement Social, la délégation a fait une visite au Centre Lalla Meriem à Rabat. Ce centre prend en charge des enfants et des jeunes, handicapés et non-handicapés, âgés de 10 à 18, filles et garçons.
121. Les enfants reçus au Centre Lalla Meriem sont privés de famille. Il y a aussi des enfants qui se trouvent en situation difficile, ce qui inclue des cas sociaux dont les parents ou l'un d'eux est incarcéré ou sont atteints de maladies incurables (cas de vih/sida ou des cas de maladies mentales), surtout de la mère mais aussi de l'enfant. Le centre reçoit aussi des enfants en situation à risque y incluent des enfants issues des familles disloquées et des enfants d'immigrants.
122. Les enfants du centre sont pris en charge médicalement au centre même, mais en cas de maladie grave ils sont transférés d'urgence au centre hospitalier.
123. En matière de la scolarisation, la grande majorité des enfants du Centre Lalla Meriem est inscrite à l'école primaire, mais il y a aussi des enfants qui sont inscrits dans des établissements du préscolaire, du secondaire et d'éducation non-formelle.

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<sup>163</sup> La Ligue Marocaine pour la Protection de l'Enfance, Présentation  
[http://lmpe.org.ma/?page\\_id=294](http://lmpe.org.ma/?page_id=294)

124. Il est à noter que les enfants atteints d'un handicap léger, sont inscrits dans des classes intégrés et deux jeunes sont en stage de formation professionnelle.
125. Outre la prise en charge des enfants privés de famille et cas sociaux, la direction du centre déploie les efforts nécessaires pour permettre à chaque enfant ayant un jugement d'abandon d'avoir une famille dans le cadre de la *kafala* (adoption).
126. En moyenne, le taux d'adoption varie entre 45 à 50 pourcent, et ce en fonction de la spécificité de chaque région. En générale, les enfants sont pris en charge dans le cadre de la *kafala* à l'âge précoce (de la naissance à 3 ans).
127. Mr. Yassine représentant du bureau central de la Ligue, a fait référence à la loi 15-01 relative à la prise en charge (la *kafala*) des enfants abandonnés<sup>164</sup> selon laquelle un enfant peut être adopté par un couple ou par une femme suivant la tradition musulmane. Tout enfant en situation d'abandon ne peut être reçu par le centre d'accueil relevant de la Ligue que sur ordre du procureur du Roi.
128. La loi 15-01 impose que les parents d'accueil soient musulmans, de bonne moralité et qu'ils disposent des moyens nécessaires pour héberger et élever un enfant correctement. La même loi prévoit aussi que le suivi de la relation entre la famille d'accueil et l'enfant pris en charge est continu. Il est à souligner que les familles d'accueil préfèrent en majorité d'adopter une fille car les filles sont perçues comme plus dociles et serviables que les garçons. Toutefois, on a pu faire le constat que le nombre de familles acceptant de prendre un garçon de bas âge en charge est en augmentation. Les enfants appelés 'cas sociaux' n'ont pas beaucoup de chance d'être adopté puisqu'ils ont leurs parents biologiques.
129. Au Centre Lalla Meriem il y a un programme qui facilite l'accès à la formation pour des jeunes qui doivent de préférence avoir une formation avant de sortir du centre ce qui est prévu d'arriver à l'âge de 18 ans. Mais au Centre Lalla Meriem ils gardent la valeur d'autonomisation des jeunes avant qu'ils sortent du centre ce qui implique que il y a des jeunes qui restent au centre jusqu'à l'âge de 23 ans. Les mineurs qui sont émigrés en Europe et qui retournent au Maroc ne sont pas reçus à LMPE.
130. Le Centre Lalla Meriem mène divers programmes préventifs selon le groupe cible : Un programme qui a pour but de sensibiliser les mères en situation de détresse qui ont des grossesses non désirées ; un programme qui vise à sensibiliser les familles à adopter un enfant par la procédure de la *kafala*; un programme pour prendre en charge des enfants et jeunes à risque de migration irrégulière.

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<sup>164</sup> La loi de la *kafala* : Bulletin officiel n° 5036 du 27 jourmada II 1423 (5 septembre 2002) Dahir n° 1-02-172 du 1 rabii II 1423 (13 juin 2002) portant promulgation de la loi n°15-01 relative à la prise en charge (la *kafala*) des enfants abandonnés.  
[http://adala.justice.gov.ma/production/legislation/fr/Nouveautes/enfants\\_abandonne.pdf](http://adala.justice.gov.ma/production/legislation/fr/Nouveautes/enfants_abandonne.pdf)

131. Mr. Yassine, observe que le nombre d'enfants abandonnés reste statique et que l'une des raisons en est que de plus en plus de gens utilise le planning familial pour éviter les grossesses non désirées. LMPE a fait une étude qui montre que les efforts adressés aux femmes a contribué à diminuer / faire baisser le nombre de femmes qui évitent la grossesse non-désirée à un niveau considérable.

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### 13. Ligue Marocaine pour la protection de l'Enfance (LMPE), Casablanca

#### Ligue Marocaine pour la Protection de l'Enfance, Casablanca, Jardin d'enfant et Foyer de mère, Mme Amina Larakifazi

Casablanca, 11 octobre 2016

*La Ligue Marocaine pour la Protection de l'Enfance (LMPE) est une organisation non gouvernementale marocaine, à but non lucratif d'utilité publique. LMPE prend en charge des enfants en situation de vulnérabilité, et de l'éducation des enfants privés de famille, par la création de plusieurs centres socio-éducatifs à travers le royaume.*<sup>165</sup>

132. Mme Larakifazi dirige un centre à Casablanca avec jardin d'enfants et foyer de mères. La délégation a fait une visite au centre.
133. Les enfants entre 0 à 6 ans viennent au jardin d'enfants pendant la journée en demi-pension. Les enfants sont en partie issues des familles défavorisées mais aussi des familles qui choisissent ce jardin d'enfant pour la qualité de la prise en charge.
134. Les femmes qui viennent au foyer sont des femmes qui ont eu une grossesse hors mariage. Pendant le dernier trimestre, elles logent au foyer et après la naissance de son enfant elle décide si elle veut garder l'enfant ou bien le laisser à la procédure de l'adoption qui selon la loi sharia est nommé « la kafala ».<sup>166</sup>
135. Ni dans la loi, ni dans la pratique de la *kafala*, y a-t-il de limite d'âge pour l'enfant adoptable, mais en réalité les enfants sont pris en adoption environ 1 mois après la naissance. Les enfants pris en charge du centre ont tous une mère connue par le centre.
136. Selon Mme Larakifazi, 121 femmes sont accueillies au foyer cette année. Le chiffre annuel est en train de baisser et selon Mme Larakifazi la raison en est que la stigmatisation sociale envers les

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<sup>165</sup> La Ligue Marocaine pour la Protection de l'Enfance, Présentation :

[http://lmpe.org.ma/?page\\_id=294](http://lmpe.org.ma/?page_id=294)

<sup>166</sup> La Ligue Marocaine pour la Protection de l'Enfance, Présentation, La kafala :

[http://lmpe.org.ma/?page\\_id=44](http://lmpe.org.ma/?page_id=44)

La loi de la kafala : Bulletin officiel n° 5036 du 27 jourmada II 1423 (5 septembre 2002)

Dahir n° 1-02-172 du 1 rabii II 1423 (13 juin 2002) portant promulgation de la loi n°15-01 relative à la prise en charge (la *kafala*) des enfants abandonnés.

[http://adala.justice.gov.ma/production/legislation/fr/Nouveautes/enfants\\_abandonne.pdf](http://adala.justice.gov.ma/production/legislation/fr/Nouveautes/enfants_abandonne.pdf)



mères célibataires est en baisse et en parallèle le taux d'adoption baisse aussi. Environ 30 pourcent des enfants nés par une femme au foyer sont donnés à l'adoption par des nouveaux parents, alors que 30 pourcent des enfants sont repris par leur grande famille avec leur mère. Il y a aussi des cas où la femme épouse le père de l'enfant et des cas où la mère perd l'enfant à l'accouchement.

137. LMPD offre un programme préventif adressé aux femmes pour devenir consciente du risque des grossesses non-désirées.
138. Le foyer de mères n'acceptera pas de loger des mères prostituées, toxicomanes où en deuxième grossesse hors mariage.
139. La documentation qui est demandée aux parents qui voudraient bien adopter un enfant par la *kafala* est la suivante : l'acte de naissance, carte nationale, preuve de revenue, déclaration de la police locale. Aucun paiement n'est demandé.

## Appendix C: Sources consulted

### GOVERNMENTAL ORGANISATIONS

1. Ministry of Foreign Affairs and Cooperation: Interview with Mustapha El Bouazaoui, Consular and Social Affairs
2. Ministry of Justice and Liberties : A representative from Department of Criminal Cases and Pardon
3. Ministry of Solidarity, Women, Family and Social Development (MSFFDS): Mohamed Ait Aazizi, Director of the Department of the Protection of the Family, Children and Older Persons
4. National Mutual Assistance (Entraide Nationale): Abdelmonnime El Madani, Director
5. Ministry of Youth and Sports: Yaccine Bellarab, Director of Cooperation, Communication and Law Studies, Mohammed Bouhafid, Head of Department of Child Protection Centres
6. Centre de Sauvegarde (Child Protection Centre) in Meknes : Abdouh Abdessamad, sociologist, Director

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7. U.S. Agency for International Development (USAID), Morocco, LeAnna Marr, Director, Program Management Office
8. Embassy of Spain, Luis Francisco de Jorge Mesas, Adviser on Legal Cooperation, Liaison Judge. Morocco

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9. United Nations International Children's Fund (UNICEF), Morocco : Malika El Atifi, Child Protection Specialist, Mariama Diallo, Justice for Children Specialist, Aline Carruet, Intern
10. International Organization for Migration (IOM), Morocco: Chief of Mission Ana Fonseca, and Programme Manager Oussama El Baroudi

### NON-GOVERNMENTAL ORGANISATIONS

11. Bayti Association: Abderrahman Bounaim, Educational Coordinator, Early Childhood Programme, and Atika Doghmi, responsible for communication and partnerships
12. Moroccan League for the Protection of Children (LMPE), Rabat: Yassbrahim and Mrs. Y. Elasafi, the Centre Lalla Meriem, Rabat
13. Moroccan League for the Protection of Children (LMPE), Casablanca: Jardin d'enfant et Foyer de mère, Amina Larakifazi

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BOLETÍN OFICIAL DEL ESTADO, Núm. 70 Viernes 22 de marzo de 2013 Sec. I. Pág. 22750

MINISTERIO DE ASUNTOS EXTERIORES Y DE COOPERACIÓN

3140 Acuerdo entre el Reino de España y el Reino de Marruecos sobre la cooperación en materia de prevención de la emigración ilegal de menores no acompañados, su protección y su vuelta concertada, hecho «ad referendum» en Rabat el 6 de marzo de 2007

## Appendix E: Terms of reference

### I UNACCOMPANIED MINORS (UAM)

#### 1. General situation of UAMs in Morocco:

- a. Which laws and regulations provide the legal basis for social protection of orphans and abandoned children, including the establishment and the functioning of orphanages (residential care centers)?
- b. Which organizations (governmental and non-governmental) are working in the field of social protection of children in vulnerable situations
- c. What are the available means of assistance to UAMs returning to Morocco in terms of identification, food, housing and schooling?
- d. What is the national coverage of orphanages compared to the need?

#### 2. Specific conditions of orphanages (residential care centers) in Morocco:

- a. What are the standards of care at the existing orphanages (in terms of infrastructure, food and staff) and to which extent do organizations live up to those standards?
- b. Through which procedures is a child accepted at an orphanage?
- c. Which categories of children are eligible for residence at an orphanage?
  - i. Can an UAM who has returned to Morocco be eligible?

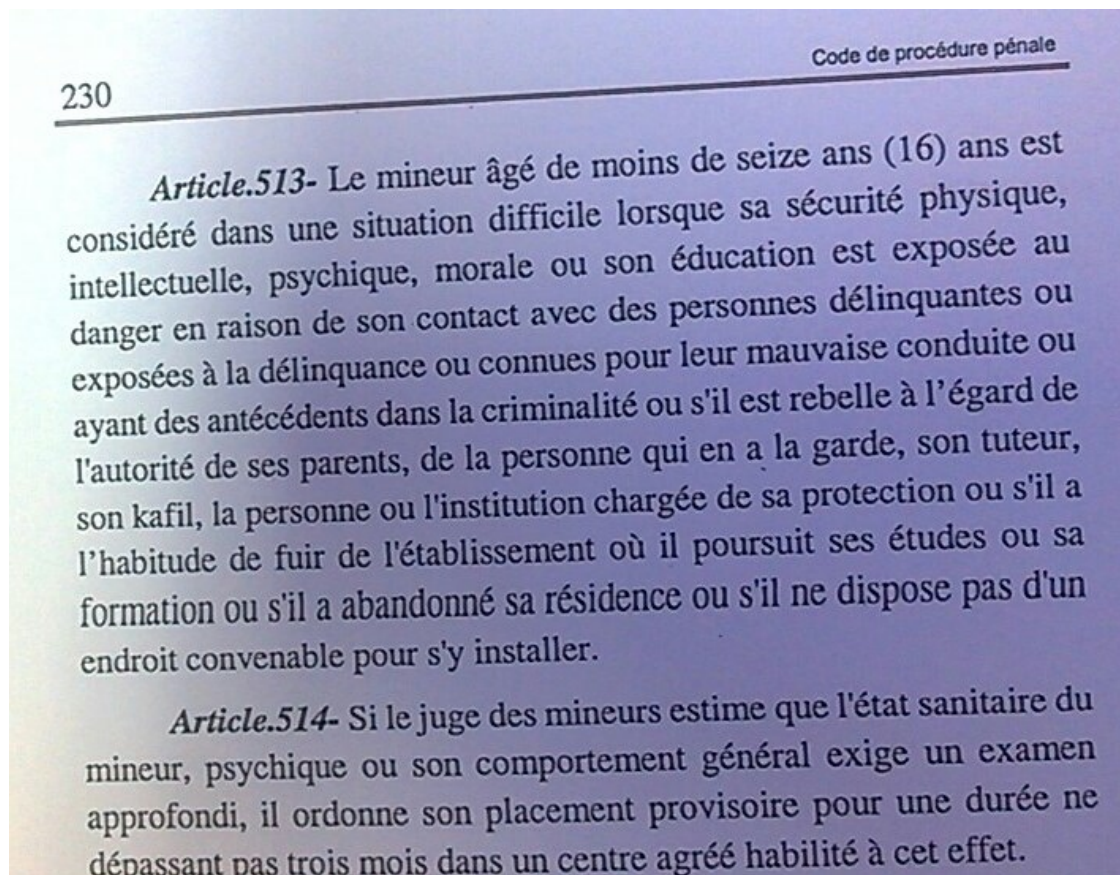
#### 3. Orphanages (residential care centers) covering the needs of 15-18 years youth:

- a. Which organizations are responsible for the functioning of existing orphanages covering 15-18 years youth?
  - i. Are there government-sponsored orphanages?
  - ii. To what extent is the functioning of the orphanages monitored? By what authority and how is it carried out?
- b. Which categories of 15-18 years youth are eligible for residence at an orphanage and through which procedures?
  - i. Can an UAM who has returned to Morocco be eligible?

#### 4. Monitoring

- a. To which extent is the functioning of the orphanages monitored?
  - i. By what authority and how is it carried out?

## Appendix F: Code of Penal Procedure, Article 513 'a child in a difficult situation'



Copy of the Code of Penal Procedure (Dahir 1.02.255 du 25 rajab 1423 (3 octobre 2002), portant promulgation de la Loi n° 22.01 formant le code de Procédure Pénale) received by email from the Ministry of Justice and Liberties of Morocco on 13 January 2017. There is no official version in French of the Moroccan Code of Penal Procedure on the internet. The Ministry of Justice and Liberties shared the copy in a French version, translated from Arabic, of the Code of Penal Procedure by a prosecutor in Morocco.

An Arabic version of the Code of Penal Procedure is available on the website of the Ministry of Justice and Liberties: <http://adala.justice.gov.ma/production/html/Ar/38578.htm>

English translation of article 513:

A minor under the age of sixteen (16) is considered to be in a difficult situation when his or her physical, intellectual, mental, moral security or his or her education is exposed to danger due to his or her contact with delinquents or persons who are exposed to crime or known for their misbehavior or who have a criminal record or if he or she rebels against the authority of his or her parents, of the person who has custody of the minor, of his or her guardian, of his or her kafil, of the person or institution being in charge of his or her protection, or if he or she has the habit of fleeing from the educational institution where he or she receives his or her studies or education or if he or she has left his or her home or if he or she does not have a suitable place to stay.