Policies on Reception, Return and Integration arrangements for, and numbers of, Unaccompanied Minors – an EU comparative study

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This EMN Synthesis Report summarises the main findings of National Reports produced by twenty-two of the EMN National Contact Points (EMN NCPs) from **Austria**, **Belgium**, **Czech Republic**, **Estonia**, **Finland**, **France**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Netherlands**, **Malta**, **Poland**, **Portugal**, **Slovak Republic**, **Slovenia**, **Spain**, **Sweden** and the **United Kingdom**.

In keeping with the EMN's objective, the purpose of this study was to fill a knowledge gap on policies on unaccompanied minors in the EU, ranging from an assessment of the identified motivation(s) and circumstance(s) for entering the EU, to entry procedures, reception arrangements, including integration measures, detention, return and identified best practices. In addition, the available statistics on unaccompanied minors were collated.

The EMN Synthesis Report, as well as the 22 National Reports upon which the synthesis is based, are available from http://emn.sarenet.es/Downloads/prepareShowFiles.do;?directoryID=115. Several of the National Reports are also available in the Member States' national language, as well as in English.

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Disclaimer

This Report has been produced by the European Migration Network (EMN), and was completed by the European Commission, in co-operation with the 22 EMN National Contact Points participating in this activity. This report does not necessarily reflect the opinions and views of the European Commission, or of the EMN National Contact Points, nor are they bound by its conclusions.

Explanatory Note

The 22 EMN National Contact Points who participated in this activity were from **Austria**, **Belgium**, **Czech Republic**, **Estonia**, **Finland**, **France**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Netherlands**, **Malta**, **Poland**, **Portugal**, **Slovak Republic**, **Slovenia**, **Spain**, **Sweden** and the **United Kingdom**.

The Member States mentioned above are given in bold when mentioned in the report and when reference to "Member States" is made, this is specifically for these Member States.

Executive Summary

A study on the *Policies on Reception, Return and Integration arrangements for, and numbers of, Unaccompanied Minors* was undertaken by twenty-two of the EMN National Contact Points (EMN NCPs) from **Austria**, **Belgium**, **Czech Republic**, **Estonia**, **Finland**, **France**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Netherlands**, **Malta**, **Poland**, **Portugal**, **Slovak Republic**, **Slovenia**, **Spain**, **Sweden** and the **United Kingdom**. In keeping with the EMN's objective, the purpose of this study was to fill a knowledge gap on policies on unaccompanied minors in the EU, ranging from an assessment of the identified motivation(s) and circumstance(s) for entering the EU, to entry procedures, reception arrangements, including integration measures, detention, return and identified best practices. In addition, the available statistics on unaccompanied minors were collated.

As part of the *Introduction* (Section 1), an overview of the *Methodology* followed is given (Section 1.1), along with the *definition* used for an "unaccompanied minor" (Section 1.2) and previous *Reports and Studies* (Section 1.3) on this topic. The *Policy Context* (Section 2) is then presented, along with information on the relevant *International and EU Legislative Framework* (Section 3).

Several Member States have experienced the arrival and reception of significant numbers of unaccompanied minors, with, from 2008 onwards, a substantial increase for some Member States. This development has resulted in a need to develop an appropriate policy response across the EU. The comprehensive legislative instruments at both EU and Member State level, which has as one of its fundamental principles the protection of the most vulnerable including minors, have many provisions for providing such protection, notably, in the case of unaccompanied minors, for those who have requested asylum. As this study will highlight, however, there are a number of other circumstances, for example, provisions for minors not in asylum procedures, which are more ambiguous.

There were several, varied and interconnected reasons identified as *motivations and circumstances for entering the EU* (Section 4 and Table 1). These range from fleeing persecution and seeking protection, to reunification with family members already residing in the EU, for economic, aspirational reasons, to join the migrant/diaspora community, in order to transit to another (predominantly EU-15) Member State, as victims of trafficking or of smuggling, for medical reasons or abandonment, runaways or drifters. An unaccompanied minor could thus enter the EU for more than one of these reasons and/or move from one category to another. For example, an unaccompanied minor may come from a third country with an ongoing conflict and/or abject poverty with limited future prospects and may have been chosen by their family for a "better life in Europe." The family pays for the minor to be smuggled into the EU after which, either immediately or upon apprehension by the authorities, an application for asylum is made.

Whilst the *entry procedures, including border controls* (Section 5) for unaccompanied minors who lodge an application for asylum are well-established and more-or-less harmonised across the Member States, this is not to the same extent in other cases. Noting also that it might be difficult for a minor to be sufficiently aware of the protocols for submitting an application upon arrival at an external border of the EU, in most cases, entry is permitted, even for a short period of time. In some cases, entry can be refused, for example, if a minor is incorrectly age-assessed to be an adult. The practice thus varies depending on the Member State, although of particular concern to the authorities in all cases of arrival of an unaccompanied minor, is the safeguard of the minor's wellbeing, in particular that they are not (potential) victims of smuggling or trafficking.

A key component of the *reception arrangements* (Section 6) for unaccompanied minors who apply for asylum is the appointment of a *guardian*, or equivalent (Section 6.1). For many Member States, the appointed guardian acts not only to provide legal support in the asylum process, but also with regard to other aspects of the unaccompanied minors stay. Separate procedures are in place for unaccompanied minors who are *victims of trafficking* in human beings (Section 6.2), most often in the form of granting a specific residence permit offering (short-term) protection. Naturally, all Member States provide *accommodation* and other care facilities (Section 6.3 and Table 2) for unaccompanied minors, in many cases, the type of accommodation depending on the minors' individual needs, their age and whether or not they have applied for asylum.

A disturbing number of *disappearances* (Section 6.4) from care facilities occurred in a number of Member States. In the best case scenario, this is because the unaccompanied minor has left an open accommodation facility to join family already living in the Member State, whilst the worst case scenario is that these minors are then victims of trafficking and subjected to exploitation. Initiatives that have been undertaken in order to prevent such disappearances include better co-ordination between the relevant stakeholders (e.g. Police, relevant Ministries, guardians, reception centres), as well as increased protection and surveillance at the accommodation centres.

Accurate and consistent methods for the *determination of the age* of an unaccompanied minor (Section 6.5 and Table 3) in cases of doubt is a challenge common to all Member States. This is of particular concern not only in the context of avoiding abuse of, for example, the asylum process, but also to ensure the protection of minors housed in communal accommodation. Whilst a number of approaches are used (interviews, analysis of documents, medical and psychological examination) none of them alone give absolute certainty of the age, particularly those based on a medial examination. The general practice, however, is for Member States to give the benefit of the doubt and to use the lower age determined.

Related to this, the issue of an unaccompanied minor *turning 18 years of age* (Section 6.6) whilst in the care of the public authorities was also highlighted. Practices varied between those Member States reporting on this aspect, depending on whether or not a residence permit has been issued, to requiring an unaccompanied minor to officially leave the accommodation facility, to, in cases where no protection is given, the requirement that they leave the Member State. Often an unaccompanied minor had an ambiguous legal status upon reaching the age of 18 years.

Whilst Member States undertake efforts and have established procedures in place to *trace the family* (Section 6.7) of an unaccompanied minor in their country of origin, in practice, they are achieved in relatively few cases. Sometimes this is because reuniting with their family in the country of origin is not considered in the best interests of the child, but, in most cases, it is because it has proven impossible to trace the family. Similarly, whilst considered as a possible means for the remainder of an unaccompanied minor's family to subsequently enter the EU, there is little evidence to suggest that requests for *family reunification* (Section 6.8) by an unaccompanied minor once granted refugee status occurs to any large extent.

Often commensurate with the provision of accommodation, all Member States provide, sometimes as part of their integration measures, access to *healthcare* (Section 6.9), *education* (Section 6.10) and, subject to national conditions being met, to *employment* (Section 6.11). Healthcare includes not only emergency, but also other treatments, such as physiological assessments and care. Education is provided in all the Member States, in many cases

irrespective of an unaccompanied minor's residence status, and most often starts with language lessons in order to learn the language of the Member State. Access to employment is in practice limited and, amongst other conditions that must be met, generally only for those unaccompanied minors aged 16 years or above.

The *detention* (Section 7) of an unaccompanied minor in general occurs only as a "last resort," with some Member States not detaining an unaccompanied minor under any circumstances. Most often, an unaccompanied minor is detained with a view to their eventual removal or if they have committed a criminal offence. With regard to the provisions in the Return Directive concerning the detention of minors, almost all Member States report that these are already met in their current national legislation.

The *return and reintegration* (Section 8) of unaccompanied minors to their country of origin is first and foremost only undertaken if considered in the minor's best interest. In practice, like for detention, the numbers of those returned are generally low, with only assisted returns, often with an element of reintegration and undertaken via programmes such as those conducted by the IOM, executed. Some, albeit limited, information on the motivations of an unaccompanied minor wishing to return is available. Conversely, it is also reported that unaccompanied minors have no interest in returning to their country of origin and there have also been difficulties in co-operating with the authorities in the potential country of return.

Statistics on unaccompanied minors (Section 9 and Tables 4 - 11) are most comprehensive and comparable for those unaccompanied minors who lodge an *application for asylum*. In 2008, there were a total of 11 292 applications for asylum lodged by unaccompanied minors in the 22 Member States participating in this study (Table 4). The distribution of applications across Member States varied widely, from less than 10 to up to 4 285, as did the country of nationality of the unaccompanied minors (Table 5), although overall nationals of Afghanistan, Iraq and some African states were prominent. In terms of the sex and age of the unaccompanied minors (Table 6), generally the most significant group were males aged 16 years or above. Additional data, to the extent possible, are also presented on those in the *care of public authorities* (Tables 7 – 9), those in *detention* (Table 10), *assisted returns* (Table 11), *refusals of entry*, *apprehensions*, *victims of trafficking*, *family reunification* and *Eurodac checks*. However, these data are more limited, in part because the recorded numbers are low, and not available in all Member States. A recurring difficulty, therefore, was the availability of comprehensive data, both at national level and also comparative data at EU level.

A compilation of the *best practices* (Section 10) identified by the Member States in addressing many of the challenges presented by unaccompanied minors are also given. Whilst not covering all aspects covered by this study, nevertheless the best practices cover a wide range, from the needs for more extensive statistics to co-operation with countries of origin, demonstrating that there exists already a wealth of information and experience available to support any further policy development.

Finally, in the *concluding remarks* (Section 11), aspects which may serve to indicate to policymakers, and other relevant stakeholders, where further developments might be advantageous are highlighted. These should be seen in the context of the Action Plan, as announced in the Stockholm Programme, and proposed by the Commission (COM(2010) 213) in May 2010 and which is complemented by this EMN study.

1. INTRODUCTION

The European Migration Network (EMN)[1] was established through Council Decision 2008/381/EC[2] and serves to provide up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the EU. It provides this information also to the wider public.

In accordance with these aims, this study on "*Policies on reception, return and integration arrangements for, and numbers of, unaccompanied minors – an EU comparative study*" was undertaken in order to assist the development of policies for supporting safe reception arrangements for unaccompanied minors, in either host (EU Member State) countries or their countries of return. Such a study aims to fill a knowledge gap on policies on such unaccompanied minors in the EU, ranging from an assessment of the identified motivation(s) and circumstance(s) for entering the EU, to entry procedures, reception arrangements, including integration measures, detention, return and identified best practices. In addition, the available statistics on unaccompanied minors were also collated.

The outcomes of the study are primarily intended for entities concerned with (the development of) unaccompanied minors' policy, in particular National government Ministers/Officials, international bodies and NGOs and EU institutions.

The purpose of this Synthesis Report is to provide an overview and highlight, within an EU perspective (e.g. by relating to recent policy initiatives), the main findings of the National Reports produced by twenty-two of the EMN National Contact Points (EMN NCPs) from **Austria**, **Belgium**, **Czech Republic**, **Estonia**, **Finland**, **France**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Netherlands**, **Malta**, **Poland**, **Portugal**, **Slovak Republic**, **Slovenia**, **Spain**, **Sweden** and the **United Kingdom**. Consequently, comments in this report refer to the situation in these Member States as reported by these EMN NCPs and representing the situation up to mid-2009. This approach also means that not all Member States may be mentioned in each (sub-)section, although, to the extent possible, comparisons and contrasts between Member States are given. However, more detailed

[1] More information on the EMN, including its outputs, is available from http://emn.sarenet.es.
[2] Available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008D0381:EN:NOT.

information on the situation within a particular Member State may be found in the available National Report(s)[3] and one is strongly recommended to consult them also.

An overview of the *methodology* (Section 1.1) used to undertake this study is given next, followed by an explanation of the *definition used for "unaccompanied minor"* (Section 1.2) and an overview of other *complementary reports and studies* (Section 1.3). Subsequent sections will then present the *Policy Context* (Section 2), the *International/EU Legislative Framework* (Section 3), an overview of the situation with regard to *motivations and circumstances for seeking entry into the EU* (Section 4), plus *Entry Procedures, including Border Controls* (Section 5), *Reception Arrangements, including Integration Measures* (Section 6), the circumstances in which an unaccompanied minor may be placed in *Detention* (Section 7), *Return Practices, including Reintegration* (Section 8), the available *Statistics on unaccompanied minors* (Section 9) and *Identified Best Practice* (Section 10). Finally, the *Concluding Remarks* (Section 11) will identify certain common elements that arose from the findings of participating Member States.

Note that the structure of this Synthesis Report is such that a section(s) may be referenced directly in order to extract the information required on a specific aspect(s), if desired, rather than going through the whole report. In this way, it should serve also as a useful reference.

1.1 Methodology

Each participating EMN NCP produced a National Report following common specifications, developed by the EMN, in order to facilitate comparability between the findings from the Member States. This included a section on methodology whereby information was provided on:

- the methods used in identifying and selecting sources of data, databases used and criteria followed (such as data/research quality) for including a source;
- an overview of the type and sources of information used, including existing studies;
- which, if any, organisations/institutions have been contacted to obtain the relevant information;
- what problems were encountered in doing the study;

[3] Available from http://emn.sarenet.es/Downloads/prepareShowFiles.do;?directoryID=115, in some cases, including also in a Member States' language.

- whether some aspects (or statistics) could not be addressed (or provided) in accordance with the specifications and if alternative information was provided, an outline of how it should be interpreted with relation to what was requested;
- whether there are reservations/caveats one should apply to any of the findings and, if so, how.

The normal practice of the EMN is to undertake a desk analysis of recent and current information available at the Member State level analysing and/or synthesising the information, with a view to extracting what is considered to be of relevance and use to, as well as needed by, policymakers. This information is obtained from a variety of sources, such as the applicable legislation, contributions from public administrators (legal and managerial experts), published proceedings of parliamentary debates, Ministry Press Releases, news media (including internet), official documents published in, for example, official gazettes, and case law reporting, reports from non-governmental plus international organisations and relevant research publications (monographs, essays, research papers, conference proceedings).

In some cases, interviews were also undertaken with stakeholders from relevant Ministries/authorities/(non-governmental) associations (**Belgium**, **Estonia**, **Finland, Germany**, **Hungary**, **Ireland**, **Italy**, **Lithuania**, **Malta**, **Netherlands**, **Portugal**, **Slovak Republic**, **Slovenia**, **Spain**, **Sweden**), plus (for **Lithuania**, **Malta**, **Spain**) interviews with unaccompanied minors. **Austria** consulted its national network members via a questionnaire and through interviews; **Hungary**, **Slovenia** and **Spain** distributed a questionnaire, the former to social workers (carers) involved in supporting unaccompanied minors applying for asylum and, for the latter, to its Autonomous Communities and Cities; and the **United Kingdom** interviewed policy colleagues.

Statistics, although in many cases sparse or recorded inconsistently within a Member State, were, to the extent possible, also provided (Section 9). One aim was to provide the data that was available in a Member State, ideally including at least age, sex and nationality of the unaccompanied minor, and sources included statistics on entry and refusal at the border plus asylum applications. Typical of many Member States, in **Germany**, for example, owing to the manner in which data are recorded, it was not possible to determine with sufficient reliability the overall number of unaccompanied minors, other than those who applied for asylum. In fact the most reliable data were found to be of asylum applicants, although this does not fully

reflect the total number of unaccompanied minors. In **Austria**, it is assumed by experts that most unaccompanied minors are seeking asylum. For some Member States (**Ireland**, **Portugal**, **Netherlands**, **United Kingdom**), data protection legislation prevents publication of the data in their National Report when they have a small number (typically less than 5) of unaccompanied minors. The tables in this Synthesis Report are presented in such a way as to be compliant with such legislation.

1.2 Definition of "Unaccompanied Minor"[4]

For the purpose of this study, and referring to Article 2(f) of Council Directive 2001/55/EC,[5] an unaccompanied minor refers to *a third-country national or stateless person below the age of eighteen, who arrives on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person, or a minor who is left unaccompanied after they have entered the territory of the Member States*. Note that, by definition, this means the *exclusion* of unaccompanied minors who are EU nationals. Variations in the term and definition used for unaccompanied minors at national level exist in the **United Kingdom**. In some cases (**Austria**, **Belgium**, **Finland**, **Italy**, **Poland**[6]), information on unaccompanied EU national minors was given, in order to better place in context, and give the relative magnitude of, (third-country national) unaccompanied minors.

1.3 Other Reports and Studies

The complementary Fundamental Rights Agency (FRA) project on *Separated asylum seeking children in EU Member States*,[7] undertaken in the same period is of particular relevance. The aim of this project is to explore the views, experiences and expectations of unaccompanied, separated and orphan asylum seeking children, as well as officials and other staff dealing with these children, through child-centred participatory research. This study addressed the situation in 12 EU Member States.

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[4] Other definitions used by the EMN may be found in its Glossary available from http://emn.sarenet.es/Downloads/prepareShowFiles.do;?directoryID=117.

[5] Available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0055:EN:NOT.

[6] In Poland, the term "euro-orphanhood" has been introduced to denote the phenomenon of Polish parents migrating to other EU Member States after 2004 and leaving their minors behind (under the custody of other relatives or neighbours).

[7] See http://fra.europa.eu/fraWebsite/home/infocus10_3004_en.htm. The FRA has defined a "Separated Child" as a child under 18 years of age who is outside their country of origin and separated from both parents or their previous legal/customary primary caregiver. Some may be totally alone while others may be living with extended family members. All such children are separated children and entitled to international protection under a broad range of international and regional instruments.

Other reports of relevance in the context of unaccompanied minors are:

- European Parliament Briefing Paper on "*The Detention of Children in Member States' Migration Control and Determination Processes*"[8]
- European Parliament Study on "*The conditions in centres for third-country nationals (detention camps, open centres as well as transit centres and transit zones) with a particular focus on provisions and facilities for persons with special needs in the 25 EU Member States*"[9]
- The UNHCR "*Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum*"[10]
- Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees[11]
- A *UN Human Rights Council report*[12] by the Special Rapporteur on the human rights of migrants, with specific emphasis on children
- UNICEF "*Inter-Agency Guiding Principles on Unaccompanied and Separated Children*"[13]
- An Inter-Governmental Conference (IGC) Report on *Unaccompanied Minors, Overview of Policies and Practices in IGC Participating States*[14]
- The IOM Report on "*Exchange of information and best practices on first reception, protection and treatment of unaccompanied minors: Manual of Best Practices and Recommendations,*"[15] giving also details of the situation in Member States (**Austria**, **Belgium**, Bulgaria, **Czech Republic**, **Poland** and Romania).
- A study by the EU funded MIREM project on "*Mineurs marocains non accompagnés: Quelle réalité pour le retour?,*"[16] giving an insight into the

[8] July 2009, available from http://www.libertysecurity.org/article1185.html (in EN).
[9] December 2007, available from http://www.libertysecurity.org/IMG/pdf_eu-ep-detention-centres-report.pdf (in EN) and http://www.cimade.org/uploads/File/admin/Gianni_Rufini_2007_Rapport_final_PE.pdf (en FR).
[10] February 1997, available from http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=3ae6b3360.
[11] December 2009, available from http://www.unhcr.org/refworld/docid/4b2f4f6d2.html.
[12] May 2009, available from http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.7.pdf.
[13] January 2004, available from http://www.unicef.org/violencestudy/pdf/IAG_UASCs.pdf.
[14] July 1997, available by contacting admin@igc.ch. More recently (December 2009), the IGC held a workshop at which the various issues faced by the participating States on unaccompanied minors was discussed.
[15] September 2008, available from http://www.belgium.iom.int/document/EUAMMANUALFINAlA4FOrmat.pdf.
[16] Available from http://www.mirem.eu/recherche/rapports/200611-mirem-rep-baba.pdf.

reintegration and return conditions of unaccompanied minors returned to Morocco.

- A PICUM Report on "*Undocumented Children in Europe: Invisible Victims of Immigration Restrictions*,"[17] which covers nine EU Member States.

Indicative of its increasing importance amongst policymakers in particular, a number of meetings in policy relevant forums have occurred, such as the *Eurasil*[18] workshop on unaccompanied minor asylum seekers in May 2009, the *Committee on Immigration and Asylum*[19] discussed this topic in June 2009 and the *Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (CIREFI)*,[20] under the Swedish Presidency of the EU, produced an analysis in December 2009 of responses to a questionnaire from members of this committee. Elsewhere, the *Vienna Migration Group*[21] hosted a panel discussion in June 2009; *Save the Children (Brussels)*[22] organised a conference in September 2009, in co-operation with the Swedish Presidency of the EU; the *Inter-Governmental Conference (IGC)* held a workshop in December 2009 at which the various issues faced by the participating States on unaccompanied minors was discussed; the IOM, in its *Recommendations to the Spanish Presidency of the European Union* in January 2010, included a section on unaccompanied minors identifying *inter alia* what they considered to be the principal challenges and providing a number of recommendations; and the *General Directors' Immigration Services Conference (GDISC)* produced conclusions[23] from its workshop on unaccompanied minors in March 2010, which addressed age assessment methods, minor specific grounds for asylum and minor adequate asylum procedures.

[17] 2008, available from http://www.picum.org/article/reports.
[18] Network of European Asylum Practitioners established by the Commission in July 2002.
[19] A European Commission lead expert group aimed at facilitating an informal exchange of views between Member State administrations and the Commission services on political and legal issues related to migration, border and asylum.
[20] Council document 16869/09. CIREFI assisted the Member States in effectively studying legal immigration preventing illegal immigration and unlawful residence, in effectively combating immigration crime, in better detecting forged documents and in improving expulsion practice.
[21] Final Report arising from this event is available from http://vmg.iomvienna.at/images/stories/Report_UAMs_in_the_EU_Member_States.pdf.
[22] See http://www.savethechildren.net/alliance/europegroup/europegrp_pubs.html#as.
[23] Available from http://www.gdisc.org/index.php?id=132&tx_gdiscnews_pi1[showUid]=96&no_cache=1. A GDISC Unaccompanied Minors Expert Level Meeting takes place in May 2010.

2. POLICY CONTEXT

Several Member States have experienced the arrival and reception of significant numbers of unaccompanied minors and, more recently from 2008 onwards, this has increased substantially for some Member States. For example, and referring also to Section 9, some 7 797 unaccompanied minors were reported to the authorities in **Italy** during 2008, of which 1 797 were identified. The most critical situation occurred on the island of Lampedusa where 2 327 minors arrived by boat during 2008, 1 948 of whom were unaccompanied, an increase from 2007 when 1 700 unaccompanied minors arrived. Elsewhere, in **Spain** a total of 5 344 newly-arrived unaccompanied minors were received in 2008 (5 408 in 2007), although the remaining minors at the end of the year does not increase, but in fact decreases, owing to various reasons, such as, for example, compliance with the age of majority, abandonment of accommodation centres, reunification with relatives living in Spain. In 2008, the number of remaining minors was 4 916 (4 497 in 2007). Unaccompanied minors applying for asylum made the headlines in **Finland** in 2008 as the number of applicants rose from 165 in 2007 to 706, an increase of nearly 330%. This evolution has resulted in a need to develop an appropriate policy response across the EU.

The protection of the most vulnerable, including minors, is one of the fundamental principles upon which the EU's asylum and immigration policy is based. Indeed, the EU is committed to promote and protect children's rights in accordance also with its international obligations (see Section 3.1) and specific initiatives to enhance the promotion, protection and fulfilment of children's rights in the internal and external policies of the EU are outlined in the 2006 Communication "*Towards an EU strategy on the Rights of the Child*".[24] The "*EU Guidelines for the Promotion and Protection of the Rights of the Child*,"[25] adopted by the Council in December 2007, provides the foundation for EU action to protect and promote the rights of the child in its external policy. Following this, the 2008 Communication on "*A Special Place for Children in EU external action*"[26] committed the EU to maximise and co-ordinate the use

[24] COM(2006) 367, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006DC0367:EN:NOT, plus its accompanying Impact Assessment, SEC(2006) 888, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006SC0888:EN:NOT, and SEC (2006) 889, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006SC0889:EN:NOT.

[25] Available from http://www.consilium.europa.eu/uedocs/cmsUpload/16031.07.pdf.

[26] COM (2008) 55, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008DC0055:EN:NOT, along with its accompanying Impact Assessment, SEC(2008) 135, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008SC0135:EN:NOT, and SEC (2008) 136, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008SC0136:EN:NOT.

of the available instruments in its external action with a specific provision to provide humanitarian aid to *inter alia* separated and unaccompanied minors in countries on the verge of conflict, actually in conflict or emerging from conflict and resulting from natural disasters where governments are overwhelmed, unable or unwilling to act.

Unaccompanied minors who, for a variety of reasons outlined in Section 4, leave their country of origin to enter the EU poses a particular challenge, necessitating an appropriate policy approach, including at EU level in a spirit of solidarity and shared responsibility and guided by the best interests of the minor. It is, however, important to note that most of the instruments in the areas of immigration and asylum include provisions for greater protection of the rights of children, particularly unaccompanied minors. For example, EU legislation (outlined in more detail in Section 3.2) on asylum includes specific provisions for unaccompanied minors (e.g. legal representation through the appointment of guardians, training of staff required to assist their access to education, medical care) and the "Return Directive" incorporates the best interests of the child as a primary consideration in the context of their return and possible detention.

Whilst the European Pact on Immigration and Asylum[27] does not make an explicit reference to unaccompanied minors, they may be seen in the context of the European Council agreeing to "*give fuller consideration, in a spirit of solidarity, to the difficulties of those Member States subjected to disproportionate influxes of immigrants and, to that end, invite the Commission to submit proposals.*" In fact, the Commission's Communication[28] for the Stockholm Programme included specific measures towards attaining the goals set out in the Pact, including priority being given to the needs of international protection and reception of unaccompanied minors. This involved undertaking a thorough examination of the phenomenon, in particular from this study and the aforementioned FRA study, followed by an Action Plan to underpin and supplement the relevant legislative and financial instruments and to strengthen forms of co-operation with the countries of origin, including co-operation to facilitate minors' return to their countries of origin. On this latter aspect, it is worthwhile to note the *Declaration of the Euro-African Ministerial Conference on Migration and*

[27] Also available from http://ec.europa.eu/justice_home/news/intro/doc/doc_13440_08_en.pdf.
[28] COM(2009) 262, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009DC0262:EN:NOT.

Development[29] that took place under the auspices of the French Presidency on the EU in November 2008, engaging Ministers to "co-operate on migration of unaccompanied minors by promoting actions centred on prevention, protection, return and re-integration."

More recently, since mid-2009, the challenge presented by unaccompanied minors has been extensively discussed in the Council. For example, at the Justice and Home Affairs Council meeting[30] in September 2009, Ministers agreed that all Member States would benefit from the development of common approaches and increased co-operation with countries of origin, including co-operation to facilitate minors' return. Areas identified as requiring particular attention included the exchange of information and best practice, co-operation with countries of origin, the question of age assessment techniques and family tracing, and the need to pay particular attention to unaccompanied minors in the context of the fight against human trafficking. In this vein, the European Commission in particular was requested to present its previously mentioned action plan on unaccompanied minors. Such an action plan should supplement the relevant legislative and financial instruments and combine measures directed at both protection and prevention, with the best interests of the child continuing to be the EU's guiding principle.

The importance of the rights of the child to be systematically and strategically taken into account with a view to ensuring an integrated approach in the development of EU policies was emphasised in the Stockholm Programme,[31] adopted in December 2009. The Programme welcomed the Commission's initiative to develop an Action Plan on unaccompanied minors, to be adopted by the Council, underpinning and supplementing the relevant legislative and financial instruments and combining measures directed at prevention, protection and assisted return. The Action Plan was also required to underline the need for co-operation with countries of origin, including co-operation to facilitate the return of minors, as well as to prevent further departures. Such an Action Plan would also be required to examine practical measures to facilitate the return of unaccompanied minors that do not require international protection, recognising that the best interests for many may be their reunion with their

[29] Available from http://www.eu2008.fr/webdav/site/PFUE/shared/import/1125_conference_immigration/Paris_Conference_Migration_Development_Final_statement_EN.pdf.
[30] Available from http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/110272.pdf.
[31] Adopted version available from the website of the Swedish Presidency of the EU at http://www.se2009.eu/en/the_presidency/about_the_eu/justice_and_home_affairs/1.1965.

families and development in their own social and cultural environment. Elsewhere in the Stockholm Programme, and in the context of strengthening border controls, it was also stated that access to protection systems by those persons entitled to benefit from them, and especially people and groups that are in vulnerable situations, should not be prevented. In this regard, priority was given to the needs of international protection and reception of unaccompanied minors.

The European Parliament's Resolution[32] on the Stockholm Programme of 25th November 2009 considered, in the Section on Protecting Children (Articles 73 to 81 inclusive), that there was an urgent need to address the question of protection of unaccompanied and separated children, given the special risks to which they are exposed and urged "*Member States to ensure that EU asylum, migration and trafficking policies in this field treat migrant children as children first and foremost, and to ensure that they benefit from their rights as children without discrimination, especially the right to family reunification*." With regard to the aforementioned action plan, the resolution insisted that the plan must ensure that: a) all unaccompanied children receive special protection and assistance whilst in the EU; b) the EU identifies actions which will support Member States in finding a secure, concrete and durable solution for each child in the child's best interests; c) where return to a third country is in the best interests of the child, a proper return and reintegration process is put in place in co-operation with the country of return; and d) the EU co-operates with third countries to prevent unsafe migration and to provide opportunities for children in the countries concerned.

[32] Available from http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2009-0090+0+DOC+XML+V0//EN.

3. INTERNATIONAL AND EU LEGISLATIVE FRAMEWORK

Each National Report provides an overview of their national legislation applicable to unaccompanied minors. To complement this, an overview is now given of the relevant international and EU legislation which often forms the basis for a Member States' national legislation when they have acceded to the legislation.

3.1 International Conventions

3.1.1 United Nations Convention relating to the Status of Refugees of 1951[33]

Whilst the Convention does not contain any special regulations relating to minors, since it does not recognise any age limits, the general legal protection proceeding from it also extends to children and young persons.

3.1.2 Hague Convention on the Protection of Children[34]

All Member States have ratified this convention with accompanying declarations or notifications, except for **Estonia** and **Lithuania** who are in the process of accession.

3.1.3 United Nations Convention on the Rights of the Child[35]

All EU Member States are signatories to this convention, which was the first legally binding international instrument to incorporate the full range of rights for a child. The European Union, therefore, has a responsibility to ensure that its own activities are in line with the standards set by the Convention and consequently to promote and protect the rights of the child in all its actions affecting children.

In 1992, **Germany** issued a reservation on this Convention declaring that nothing contained therein can be so interpreted as meaning that the unlawful entry of a foreign national, or the unlawful residence of such a person, is permitted; and equally, that no provision can be so interpreted as to constitute any limitation of the right of Germany to enact laws and ordinances concerning the entry of foreign nationals and the conditions upon their residence, or to draw distinctions between German and foreign nationals. Non-governmental organisations active in the field of asylum and refugees consider this declaration of

[33] Available from http://www.unhchr.ch/html/menu3/b/o_c_ref.htm.
[34] Available from http://www.hcch.net/index_en.php?act=conventions.text&cid=69. Details of ratification may also be found here.
[35] Available from http://www.unhchr.ch/html/menu3/b/k2crc.htm. Details of ratification may also be found here.

reservation to be evidence that Germany does not accord the welfare of the child any precedence over restrictions under the law on foreign nationals. According to the German *Länder*, however, the reservation is intended to guard against any possibility of mis- or over-interpretations that might be conceivable in connection with the Convention - for instance, the perception that children all over the world might be entitled to come to Germany and remain there. A withdrawal of the declaration is being demanded by countless organisations, experts and politicians, although to date this has not taken place.

3.1.4 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)[36]

The rights of the child form an integral part of the human rights which the EU and its Member States are required to respect under the ECHR, and is explicitly referred to in Article 6(2) of the Treaty of European Union.

3.2 Relevant EU acquis

EU legislation which include provisions for unaccompanied minors are outlined below. As mentioned previously, one of the fundamental principles in these Directives is that the best interests of the child shall be a primary consideration for Member States when implementing relevant provisions that involve minors.

3.2.1 Charter of Fundamental Rights of the European Union[37]

The rights of the child are laid down in Article 24 of this Charter, whilst Article 14 is concerned with the right to education and Article 32 addresses the prohibition of child labour.

3.2.2 Council Resolution of 26 June 1997 on unaccompanied minors who are nationals of third countries[38]

The purpose of this Resolution is to establish guidelines for the treatment of unaccompanied minors, with regard to matters such as the conditions for their reception, stay and return and, in the case of asylum applicants, the handling of applicable procedures. Articles cover admission, minimum guarantees, the asylum and the return procedures and, in Annex, measures to combat trafficking and illegal entry.

[36] Available from http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=005&CL=ENG. Details of ratification may also be found here.
[37] Available from http://ec.europa.eu/justice_home/unit/charte/index_en.html.
[38] Available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997Y0719(02):EN:NOT.

3.2.3 Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders ("Schengen Borders Code")[39]

Annex VII, Article 6 of the Schengen Border Code has specific provisions for unaccompanied minors. Amongst these is the requirement for Border Guards to pay particular attention to minors, whether travelling accompanied or unaccompanied; and that minors crossing an external border are subject to the same checks on entry and exit as adults.

For accompanied minors, Border Guards are also required to ensure that the accompanying persons has parental care over them, especially where minors are accompanied by only one adult and there are serious grounds for suspecting that they may have been unlawfully removed from the custody of the person(s) legally exercising parental care over them.

In the case of unaccompanied minors, Border Guards are required to ensure, by means of thorough checks on travel and other supporting documents, that the minors do not leave the territory against the wishes of the person(s) having parental care over them.

3.2.4 Asylum

The specific provisions for unaccompanied minors in the "*Reception Conditions Directive*,"[40] which lays down minimum standards for the reception of asylum seekers in Member States, includes the requirement for Member States to:

- ensure representation of the unaccompanied minor by appointing a legal guardian, a person acting on behalf of an organisation responsible for the care and well being of minors, or any other appropriate representation and to ensure that regular assessments are carried out by the appropriate authorities;

[39] Available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006R0562:EN:NOT. Council Regulation (EC) 790/2001 reserved to the Council implementing powers with regard to certain detailed provisions and practical procedures for carrying out border checks and surveillance, whilst, through Council Decision 2004/466/EC, an amendment was made in order to include provision for targeted Border Controls on Accompanied Minors.

[40] Council Directive 2003/9/EC, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0009:EN:NOT. Denmark and **Ireland** did not participate in the adoption of this Directive.

- ensure that unaccompanied minors are placed with adult relatives, with a foster-family, in reception centres with special provisions for minors or in other suitable accommodation. Unaccompanied minors aged 16 or over may be placed in accommodation centres for adult asylum seekers, whilst, as far as possible, siblings are kept together and changes of residence of unaccompanied minors shall be limited to a minimum;
- endeavour to trace the family members of unaccompanied minors as soon as possible with due regard for their safety;
- ensure that those working with unaccompanied minors shall have had or receive the appropriate training.

The same or comparable provisions for unaccompanied minors are also given in the:

- *Qualification Directive*,[41] which lays down minimum standards for the qualification of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted;
- *Procedures Directive*,[42] which serves to establish minimum standards on procedures in Member States for granting or withdrawing refugee status; and
- *Temporary Protection Directive*,[43] which serves to establish minimum standards for giving temporary protection in the event of a mass influx of displaced persons.

In light of experience and an evaluation of the implementation of the *Reception conditions Directive*, the Commission tabled in December 2008 a proposal[44] for its re-casting, including *inter alia* a provision to ensure an adequate standard of living for persons with special needs by, for example, requiring Member States to set up mechanisms for identifying such needs as

[41] Council Directive 2004/83/EC, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:NOT. Denmark did not take part in the adoption of this Directive.
[42] Council Directive 2005/85/EC, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32005L0085:EN:NOT. Denmark did not take part in the adoption of this Directive.
[43] Council Directive 2001/55/EC, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0055:EN:NOT. Denmark and **Ireland** did not participate in the adoption of this Directive.
[44] COM(2008) 815 final, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008PC0815:EN:NOT, plus its accompanying Impact Assessment (SEC(2008) 2944, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008SC2944:EN:NOT) and SEC(2008) 2945, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008SC2945:EN:NOT).

soon as an application for international protection has been lodged and by ameliorating the conditions for accessing health care. Concerning the provisions aiming at increasing the level of protection afforded to minors, the proposal specifies certain factors to be taken into consideration when assessing the "best interests of the child" principle. For example, the proposal specifies that minors shall not be detained unless it is in their best interest, that unaccompanied minors shall never be detained and obliges Member States to start tracing the family members of unaccompanied minors as soon as an application for international protection is lodged. As of April 2010, negotiations with the European Council and Parliament[45] were ongoing.

The *Dublin Regulation*[46] lays down the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national. There are a number of rules specific to the situation of unaccompanied minors. For example, Article 6 states that the Member State responsible for examining his/her application is the Member State where a member of his/her family is legally present. If no family member is legally present, the Member State where the asylum claim is lodged in responsible. In addition, under Article 15(3), if the unaccompanied minor has a relative or relatives in another Member State who can take care of him/her, Member States shall if possible unite the minor with his or her relatives.

A proposal[47] to amend the *Dublin Regulation* was also tabled by the Commission in December 2008 at the same time as the aforementioned re-casting of the *Reception Conditions directive*.[48] Amongst the proposed changes was the addition of a new Article 6

[45] The amendments proposed by the European Parliament in April 2009 are available at http://www.europarl.europa.eu/sides/getDoc.do?language=EN&reference=A6-0285/2009.

[46] Council Regulation (EC) 343/2003, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003R0343:EN:NOT. Denmark did not take part in the adoption of this Regulation.

[47] COM (2008) 820 final, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008PC0820:EN:NOT, along with its accompanying Impact Assessment (SEC(2008) 2962, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008SC2962:EN:NOT and SEC(2008) 2963, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008SC2963:EN:NOT).

[48] A proposal to amend the *Eurodac Regulation*, the system which, via the collection, transmission and comparison of fingerprints, assists in determining which Member State is to be responsible pursuant to the Dublin Convention for examining an application for asylum lodged in a Member State, was also published at this time. COM(2008) 825, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008PC0825:EN:NOT,along with its accompanying Impact Assessment (SEC(2008) 2981, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008SC2981:EN:NOT and SEC(2008) 2982, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008SC2982:EN:NOT.

requiring Member States to co-operate closely with each other in assessing the best interests of the child and in particular to take due account of the following factors: the family reunification possibilities; the minor's well-being and social development; safety and security considerations, as well as the views of the minor, in accordance with his/her age and maturity. It was also proposed to make the reunification of an unaccompanied minor with a relative who can take care of him/her a fully binding criterion for determining responsibility and clarified that, in the absence of a family member or another relative, the Member State responsible is the one where the applicant lodged his/her most recent application for international protection, provided this is in his/her best interests. As of April 2010, negotiations with the European Council and Parliament were ongoing (also for the proposed amendment to the Eurodac Regulation).[49]

3.2.5 Family Reunification

The *Family Reunification Directive*,[50] determines the conditions for the exercise of the right to family reunification by third-country nationals residing lawfully in the territory of the Member States. Whilst a Member State may require the sponsor to be of a minimum age, and at maximum 21 years, this does not apply in the provisions applicable to refugees. In the case of an unaccompanied minor who is a recognised refugee, Member States are required to authorise the entry and residence of his/her first-degree relatives in the direct ascending line and may authorise the entry and residence of his/her legal guardian or any other member of the family, if the refugee has no relatives in the direct ascending line or they cannot be traced. Details of how this is implemented in practice are given in the EMN study on Family Reunification.[51]

[49] The amendments proposed by the European Parliament in April 2009 on the *Dublin Regulation* are available at http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A6-2009-0284+0+DOC+XML+V0//EN&language=EN and on the *Eurodac Regulation* at http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A6-2009-0283+0+DOC+XML+V0//EN.

[50] Council Directive 2003/86/EC, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0086:EN:NOT. Denmark, **Ireland** and the **United Kingdom** did not take part in the adoption of this Directive.

[51] Available at http://emn.sarenet.es/Downloads/prepareShowFiles.do;?directoryID=105. See in particular Section 4.4 of the Synthesis Report.

3.2.6 Return

The *Return Directive*[52] on common standards and procedures in Member States for returning illegally staying third-country nationals, obliges a Member State, before deciding to issue a return decision, to grant unaccompanied minors assistance by appropriate bodies other than the authorities enforcing return. Furthermore, before removing an unaccompanied minor from the territory of a Member State, the authorities of that Member State have to be satisfied that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the country of return. Where necessary, Member States are required to extend the period for voluntary departure by an appropriate period, taking into account the specific circumstances of the individual case, such as the length of stay, children attending school and the existence of other family and social links. During this period, it is incumbent on a Member State to ensure that the following principles are taken into account as far as possible in relation to third-country nationals: (a) family unity with family members present in their territory is maintained; (b) emergency health care and essential treatment of illness are provided; (c) minors are granted access to the basic education system subject to the length of their stay; and (d) special needs of vulnerable persons are taken into account.

With regard to detention, the Directive contains specific safeguards providing that unaccompanied minors and families with minors shall only be detained as a measure of last resort and for the shortest appropriate period of time. Unaccompanied minors are, as far as possible, required to be provided with accommodation in institutions provided with personnel and facilities which take into account the needs of persons of their age.

3.2.7 Readmission and Other Agreements

Minors are fully covered by the scope of the EU readmission agreements[53] currently in force or those being negotiated, although they do not contain any specific provisions regarding protection of minors. However, since readmission agreements are applicable only following the accomplishment of a return procedure, an unaccompanied minor will first be in the position to use all the safeguards provided for in the aforementioned *Return Directive*.

[52] Directive 2008/115/EC of the European Parliament and of the Council, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008L0115:EN:NOT. Denmark, **Ireland** and the **United Kingdom** did not take part in the adoption of this Directive.

[53] See http://ec.europa.eu/justice_home/doc_centre/immigration/relations/doc_immigration_relations_en.htm for more information on Community Readmission Agreements.

Once an EU Readmission Agreement is concluded this supersedes bilateral readmission agreements that any Member State, subject to the EU agreement, has. There are, however, also bilateral agreements on unaccompanied minors that are not purely readmission agreements. For example, sixteen so-called *Benelux Agreements*[54] have been signed by **Belgium**, together with the **Netherlands** and Luxembourg, as well as Memorandums of Understanding (MoUs) or administrative agreements.[55] In 2008, **Greece** ratified a bilateral agreement with Albania for the protection and assistance provided to minors who are victims of trafficking, which *inter alia* sets out obligations, in case of return, for the proper preparation of the family and the minor, the safe return and the respect of the minor's interests. Bilateral agreements specifically addressing unaccompanied minors also exist between **Spain** and Morocco (pending ratification) and between **Spain** and Senegal (ratified).

3.2.8 Combating Trafficking and Exploitation of Human Beings

In March 2010, the Commission tabled a *Proposal for a Directive on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA*.[56] The proposal builds on the initial Framework Decision 2002/629/JHA by incorporating also elements of the 2000 *United Nations Protocol on trafficking in persons*[57] especially women and children, and the *2005 Council of Europe Convention on action against trafficking in human beings*.[58] Specific measures would provide for substantive criminal law provisions, prosecution of offenders, victims' rights in criminal proceedings (with special protective measures envisaged for children such as the taking of interviews in a friendly environment), victims' support, prevention and monitoring.

The other relevant legislation is the *Directive on the residence permit issued to third-country nationals who are victims of trafficking in human beings who co-operate with the competent*

[54] Such *Benelux Agreements* have been signed with the following third countries: Croatia (1999, entry into force in 2005); Serbia and Montenegro (2002, entry into force in 2007); Switzerland (2003, entry into force in 2007); FYROM (2006, not yet ratified by Belgium); and Bosnia and Herzegovina (2006, not ratified yet by Belgium).

[55] MoUs have been signed with: Congo, Vietnam, Nepal, Niger, Ecuador and Burundi. Negotiations are currently ongoing with Brazil, Kosovo, Afghanistan, Iraq and Mongolia.

[56] COM(2010) 95, see http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0095:FIN:EN:PDF. This supersedes a previous proposal in March 2009 for a Framework Decision (COM(2009) 136, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009PC0136:EN:NOT). The accompanying Impact Assessment is SEC(2009) 358, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009SC0358:EN:NOT, and SEC(2009) 359, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009SC0359:EN:NOT.

[57] See http://untreaty.un.org/English/TreatyEvent2003/Texts/treaty2E.pdf.

[58] See http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=197&CM=1&CL=ENG.

authorities.[59] Member States may decide to apply the Directive to minors who are or have been victims of trafficking in human beings. In the case of unaccompanied minors, Member States are required to take the necessary steps to establish their identity and nationality, to ensure legal representation if necessary and to make every effort to locate the families as quickly as possible.

3.2.9 EU Financial Instruments

Several European financial instruments can be addressed to unaccompanied minors. Under the *Framework Programme "Solidarity and management of migratory flows"*,[60] which has a total budget of €4 020 million for the period 2007-2013, the "*European Fund for the Integration of Third-Country Nationals*"[61] covers unaccompanied minors' integration if they are considered legally-resident. Under the "*European Refugee Fund*,"[62] Member States receive a fixed amount of €4 000 for each resettled person falling into one of four specific categories, including unaccompanied minors. The "*European Return Fund*"[63] covers measures in the framework of the return procedure or specific actions addressed to unaccompanied minors, like information on return, costs of travel and food for returnees, family reunification in the country of origin, as well as reintegration measures. This fund can also be used to implement the specific provisions provided on the issue by the *Return Directive*. The Commission will launch a specific study on the situation of minors in the return process, in the framework of the Return Fund 2009 Community Actions. The aim of this comparative study is to analyse practices and highlight best practices relating to the return of minors by the Member States. Finally, actions under the "*External Borders Fund*"[64] might include, for example, initiatives for training border guards in the treatment of *inter alia* unaccompanied minors upon arrival at an external border of the EU.

[59] Council Directive 2004/81/EC, available from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0081:EN:NOT. Denmark, **Ireland** and the **United Kingdom** did not take part in the adoption of this Directive.
[60] See http://ec.europa.eu/justice_home/funding/intro/funding_solidarity_en.htm.
[61] Council Decision 2007/435/EC, see http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007D0435:EN:NOT.
[62] Decision 573/2007/EC of the European Parliament and of the Council, see http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007D0573:EN:NOT.
[63] Decision 575/2007/EC of the European Parliament and of the Council, see http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007D0575:EN:NOT.
[64] Decision 574/2007/EC of the European Parliament and of the Council, see http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007D0574:EN:NOT.

Other relevant financial instruments are the *DAPHNE III programme*[65] (2007-2013), with a total budget of €116.85 million to support projects that aim to prevent and combat violence against children, young people and women and to protect victims and groups at risk, and the "*Thematic programme for cooperation with Non-EU Member Countries in the areas of migration and asylum*,"[66] which has, as one of its priorities, addressing the migration of unaccompanied minors, particularly from North African states. This programme, and its predecessor AENEAS, supports already a number of projects on unaccompanied minors. For example, a project being implemented by an Italian NGO (Cooperazione Internazionale Sud Sud) in Morocco and Algeria aims at promoting the prevention of departures of unaccompanied minors through raising awareness and offering training among minors at risk and authorities and persons (e.g. teachers) having contacts with them.

4. MOTIVATION(S) AND CIRCUMSTANCE(S) FOR ENTERING THE EU

There were several, varied and interconnected reasons established, following the methodology outlined in Section 1.1, as motives for an unaccompanied minor to enter the Member States as outlined below. Clearly there are interlinks between these different motivations and an unaccompanied minor could enter the EU for more than one of these reasons and/or move from one category to another. For example, an unaccompanied minor may come from a third country with an ongoing conflict and/or abject poverty with limited future prospects and has been chosen by their family for a "better life in Europe." The family pays for the minor to be smuggled into the EU after which, either immediately or upon apprehension by the authorities, an application for asylum is made. Some Member States have observed that once refugee status is obtained, an application for family reunification is then lodged. An overview of which motivations are most prominent in each Member State is given in Table 1.

[65] Decision 779/2007/EC of the European Parliament and of the Council, see http://ec.europa.eu/justice_home/funding/2004_2007/daphne/funding_daphne_en.htm.

[66] See Strategy Paper at http://ec.europa.eu/europeaid/where/worldwide/migration-asylum/documents/stragtegy_paper_multi_annual_indicative_programme_2007_2010_en.pdf. Details of projects being funded are available from http://ec.europa.eu/europeaid/what/migration-asylum/index_en.htm.

Table 1: Overview of the motivations and circumstances identified and/or reported by the Member States for the entry of an unaccompanied minor into their territory

	Austria	Belgium	Czech Republic	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Netherlands	Malta	Poland	Portugal	Slovak Republic	Slovenia	Spain	Sweden	United Kingdom
Persecution/Protection (Asylum)	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆		◆	◆	◆	◆	◆		◆		◆	◆
Family Reunification		◆	◆		◆					◆					◆	◆						
Economic, Aspirational	◆	◆	◆			◆	◆	◆	◆	◆	◆			◆		◆	◆	◆	◆	◆		◆
Join Migrant /Diaspora community		◆	◆				◆										◆					
Transit	◆	◆	◆					◆	◆			◆	◆		◆			◆	◆			
Trafficked	◆	◆			◆	◆				◆				◆		◆						
Smuggled			◆							◆				◆				◆		◆		◆
Medical		◆								◆												
Abandonment		◆	◆						◆							◆						
Runaways		◆	◆			◆								◆								

◆ signifies that this is one of the motivations identified and/or reported by a particular Member State for the entry of an unaccompanied minor. The purpose of this Table is only to indicate the type of motivations and circumstances, established according to the methodology outlined in section 1.1, and it is important to note that the extent of the motivations given varies and they are highly interrelated, as outlined in the accompanying description in this Section.

Malta provides a good example of how these different reasons are interlinked. Most migrants arriving in boats from North Africa are young men in their twenties, but usually there are also a few women, children and unaccompanied minors. The migrants often do not have the intention to land or stay in Malta, in other words, they come to Malta by accident or by mistake. Upon entry into Malta, almost all apply for asylum,[67] including the unaccompanied minors, who give, as their main reasons for fleeing, civil conflict, religious persecution, family reunification, poverty and human rights abuses. The intention, however, seems more to be to seek asylum on the European mainland. In fact, even after being granted asylum, some still manage to leave the island believing a better life awaits them on the continent.

Belgium and **Spain** have indications that the increase in the influx of unaccompanied minors over the last three to four years is associated with a means by which legal entry procedures may be bypassed. In the case of **Belgium**, the indication from the available data that there has been an increase in the number of (mainly illegally residing) unaccompanied minors, is in contrast to the observation, again from the available data, that there has been an apparent decrease in the number of illegal entries. With the accession of the EU-10 Member States, it was anticipated that the number would decrease, since a great number of unaccompanied minors from these EU-10 Member States were no longer recorded. Using the procedure for unaccompanied minors enabled other legal entry procedures to be bypassed in order to enter for the purpose of studies, family reunification, adoption, guardianship or medical treatment. Another indication to improper use of the procedure is the fact that 17-year olds are overrepresented in the statistics. Taking into account that the medical test used to determine age (see Section 6.5) applies a two year margin, it can be stated that a lot of these persons are in reality over 18 years old. In **Spain**, the increase in the number of unaccompanied minors is considered to be linked to the increased surveillance of the EU's external borders (e.g. via operations co-ordinated by FRONTEX) and to improved removal procedures of illegally staying migrants, which, paradoxically, has paved the way for networks of migrant smugglers to boost the entry of minors, whose return, given their age, is more difficult to implement.

Another aspect, noted by **Ireland**, **Malta** and **Poland** in particular, is that the minors themselves often do not know why they have been sent to the EU and the motivation behind their migration is actually that of the parent or guardian. The experience in **Poland** is that

[67] In 2009, 89% of those entering illegally subsequently applied for asylum.

young minors are unable to explain why they have entered a foreign country, whilst older (teenage) minors – especially if they come to Poland unlawfully – seldom report the real reasons for which they have left their country of origin, frequently because the reasons are known only to the adults arranging the arrival, but most often because of the lack of confidence in the representatives of the Polish institutions. Another important feature is considered to be the language barrier which inhibits communication. **Greece** also has linguistic difficulties when trying to interview its unaccompanied minors, who most often enter illegally, owing to a lack of interpreters.

Portugal also found that the choice of the destination country is not always intentional and depends on random factors. In fact, it is not uncommon to find situations where an unaccompanied minor is completely unaware they are in Portugal, since the destination was determined more by the available means of transport and by support provided at the point of origin by adults, who are often unknown to them. Conversely, **Portugal** has situations in which the unaccompanied minors are aware of their destination, especially in the case of minors from countries such as Guinea-Conakry and Senegal, where the geographical proximity to Guinea-Bissau, a Portuguese speaking nation, facilitates this choice.

A similar experience is observed in the **United Kingdom**, where studies suggest that often the decision to leave a country of origin is not made by the minor themselves, and that it is their families and 'agents' who play a key role in directing migration towards, or away from, particular countries.

Noting the caveat given in the methodology, the available data indicates that, for many Member States (notable exceptions are **Italy** and **Spain**), most unaccompanied minors apply for asylum (see Section 9.1 for a more detailed overview of the available statistics). This may, to a certain extent, also be a consequence of the primary means by which an unaccompanied minor can be granted a legal (migration) status, since the legal status and procedures applied in respect of unaccompanied minors not seeking asylum, other than those who are victims of trafficking co-operating with the authorities, are often not so clearly defined or their presence in the Member State is undetected (e.g. those illegally entering or residing).

4.1 Fleeing persecution and seeking protection (Asylum)

All Member States identified seeking asylum as one of the (in some cases main) motivations for the entry of an unaccompanied minor, albeit to varying degrees of prominence as outlined below. To some extent, this is because the filing of an application for asylum is the main method by which an unaccompanied minor may be granted a legal status in the Member States. Various reasons are given for fleeing and seeking protection, such as from wars, civil wars, crises, riots and torture in the country of origin, disturbances and conflicts or equally from poverty and natural catastrophes, plus (impending) political persecution, or dangers by reason of their ethnic or religious affiliations, or the association of a family member with political or other activity, as well as the threat of honour-related violence. A minor may have left their country of origin accompanied by their parents, their guardian or other family members. However, when fleeing the dangers outlined above, this departure can often be impulsive and family members can lose one another along the way, resulting in the minor entering an EU Member State unaccompanied.

The experience in **Germany** is that it can be hard for children and young persons to make clear, or present in a structured manner, the precise reasons for their flight and/or migration in conversations with persons who work for the authorities. Given that the ability to describe the circumstances of one's flight in a credible manner presupposes a certain level of maturity, a majority of unaccompanied minors are, therefore, not capable of asserting reasons for flight that would correspond to the criteria for "political persecution" under asylum law. The recognition of "political persecution" is a precondition both for the recognition as a person entitled to asylum and for the granting of refugee status. **Belgium** and **Italy** have also found that some unaccompanied minors claim asylum on the grounds of persecution, but in reality are actually seeking a better education and way of life. The experience in the **United Kingdom** is that some unaccompanied minors are often reluctant to discuss their pre-flight and migration stories and there is a suggestion that their reticence may be because they are traumatised or they have been 'rehearsed' (by parents or agents) to tell a story that will fulfil asylum conditions, amplifying political reasons and omitting economic reasons for seeking asylum.

It is assumed by experts in **Austria** and in the **Netherlands** that most unaccompanied minors enter to seek asylum. Conversely for **Belgium**, between 30% and 40% of unaccompanied minors apply for asylum, the majority (60% to 70%) being, in most cases, illegally resident.

The majority of unaccompanied minors in the **Czech Republic**, **Lithuania**, **Sweden** and **United Kingdom** apply for asylum, although for the former, there has been a change since 2008 in this trend. In **Finland,** unaccompanied minors typically apply for asylum at an inland police department, although individual grounds for seeking asylum are rare and typically involved domestic violence or sexual abuse. For **France**, the countries of origin most affected by this phenomenon are the Sub-Saharan African states.

Many children and youths who lodge an application for asylum in **Germany** are fleeing because their parents too are fleeing or have fled, but become separated from their parents during their flight or while being smuggled into Europe. Another reason, also cited in the **Netherlands**, for seeking protection is the fear of impending harmful practices (e.g. genital mutilation of girls and young women in African countries), as well as the fear of forced marriage of girls and young women and of sexual abuse or forced prostitution. Other reasons mentioned are to avoid slavery or child labour (Afghanistan, Angola, Kenya), persecution as a result of refusal to enter national service or fear of conscription (Russia), collective punishment for the crimes of a family member (Ethiopia) or enforced recruitment as child soldiers (African countries such as Angola, Sierra Leone, Somalia, Guinea).

Most of the (admittedly few in number) unaccompanied minors entering **Portugal** are from West African nations, especially countries that are part of the Economic Community of West African States, and their motivation is related to the need for protection and the desire to escape from situations of serious violations of human rights – particularly persecutions motivated by race, ethnic origin or gender – armed conflicts, forced military recruitment and trafficking for sexual exploitation. Given this reality, the underlying reason why unaccompanied minors leave their countries of origin has to do with a quest to find a safe destination. The political instability in their countries of origin, characterised by armed conflicts, as well as situations of serious need and privations, all serve to motivate escapes.

4.2 Family Reunification

A number of routes by which a family becomes reunited in an EU Member State were identified. Some unaccompanied minors arrive in order to join their parents and/or other family members who, in the case of, for example, the **Czech Republic**, may sometimes themselves be illegally staying. As the procedure for family reunification is sometimes

complicated and takes a long time, entering as an unaccompanied minor is attempted in order to try another way.

Another route identified is for the minor to come ahead of the family in order to be the first one to try to obtain asylum and, once recognised as a refugee, apply for family reunification in accordance with the *Family Reunification Directive* (see Section 3.2.5). **Finland** has found that when these so-called "anchor children" are granted a residence permit, an application for family reunification is submitted almost without exception. Their evidence for the existence of this phenomenon is provided by the fact that the Eurodac system more and more frequently reveals fingerprints of a minor seeking asylum having been registered in another Member State. Tighter policies in the processing of applications for family reunification in some Member States are considered to drive children to seek for asylum in a Member State where family reunification is thought to be easier. **Poland** too has cases of family members applying for family reunification once refugee status has been granted to an unaccompanied minor.

In **Ireland**, there is an important distinction to be made between minors who arrive unaccompanied but who have family resident in Ireland and those that arrive alone and have no family in the state. Available data[68] indicates that between 2002 and 2007 one-half to two-thirds of unaccompanied minors were reunited with family members after referral to the Social Services within the Greater Dublin region. In 2008, just under half of minors referred to the service were reunited with family. It cannot be assumed, however, that this type of informal family reunification is the motivation behind all such minors travelling to Ireland – some may proceed, for example, to claim asylum.

Another development in **Ireland**, which occurred in January 2005 in order to address concerns that migrants were travelling to Ireland and having children in order to gain residency, was a very significant change in relation to non-Irish nationals and Irish citizenship. Prior to the enactment of the *Irish Nationality and Citizenship Act 2004*,[69] Ireland granted citizenship to everyone born on the territory. Up to January 2003, the non-Irish parents of Irish-born children could apply for residency based on the Irish citizenship of their child. It was possible, therefore, that older siblings of Irish-born children were sent to join

[68] Based on data received from the HSE Social Work Team for Separated Children Seeking Asylum within the Greater Dublin Area.
[69] Available from http://www.dail.ie/viewdoc.asp?fn=/documents/bills28/acts/2004/a3804.pdf.

their parents in Ireland. Whilst no data exist on whether or not minors are pregnant on arrival, anecdotally this was not believed to be a major issue, even prior to this change in the citizenship law. The proportion of unaccompanied minors travelling to Ireland who were then informally reunited with family grew steadily from 21% in 2000 to peak of 69% in 2005.[70] The changes in citizenship provisions meant that any person born in Ireland after 1 January 2005 to non-Irish parents would not be automatically entitled to be an Irish citizen unless one of the parents was lawfully resident in Ireland for at least three out of the four years preceding the child's birth. Families of Irish born children were thus invited to apply for permission to remain in Ireland under the *Irish Born Child 2005 Scheme (IBC/05)*.[71] Almost 18 000 applications were submitted under the Scheme and of these almost 16 700 were approved. Applicants under the *IBC/05 Scheme* were asked to sign a declaration which stated that they understood that, if they were granted residency, this would not give them any entitlement to reunification with any other family members residing outside of the country. This was widely (and wrongly) interpreted as a ban on family reunification applications and some NGOs have commented that this confusion probably led to large numbers of older siblings being brought into the country by informal channels.

4.3 Economic, aspirational reasons

In this instance, the main motivation is for a "better life in Europe," more often an aspiration of the parents of an unaccompanied minor. An unaccompanied minor may have been 'chosen' by their parents to travel to a Member State, to live the dream they had and/or in order to access an education not available in their country of origin. Often the parents have high expectations for the unaccompanied minor, particularly with regard to remittances. The lack of perspectives in the country of origin, calamitous living conditions, lack of resources and poverty, combined with this search to financially support the family via remittances, can also be considered to act as motivating "push factors." With regard to the corresponding "pull factors," an example provided by **Italy** is the positive image as portrayed both by friends and relatives who have emigrated to the EU and by mass media, in particular television broadcasts in their country of origin.

[70] Based on data received from the HSE Social Work Team for Separated Children Seeking Asylum within the Greater Dublin Area

[71] Details available from http://www.inis.gov.ie/en/INIS/IBC05Renewal.pdf/Files/IBC05Renewal.pdf.

In **Spain**, it is primarily unaccompanied minors coming from the Maghreb, especially Morocco, who enter for economic reasons, as well as from sub-Saharan Africa (e.g. Senegal, Mali, Guinea Bissau, Guinea, Ghana, Cameroon, Gambia, and Mauritania). When asked about their motivations, unaccompanied minors from Morocco declare that they come to Spain to find a better future, which is impossible in their country of origin, because there are not enough opportunities there, studying does not guarantee a good job and employment for young people is scarce and highly precarious. They, therefore, wish to work and earn money to live in Spain and help their families economically. Whilst taking a more precarious route to arrive at the Autonomous Community of the Canary Islands, unaccompanied minors from sub-Saharan Africa have similar reasons for leaving, such as the intention to obtain legal residence, employment, sending money to their families. When exploring in-depth who makes the decision to come to Spain, various situations occur: minors who decide personally, without consulting with their family; minors who pressure their families to pay for the trip; minors who emigrate to obey the decision made by their family which wishes to improve their economic situation; minors who took advantage of the opportunity without prior reflection. For example, many Moroccan nationals believe that their minors will have a better life in Europe and that once they arrive they will be able to work and send money home. This belief results from the so-called 'European myth' promulgated by the media, which presents a distorted vision of the reality of Europe, and by the migrant smuggling gangs, who use it to increase their earnings. However, they may not be aware of the fact that only minors who have reached the age of 16 years may seek employment in Spain, that the unaccompanied minor many not possess the necessary (language) skills and training and the difficulties of the current labour market with its elevated unemployment rates.

4.4 Joining Migrant / Diaspora Community

The diaspora may also play a role in deciding to which Member State an unaccompanied minor enters. In the **Czech Republic**, the existence of such social networks is considered to be the main factor determining the form of the migration flow of unaccompanied minors. In **Germany**, the most important destinations for unaccompanied minor refugees are Hamburg, Berlin, Frankfurt am Main and Munich. This is attributed partly to the geographical position of these cities, partly to the proximity of international airports, and partly to the fact that they are major cities and/or regional capitals with foreign "communities" where an unaccompanied minor may have contacts to people they can turn to or addresses that they have received from relatives, acquaintances or other refugees. For example, it is observed that unaccompanied

minors from Vietnam come to Berlin with particular frequency, where they sometimes lodge an application for asylum, but then disappear, whilst minors from Iraq frequently go to Munich.

It is also the case in **Portugal**, where the large and established Brazilian community plays a role in the reasons for seeking out Portugal as a destination. This Brazilian community functions as a network of social support and may act as a beacon for unaccompanied minors seeking to leave their country of origin. Other factors, such as historical and cultural relations and a common language, could also be reasons for choosing Portugal as an intended destination.

4.5 Transit to another Member State

Some unaccompanied minors enter a Member State but do not intend to stay there, instead their intention is to go to another Member State, with Scandinavian countries (particularly **Finland**, **Sweden**) and the **United Kingdom** most commonly cited.

In **Belgium**, the available data indicates that most of the apprehended unaccompanied minors are on their way to the **United Kingdom**, because for many of these unaccompanied minors it is their 'promised land,' as they perceive that it offers favourable employment opportunities, along with other attractions, such as better benefit payments, better access to health care and better social conditions than other EU Member States. In addition, there is the appeal of the existence of ethnic communities or the presence of family members there who can provide support and employment. The standard profile of these apprehended unaccompanied minors are mainly males between the age of 15 to 18 years old, coming from Asian or Eastern European countries. Most of them do not want to be transferred to a reception centre, and many -although not all- disappear from these centres, and are often intercepted multiple times in their attempts.

After staying in the **Czech Republic** for a certain period of time, most unaccompanied minors try to continue their journey and to leave for their communities and relatives, predominantly in other EU Member States. In the years 1998-2002, approximately 75% left the Czech Republic in this way, with some being returned after a period of time and others trying repeatedly to leave. Even today, after accession to the EU, the Czech Republic is considered to be only a transit station for a large number of these unaccompanied minors who have found

themselves there rather by accident on their way to **Germany**, the **United Kingdom** or some other (EU-15) Member State.

Although data are limited, the experience in **Hungary** is that unaccompanied minors are not aware of the country in which they have arrived, their motivation is primarily to be in a safe place, understood to be the EU and in particular the Schengen area. The main destination country is **Italy** or **Spain** and shortly after arrival many of them leave the shelter provided. Nearly all unaccompanied minors enter illegally and, upon apprehension, then claim asylum. It is estimated that one-third of unaccompanied minors who apply for asylum fled conflict zones and have either lost their families or have been sent to Europe by their parents.

For **Latvia** and **Lithuania** also, transit to another Member State seems to be the main reason given by unaccompanied minors for entering. Likewise in **Slovenia**, the available information indicates that unaccompanied minors have primarily entered illegally and are intending to travel to other EU Member States. For example, one group of unaccompanied minors, mostly boys from Albania and Kosovo, left their country of origin due to severe poverty, deprivation, inability to find work or access education and were on their way to other countries, such as **Italy** and the **United Kingdom**, in order to stay with their relatives and friends residing there. It being assumed that the latter would then help them with the continuation of education, a job search and arrangements for a residency permit. Upon their apprehension, most of these minors decide to return to their country of origin. Another group in **Slovenia** consists of unaccompanied minors who come from Asian and African states (e.g. Afghanistan, Turkey, Iran, Rwanda, Ghana, Cameroon) who, upon apprehension, apply for asylum on grounds of being exposed to military conflicts, social threats (family problems, orphans) and fear for their lives (minors from Albania often state vendetta as grounds for fleeing), discrimination, persecution due to political activities, membership in certain religious groups or nationality (e.g. Roma or Kurd), military recruitment. Again, for most of these minors, Slovenia is not the destination country where they wished to apply for asylum, rather they were headed to **Finland**, **France**, **Germany**, **Sweden** or the **United Kingdom**.

The consensus among experts in the **Slovak Republic** is that it is still primarily a transit country for unaccompanied minors, with the main destinations being **Austria**, **Italy**, **Germany**, **France** or **Spain**. The reasons for this are considered to be because these Member States are perceived to be economically more attractive and because they have been instructed

by their family who sent them (often using smugglers) to aim for a specific country of destination. Even when an unaccompanied minor lodges an asylum application, it has been observed that they do not wait for a final decision and simply leave the asylum facilities without permission. According to empirical knowledge, the unaccompanied minors try to get to their target "dream destination" where they will "earn money" and they have "no interest in staying in a country which dictates their daily routine, school and other duties."

4.6 Victims of Trafficking

This encompasses victims of human trafficking that are recognised as such by a Member State, with the unaccompanied minor sent to an EU Member State for *inter alia* the purpose of sexual exploitation, for illegal labour, or for domestic labour.

Austria is understood to be a transit, as well as a destination, country for unaccompanied minors who are victims of human trafficking, especially for children from South East Europe (Bulgaria, Romania, Moldova, Georgia, Serbia and Slovakia), as well as Africa (female minors from Nigeria). Owing to the nature of this crime, few data are available, although surveys of the *Austrian Task Force in Human Trafficking* have shown that cases of child trafficking are perceived primarily in Vienna and are reported rarely in the provinces.

For **Finland**, the increase in the number of minors seeking asylum has raised suspicions of organised crime. There have been indications of minors as victims of human trafficking, but the cases have not led to the consideration of charges. In **Ireland**, it is considered to be clear that minors are also being trafficked there. Accessing reliable data on trafficking is a huge problem, partly because the crime is so hard to prove, but a recently published report[72] on sex trafficking and prostitution indicated that, over a 21-month period between 2007 and 2008, 102 women and girls presented to the Irish authorities could be considered as victims of trafficking. Of these, 11 were children at the time they were trafficked, and mainly from African countries. **Poland** is considered to serve mainly as a transit country for trafficked minors, as well as the country of origin and, ever more frequently, the destination for child traffickers. A system for responding to trafficking in children has been developed by the State.[73]

[72] *Globalisation, Sex Trafficking and Prostitution – The Experiences of Migrant Women in Ireland*, available from http://www.immigrantcouncil.ie/press_detail.php?id=90.
[73] Further details available at http://www.mswia.gov.pl/portal/pl/166/4725/Handel_ludzmi.html.

4.7 Smuggled

The **Czech Republic** is aware of illegal organisations which specialise in smuggling unaccompanied minors into the country and issuing forged documents for economic reasons. A specific example is a seasonal increase in the number of children coming from Romania, Bulgaria and **Slovak Republic** for the purpose of prostitution, especially in summer during school vacation. Bulgarian organised crime was a marked phenomenon in the previous years, manifested by prostitution and other criminal activities related to human trafficking, particularly in Prague.

The **Slovak Republic** too has observed that unaccompanied minors are smuggled into and out of their territory, but in this case, and as previously mentioned in Section 4.5, primarily for the purpose of transit to other, primarily EU-15, Member States.

4.8 Medical Reasons

Here an unaccompanied minor is sent to an EU Member State in order to receive medical treatment and care not available in their country of origin, either through lack of adequate medical facilities and/or lack of sufficient funds by the parents. Social workers in **Ireland** have indicated that occasionally children in poor health are sent by their parents to receive medical attention, such children tending to have chronic illnesses, like sickle-cell anaemia or Hepatitis B.

4.9 Abandonment

This is the case of an unaccompanied minor being left behind in a Member State because, for example, the parents received a negative decision in the asylum procedure and they no longer see a way out. They leave their child in the knowledge that their child will have more rights as an unaccompanied minor. There are also cases of third-country national minors who do have parents living in the same Member State, but their parents can not or do not want to take care of them for various reasons.

In the **Czech Republic**, in the years 2006 and 2007, nine Ukrainian children were abandoned by their mothers after birth. They were granted international protection and then put up for adoption. In other cases, it often takes several months or even years before abandoned minors decide to tell their whole story and explain the reasons for their coming to the Czech

Republic. Sometimes these reasons are never identified; this happens, for example, when these children disappear without trace. Similarly, **Hungary** have cases of minors being born there, but then abandoned by their parents at birth, and in **Poland** too, minors have been abandoned by their parents after entry or even after they were born in a Polish hospital.

4.10 Runaways and drifters

These are unaccompanied minors who often take up different identities and move around in different groups of companions in misfortune. In **Belgium**, they are mainly boys from the Roma community between the ages of 14 to 18 years, with little or no education, who are left to live on their own initiative but may still have contact with their family. These children stay within their community and some of them do not attend school. In **France**, runaways are observed to mainly involve minors from North Africa and Eastern Europe. In the **Netherlands**, runaways were mainly from Nigeria and India and a measure against this phenomenon was to place potential/returned runaways in a protected form of reception.

5. ENTRY PROCEDURES, INCLUDING BORDER CONTROLS

Each National Report provides details of their legislation and procedures with regard to entry at the border, as well as upon apprehension of an unaccompanied minor or their becoming known to the authorities, identifying also the main actors involved. Here an overview is provided of the procedures and experience up to the point of entry/apprehension, along with some specificities for particular Member States. The next Section(s) addresses the steps followed afterwards.

In most Member States, there is the same national procedure for unaccompanied minors which is followed at all of their external border crossings. In some Member States, however, there can be differences, depending on whether a minor is detected at an external land border or at an airport, or is apprehended within the territory of a Member State, or initially remains undetected and later, on a "voluntary" basis, applies to an authority or a facility for young persons.

5.1 Entry at the Border, including required documentation

All Member States require third-country national minors – just like their adult counterparts – to be in possession of a passport and, in many cases, a visa, which permits entry and stay (often for a defined period of time).

In **Austria**, minors under 14 cannot apply for a visa themselves, while children over 14 have to prove the consent of the legal representative. Thus, by definition it is not possible for unaccompanied minors to apply for a visa. It has been observed that most children from a third country enter illegally. A similar situation exists in other Member States. For example, in **Germany**, where the experience is that unaccompanied minors often do not have any opportunity to apply for a visa since, in many countries of origin, there is, by reason of crises or acts of war, no functioning administrative framework capable of issuing a valid passport, and the embassies of possible countries for flight are not always accessible or within reach. There is also the additional problem that minors, by reason of their age and their particular situation, do not generally fulfil the preconditions for the issuing of a visa (the reunification of a family, for example, or work or study). As a result, their entry into **Germany** generally takes place on an, in a legal context, irregular basis, either by air (most frequently via the airport in Frankfurt am Main) or by land or sea. It is also understood that it is common for escape agents (that is, "people smugglers" or "human traffickers" and occasionally including also distant relatives or family acquaintances of the unaccompanied minor in question) to be involved.

An unaccompanied minor needs to have a Type C visa in order to enter **Belgium** for a short stay (less than three months), with their application submitted by their legal representative. Upon arrival, they would be granted access on the condition that the person who is waiting can prove, by means of documents, family ties with the minor. If this is not the case, then a more thorough investigation is organised regarding the origin (airport of departure) and the purpose of the journey of the unaccompanied minor. Additionally, if the unaccompanied minor does not fulfil the entry conditions (e.g. does not have valid travel documents), additional questions on the journey can be asked. In principle, a person who does not fulfil the entry conditions can be returned. However, unaccompanied minors benefit from a specific protection because of their vulnerable situation in the framework of the *Guardianship Act*. These unaccompanied minors will have an extraterritorial status and will be placed in an *Observation and Orientation Centre* for 15 days (prolonged by five days in exceptional circumstances). During this period, the unaccompanied minor will be considered as not having accessed the territory. The *Immigration Department* will check whether the Chicago Convention can be applied and the *Guardianship Service* will be informed and an identification form for unaccompanied minors will be completed. Subsequently a guardian

will be appointed. If the *Border Police* considers that the person is over 18 years old, he/she will be sent to a closed centre and the *Guardianship Service* will then be responsible to do an age assessment by means of a medical test (see Section 6.5). A study, under the co-ordination of Child Focus,[74] analysed the situation at the airport and formulated some recommendations. Some of the conclusions were that not all unaccompanied minor were detected, since, for example, they were travelling with someone not having the parental authority or guardianship and there was insufficient awareness from airport personnel.

If a minor who is at least 15 years old enters **Estonia** alone, he or she must hold an unattested consent of the parent or legal representative indicating the personal data of the child, the reason for going abroad, the destination of the stay and the (expected) time of stay, contact information of the child's parent or legal representative, plus personal data and the contacts of the receiver, if known. As part of Estonia's accession to Schengen (see Section 3.2.3), particular attention is paid to the crossing of the border by minors. Like in other Member States, travel companies themselves have set limits on the age and conditions for transporting minors in accordance with, for example, *Council Directive 2004/82/EC* on the obligation of carriers to communicate passenger data.

The statutory provisions of the national aliens legislation in **Greece** does not provide specifically for the conditions of legal entry of unaccompanied children, except in humanitarian cases and if certain conditions are met, i.e. minors are accommodated in charitable institutions and legal entities, the custody of whom is held by nationals or families of third-country nationals who legally reside in the country or the adoption of whom is pending. In addition, a residence permit is also provided to unaccompanied minors subject to curative and/or educational measures ordered by a decision of the Juvenile Courts.

It is official policy in **Ireland** not to refuse any minor entry; the best interests of the child must always take precedence regardless of whether or not a child claims asylum. This is a policy position however, rather than a requirement set out clearly in national law. Whilst carrier sanctions and liability were introduced under the *Immigration Act 2003*,[75] including carriers being responsible for returning persons refused leave to land because of insufficient

[74] Child Focus. *De luchthaven, een veilige plek voor alleenreizende minderjarigen?* November 2007. Available from http://www.vluchtelingenwerk.be/bestanden/publicaties/113-411-cf-aeroport-nl-print%5B1%5D.pdf.
[75] Available from http://www.irishstatutebook.ie/2003/en/act/pub/0026/index.html.

documentation, persons under the age of 18 years are not to be refused leave to land, as long as the *Immigration Office* believes the person to be a minor.[76] Most unaccompanied minors present themselves within the greater Dublin area, at Dublin Airport or the *Office of the Refugee Applications Commissioner*. At the border, an Immigration Officer can undertake an age assessment interview (see also Section 6.5), as well as an interview to assess the family relationship if there is a concern that the minor is being brought into Ireland or met by an adult who is not a customary carer. At such interviews, an interpreter should be present or at least available by phone. If it is suspected that the minor has been smuggled or trafficked into Ireland or other types of criminality have been exposed, an Emergency Care Order (under the *Child Care Act*, 1991) may be invoked and the minor may be removed to a place of safety.

If an unaccompanied minor whose identity is unknown wishes to enter **Latvia**, a specially-trained official of the *State Border Guard* immediately begins to try to establish the minor's identity. The four such cases in 2008 were complicated, as the minors provided contradictory and false information about themselves and their parents, as well as about the conditions of entry. During this period, the unaccompanied minor is placed in the nearest structural unit of the State Police reserved for minors. The maintenance cost of the minor in this facility amounting to Ls 188.27 (approx. €268) per day.

Legislation in **Lithuania** requires that an unaccompanied minor seeking asylum must be granted entry, with no pre-conditions. However, if an unaccompanied minor does not lodge an application for asylum, they can be refused entry and returned to the country of departure. This leads to the possibility that a minor who is in need of international protection might be returned, because they were not capable to lodge an asylum application upon arriving at the border. In part because of this, the *UNHCR* has recommended that all unaccompanied minors arriving in Lithuania are treated as asylum applicants in order to ensure that, for example, their needs and legal status are best addressed.

The only entry point of unaccompanied minors to **Malta** is by means of small boats departing from North Africa, mainly Libya. No unaccompanied minors have entered through the Malta International Airport, Malta Seaport or the Malta Freeport Terminal. After landing, medical

[76] The Irish Refugee Council has expressed its concern that on occasion minors are turned away at the border due to age disputes and based on anecdotal information. A claim strongly refuted by the Garda National Immigration Bureau.

assistance on site is provided by a team of health care professionals from the State Hospital Emergency Department and Médecins Sans Frontières. Those needing further medical attention are transferred to the main State hospital, whilst the others are interviewed by the Immigration Police, who have the authority to grant leave to land to third-country nationals, in order to learn more about the migrants' journey. Although in theory even unaccompanied minors may be interrogated in order to get more information about their voyage, this rarely happens and is excluded for minors under 14 years of age. At this time, interviewees, including those who claim to be unaccompanied minors, are not given legal assistance[77] nor the assistance of a guardian or an NGO or International Organisation representative. This causes concerns as children are being questioned in the absence of parents and/or legal guardians, which is not in line with the *UN Convention on the Rights of the Child* (Section 3.1.3). Migrants who are 14 years and older are documented in the Eurodac system. After being interviewed, all migrants including claimant unaccompanied minors, are taken to a detention centre. Those migrants who claim to be minors are noted and referred immediately to *Agency for the Welfare of Asylum Seekers (AWAS)*. This leads to a faster release from detention, following also an age assessment (see Section 6.5).

5.2 Refusals

Since 21st December 2007, when a number of EU-10 Member States acceded to Schengen,[78] the only external EU land border that **Austria** has is with Lichtenstein, plus the border posts at the International Airports. However, there are only very few unaccompanied minors arriving at the Airport, especially because, for the reasons outlined previously also, it is very difficult for minors to travel alone on an airplane owing to the internal practice of the airline companies, and to visa regulations. Experience shows that those few who do arrive by plane, claim asylum in most cases. For all asylum applicants at the airport, a special procedure is in force that stipulates that none can be refused at the border without previous consent of the UNHCR.

If a minor who is travelling alone is not able to produce the requisite visa at the time of his or her attempt to enter **Germany**, then the border authorities (the *German Federal Police*) are

[77] From 2010, all interrogated migrants have a right to be given access to a lawyer prior to the interrogation, although it should be clarified further that this is not the case if migrants are being questioned for personal details only.

[78] These were **Estonia**, **Czech Republic**, **Lithuania**, **Hungary**, **Latvia**, **Malta**, **Poland**, **Slovakia** and **Slovenia**, see http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/1968.

entitled to refuse entry. In these cases, as a matter of principle, there is no notification of the locally responsible *Youth Welfare Office*. Likewise, the "third country regulation" contained in the *Asylum Procedure Act*, which is aimed at preventing entry into Germany from so-called safe third countries, is applied to unaccompanied minors. If it can be verified that, in a legal context, irregular migrants or asylum applicants are attempting to enter Germany via a neighbouring country, then they can be refused entry or returned to that country, irrespective of their age. According to statistical data from the *German Federal Police*, unaccompanied minors below the age of 16 years are most often granted entry.

Unaccompanied minors arriving at the border of **France** are generally subject to legislation governing foreign nationals, codified in the *Code de l'Entrée et du Séjour des Etrangers et du Droit d'Asile [CESEDA]*,[79] and which sets out the procedures governing entry to French territory at air, rail and maritime borders. An unaccompanied minor who is not admitted at the border and who is detained, if applicable in a waiting area, can be the subject of a removal measure and sent back to their country of origin. This is in contrast to an unaccompanied minor already present on French territory, who come under legislation relating to the protection of children and cannot be the subject of such a measure, unless there is a re-admission agreement. For an unaccompanied minor detained in a waiting area, however, an *Ad-Hoc Administrator (AHA)* must be allocated in order to assist the minor and represent the minor at administrative and jurisdictional procedures relating to his or her detention. The AHA also represents the minor in all administrative and jurisdictional procedures relating to his or her entry to France. Also, in accordance with the *UN Convention on the Rights of the Child* (Section 3.1.3), measures introduced to reserve areas only for minors become effective. Children below the age of 13 years are placed in hotel rooms under supervision. Owing to shortages in suitably qualified personnel, the French Red Cross has been entrusted with the function of AHA.

The *Foreigners' Law* in **Portugal** stipulates that entry should be refused to third-country nationals under the age of 18 years who do not lodge an asylum application, when not accompanied by an individual who has parental authority, or when there is nobody in Portugal duly authorised by the legal representative to take responsibility for the entry of the unaccompanied minor in question. Similarly, if a minor is not admitted, owing to the absence

[79] Available from http://www.diplomatie.gouv.fr/fr/IMG/pdf/Code_entr_e_s_jour2.pdf.

of any of the general requirements for admission, entry should also be refused to the person to whom the minor has been entrusted. Likewise, minors are not allowed to enter if the individual exercising parental authority or the person to whom the minor is entrusted, is not admitted into the country. In cases of refusal of entry, the minor must return to his or her country of origin as soon as possible. However, minors who are not admitted to their country of origin or to a third country that is willing to host them, can only be removed in case it is guaranteed that they will be suitably hosted and will receive adequate assistance upon arrival. Unaccompanied minors who are awaiting a decision on whether or not they are to be admitted into Portugal or whether they are to be removed, must receive all material support and assistance necessary to satisfy their basic needs of food, hygiene, housing and medical assistance. In procedural terms, such cases are given high priority, irrespective of the situation in which the minor is unaccompanied, with responses given in a matter of hours. This approach is also executed in the **Netherlands**.

5.3 Lodging an Application for Asylum

There are cases when an unaccompanied minor lodges a claim for asylum after they have entered, by whatever means, a Member State.

For some unaccompanied minors in **Austria**, the first contact is primarily made with the police. When an unaccompanied minor is apprehended, the police immediately have to inform the locally responsible *Youth Welfare Authorities*. If the apprehended unaccompanied minor applies for asylum, he or she is transferred to an Initial Reception Centre for asylum applicants. Some asylum-seeking unaccompanied minors arrive by themselves directly to the Initial Reception Centre in Traiskirchen. They can file an application regardless of their age, either in person, if they are more than 14 years old, or, if younger, by their legal advisor at the Initial Reception Centre.

In the **Czech Republic**, it is observed that unaccompanied minors most often apply for asylum in the detention facilities for foreign nationals and in reception centres, with applications for asylum made at a border crossing rare. In 2008, owing to an influx of a large group of nationals of Turkey, there was a very significant increase in the number of applications filed by unaccompanied minors in the reception centre at the Prague – Ruzyně airport, with entries via the reception centre at this airport amounting to half of all the entries of minor asylum applicants that year. Once a declaration on international protection is made, a

guardian (see Section 6.1) is appointed and the *Ministry of Interior* is obliged to report this fact to the authority for social-legal protection of children.

In cases when an unaccompanied minor lodges an application for asylum upon attempting to enter **Germany** via a major international airport, they have to, like for any other third-country national, pass through a fast-tracked asylum procedure in the transit area of the airport. A minor under the age of 14, should – as opposed to adults – be spared the provisional accommodation within the transit area and, in general, entry into Germany – that is, permission to leave the transit area – will be granted. If this is the case, or if an unaccompanied minor is apprehended after having entered Germany, he or she will be taken into the care of a local *Youth Welfare Office*, and an asylum application can subsequently be lodged at one of the 22 regional branch offices of the *Federal Office for Migration and Refugees (BAMF)*. As detailed further in Section 6.5, uncertainty about the age of such minors can make it difficult to decide how to proceed in each individual instance.

Unaccompanied minors who wish to lodge an asylum application upon arrival at an international airport in the **Netherlands**, officially have their entry refused, but permission to leave the airport will be granted. Their asylum application is then handled by a unit of the *Immigration and Naturalisation Service* that is specialised in asylum applications of unaccompanied minors. A guardian will be appointed as soon as possible, preferably soon after the arrival of the minor, in order to submit, if so needed, the asylum application on behalf of the minor.

Unaccompanied minors enter **Finland** almost exclusively for the purpose of submitting an asylum application, with the application submitted at an inland police department with the aid of relatives or acquaintances. The *Police or Border Control* authority are the first to interview such minors without the presence a guardian in order to try to ascertain their identity, travel route and reasons for leaving their country of origin. Special consideration is given to the personal details and current whereabouts of the persons who have lived in the same household with the minor, as well as to the minor's living conditions in their country of origin or country of permanent residence. An attempt is made to establish other details, such as if the minor has resided with persons other than his or her biological parents; the date when and the reason why the minor moved away from his or her parents; if the child's biological parent or parents are deceased, and, if so, their times of death and under whose care and where the child has

subsequently lived; and if the child has other living relatives with whom the child has had close ties.

An unaccompanied minor is allowed to apply for refugee status at the border of **Poland** or after arrival (irrespective of whether residence is legal or not). Such an application is accepted by the *Border Guard* authorities who then request the same kind of information of the unaccompanied minor as outlined for **Finland** above. A resultant alien minor detention report is produced and an application made to the judicial authorities for the appointment of a custodian to represent the minor in the procedure for the refugee status and for the placement of the minor in a residential-care institution. The court does not indicate a specific institution where the minor should be directed to, but only the type of institution. An important part of the procedure for granting refugee status is an interview with the unaccompanied minor, carried out in order to determine the facts crucial for the result of the case. For several years, in accordance with the recommendations of UNHCR, such interviews have been carried out in a child-friendly manner, with the use of recording devices, in order to avoid unnecessary repetition of unpleasant pieces of information for the minor. In practice, according to statistical data, most procedures for granting refugee status to unaccompanied minors are discontinued, or an application is not examined, probably due to the fact that the applicants do not follow further procedures or leave Poland before the completion of the procedure.

When an unaccompanied minor lodges a request for asylum at the border of **Portugal**, the procedure is to allow entry, so that the minor does not await the outcome of the admission process in the reception area (temporary accommodation centre) of the port or airport in question. Despite the limited time spent in such reception areas, they are housed under special conditions, in conformance with internationally recommended practices, namely by the *UNHCR*, the *United Nations Children's Fund (UNICEF)* and the *International Committee of the Red Cross*. If needed, which is often the case, a special visa is issued.

The majority of unaccompanied minors come to the attention of official agencies in **Sweden** when they present themselves to the *Migration Board Application Unit* lodging an application for asylum. Minors are rarely discovered at the border. The first step in the procedure is to investigate the applicant's identity and determine whether any other EU Member State is responsible for examining the application for asylum under the *Dublin Regulation*. The applicant is asked for a brief explanation of his or her reasons for seeking asylum and

ascertaining the names of his or her parents, relatives (if any) in Sweden, and whether the minor travelled alone or in the company of someone else. The *Migration Board* can order immediate non-admission if it is obvious that the applicant does not need protection and has no other reasons to be allowed to stay in the country. The asylum applicant may also be refused admission if he or she has been in another country where he or she could have obtained protection before coming to Sweden. Such a decision must normally be taken within three months of the date of application.

An unaccompanied minor may apply for asylum in the **United Kingdom** at the point of entry by communicating this to the Immigration Officer. In practice, however, most asylum applications are made after entry at the *United Kingdom Border Agency (UKBA) Asylum Screening Unit (ASU)* in Croydon (the one in Liverpool closed in October 2009). In 2008, 3 905 (91%) unaccompanied minors made their application once they were inside the United Kingdom, with the ASU in Croydon receiving 80% of these applications. The reasons for submitting an asylum application this way are considered to occur for a variety of complex reasons; for example, some children are smuggled into the United Kingdom and others have previously been dependants on other asylum claims.

5.4 Apprehension by national authorities

If an unaccompanied minor is intercepted within the territory of **Belgium**, they are handed over to a local police unit, which must handle all administrative and legal procedures when a person without legal documents to stay in Belgium and/or to travel to, for example, the **United Kingdom**, is intercepted. This involves the identification of the person (name, age, nationality); taking fingerprints, photographs, and an iris scan; and seizing the documents and all other items the person is carrying. The latter is done because the Police try to find evidence or tracks of (networks) of human traffickers and smugglers. After the identification process, the *Immigration Department* is contacted. The *Bureau MINTEH* will fill out the identification form for the unaccompanied minor, if this has not already been done by the Police. From then onwards, the specific procedure of the *Guardianship Act* will be followed.

In cases in which an unaccompanied minor is discovered by the *Federal Police* after they have already entered **Germany** without permission – and therefore can no longer be refused entry at the border – then the *Federal Police* will, within the framework of their competency and if the minor in question does not apply for asylum, examine the possibility of terminating

their residence – that is to say, of "return after illegal entry." Insofar as a return after illegal entry can be accomplished promptly, the local *Youth Welfare Office* will as a rule not be informed. Insofar as detention is necessary for the purpose of ensuring the forced return after illegal entry, the *Federal Police* will apply to the Court with local jurisdiction for this. In such applications the police will draw attention to the fact that the person concerned is underage, and, in such cases, the court will inform the locally responsible *Youth Welfare Office*.

Minors who are staying illegally within the territory of the **Netherlands** can be apprehended by the *Aliens Police*, who will then inform the *Repatriation and Departure Service of the Ministry of Justice*, an agency that is specialised in the return of third-country nationals. The *Youth Welfare Office* is notified in all cases. If detention is considered necessary in order to ensure the implementation of a forced return, then the legality of detention is determined by the *Aliens Court* judges.

5.5 Training of Border Guards and/or Police Authorities

Whilst in **Austria** and the **Netherlands**, the issue of human trafficking has been introduced into the curriculum of the Police and Border Guards, no specific training on how to identify or deal with unaccompanied minors currently exists. For the **Czech Republic**, an *Inter-Agency Methodology on Trafficking in Children* is in preparation. In order to increase the awareness and capabilities of its staff in terms of dealing with unaccompanied minors, the Federal Police in **Germany** carries out centrally-organised seminars and locally-organised vocational classes on potential challenges arising from the entry of unaccompanied minors. Police officers receive extensive training in **Estonia** for dealing with children – since 2003 regional police work and prevention trainings have introduced the specifics of work with children, including special requirements for carrying out proceedings and recognition of abuse, including human trafficking. Annually at least 30 officials are trained (120 and 60 in 2004 and 2005 respectively). In **Finland**, asylum applications submitted by unaccompanied minors, as well as by adult applicants, are processed at the border control authorities by specifically assigned personnel with extensive training in immigration affairs provided by the *Finnish Immigration Service* on the basis of their internal asylum guidelines.

All *Gardaí/Immigration Officers* in **Ireland** receive training on how to interview victims and witnesses and this includes minors, who, if under 14 years of age, must be interviewed by *Child Specialist Interviewers*. With regard to tackling trafficking, a continuous professional

development training course entitled 'Tackling Trafficking in Human Beings: Prevention, Protection and Prosecution' has been designed by the *Garda Síochána*, assisted by the *International Organisation for Migration (IOM)* and completed by 250 members of the Gardaí. There is also co-operation with the **United Kingdom** through their participation in this training.

Since police and coast guard authorities in **Greece** are entrusted to guarantee the public order and / or national security, in principle they are not trained to deal with vulnerable cases, such as unaccompanied minors, victims of torture, which are in need of special care. This situation, combined with the aforementioned lack of interpreters, creates a number of difficulties for the authorities and the unaccompanied minor is most likely treated as an adult. No specific training is given to *Immigration Police Officers* in **Malta**, on, for example, cultural sensitivity or on how to deal with children or unaccompanied minors, though a new course was introduced to sensitise police on racism, xenophobia and discrimination, and in-house training is provided to be in line with national and international legal frameworks on dealing with immigration issues. To some extent, the limited training is owing to the lack of resources and available time, given the need to process the arriving migrants within demanding time schedules. It is estimated that during the Summer months, some 80% of the Department's resources are taken by such work, decreasing to 50% in Winter.

6. RECEPTION ARRANGEMENTS, INCLUDING INTEGRATION MEASURES

Reception arrangements are considered here to relate to the procedures and practices followed upon entry of an unaccompanied minor in a Member State depending on whether, for example, they entered (il)legally or to claim asylum.

In fact, many Member States (**Austria**, **Belgium**, **Czech Republic**, **Germany**, **Italy**, **Lithuania**, **Poland**) have a different procedure for unaccompanied minors who apply for asylum and for those who do not, and these are outlined in the respective National Reports. In **Germany**, for example, it was initially considered that the only way to obtain a provisional right of residence was to apply for asylum. Nowadays, social services and relevant non-governmental organisations, depending on the specific circumstances of the individual, sometimes advise against this because, as also mentioned previously, minors often have difficulty asserting reasons for asylum or putting them forward in a comprehensible manner. Similarly, and in the context of best interests of the child, the Federal authority responsible for

processing asylum applications proceeds on the assumption that it can make sense in many cases to spare minors the stressful situation of an asylum procedure that may possibly be unsuccessful, given also that other possibilities to remain in Germany exist.

In **Greece**, legislation provides explicitly for reception arrangements, including integration measures that only unaccompanied children victims of trafficking and unaccompanied children seeking asylum are entitled to enjoy. The *Directorate for Social Integration of the Ministry of Interior, Decentralization and e-Government* has identified the widespread presence of unaccompanied minors under different regimes and has commissioned a study, via the *European Fund for the Integration of Third-Country Nationals*, on the profiles and needs of such unaccompanied minors. The study will include data collection and analysis, description of good practices at national, regional and local level and the formulation of policy proposals on this issue.

Once integrated into the system for social assistance in **Portugal**, unaccompanied minors who are nationals of third countries are treated in exactly the same way as Portuguese minors in identical circumstances, without prejudice to the specific characteristics that are inherent to the unaccompanied minor. This includes equal access to social benefits, including education and healthcare. Even if an unaccompanied minor is illegally residing, the *Foreigners' Law* offers them the possibility of obtaining a residence permit without requiring a visa for this purpose.

In the following sub-sections, the various aspects relating to the reception of an unaccompanied minor are outlined, along with certain specificities in the Member States to illustrate the range of comparable and of different approaches and practices followed.

6.1 Guardianship

A common feature in the arrangements for the reception of an unaccompanied minor, particularly once they have come to the attention of the authorities, is the appointment of a guardian. In the case of those unaccompanied minors lodging an asylum application, and in accordance also with *Council Directive 2005/85/EC (Procedures Directive)*, the guardian may also act as their legal representative (guardian *ad litem*). Guardians may be appointed from a government agency (e.g. the *Youth Welfare Service* in **Austria**, **Germany** and the *Child Protection Services* in **Lithuania**, **Spain**) and/or from an NGO (e.g. the role of the *Ad-*

Hoc Administrator in **France** is performed by the *French Red Cross*, in the **Netherlands**, guardians are appointed from the Nidos Foundation, and in **Poland** this can be an NGO representative from a project implemented by the Helsinki Human Rights Foundation, a representative of a minor's country of origin's diplomatic post, a social worker or, for the purpose of the asylum procedure, law students acting as part of the Warsaw University Law Clinic). For the **United Kingdom**, which does not currently provide an unaccompanied minor with a legal guardian, the welfare and safety of an unaccompanied minor is the responsibility of the local authority (under the same arrangements as any other child who is in the care of the local authority).

The usual practice in **Austria** is that the *Youth Welfare Authority* is appointed by the courts as a guardian if no suitable person can be found. In principle, foster parents can also be entrusted with guardianship, although one study[80] found that this happened in less than 5% of cases. Guardians are in charge of the legal representation, the care, education and property administration of the minor. Additionally, the *Asylum Act* contains specific provisions concerning legal representation in the asylum procedure. During the admission procedure, legal representation is carried out by a legal adviser at the Initial Reception Centre. Upon admission to the actual procedure, this competence is then transferred to the *Youth Welfare Authority*.

The *Guardianship Act* in **Belgium** regulates how unaccompanied minors must be treated, and includes the establishment of the *Guardianship Service*, whose role and responsibilities are *inter alia* the assignment of a guardian. There are two types of guardians: the "professionalised system" and the "benevolent or voluntary system." Professionalised guardians are NGO employees who work in the social and legal sectors (e.g. Caritas, Red Cross), while benevolent guardians are private persons who volunteer to become guardians. In 2008, there were 416 registered guardians, of which 233 were on active duty and the majority of whom were volunteers. Each guardian receives a yearly lump sum payment of €500, as well as a lump sum expenses payment of €85 and reimbursement of travel expenses.

[80] Assessment of Kinder- und Jugendanwaltschaft Steiermark and of Asylkoordination in the framework of a UNHCR project concerning guardianship in Austria. See http://www.asyl.at/umf/umf/guardianship_austria.pdf.

A distinction is made in the **Czech Republic** between the type of guardian depending on whether: (i) it is during the stay of an unaccompanied minor (appointed by a court and preferably a natural person who is an adult and a relative of the minor, although in practice it is usually the *Department for the Social-Legal Protection of Children*); (ii) for the procedure on granting international protection (appointed by the *Ministry of Interior* and mainly from an NGO); and (iii) for detention as part of the administrative procedure for removal (appointed by the Police and again mainly from an NGO).

In **Germany**, the local *Youth Welfare Offices* are responsible for taking unaccompanied minors into care. Taking into care ("*Inobhutnahme*") is a short-term protective measure and includes the authority to place a minor provisionally in accommodation. Equally, the appointment of a legal guardian or carer is arranged via a *Family Court* or *Guardianship Court*. The legal guardian will decide, following an initial discussion with the minor, whether an application for asylum should be lodged. Once taken into care, a clarification or "clearing procedure" is carried out. This is a matter of assessing to what extent youth welfare measures need to be granted, i.e. which potential measures would be in the interest of the unaccompanied minor and/or which measures would endanger their best interests. In the context of the "clearing process," the structure of which can vary in accordance with the Federal State and locality, if there are doubts as to age, then it is possible to undertake an assessment (Section 6.5). In addition, further personal data, information concerning family members in Germany, in Europe and in the minor's country of origin and the reason for the migration of the child and/or the young person are determined.

There is also a distinction in the type of guardianship offered in **France**, albeit different from the approach in the **Czech Republic**. Guardianship for an unaccompanied minor who does not apply for asylum can either be provided by the *Child Welfare Department (ASE)* when there is no family network present and regardless of their nationality, or by the Family Council if there are family members present in France. In practice, it is the former type of guardianship that is provided. For those unaccompanied minors who apply for asylum, the aforementioned (Section 5.2) *Ad-Hoc Administrator (AHA)* is appointed by the competent public prosecutor.

The experience in **Ireland** has been that, whilst the appointment of a guardian *ad litem* is provisioned in the *Child Care Act*, in practice this is not routinely done for unaccompanied

minors taken into care. In fact, the relatively low number of unaccompanied minors means that they are more often treated in the same manner as for homeless Irish minors. Given the absence of a specific reference to unaccompanied minors, a number of NGOs have called for the insertion of specific provisions in the tabled *Immigration, Residence and Protection Bill*, including the formal placing of unaccompanied minors with legal guardians where appropriate. In the view of the government, however, the requirement in the *Child Care Act* that the social services must regard the "welfare of the child as the first and paramount consideration" is considered to mitigate the need for an guardian *ad litem.*

When an unaccompanied minor applies for international protection in **Italy**, the asylum application is brought to the attention of the Juvenile Courts having territorial jurisdiction and the application itself is confirmed by a guardian, who is appointed by the Tutelary Judge and will provide assistance during the whole procedure of application examination. At the same time, the minor is reported to the *Committee for Foreign Minors*, who would then be responsible in case of a negative decision, and the Police are required to issue a document certifying the asylum applicant status of the minor. With this certificate it is then possible for the minor to receive protection and assistance from the *Protection System for Asylum Seekers and Refugees (SPRAR)*.[81] In the period before issuing such a document, and because the detention of a minor is prohibited, it is the responsibility of the social services of the Municipality where the minor resides to provide protection and assistance and to immediately report the minor to the SPRAR.

The usual practice in **Malta** is for a guardian to be appointed once the unaccompanied minor is placed in one of the two residential homes. Generally, it is the residential social worker who applies to become the child's legal guardian which needs to be approved by the *Children and Young Persons Advisory Board of the Ministry of Social Policy*. Whilst the guardian is officially the representative of the minor in all legal and administrative issues, in practice, their main role is that of supporting the minor in the asylum procedure. There are only two social workers who act as the guardians of nearly all the unaccompanied minors housed in the residential centres, meaning the responsibility of around 20 minors each.

[81] See http://www.serviziocentrale.it/. Financing is provided by the National Fund for Asylum Policies and Services.

In the **Netherlands**, the role of the guardian lies in representing the minor in legal affairs. Day-to-day care is a responsibility of the guest family or the *Central Agency for the Reception of Asylum Seekers* with whom the guardian works closely to plan the minor's future from the perspective of 'integration' or 'return.'

In the **Slovak Republic**, if it is not possible to nominate an individual as a tutor, then the courts designate the *Body of Socio-Legal Protection of Children and Social Guardianship*[82] as a tutor, regardless of whether or not an unaccompanied minor is applying for asylum. Before this appointment, all urgent actions are undertaken by a guardian under the responsibility of the *Office of Labour, Social Affairs and Family-Body of Socio-Legal Protection of Children and Social Guardianship*. The difference between the tutor and the guardian is that the former exercises parental rights and duties, provides education of the minor, acts on behalf and manages the property of the minor over a longer term, whilst the latter exercises only certain legal acts and the function comes to an end after accomplishing the purpose for which they were nominated. A UNHCR monitoring report[83] in November 2008 found that the length of the procedure for nominating a guardian was problematic and caused difficulties in the legal protection of an unaccompanied minor.

The role of a guardian *ad litem* appointed in **Sweden** is to act both as legal guardian and custodian of the minor so that they act as the hub around which an unaccompanied minor's affairs are co-ordinated. They have both the right and the duty to decide in all matters pertaining to the unaccompanied minor's affairs, whether personal, financial, or legal, although managing the daily care and supervision of the minor is not their responsibility, nor is it a duty of support vis-à-vis the minor. The guardian *ad litem* may, however, exercise a deciding influence over the unaccompanied minor's accommodation, forbidding, if considered to be in the best interests of the child, the minor from leaving a certain place, such as a foster home. If the minor is granted a permanent or temporary residence permit, the social welfare committee in the Municipality where the minor is residing must petition or file notice in the District Court that a *nominated guardian* is required. The work of the nominated

[82] An organisational part of the *Office of Labour Social Affairs and Family* of the **Slovak Republic**. Information on its activities in relation to minors may be found at http://www.upsvar.sk/socialne-veci-a-rodina.html?page_id=212.

[83] *UNHCR: Assessment of the Inclusion Procedure of the Asylum Seekers and Recognized Refugees in the Slovak Republic with Regard to their Age, Gender and Other Differences*, November 2008.

guardian is oriented more towards day to day care and long-term planning of the minor's future.

6.2 Unaccompanied minors who are victims of trafficking in human beings

All Member States are addressing the issue of trafficking in human beings, particularly of minors. In this section, specific measures in **Austria**, **Belgium**, **Czech Republic**, **Estonia**, **Finland**, **Ireland**, **Italy**, **Netherlands** and **Poland** for the protection of unaccompanied minors who are identified as victims of trafficking and have not applied for asylum are outlined.

Unaccompanied minors who are victims of trafficking in **Austria** primarily come from South Eastern Europe and from Africa, with known cases of trafficking from Romania, Bulgaria and Moldova, as well as girls from Nigeria. The available information suggests that minors can arrive as a designated 'child' of another family, mostly for the purposes of slavery and exploitation and, according to the (limited) data available, it can be assumed that at least 50 minors have been victims of trafficking in 2007. A *Working Group on Child Trafficking* has been created for the period of 2009-2011 and recently published its first report on 'Child Trafficking in Austria.'[84] Since 1st January 2010, following an amendment to the *Settlement and Residence Act*, a residence permit "special protection" can be granted to unaccompanied minors. Furthermore, unaccompanied minors can apply for a residence permit that is foreseen for victims of human trafficking and that grants residence for the period of criminal or civil proceedings.

Belgium has decided to apply the procedure for human trafficking also to minors who are victims, including those with EU citizenship. The reception of an unaccompanied minor who is a (potential) victim of human trafficking differs in some cases from the normal reception process. In emergency cases, they can be directly transferred to a specialised reception facility that is better suited to their specific needs, of which there are three (Minor Ndako and Juna for the Flemish Community and Esperanto for the French Community). In order to be given the status of victim of trafficking, the minor must break off contact with the suspected offenders; receive guidance from specialised and approved reception centres; and co-operate with the judicial authorities by making a statement or by instituting legal proceedings against the

[84] February 2009, available from http://www.bmeia.gv.at/en/foreign-ministry/foreign-policy/human-rights/main-human-rights-issues/combatting-human-trafficking.html.

offenders. The type of residence permit issued depends on the state of progress of the legal proceedings.

A major concern for the **Czech Republic** is that those unaccompanied minors who disappear from accommodation facilities (see Section 6.5), very often become victims of human trafficking or some other organised crime - human smuggling, prostitution and other criminal activities. They may be forced into prostitution or become perpetrators of other crimes. Whilst accurate information is not available, anecdotal evidence indicates that even mere suspicion, on the part of an employee of the authority responsible for social-legal protection of minors, may not be sufficient to prevent giving the minor to their (presumed) parents or legal representative. NGOs play a significant role in the care of unaccompanied minors and, for example, explain to an unaccompanied minor the favourable aspects of their stay in an accommodation facility.

The *Ministry of Social Affairs* is the dedicated point of contact in **Estonia** for unaccompanied minors and issues relating to trafficked minors, including promoting international cooperation and cross-border problem solving. Since 2007, it is possible to issue a temporary residence permit for the victim or witness of a criminal offence relating to trafficking, but, so far, no such permit has been issued. Guidelines were developed in 2009 for the identification of and assistance for victims of human trafficking, which outlined the typical characteristics for unaccompanied minors who were victims of trafficking and provision of first assistance. Identifying a victim of trafficking through interviews and monitoring of the minor's behaviour takes place on the basis of these guidelines.

Provisions were introduced in **Finland** in 2006 for a separate residence permit for victims of human trafficking and a reflection period during which the victim is given support and has the opportunity to consider whether they wish to co-operate with the authorities. The *Aliens Act* was amended to include provisions on a so-called victim permit aimed at promoting the protection of victims, which can be granted on the basis of the need for protection. An additional consideration when an unaccompanied minor is the victim is whether the parents or other relatives may have contributed to the child being victimised. The *Finnish Immigration Service* is also aware of residence permit applications involving signs of forced marriage and such cases have generally involved applicants from Iran and Iraq and, to some extent, Turkey.

Depending on the case, forced marriage or a related threat may be grounds for granting international protection.

When an Immigration Officer in **Ireland** has concerns that a minor is not being met by their parent(s) or authorised guardian, then interviews with the adult and the minor are conducted to ascertain whether a genuine relationship exists. If it is suspected that the minor has been smuggled or trafficked or other criminality has been exposed, then an *Emergency Care Order* may be invoked. The child will then be removed by the Police (Gardai) to a place of safety. Provisions for the protection of non-EU/EEA national victims of human trafficking permits the granting of a 60 day period of 'recovery and reflection' and may also, in certain circumstances, be granted one/more periods of Temporary Residence Permission for a period of 6 months. Reliance on co-operation by a victim of trafficking in an investigation for the issuance of a temporary residence permit is considered to be controversial, with NGOs calling for the protection of victims of trafficking who are too afraid or unable to participate in a police inquiry.

Unaccompanied minors who are victims of trafficking or exploitation in **Italy** are granted social protection through the issuing of a specific residence permit – according to Article 18 of the Immigration Law no. 40/1998 – even without the obligation to denounce the exploiters. This kind of residence permit is issued even when the unaccompanied minor has committed a crime and, after serving out the sentence, has participated in an assistance and social integration program.

Victims of trafficking in human beings who report this to the police in the **Netherlands**, qualify for a residence permit on the basis of the so-called *B9 scheme*[85] pending the investigation and prosecution of possible perpetrators. According to this scheme, if investigation and prosecution results in a conviction, then continued residence is possible. The victim may also apply for continued residence if the victim has had a residence permit for three consecutive years on the basis of a B9 permit while the investigation and prosecution of a possible perpetrator is still pending.

[85] B9 refers to the Chapter in the *Aliens Act* implementation guidelines.

Unaccompanied minors who are victims of trafficking (primarily from Bulgaria, Romania and Moldova) has long been a subject of concern in **Poland**. The *National Agenda for Combating and Preventing Trafficking in Human Beings 2007-2008* includes a provision for developing a model for supporting/protecting such victims and an expert group has been created to implement this action plan. A network of child trafficking co-ordinators has also been established. In 2008, there were two cases in which a minor qualified for protection after the law enforcement agencies had identified them as victims of trafficking. Similar to that described for **Ireland**, where minors are accompanied by only one adult and there are serious grounds for suspecting that they may have been unlawfully removed from the custody of person legally exercising parental custody over them, the *Border Guard* shall carry out further investigations to determine whether the information provided by adults is true.

6.3 Accommodation

Naturally, all Member States provide accommodation and other care facilities for unaccompanied minors, in many cases, the type of accommodation depending on the minor's individual needs, their age and whether or not they have applied for asylum. Accommodation is understood to be part of the reception process and different from Detention (Section 7), which, if used, is primarily in the context of criminal acts or with a view to returning the unaccompanied minor to their country of origin. Table 2 provides an overview of the accommodation possibilities in each Member State.

Table 2: Overview of accommodation provided to unaccompanied minors in the Member States

(where relevant a distinction between those applying for asylum or not is made)

Austria	As part of the admission procedure for the first stage of the asylum process, a separate building at the Initial Reception Centre Traiskirchen is used to accommodate up to 78 minors aged between 14-18 years. The NGO "Verein.Menschen.Leben" provides constant professional care and the average stay is two months. Girls are primarily accommodated in the Women's House (House 8), while minors under the age of 14 years are accommodated in special care facilities of the Youth Welfare Authority and are not placed in the Initial Reception Centre. Upon admission to the regular asylum procedure, minors are assigned to the care facilities of the Federal Provinces, which are mostly run by NGOs. Depending on needs, these are shared accommodation groups for minors with special needs, special accommodation centres for minors unable to care for themselves, other suitable supervised accommodation, or individual accommodation. In Vienna unaccompanied minors not applying for asylum are accommodated in the crisis centre „Drehscheibe"- run by the Youth Welfare Authority of the City of Vienna. It provides temporary shelter for 10 minors between 14-18 years who are often victims of human trafficking. In the other Federal Provinces, such minors are often placed in the care facilities of the Youth Welfare Authority.
Belgium	Whenever the Guardianship Service receives notification of the presence of an unaccompanied minor it contacts Fedasil and in this first phase the minor is placed in a so-called *Observation and Orientation Centre (OOC)*. These centres are open for all unaccompanied minors regardless of their administrative and they will in principle stay here for 15 days (renewable once), a period within which the Guardianship Service will conduct the registration and identification of minors and then assign a guardian. During this reception phase, certain categories of vulnerable unaccompanied minors can already be transferred to more specialised reception centres to allow for a better care of their specific needs (e.g. pregnancy, young children, children with psychological problems, potential victims of human trafficking). In a second Transitional phase, a distinction is made between those unaccompanied minors who are applying for asylum and those who are not. The aim of this second phase is to provide a longer period of rest and the chance to go to school, learn the language and, if necessary, to receive medical and/or psychological treatment. An integral approach is envisaged: decisions, also on a more definitive solution, are made in consultation with the unaccompanied minor. For an unaccompanied minor applying for asylum, the competence will stay at the federal level and the unaccompanied minor will be transferred to a so-called collective reception initiative organised by Fedasil or one of its partners (Federal reception centre (8 minors), a centre organised by the Red Cross (3), a Local Reception Initiative dependant of the Public Social Welfare Centre (14) and a reception facility run by an NGO). They will stay for about four months, up to maximum one year in the reception centre. An unaccompanied minor who has not applied for asylum or whose application has been rejected, falls under the authority of the Communities, through their respective Youth Welfare Services (YWS). Since a lot of the YWS facilities were created for 'minors' in general and not specifically for unaccompanied minors, places are often hard to find. During the third phase, a more "durable solution" for the unaccompanied minor is envisaged, with the reception facility ideally adapted to the unaccompanied minor's specific profile. The aim is for them to realise their 'life project' and to prepare to live in autonomy. The federal and regional authorities will do this in mutual consultation and accommodation can include dedicated housing, a Local Reception Initiative (for asylum applicants) or settling alone.

	In the case of unaccompanied minors not following this three phase path, reception can be in the form of Emergency relief, reception with a host family, a specific reception for victims of human trafficking (Payoke (Antwerp), Pag-asa (Brussels), Sürya (Liège)), financial social aid, rent of personal housing.
Czech Republic	Since 2004, there is a special facility for foreign children to which unaccompanied minors are automatically transferred in order to be provided with care adequate to their age. The operation of these facilities is based on co-operation between the Ministry of the Interior, the Ministry of Education, Youth and Sports and the Ministry of Labour and Social Affairs, IOM Prague and non-profit organisations, particularly the Organisation for Assistance to Refugees and the Consultation Centre for Refugees. As well as being provided with free accommodation, food, medical care, educational opportunities, hobby groups, material assistance and pocket money, Czech language lessons – 20 hours per week – are also given. Unaccompanied minors are first placed in a diagnostic institute with a school in Prague (known as the "Blue School"), usually for two months, where they undergo a medical examination, an interview with a psychologist, and an initial interview in the presence of an interpreter explaining how the facility operates. Based on this assessment, the specific educational and training needs of the unaccompanied minor are determined. The minor is then transferred to the children's home specialising in foreigners, with a school, known as the "Permon" site. A particular focus is placed on teaching the Czech language, the knowledge of which is understood to be the main criterion in the process of integrating into Czech society. The unaccompanied minor remains here until they reach legal age or, if they study, until they reach the age of 26 years.
Estonia	An unaccompanied minor applying for asylum is housed in the Illuka Reception Centre for Asylum Seekers administered by the Ministry of Social Affairs. The reception includes the obligation to arrange provision for needed services (housing, translation services, legal advice, access to education, etc.) plus toys for children, means for manual work, TV set, as well as the appointment of a representative. An allowance is also granted for purchasing food (80 EEK per day). It is possible for the unaccompanied minor to be placed with an adult relative or a foster family if the recipient is suitable to take care of the minor. Like for **Latvia**, no specific provision exists for providing accommodation for an unaccompanied minor not applying for asylum although, in accordance with the *Child Protection Act*, adequate care and accommodation must be provided.
Finland	There are a total of four group homes located in connection with reception centres. The word 'home' in the name of the unit means that the objective for living conditions organised for children and young people is to resemble home as far as possible. The primary concern is to secure safety in everyday activities. A dedicated instructor and the personnel of the housing unit are responsible for the child's daily care and rearing. The majority of unaccompanied minors are first placed in a group home functioning as a transit unit situated in the Helsinki Metropolitan Area, where they reside for approximately two to four months, during which the police establishes the minor's identity, travel route and entry into the country. The asylum interview is carried out by the Finnish Immigration Service. After the asylum interview, minors are transferred to group homes to wait for the decision on asylum and residence permit. In addition to basic needs such as accommodation, meals and health care, group homes organise care and rearing for minors. Young people seeking asylum who have reached legal age are placed in reception centres with other asylum seekers. A municipal residence will be assigned for minors who have been granted a residence permit, after which the basic needs, care, rearing and integration of the child will be provided by the municipality. Municipalities generally place minors in family group homes, of which there are five across Finland. Some minors are placed in private accommodation in families declaring to be the child's relatives and wishing to take the child in their care, but only after the family's abilities and resources for seeing to the child's care are established.

France	Just over half of foreign minors are cared for under child welfare (ASE). The *Centre d'Accueil et d'Orientation des Mineurs Isolés Demandeurs d'Asile* [CAOMIDA – reception centre for minors seeking asylum] at Boissy-Saint-Leger in the Paris suburbs was set up in 1999 with the operational assistance of the association "France-Terre d'Asile", which is responsible for reception and providing assistance. However, owing to the large increase in the number of unaccompanied minors, the inexperience of institutions in looking after minors with very different cultures and whose migration paths have often been very unsettling for their developing personality as a child or young person, plus lack of both staff and premises, ad hoc structures have recently been created to take urgent action in relation to receiving and caring for unaccompanied minors, namely; i) A reception and orientation centre (LAO- lieu d'accueil et d'orientation), at Taverny, in the Paris suburbs which opened in 2002 and is managed by the French Red Cross under an agreement with the State. This centre receives unaccompanied minors when they leave the waiting area at Roissy-Charles de Gaulle airport, assesses their situation and works out the next steps. ii) The setting up of an experimental procedure with the aim of combating the insecurity and exclusion of unaccompanied foreign minors in the Paris region. Created in 2002 and modified in 2004, it is currently supported by the following associations: The association "Enfants du monde – droits de l'Homme" [EMDH - Children of the world – Human rights] manages an 18-place reception centre at Kremlin-Bicêtre ARC, "France-Terre d'Asile" and "Hors-la-Rue" manage emergency reception centres in Paris. These centres share three essential functions: shelter, support in relation to common law and, to a lesser extent, locating and making contact. In 2007, around 800 minors were sheltered and supported, for an average period of 6 weeks, for a budget of €2.77 million.
Germany	Unaccompanied minors aged 16 and 17 applying for asylum are sometimes, depending on the Federal State responsible, housed in accommodation centres for asylum-seekers, and are then entitled to benefits in accordance with the Asylum Seekers Benefits Act (AsylbLG). In these centres, in respect of such standard benefits as nutrition, accommodation, heating, clothing, health care and personal hygiene, household consumer goods and durables and – if possible – clothing too, it is compulsory for the principle of benefits in kind to be applied. The extent of the benefits in kind is at least 25% below regular social security benefits as defined in Book II of the Code of Social Law. In addition to benefits in kind, each month, persons aged 14 years and over will receive the sum of 40.90 euros as a financial contribution to help cover their personal requirements in everyday life – a form of "pocket money." Unaccompanied minor asylum applicants aged 15 years or younger, and in many cases also 16- and 17-year-olds, are most often housed outside accommodation centres – in clearing houses underage foreign migrants, for example, or in youth welfare institutions. In such institutions, there can be a departure from the principle of giving priority to providing benefits in kind; this would mean that the benefits are provided in the form of vouchers or cash. In particular, further benefits may, in individual instances, be provided to cover the particular needs of children – for instance, in such matters as nutrition, clothing, toys or materials for school. For unaccompanied minors who have obtained a legal residence status, the most frequent type of youth welfare provided is accommodation encompassing all current forms of residential homes, communal youth accommodation, residential establishments and supervised individual living quarters. The institutions may be supervised fully (i.e. round the clock) or partly. Some institutions specialise in this group of people, while others are open both to young German persons and to young refugees. Accommodation in therapeutic communal homes can also be a form of assistance. There is an obligation to find the appropriate form of accommodation, according to the individual requirements of the young person in question, during the course of planning out the support for the minor.

Greece	In July 2009, there were eight Reception Centres for unaccompanied minors applying for asylum (in Thessaloniki, Makrinitsa-Volos, Konitsa, Agria – Volos, Anogeia-Kreta, Agiassos – Mytilini), able to accommodate a total of 340 unaccompanied minors. The management cost of these centres is covered by the national budget and / or funds of the European Refugee Fund. With regard to victims of trafficking, the National Centre of Social Solidarity, a service of the Ministry of Health and Social Solidarity, operates shelters for provisional accommodation and reception services and, to this end, has signed bilateral agreements with NGOs. In 2005, the National Centre of Social Solidarity provided welfare services to 72 victims of trafficking, in 2006 to 14, in 2007 to 21.
Hungary	Unaccompanied minors applying for asylum are accommodated separately in a special reception facility, though they can also be accommodated by a relative, subject to a written agreement and if it is obvious that this solution is in the best interest of the minor. A Shelter for Unaccompanied Minors aged 14-18 years was established in 2003. This is currently situated in Bicske within a refugee reception centre, which provides the infrastructure of the Shelter while an NGO is responsible for the staff, the professional work, care and support provided to the unaccompanied minors. Although there have been no cases, unaccompanied minors under the age of 14 years should be accommodated in children's homes operated by child protection authorities. The Shelter provides 24 hour care and support to the minors and is an open facility. A structured daily routine has been established to facilitate integration and each unaccompanied minor has a designated social worker, with individual care plans in place with the specific aim to meet the individual needs of a minor. The Shelter was planned to provide accommodation for an average of ten minors. However, since January 2008, the number of unaccompanied minor asylum applicants has tripled and, in the course of 2009, the number of unaccompanied minors was constantly over forty. Illegally staying unaccompanied minors are accommodated in mainstream child protection residential units under interim care arrangements. A humanitarian residence permit is issued until their status is clarified. In 2006, there were 36 third-country national unaccompanied minors placed under interim care and the indications are that this number has increased in subsequent years.
Ireland	In the Greater Dublin Area, the type of placement available varies according to age and perceived vulnerability of the child. Minors under 12 years old are always placed in foster homes and additional residential units are now opening so that minors between 12 and 16 years are, or will be, housed in 4 residential units where each residential unit can house 6 young people. There are also 6 hostels: 3 hostels for males aged between 16 and 18 years and 2 for females aged between 16 and 18 years. There will also be one for mothers (aged 16-18 years) with babies. The number of available placements varies according to each hostel and sometimes from day-to-day, with approximately 178 placements available overall. There are in addition nearly 20 supported lodging and foster placements available, generally for minors aged between 15 and 17 years and at particular risk and for younger age minors. Efforts are made to locate culturally appropriate placements for the minors. In 2008 a new residential care home (which satisfies the National Standards for Children in Residential Care and HIQA standards) opened for children who have been or are at risk of being trafficked. In cases where an unaccompanied minor is received outside of office hours, the Out-of-Hours Crisis Intervention Service (CIS) Social Work Team will place that child at one of the accommodation centres discussed above. If the child is felt to be at significant risk of abduction or going missing from care, the CIS will use one of their emergency placements. These placements are very temporary in nature (on a night-to-night basis), with referral onwards to the HSE Dublin Social Work Team for Separated Children as soon as possible. Elsewhere, in Cork City, unaccompanied minors are in receipt of the same services as out-of-home Irish children, with social service provision mainstreamed. Upon referral to the service, minors over 15 years old are first housed in hostels for homeless children. There are two hostels: a 5 bed hostel for males and a 6 bed hostel for females. This hostel accommodation has fully trained childcare workers on site 24 hours a day. There is a 3-month maximum stay in these hostels, after which time minors are transferred to supported lodging placements similar to foster placements. In certain cases, independent living places can

	be available for minors over 17 years old. In Wexford, placements for unaccompanied minors tend to be either foster care placements or supported lodgings. Hostel accommodation is not used.
Italy	Unaccompanied minors applying for asylum are accommodated within the *Protection System for Asylum Seekers and Refugees (SPRAR)* funded by the National Fund for Asylum Policies and Services of the Ministry of Interior with the involvement of Municipalities. The reception of unaccompanied minors not applying for asylum comprises two phases: first and second reception, with the social services having a greater role in the latter. In 2006, 6 102 unaccompanied minors (equal to 78% of total minors taken into care) were hosted in Hospitality Centres (first Reception Centres); the majority of them were male (70%) and came from Romania (42%), Morocco (12.4 %) and Albania (8.4%), followed by Afghanistan, Egypt, Palestine and Iraq. This first reception is temporary, and can last up to ninety days. Its purpose consists in offering unaccompanied minors immediate and temporary shelter through adequate measures, as well as proposing a plan of action. In this phase of first reception, private and contracted facilities are most commonly used (3 176, equal to 96% of all reception centres in 2006). The second reception aims to integrating the unaccompanied foreign minors through long-term education projects which last until they come of age. In 2006, there were 3 515 unaccompanied minors inserted in the second phase of reception and more than 85% of them were male. They mainly came from Romania, Albania, Morocco and Afghanistan, and more than a half of them were hosted by Municipalities with more than 100 000 inhabitants. This phase involves a long-term project of insertion within residential communities, a specific program for the minor (literacy, school or work insertion, trainings, socio-educational activities, etc.) and the request for a residence permit
Latvia	During the asylum granting procedure the State Border Guard provides accommodation in facilities meant for this purpose – an asylum seekers reception centre, with the guardian appointed by the custody court or a day-care centre (for example, orphanage), as well as sustenance, provision with goods of hygiene and prime necessity, emergency medical help and primary health care. Which type of accommodation is used is a decision made by the custody court, taking into consideration the opinion of the Refugee Affairs Department of the Office of Citizenship and Migration Affairs, as well as the age and maturity of the unaccompanied minor. The daily expenditure for food, hygiene products and other basic necessities is Ls 1.50 (~€ 2.13) if the person resides in the asylum seekers reception centre and Ls 1.80 (~ € 2.56) if the person resides in the territorial unit of the State Border Guard or border control point. For day-care centres, an amount of 14 lats (~ 20 euros) per day are reimbursed from the state budget. Like for **Estonia**, no specific provision exists for providing accommodation for an unaccompanied minor not applying for asylum although *Regulation 707 of 16th December 2003* sets out how such minors shall be processed.
Lithuania	All unaccompanied minors applying for asylum are accommodated at the Refugees' Reception Centre, located in Rukla, near Kaunas, which is the only institution in Lithuania providing living place for unaccompanied minors applying for asylum. Although legislation foresees the possibility of accommodating an unaccompanied minor with his/her guardian, in practice there were no such cases registered. In some cases, e.g. until the identity of the unaccompanied minor is established, accommodation is provided at the Foreigners' Registration Centre, which is not suitable to care for minors. Up to 20 unaccompanied minors can reside at the Refugees' Reception Centre in the teenager section in five allocated rooms where they can independently cook their meals and clean their rooms. The section is monitored round the clock and from 5pm onwards is closed to outside visitors. It is calculated that provision of state support to one individual accommodated at the Refugees' Reception Centre costs the Government around 500 Lt (145 EUR) per month.

	For unaccompanied minors who do not apply for asylum, owing to the absence of any specific legislation, it is not defined where they should be accommodated. In practice, these unaccompanied minors undergo administrative detention with a view to their removal, principally at the Foreigners' Registration Centre. However, decisions on where to accommodate them are taken on a case by case basis and depends on the discretion of an official. From 2002 until the end of 2008, this group of unaccompanied minors were from Russia, India, Vietnam, Belarus, Latvia and Turkey.
Malta	A fast tracking procedure starts after the referral of an unaccompanied minor to the AWAS (see Section 5.1). The aim of this procedure is to verify the age of the minor and to transfer them from detention to one of the specialised residential homes. The process consists of an interview with the Age Assessment Panel, further age verification procedures if the age is disputed, the issuing of a Care Order according to the *Children and Young Persons (Care Orders) Act* and medical clearance. The specialised residential homes are very different from detention, and operate to provide a safe residential setting, education, preparation for employment, cultural orientation and leisure activities. There are two of these, Dar is-Sliem accommodating up to 30 under-16s of both genders, and Dar il-Liedna hosting up to 18 male over-16s. Osanna Pia, a mainstream Church run hostel, now takes some who have special needs. Both AWAS homes are run by a care coordinator, a social/community worker and a number of care workers. Both homes are continuously staffed twenty-four hours a day and the staff seek to instil a sense of responsibility and do their utmost to facilitate access to resources and find opportunities for integration measures. The teaching of hands-on life skills is integrated into the residential programme, and the residents, assisted by the care workers, are expected to contribute to the residence through cleaning and cooking duties. Various interpersonal skills coloured with an element of acclimatisation to Western culture and values are taught through role modelling, discussion and weekly community meetings. An element of good practice is the employment of immigrants as care workers.
Netherlands	Unaccompanied minors applying for asylum are placed at guest families by the Nidos Foundation, in houses run by institutions for youth-assistance (under the responsibility of the *Central Agency for the Reception of Asylum Seekers COA*, i.e. an agency of the Ministry of Justice) or at a reception centre of the COA. Minors are placed on the basis of their skills, competences and development in order to meet their day to day needs. In principle, unaccompanied minors under the age of 13 years are placed with a guest family preferably a similar cultural background as the minor. A minor aged 13-15 years will be placed in houses. Minors aged 15-18 years are placed in so-called living units at the reception centres. The skills and development of the unaccompanied minor determining where the minor is placed. The more independent a minor is, the less guidance and monitoring they receive. After an evaluation, a decision about the continuation of this approach will be made during 2010. After the disappearance of Indian unaccompanied minors in 2004 and Nigerian 'girls at risk' in 2006, a form of protected reception was established to provide protection to categories of unaccompanied minors who run the risk of falling victims of exploitation. Since January 2008, all minor asylum applicants aged between 13 to 18 years of age, in respect of which signs of trafficking in human beings have been identified on the basis of risk profiles, have been placed in protected reception, in which, over the period 1st January 2008 to 6th October 2008, 94 minors were housed, primarily from India and Nigeria, but also from China, Sierra Leone, Somalia, Guinea and Angola. In order to prevent as many as possible unaccompanied minors from going missing, they are under constant supervision.
Poland	The Family Court indicates the type of institution where an unaccompanied minor is to be placed, taking into account the interest of the minor as the highest priority. The two possibilities are placement in an educational-care centre or with foster families. As a rule, those unaccompanied minors applying asylum are placed in orphanages, whilst all others are in the first place directed to intervention centres. If a minor is detained while committing a punishable act (typically following regular street trade controls, begging, or a suspicion of prostitution), then they

	are directed to the Police minors detention centre. At that stage, it is often unknown whether they have parents residing in Poland, or whether they are an unaccompanied minor. A stay in this kind of institution is short-term as a rule – it lasts from several hours to several days, and then usually an arbitrary absconding occurs. Minors who are completely alone, whose parents are impossible to find and it is impossible to determine their place of residence, most frequently are placed with foster families, adoption families or orphanages. Although the Courts indicate the type of institution where an unaccompanied minor should be placed, in practice, unaccompanied minors applying for refugee status are placed in Orphanage No. 9 in Warsaw, because its staff have many years of experience in working with third-country national minors.[86] The costs of the minor's stay in the facility and the medical expenditures until the completion of the refugee determination are incurred by the State Treasury as part of the budget allocated to the Office for Foreigners within the Ministry of Internal Affairs. The minor is also provided with psychological assistance. According to the available data from the Ministry of Labour and Social Policy, in 2008, of 163 foreign minors, 55 were placed in an intervention centre, 42 in an educational-care centre, 57 with foster families and 9 in a family institution.
Portugal	For an unaccompanied minor applying for asylum, the Family and Minors' Court attributes tutelage or legal representation to the Portuguese Refugee Council (CPR). The CPR ensures that the minor's needs and opinions are taken into consideration (in accordance with the respective age and level of maturity), including guaranteeing housing and food and organising a life project (psycho-social assistance and counselling, enrolment in the National Health Service, Portuguese language classes and access to the educational system or professional training, plus weekly monetary support) for the minor. The CPR's Refugee Residential Centre is the only space available for housing asylum applicants and there is a room in this centre earmarked specifically for unaccompanied minors. Although, according to Portuguese legislation, unaccompanied minors aged 16 years or older can be placed in residential centres for adult asylum seekers. For unaccompanied minors not in the asylum process, the Family and Minors' Courts instead informs the Commissions to Protect Children and Youths at Risk (CPCJRs) for the area in which the unaccompanied minor is found. It is the task of these Commissions to decide upon the concrete measures to be adopted to protect and safeguard the minor, including the provision of suitable accommodation. These measures are normally restricted to support for an autonomous life or hosting in an institution, with hosting meaning integration into residential centres for youths at risk, along with Portuguese minors.
Slovak Republic	An unaccompanied minor entered into the asylum procedure is first placed into the asylum facility of the Migration Office, currently the Reception Centre Humenné. Stay in this centre usually lasts 30 days and, until the result of a medical examination is announced, it is not possible for the unaccompanied minor to leave the centre. During this time, accommodation, food, urgent health care, social and psychological consultancy, pocket money, equipment and sanitary items are provided free of charge. After this time, relocation to the accommodation centre (AC Rohovce or AC Opatovská Nová Ves) where they stay until the end of the procedure takes place and during which time they are provided with primary care, social activities and Slovak language lessons. If any of unaccompanied minors are of pre-school age (which is very rare), they can attend lessons directly in the centre, otherwise school age children visit schools within the location of the centre. For an unaccompanied minor not applying for asylum and falling within the competence of the Labour Office, the *Body of Socio-Legal Protection of Children and Social Guardianship* requests a court judgement specifying both the guardian and the location of placement. In most instances it is the facility for

[86] From September 2002 alien minors applying for the refugee status were placed in a specially arranged unit at the Foreign Nationals Centre for persons applying for the refugee status or for asylum in Dębak near Warsaw and at the Refugee Home (in Warsaw) run by a Polish NGO, the Polish Humanitarian Action. Later on they are directed to two other orphanages.

	unaccompanied minors in Horné Orechové near the town of Trenčín, having a capacity for 36 unaccompanied minors. Care in this facility is provided to the same extent as it is in other homes for children that are nationals of the Slovak Republic. In addition, efforts are made to learn about the circumstances of the unaccompanied minor (age, mental capacity of the child, its view on all matters concerning family reunification, return to the country of origin and asylum), plus interpretation, language lessons and a separate place of worship are provided. A surveillance camera system and permanent security service are also in place.
Slovenia	Until the actual filing of an asylum application, an unaccompanied minor is accommodated in an Asylum Home, under the competence of the International Protection Division of the Ministry of Interior, during which time, suitable nourishment, essential sanitary materials and access to emergency health care are provided. If considered necessary for the minor, accommodation in a separate room can be provided. The costs of the accommodation is covered by the State, while, in cases where the international protection applicants possess their own means of survival or they are provided for in some other way, the applicants have to cover a proportional part of the costs. A number of NGOs provide support and education in the Asylum Home, including Association Ključ; Legal-Informational Centre for NGOs; Slovene Philanthropy; and the Jesuit Refugee Service. Once refugee or international protection status is granted, an unaccompanied minor should be accommodated with their adult relatives or foster families, in centres specialised for the accommodation of minors or should be provided an alternative accommodation suitable for minors. An unaccompanied minor is entitled to financial remuneration for a period of two years for private accommodation, if they turn 18 years old whilst being accommodated in a specialised centre. Unaccompanied minors who are close to becoming of age are often placed in private accommodation. In the Police run Aliens Centre, unaccompanied minors who have been found to be illegally resident are accommodated in a special department. The Aliens Centre is a detention facility where the movement is limited to the centre's facility and to the surrounding area. It is possible to grant a different, more appropriate accommodation, if during the procedure, the Police establish that an accommodation under the social care supervision is more suitable for the minor, although in practice this is not done owing to the lack of alternative accommodation. Stay in this centre should last until the person is removed, but not longer than six months. If the removal is not possible, then the stay can be prolonged for further six months or an alternative place of stay is determined until the removal is performed. According to the available data, in the period 2004 – 2008, stays in the centre lasted for less than a month (297 of altogether 323 cases (92%)) and only in exceptional cases it lasted from one to three months (26 from 323 cases (8%)).
Spain	There is a network of residences for receiving unaccompanied foreign minors and attending to their basic needs. These fall under the remit of the Autonomous Communities and Cities, since these have assumed the competencies for declaring the situation of abandonment and agreeing the necessary measures for protecting the minors within their respective territories. The Child Protection Services can select one of several different types of reception units depending on the number of unaccompanied minors it has under its care: (i) When the number of minors is low, the residence is usually a single, medium-sized centre. In addition, programmes are available for when the minor reaches legal age; (ii) When the number of unaccompanied foreign minors is high, the residence is usually made up of several centres that differ depending on the objectives of the intervention carried out with the children. Usually three different types of reception unit are available: primary reception centres, centres for medium-length residence and centres for long-term stays. In addition, programmes are available for minors that reach legal age, normally consisting of residences with different levels of the presence of educators;

	(iii) When the number of unaccompanied foreign minors in residence increases, the model of a single centre gradually transforms into a model of several reception centres with different intervention phases. These models of residential reception typically have centres exclusively for unaccompanied minors, the majority of which are managed by NGOs through agreements signed with the Child Protection Services. These centres have multicultural and multidisciplinary human resource teams made up of professionals of both genders.
Sweden	When an unaccompanied minor claiming asylum arrives, the Migration Board ensures that the minor is placed in a designated reception municipality as soon as possible. These municipalities are located near the major entry cities of Stockholm, Göteborg and Malmö. Financial compensation is paid to the municipalities for their costs in connection with unaccompanied minors. The municipal social welfare board is the authority that assesses the child's needs and decides on appropriate housing. Accommodation may be provided in a children's home ('home for care or residence', which may be special housing established specifically for reception of unaccompanied minors or comparable, existing housing for other children) or a foster family. In fact, most municipalities have chosen to operate children's homes for unaccompanied minors, referred to as 'HVB housing'. Special regulations apply with regard to staffing and documentation and it is under the supervision of the county administrative board, meaning that the county administrative board monitors and inspects the facilities. Staffing in HVB housing is relatively equivalent in all municipalities. A staff of eight or nine therapists or counsellors and a director are assigned for each 10-15 housing places. Of the 1 165 unaccompanied minors registered in the Migration Board's reception system in December 2008, 111 were in the municipalities of where they arrived, 647 were in municipalities with reception agreements and 407 in foster homes with relatives or other close family members.
United Kingdom	Children's Services present in each local authority may provide support under two main provisions of the *Children Act*: (i) The child may be formally 'looked after' or 'accommodated' and will have a named social worker responsible for assessing the child's needs and maintaining a care plan; or (ii) a range of services are provided (e.g. accommodation), with some supervision from the Children's Services. With regard to providing accommodation, after a care assessment by the Children's Services, it may be decided to place the child with foster carers; place the child in a residential home; place the child in supported local authority accommodation (e.g. with an on-site warden); or, for some older unaccompanied minors, in independent accommodation, but supported by a visiting social worker. Most unaccompanied minors under 16 years go into foster care with a family, whilst those over 16 mostly go into semi-independent living arranged by the Children's Services.

The services provided in **Austria** within the framework of basic welfare support for unaccompanied minors go beyond those for adults and include, in addition to boarding, lodging, clothing and health care, also psychological support, education, development of an integration plan, discussion of future perspectives, support with family reunification, family tracing and assistance in daily life in form of sports and leisure activities or household work. The financial costs for the basic welfare are borne by the Federal State and by the Federal Provinces at a ratio of 6:4 and the Federal State, as well as the Federal Provinces, have in many cases outsourced the management of care facilities to NGOs or private companies. The establishment of Federal or regional victim protection centres for unaccompanied minors who are victims of human trafficking, has been discussed in the framework of the *Working Group Child Trafficking (Arbeitsgruppe Kinderhandel)* and is also supported by the Federal Ministry of the Interior, although these intentions have not yet been realised.

As indicated in Table 2, the reception system in **Belgium** has different possibilities to accommodate unaccompanied minors. In the ideal situation the unaccompanied minor should be able to benefit from an accommodation that corresponds to his/her specific needs. As also indicated in the beginning of Section 6, **Belgium** does not have a formal legal framework (yet) for the reception of unaccompanied minors who do not file for asylum and that everything is done on the basis of informal arrangements and goodwill of the partners. This framework is currently being discussed between the Federal, Flemish and French Community governments. When places are available, the French community welcomes only the most vulnerable unaccompanied minors (e.g. very young, victims of human trafficking) regardless of their status; while the Flemish Community welcomes also minor non-asylum seekers.

A notable increase in the number of unaccompanied minors applying for asylum in **Finland** in 2008 brought about a shortage of available reception places. To relieve the situation authorities turned to the Nutukka project,[87] which places such unaccompanied minors in folk high schools with the aim being to support their independence and growth into adulthood. Their studies include Finnish and everyday skills, communication skills and information technology, as well as an introduction to Finnish society and culture. Some six schools participate in this project, and during 2009 accommodated approximately one hundred 16- to 17-year-old unaccompanied minors, typically 10 – 15 at each school.

[87] Young asylum applicants in folk high schools, launched by the Ministry of Labour, see www.nutukka.org.

The standard of care available to unaccompanied minors in the Greater Dublin Area of **Ireland** has been criticised by NGOs and child rights organisations, in particular the lack of equity with that provided to Irish out-of-home minors. The *Child Care Act 1991* does not provide for the enforcement of Children's Centre regulations for children residing in hostels which are contracted to private entities. The use of hostel accommodation without care staff present on site has also been criticised by many child rights NGOs and by the Ombudsman for Children's Office. Some efforts have been made recently to improve the situation by providing supported lodgement placements in family homes. The publication of the *Anti-Human Trafficking Plan* in June 2009 included an intention to mainstream services provided to unaccompanied minors, with the practice of accommodating children in hostels brought to an end as alternative arrangements become available.

6.4 Disappearances

Belgium, **Czech Republic**, **Finland**, **Ireland**, **Italy**, **Netherlands**, **Poland** and the **United Kingdom** have experienced a disturbing number of disappearances from the accommodation provided. In the best case scenario, this is because the unaccompanied minor has left an open accommodation facility to join family already living in the Member State, whilst the worst case scenario is that these minors are then victims of trafficking and subjected to exploitation.

Most disappearances in **Belgium** occur from two open (i.e. an unaccompanied minor is free to leave if they so desire) Observation and Orientation Centres (Steenokkerzeel and Neder-Over-Heembeck). A collaboration protocol has been concluded between these centres to align the activities of the various stakeholders in order to prevent as much as possible the disappearance of unaccompanied minors and to try to ensure their speedy return. In 2006, there were 951 disappearances out of one of the centres, which is more than 50% of the total registered with the Guardianship Service; in 2007 there were 902 disappearances (about 45% of the total) and in 2008 there were 562 disappearances. Most disappearances occur within the first days of arrival at the centre and even before a guardian has been appointed. The disappearances often concern minors originating from Maghreb countries or from the Roma community in Eastern and Southern Europe.

Previously, more than half of the children accommodated in facilities provided in the **Czech Republic** used to run away. According to the available data, 63 disappeared in this way in

2005; 72 in 2006; and 66 in 2007. However, since the end of the year 2007, the situation has changed as a result of the accession of the Czech Republic to the Schengen Area. Owing to the absence of checks at border crossings, minors are no longer intercepted and consequently often do not even get into the facility because their presence is not registered.

Prior to 2007, an average of 14 unaccompanied minors seeking asylum disappeared in **Finland** each year. In 2007 the figure had dropped to five, and in 2008 to one. In the previous years, the disappearances were considered to be related to human trafficking. There have also been signs of financing of the travel of minors partly through exploitation. In some cases it has been determined that illegal entry was instigated by relatives through the operations of traffickers seeking financial gain.

In **Ireland**, some 486 unaccompanied minors went missing from State care in the period 2000 to May 2009, of which only 61 were accounted for. This phenomenon has attracted a lot of media attention, also from various NGOs. While it is likely that some of the missing minors may simply have reunited with family either in Ireland or elsewhere, some may have been trafficked into forced labour or prostitution, again in Ireland or elsewhere. There was a significant decrease to 141 in the number of children going missing in 2008, which has been attributed to increased cooperation between the Gardaí (Police) and the Department of Justice, Equality and Law Reform. However, data for January to the end of May 2009 indicate that there has been again an increase. The previously described problems with care placement and supervision have been cited as a reason for the high levels of disappearances, particularly the many cases where a minor was residing in a privately run, contracted hostel with no childcare professionals staffed on site. There is some indication that traffickers are aware of the locations of the unaccompanied minor hostels and whether they were staffed appropriately (the most common time for disappearances are at the weekends). Certain patterns in the disappearances have been observed. In Cork, Romanian children and in Wexford, Romanian and Moldovan children have been deemed to be at risk of disappearing, while, in recent years, a number of Chinese minors have disappeared from Dublin care placements. The taking of fingerprints and photographing of unaccompanied minors is considered to be crucial, as well as an aid for tracing, both within Ireland and internationally.

According to a report published by Save the Children[88] in **Italy**, in 2006, 62% (or 3 783) of the 6 102 unaccompanied minors accepted in Hospitality Centres became untraceable. The reasons for these minors leaving are considered to be because they have no direct access to adequate housing and that the conditions of the centres are non-sustainable.

In the **Netherlands** during the period January to October of 2006 and also of 2007, 20 Nigerian girls disappeared, while in the same period of 2008, one Nigerian girl disappeared. For the same timeframe in 2006, 33 Indian boys disappeared and in 2007 28, while in 2008 this number decreased to 11 disappearances. Concerned that these disappearances were linked to trafficking, the Aliens Police, the Dutch INS, the guardians, reception centres, and Royal Constabulary amongst others joined together in a co-operation against human trafficking of unaccompanied minors. More recently, the number of disappearances have decreased following the introduction of protected reception in the beginning of 2008.

The legal situation of unaccompanied minors who are victims of trafficking in **Poland** is not fully defined and the procedures for handling them are not always coherent. However, the development of an appropriate procedure has been undertaken within the context of an inter-ministerial *Committee for Combating and Preventing Trafficking in Human Beings*.[89] Under Polish law unaccompanied minors must not be placed in shelters for adult victims of trafficking. Given also that they have not applied for refugee status, they cannot be placed in facilities assigned for unaccompanied minors undergoing the refugee-related procedure either. Such minors were usually referred to emergency-type care and educational-care centres, such as children's shelters, which are not ideally suited to receiving them and to providing proper care. The staff of such facilities stressed the difficulties in communicating with such children (the language barrier) and were helpless when faced with the phenomenon of mass escapes of the minors from the centres. A vast majority of the minors staying in such facilities leave them wilfully within a few days of arrival. Based on this experience, and taking into consideration also the low number of victims of trafficking, two dedicated places have been created, as a pilot project, in one of Warsaw's orphanages. Staff at this orphanage are experienced in working with children suffering from violence and it provides its inhabitants with safety, proper psychological care, and education.

[88] Available from http://www.savethechildren.it/2003/download/pubblicazioni/dossier_MISNA_def.pdf.
[89] The Committee for Combating and Preventing Trafficking in Human Beings was established on 5 March 2004 pursuant to Ordinance No. 23 of the Prime Minister and serves as an auxiliary body to the Prime Minister.

Similar to the **Netherlands**, the Government and national NGOs in the **United Kingdom** have expressed their concern that some children, who it is suspected have been trafficked, go missing from local authority care. As part of the actions undertaken to tackle this, relevant ministries work together on the basis of common guidelines like given in *Children Missing from Care and Home: a guide to good practice*.[90]

6.5 Age Assessment

All Member States attempt to determine the age of an unaccompanied minors using a variety of techniques which are summarised in Table 3. This is of particular concern to the Member States not only in the context of avoiding abuse of, for example, the asylum process, but also to ensure the protection of minors housed in communal accommodation.

[90] See http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4012718.pdf.

Table 3: Overview of methods used for assessing the age of an unaccompanied minor in the Member States

	Austria	Belgium	Czech Republic	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Netherlands	Malta	Poland	Portugal	Slovak Republic	Slovenia	Spain	Sweden	United Kingdom
Interview/ Documentation	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆		◆	◆	◆	◆		◆	◆	◆	◆	◆
Assessment by a Doctor	◆					◆			◆		◆	◆	◆			◆						
Dental Analysis	◆	◆	◆		◆	◆	◆				◆					◆	◆				◆	
Skeletal Assessment*	◆	◆	◆	◆	◆	◆	◆				◆		◆	◆	◆	◆	◆	◆		◆	◆	
Psychological		◆				◆							◆		◆				◆			

◆ signifies that this is one of the methods in a particular Member State for assessing the age of an unaccompanied minor. For some Member Stares (details in text below), not all available techniques are used or, if so, only in exceptional cases.

* An X-Ray is taken normally of the hand, collarbone (clavicle) and/or wrist and methods such as the Greulich-Pyle (GP), Tanner and Whitehouse (TW-2) and Radius, Ulman, Short bones (RUS) are used to determine bone or skeletal age. These methods do not take into account racial, ethnic, nutritional, environmental, psychological or cultural differences which directly influence a child's development and growth and they typically have a margin of error of approximately 18 months.

Age assessment in **Austria** can be undertaken for an unaccompanied minor applying for asylum if their minority age is doubted. Since 1st January 2010, the age assessment is based on a "*multifactoral examination methodology*" that consists of three elements: an inspection by a doctor, a dental analysis and X-ray examinations, the latter performed only with the consent of the minor. If the age of the person cannot be determined exactly, the benefit of the doubt is given to the individual concerned.

The Guardianship Service in **Belgium** is responsible for determining the age of an unaccompanied minor as part of its responsibility for determining whether the legal requirements for being treated as an unaccompanied minor are met. In case of doubt, e.g. when no identity documents are presented, age assessment can be done by means of a so-called "triple test" consisting of the clinical impression of an experienced dentist and the radiological examination of the dentition, the hand wrist of the non-dominant hand and the medial ends of both collarbones. The procedure for psycho-affective tests (such as personality and intelligence test) is foreseen in legislation, but is not in place yet, owing to problems of reliability. The applicant has to give his/her consent to the medical examination. The average age of the results of these three tests is approximate and always indicates a margin of error. In case of any doubt the lowest attested age is taken into consideration. Over the period 2004 to 2008 inclusive, on average some 37% of the age assessments gave a result that the child was a minor. Critics of these tests for assessing age consider that factors such as the socio-economic situation, ethnical or geographical descent, illnesses, etc. which can have an influence on the development of the child, are not taken into account.

In the **Czech Republic**, there is no large-scale verification of age carried out on persons who declare themselves to be minors. The reason is the high cost of medical tests, as well as the fact that these tests are not completely reliable. Only in exceptional cases is a medical examination performed, with the consent of the minor and their guardian, for the purpose of verifying age. If the medical examination is refused, this is then regarded to be an applicant for international protection who is of legal age. Verification of age is carried out by a bone test, which involves X-raying metacarpal bones on the left hand; this is exceptionally supplemented by a dental examination.

A medical examination for establishing age is conducted in **Estonia** with the consent of the applicant or their representative and using x-rays (Tanner & Whitehouse (TW-2) method).

There has been only one instance of a person's age being identified in relation to an illegal immigration case through using the Tanner & Whitehouse (TW-2) method, dental X-ray examination and consultation with a radiologist.

Because of the significant increase in the number of unaccompanied minors applying for asylum in **Finland**, an amendment was made to the *Aliens Act* adding a provision for the determination of age as part of the asylum process. Before this, the determination of the age of minors was unregulated and random. The primary methods for age determination include the evaluation of external appearance, mental maturity and overall developmental level. The most common method for the medical determination of age include skeletal age and dental examinations using X-rays. These tests give a typical margin of error of +/- 2 years. With regard to a psychological assessment, these have been considered to be insufficiently reliable, as the perception of the age of a minor is extremely subjective, depending on, for example, the child's experiences and unaccompanied minors seeking asylum are likely to appear older than they actually are.

In the event of doubt as to the age of a declared unaccompanied minor in **France**, the public prosecutor's department orders a medical examination, in particular a bone and dental assessment, as well as a general and psychological examination. According to the Bobigny Court of First Instance, with jurisdiction for the Roissy-Charles de Gaulle airport, 25% of individuals who stated that were minors undergo this examination (2005 and 2006 figures), with then 50% of this number being finally identified as majors. Following criticism of the lack of accuracy, the margin of error and consultation of the French national ethics consultation committee, the method was refined, with, in particular, the examinations now systematically carried out at Roissy. Establishing whether or not an individual is a minor has no effect on the decision on whether to admit them into French territory or detain them in the waiting area, but rather to whether an AHA should be appointed. It also has consequences for a possible return, since the administrative authority needs to ensure that the minor can be cared for in the country of return. Also, if they are recognised as adults, they can be returned, but if they are recognised as minors, they can claim administrative and legal assistance.

In **Germany**, if an application for asylum is lodged, either by the legal guardian or by the minor, then the *Federal Office for Migration and Refugees (BAMF)* becomes responsible for establishing the legal capacity to act (and thus also the age) of the minor. In this case, a

BAMF official, who has been trained to deal with unaccompanied minors, will perform an estimation of the minor's age, along with a second official. The BAMF will not require any medical certificates to be drawn up, but any documentation that is already available from other authorities (such as Youth Welfare Offices or Guardianship Courts at the *Länder* level) can be included in the assessment. In most of the German *Länder*, the competent authorities determine the age of unaccompanied minors by means of interviews or a simple visual inspection ("*Inaugenscheinnahme*"). However, some *Länder* also use medical examinations, such as X-ray of the carpus or visual inspection of the teeth. X-ray examinations, however, have raised controversy, as they can be considered as an intrusion upon the physical integrity of the child or youth.

To date, **Greece** has not introduced relevant medical examinations to assess age, citing the known difficulties and uncertainty in the age determined by these methods. Instead, the age of an unaccompanied minor is mainly assessed through interviews conducted by police officers, including the declaration of the children and / or the arbitrary assessment of the interviewers.

A medical expert examination for the determination of age in **Hungary** during the asylum application process may only be performed with the consent of the person concerned, or, if the person is in a state which does not permit the making of such declaration, their guardian or other representative by law. The asylum application may not be refused solely on the grounds that consent to an examination is not given, but special (mainly favourable) provisions relating to minors, with the exception of the provisions relating to the involvement of a legal representative or the appointment of a guardian, may not be applied.

Age assessment in **Ireland** is initially undertaken at the point of entry by an interview (e.g. questions on schooling, reasons for travel, siblings). Interviews are also the main method to establish age after entry, conducted in accordance with the *Separated Children in Europe Programme (SCEP) Statement of Good Practice*.[91] Whilst bone testing is not currently provided for in legislation, NGOs claim that it does occur in practice. The official position is that, in some cases, the opinions of professionals, such as dentists, may be included in assessments when offered informally, but such opinions should not be sought. If the authorities cannot agree on a precise age, the final benefit of the doubt is given to the

[91] Available from http://www.unhcr.org/refworld/publisher,SCEP,,,415450694,0.html.

individual concerned. This approach to determining age has been criticised because it is considered to give a high level of discretion to the individual officers making an initial age assessment and a national policy is lacking.

The performance of an age assessment in **Italy** – after approval by the minor or their legal representative – is required only if there are doubts about the minor's actual age. Until proven to the contrary or in case of doubts, the person continues to be considered a minor. The refusal of the minor to undergo an examination for age assessment does not influence the decision on their application or even its acceptance. Age is assessed using radiography (wrist, teeth) and anthropometric (skeletal) measurements. Given the inaccuracies in these methods, in June 2008 an inter-ministerial work group was created in order to accurately study the scientific publications, as well as the documents published by international bodies on the issue. Since 2006, examinations are undertaken within the responsibility of the Italian *Red Cross*, and the activities of monitoring to *Save the Children*.

For **Latvia**, if the true age of the unaccompanied minor is doubtful, a medical examination is performed in the *State Centre for Forensic Medical Examination*, costing, on average, Ls 300 (approx. €430). Age verification tests in **Lithuania** are also undertaken, though only in exceptional (two so far) cases, if there are justified doubts about the age, but only with consent from the person concerned, his/her parents, other legal representatives or a temporary guardian. If they do not agree to undergo age verification and there are no valid grounds for this refusal, such actions are interpreted as procrastination of the investigation or fraud and the application for asylum can be found lacking a basis.

The first step in **Malta** is an interview within ten working days of their arrival with the *Age Assessment Panel*, made up exclusively of AWAS employees. When age is disputed, further assessments take place comprising any of the following: Further assessment by other professionals, including other social workers employed by AWAS; Further assessment and monitoring by AWAS staff working in the Closed Centres; and Referral to a Radiology Department for the Tanner and Whitehouse Hand and Wrist Test. The most frequently used assessment is by an AWAS social worker, with the radiology test used in cases where consideration to the benefit of the doubt is useful.

In case the age of a minor cannot be proved by legal documents in the **Netherlands** and there is doubt about the age that the minor claims to have, then an age assessment, with the informed consent of the minor, is possible. An X-Ray can be taken of the wrist and the collarbone and a radiologist will then estimate the age of the minor as accurately as possible on the basis of whether or not the radius and/or collarbone has matured. This assessment depends also on the sex of the minor. For example, if the radius and collar-bone have not matured, then the age is estimated to be up to 20 years for a male, but up to 19 years for a female. If the radius has fully matured but the collarbone not, then the age is estimated to be between 16 years and 32 years for a male and 14.7 years and 32 years for a female. Only when the minor has declared an age which falls within the range determined by this form of examination is it accepted. Otherwise the age determined on the basis of the examination is used. If considered necessary, the minor can request a re-evaluation of this age assessment.

Should there be any doubts as to the age of an unaccompanied minor in **Poland** it is allowable – with their consent – to perform a medical examination in order to determine age. In most cases an X-ray image is taken of the wrist or the shoulder and the condition of the teeth is examined. A doctor performing the examination then determines the maximum permissible error taking into account also anatomic features. In cases where the margin of error gives an age above or below 18 years, then they are treated as if they are a minor. If the minor refuses his/her consent to an examination, he/she is treated as an adult.

Until proven to the contrary, in case of doubts regarding the age declared by a person claiming to be an unaccompanied minor in **Portugal**, the procedures followed with regard to their entry and request for asylum consider them to be a minor. The authorities can consult with specialists for an assessment of age when there are doubts, with tests undertaken at the *National Institute for Legal Medicine*, an independent entity that estimates the age of minors by means of x-ray exams of the teeth and the bone density of the wrist. In many cases, the results of such an examination have shown *a posteriori* that the persons are effectively adults. Consequently, the number of applications for asylum by unaccompanied minors is higher than in reality and further reduces the number of unaccompanied minors. Once an approximate age has been ascertained, in case the individual in question is found to be an adult, the authorities evaluate a solution that is suitable for the circumstances of that particular case: removal, eventual regularisation in national territory or the attribution of protection by means of the statute of asylum or subsidiary protection.

In the **Slovak Republic**, if someone declares that they are an unaccompanied minor, but there are doubts as to age and it is difficult to determine the actual age (i.e. if the person is a minor), then they are obliged to undergo a medical examination. This procedure is not applied when it is clear that the person is a minor. If they refuse to undergo the examination, they are considered to be an adult from the perspective of granting residence (*Act on Stay of Aliens*), or asylum, or other form of international protection (*Act on Asylum*). If it is not possible to clearly distinguish whether they are a minor or an adult, then they are treated as a minor from the perspective of the asylum procedure. In case of granting residence, the relevant legislation does not include a stipulation in this regard. The medical examination consists of X-ray examination of arms and elbow joints at the Radiological Clinic in Trenčín. The medical report then certifies whether or not the depicted skeleton corresponds in terms of development and growth with a person above the age of 18 years.

The *International Protection Act* in **Slovenia** does not foresee any explicit procedure for establishing the minor's actual age. In cases when a person claims they are a minor, the available documentation is examined, the person is interviewed and a psychological evaluation is made. However, when needed to establish or evaluate certain facts which are important for any decision taken in accordance with this Act, and such knowledge is not available to the competent official, it is possible to obtain an adequate expert opinion. Regardless of any eventual doubt about the person's age, they are, in principle, treated as a minor.

In **Spain**, the *Special Prosecutors for Alien Affairs* are assigned the tasks of co-ordination, supervision and transfer of the procedures to be followed, including for the determination of age. If there is insufficient documentary evidence to establish age, then the *Prosecution Office* can authorise medical tests to be carried out. One of the tests uses X-rays of the minor's left hand and wrist. Given the margin of error with such a test, the practice of the *Prosecution Office* is to establish the age at the lower limit of the range.

If an applicant in **Sweden** states that they are under eighteen, but the stated age seems obviously false, the applicant is offered the possibility to support their claim through an "orientation interview." This includes an overall assessment of the applicant's childhood history, school attendance, age of siblings and age of parents. If doubt still exists after this and

any further follow-up interviews, then the applicant is invited to support their claim based on supplementary medical information. One method used is skeletal age determination using radiographs of the bones of the hand, as well as a dental development examination. The manner in which the margin of error is taken into account is to consider that an applicant is over 18 years only when the results of both examinations show an age of 21 years. The final, overall determination of whether an applicant should be considered a minor or an adult is made by a decision maker with special paediatric expertise.

Like in other Member States, the **United Kingdom** has also observed an increase in the number of asylum applicants claiming to be under 18 years of age. An initial age assessment is usually made at the start of the screening process. If the physical appearance and/or general demeanour very strongly suggests that they are significantly over the age of 18 years, the applicant is normally treated as an adult, unless credible documentary or other persuasive evidence to the contrary is given. Those whose appearance and/or demeanour suggest that they are over 18 years of age (but not significantly so) are treated as a minor unless and until they are assessed as being adults. In both cases, the application is registered as an "age dispute" case. In 2008, 1 400 applications were registered as age disputes and 1 000 in 2009. Whilst national legislation does not include measures that specifically deal with age assessments, the policy is to accept a '*Merton compliant age assessment*' carried out by two specially trained social workers. This assessment includes an assessment of the applicant's physical appearance, social development, their account of their family life and educational history. If the result of this assessment is that the person is considered to be under 18 years of age, then this is generally accepted by the *UK Border Agency* when assessing the individual's asylum claim, unless there is credible evidence to the contrary.

6.6 Turning 18 years of age/ Ageing out

The issue of what happens when an unaccompanied minor attains the age of 18 years (and thus is normally no longer considered to be a minor) is addressed by **Belgium**, **Czech Republic**, **Ireland**, **Italy**, **Malta**, **Netherlands** and the **United Kingdom** in particular.

For **Belgium**, the future depends on whether they have a residence permit or not. If an unaccompanied minor becomes 18 years old without being in the possession of a valid residence document they could be subject to removal, as they will become illegally resident. As adults they will also lose the support of the guardian and other protective measures.

Nevertheless, they often do not want to (or are not able to) return to their country of origin, and thus they decide to stay – without papers and thus without rights and protection. This can result in a number of difficulties, since theoretically they have to leave the accommodation facility; the support from Community services will end; as will financial support, unless they have a residence permit, with entitlement to urgent medical assistance only; and they might not be able to enrol in school, university or higher education, or have access to work or internships, or affiliation to a health insurance provider. In practice, the transition between the status of unaccompanied minor and adulthood often does not become effective immediately on their 18th birthday. Instead they are informed in writing of the different procedures that can be started when they become 18 years old and the validity of their residence permit is extended for 6 to 12 months, conditional on them, for example, looking for a job, providing identification documents. If the residence permit is extended three times, the person will be entitled to a residence permit of an unlimited duration.

All unaccompanied minors, whether they stayed legally or illegally in the **Czech Republic**, have their residence legalised from the date on which a court places the minor in the facility for foreign children, until the age of 18 years, regardless of whether they have applied for asylum or not. However, after they reach the age of 18 years, the situation fundamentally changes and it becomes necessary to address the residence of each person individually – the scope of rights and obligations is different and this depends especially on whether international protection was granted or not. If the person had not been granted protection and no legal steps had been taken to legalise their residence (application for granting of permanent residence), the person is issued with a removal order by the police, and this order sets the deadline by which the person must leave the Czech Republic. The situation is similar in **Lithuania**, where an unaccompanied minor who turns 18 years and has not been granted protection, is returned to their country of origin.

Due to the fact that, in most cases, unaccompanied minors in **Ireland** have no immigration or legal status beyond being a minor 'in care,' unless they have applied for or have been granted refugee status, they often exist in an ambiguous legal status when they turn 18 years old. For those minors in the care of the *Health Service Executive (HSE)*, responsibility towards them changes from 'shall' to 'may' upon turning 18 years. In regard to continued social welfare and after-care support, social workers advocate taking a case-by-case approach, as entitlements to social welfare for such minors are not explicitly clear. Within the Dublin region, the *HSE*

Dublin Social Work Team for Separated Children has a dedicated aftercare unit for aged-out minors who are holders of a protection status, which aims to deinstitutionalise the (now) adult, for them to learn skills which they will need once they move out on their own (cooking, cleaning, shopping, saving) and to attend school. Those aged-out minors who are still awaiting a decision on protection or leave to remain, have their application transferred from the HSE to the *Reception and Integration Agency (RIA)*. Prior to 2009, they were then mainly sent to one of four dedicated accommodation centres in the Dublin area. Nowadays, RIA has implemented a new policy of targeted dispersal with aged-out minors now housed in one of five direct provision centres in Cork, Limerick, Sligo, Galway or Athlone. These centres were selected because they are family centres and are close to education facilities and other supports, such as youth networks. Some also have public health nurses available on site.

Under certain conditions in **Italy**, a minor turning 18 years old may apply for a residence permit for study or work – in accordance with *Art. 25 of Law 189/2002*. If an unaccompanied minor is in possession of a residence permit for custody (due to the non-suit decision, or to the custody ordered by the Juvenile Court or Social Services, and enforced by the Tutelary Judge), not only can they immediately enter the labour market, in accordance with the rules on child labour, but they may also convert their previous residence permit into a new one for study or work as soon as they come of age.[92] A change to these conditions occurred following regulatory modifications introduced by *Law 94/2009* (also known as the "Security Package"). The issuing of residence permits upon reaching legal age is now possible only if the following combination of elements is met: a measure of protection or custody, residence in Italy for at least 3 years, and participation in projects of integration for at least 2 years.

An unaccompanied minor who turns 18 years in **Malta** is obliged to the leave the Residential Home and are either supported to move into privately rented accommodation, if they earn sufficient income, or else are placed in one of the Open Centres depending on their vulnerability. There is no formal follow up or 'after care service' from the Residential Home or from AWAS. However, the Residential Homes' co-ordinators have adopted an open door policy, so that those young adults who need general support or more specific advice, can drop in to visit and also take part in certain activities.

[92] As decided by Circular of the Ministry of the Interior of April 9, 2001.

Only unaccompanied minors who have held a residence permit as a minor in the **Netherlands** for three or more years prior to reaching the age of 18 years are allowed to submit an application for the purpose of 'continued residence.' This means in practice that an unaccompanied minor who was 15 years of age or older at the time of their asylum application and whose asylum application was refused, will have to leave the Netherlands after having reached the age of 18 years. In exceptional cases, however – if there are compelling humanitarian grounds – it is also possible to issue a residence permit for continued residence. At the end of 2009, the State Secretary announced a change in policy in the issuing of a residence permit to an unaccompanied minor, which will enter into force at some point during 2010. They will no longer be issued with a residence permit for a minor if their asylum application is rejected and if there is no adequate reception in their country of origin. Only minors who are under the age of 15 years when applying for asylum and who, through no fault of their own, cannot return to a situation of adequate reception in their country of origin, will be issued with a temporary residence permit, which can then be followed by a permit for 'continued residence.'

Further to the information contained in their National Report, in the **United Kingdom**, all young persons, including unaccompanied minors, who have been in the care of a local authority for more than 13 weeks before the age of 18 (and after the age of 14) years are eligible for "leaving care support" (LCS) once they reach 18 years. This means that the local authority will continue to support them, where necessary, and will provide a personal adviser who works with the young person to develop a "pathway plan." The LCS continues to at least the age of 21 years, and may be up to 24+ years if the individual remains in full time education.

6.7 Family Tracing

All Member States undertake efforts to trace the (immediate) family of an unaccompanied minor, sometimes in the context of arranging return to their country of origin. In many cases, agreements have been concluded with humanitarian and international organisations, such as the *International Social Service (ISS)*,[93] Red Cross and IOM, in order for them to undertake the challenging task of tracing an unaccompanied minor's family, particularly in the country

[93] See http://www.iss-ssi.org/.

of origin. The descriptions below for a number of Member States gives an indication of the types of practices followed.

The *Basic Welfare Agreement* in **Austria** stipulates that special assistance has to be provided for minors when they are searching for their family. Moreover, the Red Cross offers a 'Tracking Service' for recognised refugees and persons with a subsidiary protection status. This service includes legal advice, support when searching family members in the country of origin and clarification of financial perspectives. The Red Cross also helps to organise necessary travel documents, visas and the journey to Austria. For unaccompanied minors not applying for asylum (mainly for victims of trafficking), the *Vienna Crisis Centre "Drehscheibe"* organises family tracing and return to the country of origin. In the context of the *Aliens' Procedure*, for example prior to a return procedure, family tracing is done on a case-by-case basis and is mostly limited to the establishment of contacts with the diplomatic authorities of the country of origin situated in Austria.

Amongst the tasks undertaken by a guardian in **Belgium**, in the context of finding a durable solution in the best interests of the child, is the requirement to explore the possibility of family tracing and reunification. All necessary measures to track down an unaccompanied minor's family either in Belgium or abroad must be undertaken, which can, for example, be via the *Tracing Service of the Belgian Red Cross*.[94] The *MINTEH Bureau of the Immigration Department* can also ask for support from the Belgian embassies and consulates abroad in trying to contact the family in the country of origin. Family tracing may also be undertaken directly by the *Immigration Department*, on the basis of the information provided by the unaccompanied minor or available in their dossier. In 2001, the family tracing of 23 unaccompanied minors was initiated in Albania (before the *Guardianship Act* came into force) and managed to find 22 families. However, the unaccompanied minors were eventually not reunited, since the juvenile courts were not in favour of a forced return.

When family members are sought in the **Czech Republic**, it is based mainly on the information given by the unaccompanied minor and sometimes this is the only information available. For those unaccompanied minors who are not applying for asylum, the relevant authority responsible for the social-legal protection of children has an obligation to inform their country of origin. Pursuant to this provision and the individual consular agreements, this

authority also usually gives notice to the embassy of the country concerned and to the *Office for International Legal Protection of Children*. These institutions then search for parents or for relevant information on the child.

In **Estonia**, it is the *Ministry of Foreign Affairs* that can help in finding the minor's legal representative in their country of origin and arranging requests for travel documents from the embassy of the specific country. It is also possible make use of the Baltic States *National Contact Points for Unaccompanied and Trafficked Children*.[95]

The *Finnish Immigration Service* in **Finland** must, if possible, endeavour without delay to trace the unaccompanied minor's parents or some other person responsible for their guardianship. The Service is entitled to obtain information from the reception centre relating to the date of birth, family members and their whereabouts while endeavouring to do this tracing. On the basis of the best interests of the child, the objective of tracing is to establish the guardians' whereabouts and to re-establish the connection between the unaccompanied minor and their guardians. Tracing does not affect the assessment of the need for international protection, and a decision on whether or not to undertake tracing takes place only after an asylum interview. Care is taken not to endanger the safety of the minor nor their family and that knowledge of the tracing is not brought to the attention of the authorities in the country of origin. To facilitate tracing, the *Finnish Immigration Service* and the NGO *International Social Service (ISS)* entered into a co-operation agreement for the tracing of the guardians of an unaccompanied minor. The number of tracing requests sent to ISS in 2007 was 11, with 4 tracings completed. The average duration of tracing in 2007 was 102 days, which is considerably more time than is allocated within the current asylum process.

Whilst there are no specific actions for tracing in **France**, in the absence of any bilateral agreements on the return of unaccompanied minors, the return is subject to advance contact with the families in the country of return, to the agreement of the families with regard to the return, or, where there is no family in the country of return, to the agreement of a specifically authorised body. Since 2003, 22 unaccompanied minors from third countries have been returned, in all cases to their families.

[94] See http://tracing.rodekruis.be/. The IOM is also used to assist in tracing particular yin the countries of origin.
[95] See http://childcenter.info/contactpoints/index.html.

Several organisations in **Germany** can be used in establishing the whereabouts of the parents or other family members of an unaccompanied minor. These include the tracing service of the Red Cross, the *German Association for Public and Private Welfare* or the Regional Office of the UNHCR.

Comprehensive background checks and family assessments are recommended as best practice in **Ireland** when investigating familial relationships. Regarding the possible return of an unaccompanied minor, between 2002 and 2008, some 126 cases have been referred to the IOM in Ireland with family tracing and assessment undertaken for all of them. Sub-Saharan African countries have accounted for almost half of all referrals. Difficulties in verifying family information as provided by the unaccompanied minor is cited as the most common reason for low numbers of reuniting the minor with their family in the country of origin.

The *Committee for Foreign Minors* in **Italy** has concluded agreements with (inter)national humanitarian organisations or associations (e.g. International Social Service, Italian Red Cross, IOM) for the implementation of programs which aim at tracking down the unaccompanied minor's family in their country of origin. This search, carried out in the best interest of the minor, must be entirely confidential, in order to protect the safety of the minor who applied for international protection, and, if possible, the minor is reunited with their family through projects of assisted return, including accompanying the minor to the country of origin, family reunification and gradual reintegration.

If the identity of an unaccompanied minor in **Latvia** is unknown, the *State Border Guard* aims to establish the country of citizenship or residence and, in co-operation with the *Consular Department*, clarifies their identity. If the identity is known, then the *Office of Citizenship and Migration Affairs* informs the *Consular Department* who, in turn, contacts the diplomatic or consular representation of the country of origin, as well as corresponding competent institutions or NGOs that monitor compliance of rights of children, and implements other necessary activities to return the minor.

Immigration Liaison Officers and the Ministry of Foreign Affairs in the **Netherlands** may fulfil the function of searching for family in the country of origin in the context of seeking the return of the unaccompanied minor. The Red Cross and the UNHCR, however, have declared

that they are not prepared to trace relatives on the instruction of the Dutch government without the request and co-operation to this end from the unaccompanied minor.

Unaccompanied minors often remain in **Poland**, since in many cases it is impossible to reliably examine whether the minor would be provided with the custody of the parents or other adults or shelter institutions, in line with the standards set out by the *Convention on the Rights of the Child*. As of May 2009, only one unaccompanied minor has used the assisted return programme to go back to Chechnya, but only after the IOM contacted the family, and once it was confirmed that the return to the country of origin was in the best interests of the child.

Family tracing in the **Slovak Republic** is undertaken as part of the interviewing of an unaccompanied minor in the asylum process. The *Body of Socio-Legal Protection of Children and Social Guardianship* participates in the process of seeking parents or other members of the family of an unaccompanied minor with the goal of reuniting them. If it is ascertained that the unaccompanied minor has family in another EU Member State, then reunification according to the terms of the *Dublin Regulation* is performed.

Family tracing in **Spain** is based upon the principle that all minors, independent of their nationality or origin, should be integrated within their family and/or social surroundings as long as it does not contradict their best interests. Difficulties have been experienced regarding the analysis of personal, family and social circumstances of the minor in their country of origin. Bilateral Agreements, such as the 2003 Agreement with Morocco, provide support to the establishment of Child Protection entities, especially in the regions from which minors migrate. This could facilitate family tracing, owing to the creation of tighter links between Spain and these third countries.

In **Sweden**, the *Swedish Migration Board* must endeavour, to the extent possible and without delay, to trace an unaccompanied minor's parents or some other person responsible for their guardianship. Family Tracing is a high priority. If the investigation and assessment of a minor's personal grounds for asylum conclude that there is no risk for persecution or other need for protection, the main approach is to reunite the minor with their parents in the country of origin as soon as possible.

6.8 Family Reunification[96]

The reunification of third-country national parents or recognised guardians residing outside the EU with an unaccompanied minor residing in an EU Member State is addressed in this section. In order to verify a family relationship, DNA analysis is most often used, also to resolve any family disputes which occur.

Three situations for family reunification exist in **Austria** dependent on whether it is an unaccompanied minor who (i) holds a residence permit for humanitarian purposes, which is regulated by the *Settlement and Residence Act* but is limited only to the nuclear family (spouse and minor children, but not the parents); (ii) is in the asylum procedure, in which case reunification with parents is possible and this scenario also encompasses reunification with family members in other EU Member States according to the *Dublin Regulation*; and (iii) has refugee or subsidiary protection status, in which case the general rules of the *Asylum Act* apply, since there is no distinction made between family reunification of unaccompanied minors or of adults. If family relations are disputed, the *Aliens' Law* provides for the possibility to carry out DNA analysis. Such a test can only be carried out on a voluntary basis and in case of a positive outcome the costs can be reimbursed by the Asylum Authorities.

Family reunification with an unaccompanied minor already in **Belgium** is not possible in principle. However, family members can make a special request at the Belgian diplomatic or consular post or to the Minister for Asylum and Migration Policy to grant authorisation. An exception applies only if the unaccompanied minor has been recognised as a refugee (in accordance with the Geneva Convention), and then only for the parents. Since this legal provision was only established in 2007, the number of cases is rare (around 7 cases in total), although it has been noticed that sometimes the parents of the recognised refugee bring along their other children (i.e. their brothers and sisters), which was not the intention. It can happen that parents stayed (illegally) and had their child present themselves as an unaccompanied minor in order for them to benefit from this more favourable status. Also in this case, the parents might then 'suddenly' appear. In order to reunite the unaccompanied minor with their family, the parental link will have to be established by the *Guardianship Service*.

[96] Further details on the policy and practice with regard to Family Reunification, particularly within the context of Council Directive 2003/86/EC may be found from the EMN's study on this topic available from http://emn.sarenet.es/Downloads/prepareShowFiles.do;?directoryID=105.

As a part of the clearing procedure in **Germany**, an attempt is made to determine whether the family members or other (possible) legal guardians of an unaccompanied are present inside Germany or another Member State. If family members are residing in Germany, then the authorities must make it possible for the minor to establish contact with them, if the minor desires to do so. Likewise, when obtaining clarification concerning the possibility of a family reunification outside Germany, the question of the ultimate destination country of the minor is the key issue and a minor is given the opportunity to establish contact with any family members who may be living in another Dublin Convention state (EU Member States, along with Norway, Iceland and Switzerland). Under certain circumstances, there is the possibility of an unaccompanied minor being followed from a third country by family members, who must then be granted a residence permit irrespective of their material conditions. This is only possible, however, under the condition that the unaccompanied minor is in possession of a residence permit or a settlement permit, either as a person entitled to asylum or by reason of their status as refugee. Since, however, possession of an exceptional leave to remain (*Duldung*) does not entitle the unaccompanied minor to be followed by members of their family, the number of parents or other relatives coming to Germany under these conditions is very low. In 2007, no more than nine unaccompanied minors were followed by a parent.

In 2008, 46% of unaccompanied minors referred to the *HSE Dublin Social Work Team for Separated Children* in **Ireland** were subsequently reunited with family members in Ireland. In general, and in cases where alleged family members are presented, upon referral of the unaccompanied minor, to the HSE, the social work team undertakes a series of checks to verify the relationship of the minor to the alleged family members. DNA testing of the minor and family member is used routinely in Dublin (although not in all parts of the country), but this is not the only grounds for reunification. Interviews and documents, such as birth certificates and photographs, plus crosschecks with records where asylum applicants are asked to list their children and/or family members upon completion of their initial questionnaire may also be used. The follow-up and monitoring of minors reunited with family members and/or guardians in this way is a controversial issue as social workers often do not have the resources to conduct follow-up on such cases.

The right to family reunification and the principle of family unity in **Sweden** form the basis of legislation facilitating the reunification of an unaccompanied minor with their parents. Proving the applicant's identity is one of the prerequisites for upholding the principle of

keeping families together and for granting residence permits for family reunification. In cases involving residence permits on the grounds of family ties, the applicant and the family tie are given the opportunity to have DNA analysis performed to verify the purported biological kinship, if the rest of the kinship investigation does not suffice to allow a residence permit to be granted. This does not apply if the purported kinship does not exist. The *Migration Board* decides whether DNA analysis must be performed in a family reunification case, the costs for which are normally covered by the State. In some cases, the *Migration Board* may reimburse costs for DNA analysis performed at the initiative of the applicant. The analysis is performed by the *National Board of Forensic Medicine*, which is empowered to issue detailed regulations on aspects including sampling procedures and analysis.

6.9 Healthcare

The provision of healthcare to unaccompanied minors, including emergency but also other treatments, is outlined by **Austria**, **Belgium**, **Estonia**, **Finland**, **Germany**, **Hungary**, **Italy**, **Lithuania**, **Netherlands**, **Poland**, **Slovak Republic**, **Slovenia**, **Spain**, **Sweden** and the **United Kingdom**. For all Member States, an unaccompanied minor receives at least basic medical care, according to their needs, normally provided as part of the provision of accommodation (see Table 2). For some Member States, illustrated below, physiological assessments and care also form an important part of the healthcare provided.

The provision of healthcare for unaccompanied minors within the framework of the basic welfare system in **Austria** goes beyond those for adults and comprises also of social and psychological support when needed. Moreover, the *Basic Welfare Agreement* explicitly stipulates that "*such persons shall be assisted by initial clarification and stabilisation measures whose purpose should be to strengthen their emotional state and create a basis of trust*."[97] Access to psychological care and its quality depend on each accommodation facility, whilst those unaccompanied minors who do not fall under the basic welfare system only have access to emergency healthcare.

All unaccompanied minors who stay in a reception centres in **Belgium** have access to medical care, with costs covered by the centre. Under certain conditions, they have the right to medical insurance and can register with a health insurance provider. During the initial stages

[97] Art. 7 (1) Basic Welfare Agreement.

of their reception, a social worker at the *Observation and Orientation Centres (OOCs)* draws up a medical, social and psychological report with the aim of orienting the unaccompanied minor towards an appropriate second stage, including for treatment. The most appropriate help will be sought depending on the specific situation of the unaccompanied minor and there are a range of possibilities: therapy by means of discussion, medication, consultation with a psychiatrist/psychologist, foster family, or psychiatric treatment. There has been, however, some criticism about the psychological care refugees receive, in particular for refugees requiring mental health services, since this is often limited. Emotional support and/or adequate treatment for psychological and/or psychiatric problems are thus very scarce and high levels of emotional and behavioural problems are reported in the centres where unaccompanied minors stay.

All persons under 19 years of age in **Estonia** are entitled to healthcare as for insured persons, in accordance with the *Health Insurance Act*, and the procedures for medical care are regulated in the case of asylum applications. As part of the procedure, an official may, if necessary, arrange for health checks and questions on the health of the unaccompanied minor to become part of the application in order to determine any medical needs as soon as possible. Furthermore, the *Illuka Reception Centre for Asylum Seekers* has the obligation to organise emergency care and health checks for applicants.

A joint project of the association *All Our Children* and the *Federation of Special Welfare Organisations (EHJÄ ry)*[98] was launched in **Finland** in April 2008 for the purpose of developing psychosocial assessment for use in the reception of unaccompanied minors seeking asylum. The objective of the three-year project is to chart the experiences relating to their reception and to gather and train a network of experts to carry out a comprehensive assessment of the psychosocial situation of the unaccompanied minors. The *Finnish Immigration Service* is involved in the steering group for the project, its objective being to assess the functionality of the operating model created during the project and its integration into the existing system for the reception of unaccompanied minors seeking asylum.

Social benefits and care available to third-country nationals in **Germany** are, as a matter of principle, dependent on their legal status. Irrespective of age, asylum applicants and third-

[98] Further details of these two organisations are available from http://www.yhteisetlapsemme.fi and http://www.ehja.fi/ respectively.

country nationals who are under an obligation to leave the country are entitled to primary health care in accordance with the *Asylum Seekers Benefits Act*. This includes urgent medical and dental care, plus medication and services necessary for recovery. For unaccompanied minors, however, there can be a departure from this Act. On the basis of the minors' individual needs, they can have access to a larger range of assistance and care. Any person entitled to asylum, or who has been recognised as a refugee, receives identical treatment to that accorded to nationals.

Whilst unaccompanied minors in **Greece** do enjoy the right to health services free of charge, it is reported that a major difficulty they encounter is the lack of interpreters for communicating with health personnel. In most cases, interpretation is carried out by friends or compatriots of the minor who speak Greek or English, although without having any special training. Another reported difficulty, in relation to stress management problems, emotional disorders (depression) and other mental health problems, is the lack of special psychological care and specialised treatment entrusted to local mental health care services which, however, are not often specialised on juvenile or intercultural issues.

Unaccompanied minors applying for asylum in **Hungary** are considered to require special treatment and are entitled to health services, rehabilitation, psychological and psychotherapeutic support. Healthcare is usually provided by the Reception Centre. This is considered to be sufficient, although it has been reported that medical services and hospitals cannot be easily accessed, mainly due to language, like for **Greece** above, and cultural barriers. Co-operation has been developed with the *Cordelia Foundation,* which provides psychological support and psychotherapy for traumatised unaccompanied minors.

An unaccompanied minor in **Italy** who holds a residence permit is also registered in the National Health Service (SSN) and is entitled to all medical care granted by the national healthcare system – like for any national. However, those unaccompanied minors without a residence permit cannot be registered in the SSN and may only benefit from ambulatory and day hospital care, if urgent or continuative, as well as preventive medicine programmes as decreed by Art. 35, par. 3 of the *Consolidation Act on Immigration 286/98*.

An amendment to the *Law on Health Insurance* in **Lithuania**, added the possibility for unaccompanied minors to benefit from state-financed health care, regardless of their legal

(residence) status. Unaccompanied minors, as well as other individuals residing at the *Refugees' Reception Centre,* receive medical services at the centre's medical facility, which employs a general practitioner and a nurse. This centre has signed an agreement on provision of healthcare services with the company "Achema" outpatient clinic; and in the case of serious health problems, unaccompanied minors are sent for consultations to Kaunas city clinics. In practice, there were cases of unaccompanied minors with specific and serious health problems, for example, suffering from diabetes. Unaccompanied minors are also provided with psychological assistance at the centre, if suggested by their guardians together with other social workers from the centre. The types of treatment provided include consultations, relaxation, autogenic training (music, art therapy, film screenings) and group sessions with other minors.

Unaccompanied minors in the **Netherlands** are entitled to the same medical facilities, as for other asylum applicants and the *Central Agency for the Reception of Asylum Seekers (COA)*,[99] has medical services (nurses and a general practitioner) at each location, including for those who require special treatment (e.g. post-traumatic stress syndrome (PTSS), schizophrenia, psychoses, anxiety disorders and depression). If an unaccompanied minor has psychiatric problems accompanied by inappropriate behaviour, which causes a nuisance to the co-occupants and employees at the reception centre, then they would be placed in a special reception centre. Elsewhere, support for the provision of healthcare is available from Pharos,[100] which is a national expert centre that specialises in areas including health promotion of aliens, in particular with respect to refugees, and the accessibility to, alignment with and quality of care for these groups.

Unaccompanied minors applying for asylum in **Slovenia** are entitled to medical care under the same criteria as nationals (the costs are covered by the *Ministry of Health*) and to the supplementary health insurance in cases when they do not possess any means of survival or their living is not provided for in some other way (the costs of this insurance are covered by the *Ministry of Interior*). If an unaccompanied minor has special needs (e.g. if they are victims of any forms of abuse, neglect, exploitation, torture, cruel, inhumane and demeaning behaviour or have been affected by military conflicts), they are again granted access to adequate healthcare under the same criteria as nationals. The existence of special needs is

[99] See http://www.coa.nl.
[100] See www.pharos.nl.

established by a commission on grounds of the person's application or upon a proposal of the staff employed in organisations active in the field of integration assistance.

In **Spain**, all non-nationals under legal age are guaranteed universal healthcare, irrespective of the administrative (residence) status. This means that, for unaccompanied minors, the fact that they do not initially have a residence permit is not, in any way, an obstacle to access healthcare or to educational or training activities and programmes which may, in the opinion of the *Child Protection Services*, be to their benefit.

Similarly, unaccompanied minors who claim asylum in **Sweden** have the right to health, dental and medical services on the same terms as other minors. The County Councils are responsible for providing any physical and psychological care that may be needed, with their costs covered by the State.

If an unaccompanied minor applying for asylum is assessed as needing psychological or medical care in the **United Kingdom**, then the *Local Authority Children's Services* will provide them with access to a number of services. All such unaccompanied minors are entitled to *National Health Service (NHS)* care in the same way as other 'looked after' minors. These include trained and independent interpreters, counselling, health services (medical and sexual) and mental health services. The *Medical Foundation for the Care of Victims of Torture*[101] and *The Helen Bamber Foundation*[102] are two independent voluntary organisations who provide care for children who have been child soldiers or victims of torture.

6.10 Education

The provision of education to unaccompanied minors is most often within the context of integration measures and is provided in all the Member States for minors, in many cases irrespective of their residence status. The education of unaccompanied minors most often starts with language lessons in order to learn the language of the Member State.

Education is mandatory for every child resident in **Austria** aged between 6 and 15 years, including unaccompanied minors. However, in practice, unaccompanied minors applying for asylum are enrolled in schools only after residing for six months. Minors who do not speak

[101] See http://www.torturecare.org.uk/.
[102] See http://www.helenbamber.org/.

German have to be enrolled in the first year as "extraordinary pupils," which means that they have to attend all compulsory classes, but they are not graded on their performance. It has been reported that some schools are often overburdened with the reception of unaccompanied minors. There are also mentoring programmes which *inter alia* assist an unaccompanied minor in practical matters like attending school.

Each child in **Belgium**, including unaccompanied minors, is entitled to receive an education and go to school, with compulsory education from 6 to 18 years of age. For unaccompanied minors, compulsory education starts from the 60th day after registration in the "Foreigner's Register." Even if the child is illegally resident, they have the right to education. Specially adapted educational programmes exist for those unaccompanied minors who have already had some level of education in the past, as well as for those who are illiterate. As education is the responsibility of the Communities (Flemish, French and German), there are some differences in their approach.

Education is provided to unaccompanied minors in the **Czech Republic** at a *Facility for Foreign Children* where the foreign nationals mainly have an opportunity to study the Czech language (typically 20 hours per week) and educate themselves. In this facility, the educating pedagogues also pay attention, within the educational care, to preparing the children for their departure from the facility when they reach legal age and in the future it is intended to intensify co-operation with teachers of the schools attended by the minors – i.e. preparation for the lessons, school attendance, etc. One of these facilities, known as the "Permon," has a special primary school for foreigners and a practical vocational two-year secondary school. The children attend the school, which is appropriate to their age, their level of education reached previously in their country of origin and the degree of the language barrier. Both schools, in spite of implementing a complete educational programmes, mainly concentrate on teaching the Czech language, the knowledge of which, to the extent necessary for understanding the curriculum, is understood as the main criterion in the process of integrating into Czech society. The students who have met this condition can then study in the normal network of schools according to their interests, possibilities and personal abilities. In the specialised children's home, the minors remain until they reach legal age or, if they study, until they reach the age of 26 years. A total of 45 children were registered at the "Permon" in August 2008, with 37 minors physically present and 8 runaways.

During the period June 2006 to December 2007, a project[103] in **Estonia** for minors in the asylum process was carried out, the overall goal of which was to increase the competence of local education officials and the administrations of educational institutions and improvement of the preparedness to integrate the children of refugees and people with international immunity into the national education system. Activities included undertaking a survey of the readiness of the local administration and the possibilities to integrate such minors, as well as to develop a training programme and instruction materials for local education officials and the administrations of educational institutions.

Children under 16 years of age attend school in **Finland** and, in most cases, municipalities first organise initial teaching (for 500 hours) where the focus is on learning Finnish. After this, minors are transferred to regular classes according to their age. For unaccompanied minors who are over the age for compulsory education, an attempt is made to find study opportunities from upper secondary schools offering evening classes or classes for adults, as well as the previously described Folk High Schools (Section 6.3). Minors who have been granted a residence permit will continue their studies within the national school system in accordance with their age and abilities.

All of the Federal Länder of **Germany** grant unaccompanied minors the right to attend school as a matter of principle, although there is not a nationally standardised operating procedure for education. In thirteen Länder, school attendance is compulsory, whilst in another three (Hessen, Baden-Württemberg and Saarland) underage asylum applicants and underage children of asylum applicants are exempted from obligatory school attendance, because it is considered that there is no "customary place of residence" in the sense of their respective education legislation. Only in cases where there is an obligation to attend school, however, will the costs of taking public transport to go to/from school, of books and of other educational materials be borne out of public funds as a matter of principle. In the case of 16 and 17-year-old unaccompanied minors, it is common for no education to take place even in the other Federal States. Exceptions are, however, possible if the supporting organisations responsible for youth welfare reach appropriate agreements with the respective public school administrations, and if there are free places available in educational establishments. Also,

[103] "Promotion of the Integration of the Children of Refugees and Persons with International Immunity into the Education System of Estonia" coordinated by the Integration Foundation and co-financed by the European Refugee Fund and the Ministry of Education and Science. See http://www.meis.ee/about-the-foundation.

there is, in general, no furtherance of language skills going beyond compulsory school attendance, although this does nonetheless take place in some residential projects for unaccompanied minors. Furthermore, many public schools have particular classes for pupils with language deficits.

Although education is compulsory for all children, including unaccompanied minors, in **Hungary**, in practice the education system is not prepared to receive and integrate large numbers of children with a migrant background. Currently there are only two institutions which provide education for unaccompanied minor asylum applicants and refugees. Given the experience that unaccompanied minors usually do not have any evidence of school attendance from their country of origin, several aspects have to be taken into account for the provision of the most appropriate schooling. The level and the transferability of their knowledge has to be assessed and special school programs have been developed. With the support of individual study plans and based on their individual strengths and abilities, unaccompanied minors have the possibility to attend and take exams which, if passed, would permit their entry into secondary education.

The regulation regarding foreign minors' right to education in **Italy** provides for compulsory school attendance until the age of 16 years, and permits both holders and non-holders of a residence permit to enrol in schools at any level. It has been observed, however, that this regulation is not always homogeneously enforced, and that some schools and professional institutes do not accept minors without a residence permit.

A possibility to receive education is provided in **Latvia** to unaccompanied minors applying for asylum. Access to the education is ensured within three months of an application being submitted. Elementary and secondary school education is provided and the possibility exists for secondary school education to continue even after an unaccompanied minor attains the age of 18 years. The basic education provided includes Latvian language lessons.

Unaccompanied minors accommodated at the *Refugees' Reception Centre* in **Lithuania** attend the general education school in Rukla. Before enrolling, a commission of teachers evaluates the unaccompanied minor's abilities, assesses the level of education and determines in which grade they should be enrolled. At school, they follow special adaptation and Lithuanian language programs. Guardians closely co-operate with teachers and an

unaccompanied minor receives additional assistance from the Centre's social workers, who also monitor their progress and, if needed, provide additional instruction in language. Since 2007, there are now intensive Lithuanian language courses, corresponding to European Council language proficiency descriptions of A1 level, and Lithuanian social study courses organised in the Centre according to programs approved by the *Ministry of Education and Science*. The Centre can additionally conduct several instructional and assistance providing programs specifically designed for unaccompanied minors, such as psycho-correctional work, for those suffering from behavioural disorders and study difficulties; a Minors' self-support group, where they are taught skills to discover self-support resources and to find socially acceptable uses for these resources; plus ethical education, occupational instruction and a Lithuanian social studies course.

All children up to the age of 16 years in **Malta**, including unaccompanied minors, are entitled to free education and are legally obliged to attend. However in practice, hardly any of the unaccompanied minors residing in the residential facilities attend school. There seems to be huge obstacles to integrate unaccompanied minors into mainstream schools. In September 2009, an Advisory Group was set up by the (now former) *Ministry of Education, Culture and Sport*. The main objective of this group was to ensure educational entitlement for both unaccompanied minors and for children of asylum applicants, that was equitably accessible and that the minors were provided with the support necessary in order for them to benefit from such entitlement. For the academic year 2009/2010, a peripatetic teacher was employed by the Education Division, specifically to work on the schooling of unaccompanied minors. The activities undertaken by this teacher (which included preparing both the unaccompanied minors themselves and the schools), together with the work of the Advisory Group, proved fruitful as all unaccompanied minors of compulsory school age in March 2010 (a total of 10) were actually attending secondary school. Elsewhere, in the residential homes, the co-ordinators try their best to encourage the minors to continue their education and seek out various opportunities for them to attend specific courses and vocational training. For those over 16 years, they liaise with various institutions such as *ETC (Employment and Training Corporation)* and *Adult Education Division*. Occasionally, unaccompanied minors are provided with opportunities to participate in activities carried out by volunteers or through specific projects, such as computer courses, English lessons and drama workshops. These opportunities, apart from having an educational value also offer a chance for social integration.

Unaccompanied minors who stay in the **Netherlands** are obliged to attend school, irrespective of their residence status. Unaccompanied minors may participate immediately in regular education where, in practice, the focus is initially on learning the Dutch language after which they will be able to participate in the regular course programmes. Responsibility for the provision of education falls within the municipality where the unaccompanied minor stays, as well as the schools in that municipality, and they are free to decide on how the educational reception of unaccompanied minors is organised. This means that the manner in which this is implemented may differ by municipality.

School education is obligatory from the age of 6 years in **Poland** and again is independent of legal (residence) status. Following an amendment in March 2009 to the *Act on the Educational System and Other Acts*, the range of non-nationals entitled to free education in secondary school has been extended to now include also non-nationals from outside the EU. This amendment resulted from demands put forward by NGOs and custodians of unaccompanied minors. Education in secondary schools is now offered to: persons with refugee status; persons possessing a permit for tolerated stay; and persons with subsidiary protection status. There is also possibility of education through scholarships granted by, for example, a headmaster. Despite these possibilities, in practice there are problems resulting from the lack of command of the Polish language or poor knowledge among those unaccompanied minors who have resided for a short period of time. Furthermore, in the case of refugees who as a result of war conflicts, have not attended school, their inadequate educational attainment in relation to their age causes difficulties in qualifying them for appropriate grades at the school. Those unaccompanied minors who have no command of the Polish language or whose command is inadequate for attending school, have access to additional free language courses organised at municipal level. In practice, however, very few are interested in such education. One initiative to address this, which started in January 2010, is that schools may now employ teacher assistants with command of the (non-Polish) language of the unaccompanied minor attending classes.

Two different itineraries of education and training exist in **Spain** for unaccompanied minors, depending on their age. Those under the age of 16 years participate in compulsory schooling, although, for a variety of reasons, such as their late incorporation during the academic year, lack of knowledge of the language or deficient schooling in their country of origin, they can

have difficulties in adapting. Those over 16 years old enrol on training courses, such as gardening, carpentry, welding, masonry, mechanics, hotel and restaurant services and computing, which aids their incorporation into the labour market, since they carry out internships at businesses.

Unaccompanied minors applying for asylum in the **United Kingdom** between the ages of 5 and 16 years have the same rights as all other children to compulsory education. Those aged from 16- to 18-years are eligible for the *Learning and Skills Council (LSC)* funding in respect of their attendance in a further education (FE) course. However for minors in this age range, the local authority social services pathway planning process is obliged to take immigration status into account, as many of these young people will not, in the end, be granted leave to remain. This may affect the kinds of courses available, as it may not be reasonable for authorities to support a young person to enter into programmes of education that would extend beyond the period they will be permitted to remain.

6.11 Employment

The circumstances by which an unaccompanied minor may take up employment has been outlined by **Austria**, **Belgium**, **Germany**, **Greece**, **Malta**, **Netherlands** and **Spain**.

Generally in **Austria**, legislation – which also applies to unaccompanied minors – prohibits employment of children below 15 years of age, or until the ending of obligatory education. Employment or self-employment in the first three months after lodging an application for asylum is not permitted. Afterwards, an unaccompanied minor may have access to the labour market, but only if he/she has obtained a work permit. These work permits are subject to quota restrictions and a labour market test. Beyond this, asylum applicants can carry out auxiliary activities (cleaning, work in the kitchen, etc) in their accommodation facilities, remuneration for which depends on the management of the accommodation facility (in Burgenland, for example, €3-5 per hour is paid). If refugee or subsidiary protection status is granted, then there is free access to the labour market, subject to, for example, the minimum age requirement being met.

An unaccompanied minor in **Belgium** can only have a student work contract and only if specific conditions have been met, like the necessity to be in possession of a residence document. In the case of student labour outside the official school holiday periods, a type C

work permit will have to be applied for, which limits the number of hours worked to 20 hours a week and the job has to be compatible with their studies. The unaccompanied minor also has to be at least 15 years of age and be in full-time education or have finished the curriculum.

Persons entitled to asylum and refugees in **Germany** have free access to the labour market and to training places by virtue of their right to residence status. As "lateral entrants," however, their, in many cases, lower educational achievement often leaves them at a disadvantage when competing with others for a training position. If a young refugee is only in possession of an exceptional leave to remain or a temporary residence permit, it is difficult for them to find a training place in a company, because companies that take on trainees will conclude, from the time limit on the subject's residence papers, that the young person's presence is not guaranteed for the full duration of the training. As a result, the access to professional training is often reduced to taking part in vocational courses or vocational tuition at school.

Unaccompanied minors are allowed to work in **Greece** under the conditions given in *Directive 94/33/EC* on the protection of young people at work (as transposed into national legislation) and with the consent of their legal guardian. Studies of the situation by the UNHCR[104] and Human Rights Watch[105] outlined the problems and difficulties unaccompanied minors are facing concerning their access to employment and the need to prepare them for an independent and self-sustained life through a paid job that will provide them with financial autonomy. Also identified was the refusal of those acting as provisional guardians to consent to their legal employment, which tended to push the minors towards working illegally (i.e. without the relevant authorisation of the competent authorities).

Unaccompanied minors aged 16 years and above have legal access to the labour market in **Malta**. They are assisted by the residential workers to fill in all necessary applications to obtain a work permit and are financially supported to pay the fees needed. The *State Employment and Training Job Centres* further send their vacancy lists directly to the residential homes. Workers in the residential homes often call the employers themselves and

[104] UNHCR, *Unaccompanied Minors Asylum Seekers in Greece* (April 2008), available from http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=48abd557d&page=search.
[105] Human Rights Watch, *Left to Survive, Systematic Failure to Protect Unaccompanied Minor Children in Greece* (December 2008), available from http://www.hrw.org/en/reports/2008/12/22/left-survive.

act as reference persons for the minors, though the illegality of work under the age of 16 years is made clear.

The possibility of access to the labour market for unaccompanied minors in the **Netherlands** is dependent on the type and status of their residence permit procedure. An unaccompanied minor whose asylum procedure is still pending and in respect of whose application a decision has not yet been made, is permitted to perform work for 24 weeks a year. If no adequate reception is available in the country of origin and an unaccompanied minor is permitted to stay on this basis, then an unaccompanied minor is permitted to perform work subject to the condition that the employer has a work permit. This permit may be issued to the employer if the unaccompanied minor does not perform work for more than 24 weeks (maximum) within a term of 52 weeks. If asylum has been granted, then they are permitted to perform work without the restrictions mentioned above, although the *Dutch Factories Act (Arbeidswet)* applies, but only from the age of 14 years onwards. It is currently not known how many unaccompanied minors perform work or in which sector.

Likewise in **Spain**, minors who have attained the age of 16 years may seek employment, as long as they have the permission and authorisation of their parents or guardians, unless they live independently of these. However, the national employment situation must first be considered unless, in accordance with Article 40 of the *Organic Law on Foreigners*, it is for an unaccompanied minor with a residence permit under the guardianship of the *Child Protection Services,* and it is for activities which may favour their social integration, once it has been confirmed that return to the family or to the country of origin is impossible.

7. DETENTION

Article 37 of the *International Convention on the Rights of the Child* provides that no minor shall be deprived of their liberty unlawfully or arbitrarily. This Convention also requires that the detention of a minor shall be used only as a measure of last resort and for the shortest appropriate period of time. In this Section, the circumstances by which an unaccompanied minor may be placed in detention (i.e. restriction on freedom of movement through confinement that is ordered by an administrative or judicial authority(ies) in order that another procedure may be implemented) are outlined, including, when reported, within the context of the "Return Directive" 2008/115/EC (Section 7.2). Note that this is different from the more

normal accommodation provided (Section 6.3). In the case of **Hungary** and the **Slovak Republic** their national legislation forbids the detention of minors under any circumstances.

7.1 National circumstances for using Detention

The *Aliens' Police Act* in **Austria** does not prohibit the *detention pending deportation* of (unaccompanied) minors as such; however, it should only be imposed as a "last resort." This has also been set out in two circular letters of the Federal Ministry of the Interior, in which detention has been explicitly prohibited with regard to minors under the age of 14 years. For minors under the age of 16, the *Detention Regulation* allows detention only if special premises are provided where appropriate care can be guaranteed, in accordance also with the *Return Directive* (Section 3.2.6). In general, detention is within the premises of the police and currently there are no separate facilities or detention centres for detention pending deportation, although this is planned.

An unaccompanied minor arriving at the border of **Belgium** without fulfilling all the entry conditions, used to be detained in a closed centre. However, since May 2007, this is normally no longer permitted and instead they are held in the *Observation and Orientation Centres (OOCs)*. The exception is if there is a doubt about their age, in which case they can be held for three working days (this can exceptionally be extended for another three working days) in a detention centre and will be subject to a test aimed at age determination (Section 6.5). Once minority has been established, they would then be transferred to the OOC.

The detention of minors in the **Czech Republic** is carried out only in absolutely necessary cases. These cases are now rare and some of the previous cases were in connection to reasonable doubts about the age of the person declaring themselves to be a minor. Some non-profit organisations believe that a controversial practice is the fact that, although the *Alien Act* provides that every non-national older than 15 years, who is capable of expressing his or her will and of acting independently, has legal capacity, this capability is not verified by the police in practice and only the age criterion is automatically taken into account. This is problematic at the practical level even for police officers, because other Acts governing this area (the *Asylum Act*, the *Act on Social-legal Protection of Children*) deem those aged 15-18 years to be unaccompanied minors, while the *Alien Act* deems them to have legal capacity – because of this, a different approach to these minors is derived with respect to guardianship,

etc. An *Inter-agency Methodology on Trafficking in Children* has been established which should help to raise the awareness of police officers in this matter.

According to Section 122 of the *Aliens Act* in **Finland**, a representative of the social welfare authorities shall be heard before a person under 18 years of age is placed in detention. In practice, a representative of the Police or Border Guard who proposes that a minor be placed in detention, contacts the social welfare services to inform them of this fact and requests their opinion in the matter. This opinion is entered in the detention decision and the representative of the minor must be informed of the grounds for detention. A minor may be placed in police detention facilities only if their guardian or other adult member of their family is also held in detention. In practice, minors are not placed in police detention facilities unless absolutely necessary. In fact, the placement in detention of minors has been marginal, with seven unaccompanied minors placed in detention in 2008. These minors were, on average, 16.7 years of age and spent 9.3 days at the Metsälä detention centre. During detention, particular attention is paid, for example, to the minor's safety and to the child's opportunity to spend as much time as possible with an instructor speaking their native language. Unaccompanied minors are also normally given their own room at the detention centre, unless several minors have been placed in detention at the same time. The detention centre will obtain a representative for the minor and will also bear interpretation costs.

As mentioned also in Section 5.1, an unaccompanied minor arriving at a maritime, air or rail border in **France** may be detained there in a waiting area if they are not authorised to enter, or they request admission as an asylum applicant. An *Ad Hoc Administrator (AHA)* is then appointed. During detention in the waiting area, minors are kept in reserved areas away from adults and, if they are below the age of 13 years, they are placed in hotel rooms under supervision.

Between the Federal Government of **Germany** and the Länder, there is mutual agreement that there are specific groups of non-nationals who should not, as a rule, be taken into detention for the purpose of removal. These include *inter alia* minors under the age of 16 years. In the case of an unaccompanied minor, the *Foreigners' Authority* must make contact with the responsible *Youth Welfare Office* in order to regulate their accommodation until removal. Within this framework, however, there are differences in practice between the Länder. For example, in Baden-Württemberg and Bremen, detentions for the purpose of removal may not,

in general, be ordered in respect of minors, unless – in the case of Bremen – this is in conjunction with imprisonment as a result of delinquency. On the other hand, in Hesse, North Rhine-Westphalia and Thuringia, detention for the purpose of removal is permissible in the case of minors aged 16 and over. With regard to the numbers of unaccompanied minors detained, whilst data are not complete, available data indicates that a total of 377 unaccompanied minors were detained for the purpose of removal in the various Federal States during the years 2005 to 2007. Concerning the gender and the age of these minors, only the Federal State of Berlin has such data. In 2007 one 12-year-old, one 14-year-old, six 15-year-olds, twelve 16-year-olds and 44 17-year-olds were taken into detention. From 2005 to 2007, the duration of the detention was between 0 and 167 days, with shorter detention periods clearly predominant: 99 out of a total of 155 unaccompanied minors were taken into detention pending removal for one day or a few hours. With regard to providing alternatives, a regional migration organisation under the umbrella of the Charitable Organisation of the Protestant Church (*Diakonieverein Migration*) has been offering a project called "advice for refugees in the Schleswig-Holstein detention institution for the purpose of removal" (*Flüchtlingsberatung in der Abschiebungshafteinrichtung Schleswig-Holstein)*, which enjoys support from EU funds. The objective of this project is to reduce the length of stay in detention of detainees by means of a close interlocking of all authorities involved in the decision to detain and the execution of such detention. Furthermore, detainees are given procedural consultation, psycho-social and social support.

According to the Hellenic Police of **Greece**, unaccompanied minors that are held in detention centres for illegally resident migrants are separated from adults until the completion of the procedure of the age assessment, the determination of their country of origin and recognition of their status as an asylum applicant. However there has been criticism of the procedures and conditions of detention from the Council of Europe, Human Rights Watch and the United Nations.[106] For example, the UN Special Rapporteur on the sale of children, child prostitution and child pornography expressed concern that after being released from detention, minors are not referred to any protective institution and therefore the whereabouts of most of them are unknown. In October 2005, the *Children's Ombudsman*[107] called on the government to adopt

[106] Council of Europe visit August/September 2005, see http://www.cpt.coe.int/documents/grc/2006-41-inf-eng.pdf; Human Rights Watch, December 2008, see http://www.hrw.org/en/reports/2008/12/22/left-survive; United Nations, Commission on Human Rights, Rights of the Child, Special Rapporteur on the Sale of Children, child prostitution and child pornography, Mission to Greece (8-15.11.2005).

[107] Report available from http://www.synigoros.gr/reports/SR-detention-expulsionOCTOBER-2005.pdf.

new rules for the protection of unaccompanied minors, such as the elimination of the measures of administrative detention and removal of the minors; replacement of the detention and of removal by measures of protective custody; systematic registration and identification of unaccompanied minors; improvement of the measures implementing the representation and guardianship of unaccompanied minors; exploring the prospects of reintegration of the unaccompanied minors into the society of their country of origin in case of return; and ensuring legal residence in Greece if the return is not appropriate and in conformity with the best interests of the child. The government responded by promising to submit its proposals for the representation and guardianship of unaccompanied minors to a special legislative committee to be founded for the examination of these issues.

Minors should not be detained in **Ireland** unless they commit a crime. NGOs have reported cases in which minors have arrived without the necessary documentation and were detained as adults, sometimes for several weeks, without an age assessment interview or having been age assessed as being over 18 years. In response to this, the *Garda National Immigration Bureau (GNIB)* argue that, in some cases, the person initially claims to be an adult or is holding documents identifying them as an adult and this may be why they do not receive an age assessment interview until they identify themselves as a minor.

In principle, a minor who is a not a national of **Latvia** can be detained in a facility for illegally resident migrants (but kept apart from adults) if they have reached the age of at least 14 years; they too are illegally residing; their identity has not been determined; and/or there is a reason to believe that they might hamper return to their country of origin. In practice, however, there have not been any such cases to date.

Legislation in **Lithuania** permits the detention of unaccompanied minors who apply for asylum only in extreme cases, defining also that more lenient, alternative detention measures can be invoked. This occurs when identity is established, there is no threat to national security and public order and the unaccompanied minor assists the court in establishing their legal status. Other circumstances may also be taken into account. One of the alternative detention measures invoked is to entrust the unaccompanied minor to the care of a social agency. Conversely, the detention of unaccompanied minors not applying for asylum is a common practice and they are most often detained, normally for up to 48 hours, at the *Foreigners' Registration Centre*, which is not considered to be suitable for unaccompanied minors. In

2006, the *Institution of Child Rights Ombudsman* emphasised the necessity to ensure application of the principle of the best interest and guarantees from unwarranted detention, requesting that the responsible authorities (*Migration Department* and *State Border Guard*) consider alternatives to detention. According to the limited data available, up to the end of 2008, there were 13 unaccompanied minors detained in Lithuania for various wrongdoings or even crimes; they were later returned to their countries of origin.

After first identification and referral, the policy in **Malta** is to transfer an unaccompanied minor to one of the closed (detention) centres, where they are put together in a zone for vulnerable people, assisted by the *AWAS Closed Centre Programme* and various NGOs. This zone also includes adult women and families, as well as adults (both male and female) who are vulnerable because of age, disability or mental health issues. Migrants who manifestly appear to be well under the age of 16 years are temporarily accommodated in the families' zone until such time they are released under a Care Order. Other migrants who are recognised as vulnerable because of age or physical/mental disability are accommodated according to gender and released on the recommendation of Health or Welfare authorities.

Detention is a subject that receives much attention in the **Netherlands** from various national and international institutions, supervisory bodies, and scientists. For the purpose of return, the authorities have the power to impose freedom-restricting measures or to order detention. In respect of unaccompanied minors, the instrument of detention is only used if a lighter measure is not sufficient. Detention may thus only be enforced if this is required in the interest of public order and national security or in the event that there are indications to suspect that an unaccompanied minor will evade removal. In 2008, approximately 160 unaccompanied minors were placed in detention. The majority of these were boys in the age category of 16-17 years of age. The nationalities that were detained most frequently in 2008 were Afghan, Iraqi, and Moroccan, and there was a reasonably large group with unknown nationalities. Currently, the policy on the detention of unaccompanied minors is being reconsidered, the aim being to significantly reduce the number that are detained.

A minor detained while committing a punishable act (e.g. regular street trade controls, begging, or a suspicion of prostitution) in **Poland** is directed to the Police minors detention centre. A stay in this kind of institution is short-term as a rule – lasting from several hours to

several days, and then usually an arbitrary absconding occurs. According to the available data, of the 163 known minors, some 55 minors were placed in such a centre during 2008.

Since unaccompanied minors in **Portugal** can not be subject to forced removal procedures because of their illegal entry or residence only, they may not be detained. Detention would only be possible in such cases if the minor is aged 16 years or over and has committed a criminal offence. Given this circumstance, legislation has provided for a special regime which allows the regularisation of the situation of such unaccompanied minors or, if considered in the best interests of the minor, to promote assisted return.

The *Aliens Act* in **Sweden** stipulates special conditions for the detention of minors, permitting this only in extremely restrictive circumstances. A minor may be detained if non-admission is likely with immediate enforcement, or the case involves enforcement of such a non-admission order and there is an apparent risk that the minor will otherwise abscond and thus jeopardise imminent enforcement that should not be delayed and a decision on supervision is insufficient. Minors may thus be detained in preparation for enforcement of a non-admission or expulsion order (not requiring immediate enforcement), or expulsion due to crime in cases where supervision has proved inadequate in connection with earlier attempts to enforce the order. A minor may be detained for a maximum of 72 hours, which may be extended by an additional 72 hours if special grounds exist. A minor may not be separated from a legal guardian and if a minor has no legal guardian, the minor may be detained only if special reasons exist. Detention of minors is extremely unusual in Sweden, with, in 2008, fifteen cases recorded for minors with families and no cases of unaccompanied minors.

In the **United Kingdom**, detention for immigration purposes, including also of unaccompanied minors, is covered by the *Immigration Act 1971* and the *Nationality, Immigration and Asylum Act 2002*. However, as a matter of policy, unaccompanied minors may only be detained in the following limited circumstances: very exceptionally, overnight, whilst alternative arrangements are made for their care and safety; on the day of a planned removal, to facilitate their safe escort between their residence and the port of removal; and in criminal cases, in exceptional circumstances, where it can be shown that the individual poses a serious risk to the public and a decision to remove the individual has been taken.

7.2 Detention within the context of Article 17 of Directive 2008/115/EC ("Return Directive")

The Return Directive (see also Section 3.2.6) was adopted on 16th December 2008 and participating Member States (i.e. not Denmark, **Ireland** and the **United Kingdom** as they did not participate in its adoption) are required to transpose the provisions by 24th December 2010, except for Article 13(4), which must be transposed one year later. In fact, most Member States consider that their national legislation already meets the requirements of transposition, current exceptions being **Austria**, where amendments to the *Aliens' Police Act* are planned, and **Greece**, where it is reported that this is not the case.

In 2008, the *Minister for Asylum and Migration Policy* in **Belgium** declared that illegally resident families with children would not be sent to administrative detention centres (the so-called "closed centres") from October 2008 onwards. Inspired by coaching projects from **Sweden** and Australia, a pilot project started, involving the coaching of such families. Families staying illegally in Belgium, who had been arrested by the police and were awaiting removal, have been accommodated in private single-family houses or apartments (of which there are 7 in total managed by the *Immigration Department*), without any restrictions on their freedom of movement. However, they have been assisted by a "return coach" whose role is to help them to understand the nature of their current situation, and why they should co-operate with their identification and their (forced or voluntary) return. The coaches work together with the IOM with regard to possible assisted voluntary returns.

The requirements of Article 17 of this Directive are considered as being met in the **Czech Republic** by the present practice. Nevertheless, some non-profit organisations criticise the situation of the minors older than 15 years who, according to the current legislation, can be detained by the Alien Police on similar conditions like adult persons, which can be construed as a breach of Article 17, specifically the provision that states that detention should only be carried out in absolutely necessary cases. Nevertheless, relevant experts of the *Ministry of the Interior* consider that these are rare cases at present, and moreover, these are cases where there are reasonable doubts about age. In 2008, a total of 8 persons were detained; in the first quarter of the year 2009, one person was detained. In one case, it was clearly documented that the detained person was really a person of legal age who only posed as a minor for the purpose of gaining benefits.

Whilst **Estonia** has no practical experience in the removal of minors, the provisions regarding detention are already considered to be met in theory. Procedures require that a minor awaiting removal shall be accommodated separately from adults, except if this is evidently in conflict with the best interests of the minor. If possible, family members shall be accommodated together and unaccompanied minors with siblings are not separated from one another. The procedures also require that any subsequent removal of a minor is organised in co-ordination with the competent state agencies of the country of return and, if necessary, of the country of transit and that protection of the rights of the minor are ensured.

An unaccompanied minor subject to return procedures in **Poland** staying in a guarded centre is placed in a separate part of such a centre, so that no contact with adults staying at the facility is possible. However, detention is not permissible if the removal has been ordered following a refusal to grant refugee status.

In accordance with the Return Directive, an unaccompanied minor in **Sweden** would only be detained as a last resort. If they are held in detention, then they must be afforded opportunity to participate in recreational activities appropriate to their age and maturity. All detention centres shall have a number of officials specially responsible for matters related to children. Minors are accommodated in detention centres with access to staff and premises that provide for the needs of minors in their age group. The best interests of the minor are always paramount and the right to medical care is always met, based on the individual's needs.

Whilst the **United Kingdom** is not a party to the Return Directive, it is the *United Kingdom Border Agency's* position that current practices on detaining illegally staying unaccompanied minors with a view to their removal are broadly in line with this Directive. As outlined in the previous section, unaccompanied minors are not detained except in the most exceptional circumstances, for the shortest time possible, in order to ensure their safety.

8. RETURN PRACTICE, INCLUDING REINTEGRATION

The practice of returning unaccompanied minors is addressed by the Member States, although in reality the numbers returned are generally low, particularly when compared to, for example, the known number of those applying for asylum. In most cases, return is not forced, but implemented via programmes such as those conducted by the IOM, which often includes an element of reintegration and monitoring for a period of time (typically up to 12 months) after the return. Some Member States (e.g. **Estonia**, **Latvia**, **Malta**) have so far not, for various reasons, (forcibly) returned any unaccompanied minors. All Member States outlined how their current practices for the return of illegally-staying unaccompanied minors compare with that provisioned in Articles 10 and 14(1) of the Return directive (Section 3.2.6). The following examples indicate the situation and type of practices currently followed.

For assisted voluntary return from **Austria**, a high degree of sensitivity and specialisation is requested in the direct assistance of victims of trafficking and reintegration measures are seen as obligatory in order to assure the needs of the victims and to avoiding re-trafficking. If suspicions of the minor being a victim of human trafficking exist, the return procedure for the respective minor can be refused by the IOM. In other cases it can be decided that the unaccompanied minor is not returned to the parents, but is entrusted to a youth welfare institution in the country of origin, again provided that it is in the best interest of the child. Reporting on the reintegration of a child is carried out for 6 months upon return to their country of origin. Forced return from Austria is reported as not being a common phenomenon.

Belgium does not undertake the forced return of unaccompanied minors, even when a removal order has been issued, instead using return programmes organised by the IOM.[108] Whilst removals at the border (principally Brussels airport) may occur, these are very rare. Of the 35 unaccompanied minors intercepted at the airport in 2008, only two were eventually returned. For those unaccompanied minors already in Belgium, the *Immigration Department* can decide to issue a suspended removal order, which requires also the guardian to accompany the minor back to the country of return. The return also includes an element of reintegration, including financial support up to €1 400 and the signing of a reintegration agreement between the IOM, guardian and minor. The IOM will monitor and evaluate the return process over a period of one year. In 2008, a total of 22 unaccompanied minors were

[108] Specifically their REAB programme, see www.belgium.iom.int/REAB/.

returned to a third country. Dublin transfers also occur, primarily to **Greece**. If an unaccompanied minor decides, for whatever reason, not to return, then this can result in a loss of legal status, with no perspective. This situation, combined with the additional aspect that a minor might also turn 18 years in the meantime, is a sensitive issue and might contribute to the disappearance of the minor.

The return of minors from the **Czech Republic** also takes place on a voluntary basis, although in reality most unaccompanied minors who have applied for asylum are not returned because they do not show any interest in this. Subsequently, there are no special governmental mechanisms which focus on reintegration in the country of return. For those unaccompanied minors who did not apply for asylum, however, their country of origin is informed and measures taken to trace and return them to their parents or to the institution responsible for their care. During the return, the minor is accompanied either by their parent or by a person appointed by a court, but if the minor is collected by their parents in the Czech Republic, their return is not monitored. In such cases, there is a risk of (repeated) abuse of trafficking or for perpetration of crimes. Most frequent returns are of EU unaccompanied minors, particularly to Bulgaria and the **Slovak Republic**, and typically 10% of the total apprehended by the authorities (8 in 2007).

The return of unaccompanied minors from **France** is organised by the *Office Français de l'Immigration et de l'Intégration (OFII).* In the absence of any bilateral agreements, the return is subject to advance contact with the families in the country of origin; to the agreement of the families with regard to the return of the minor; or, where there is no family in the country of origin, to the agreement of a specifically authorised body. Since 2003, the OFII has returned 22 unaccompanied minors (4 in 2008) with the average cost of a return, including travel costs for the minor and the accompanying OFII agent, amounting to €1 245.

The experience in **Germany** with assisted voluntary return of unaccompanied minors is that it happens only rarely – for instance, if the circumstances in the minor's country of origin change in such a way that the accommodation of, and care for, the minor within his or her own family or circle of relatives or in a suitable institution – all of which had hitherto been impossible – once again becomes possible. Another reason for a return can be homesickness, and, in the case of minors who are under an obligation to leave the country, it is possible that the avoidance of forced return is also a factor. In the framework of a government programme

for voluntary return, a total of 137 unaccompanied minors either voluntarily returned to their countries of origin or migrated further to other countries during the years 2005 to 2008. As far as forced returns are concerned, these are only carried out by the *Foreigners' Authorities* in cases in which it has been shown that an unaccompanied minor will receive the appropriate care upon arrival in the country of return. This means that it must be ensured that the minor is picked up by family members at the airport upon arrival or accompanied to their future care institution. In many cases, however, the *Foreigners' Authorities* will defer the enforcement of the removal until the unaccompanied minor concerned has reached the age of majority. Return programmes tailored especially to suit unaccompanied minors do not exist in Germany.

Legislation (Law 3386/2005) in **Greece** does not prohibit explicitly the return of unaccompanied minors to their country of origin and/or to the country they transited before their illegal entry, unless the *Juvenile Court* has ordered rehabilitation measures against them (i.e. when they have committed criminal acts). According to the Hellenic Police, in 2008, 1 153 minors were removed to their country of origin, mainly to Turkey, Egypt and Albania, in this context. As a result of the previously described difficulties with reception arrangements (e.g. lack of interpreters), it is stated that unaccompanied minors tend to be returned without any safeguards (i.e. reception conditions, family background and living conditions in the country of return) and / or any reassurances concerning re-integration. The situation is different if it is for the return of an unaccompanied minor who was a victim of trafficking. In such cases, the IOM conducts a special assessment of the family environment of the person concerned in the country or return. In the period 2002 – 2007, eight unaccompanied minors (one to Bulgaria, one to Ukraine, three to Romania, two to **Lithuania** and one to Moldova) were returned via the IOM. For unaccompanied minors who are not victims of trafficking, responsibility for their return lies with the *Hellenic Police* with, in cases when their parents or legal guardians are not located in Greece, *Interpol* informed in order to try to trace the parents in their countries of origin.

The only experience in **Hungary** is the return of unaccompanied minors apprehended whilst trying to illegally enter, mainly at the Serbian-Hungarian border. The minors are then placed under interim care. In practice – according to the readmission agreements in force – the minors spend only a few days in a foster home of the guardianship authority before they are

sent back to their country of origin (usually Serbia), when their nationality can be clearly identified. If not, which is rare, they stay until their nationality can be determined.

In **Ireland**, although there is no explicit legislative prohibition, the operational practice is not to forcibly return unaccompanied minors. Decisions regarding assisted voluntary return are taken by the *Health Service Executive (HSE)* in conjunction with the unaccompanied minor. To date, assisted voluntary return has primarily taken place in conjunction with the IOM through its *Voluntary Assisted Return and Reintegration Programme (VARRP)*. Between 2002 and 2008, some 21 unaccompanied minor returns to eight countries and mainly to a family environment, have taken place this way. Currently, €600 is provided per minor, which can go towards paying for school fees or for starting a small business. Overall monitoring of the unaccompanied minor after return to their country of origin is conducted usually by either a local social work agency or the IOM and may be in the form of weekly or monthly telephone conversations with the minor and their family over a specified period of time, plus home visits. The *Garda National Immigration Bureau (GNIB)* has publically stated that the removal of a suspected victim of trafficking will not take place, although transfers of unaccompanied minors under the Dublin Regulation do take place. Between 2004 and 2008, three unaccompanied minors were transferred to another Member State in this way.

For those unaccompanied minors who are known to the authorities in **Italy**, it is the *Committee for Foreign Minors* which ensures that the non-refoulement principle, as provided by national legislation, is followed (except for reasons of public order and State security, in which case the *Juvenile Court* will enforce the expulsion). The Committee is also responsible for ensuring that the accommodation of unaccompanied minors is not limited to mere maintenance or hospitality, but must include the necessary care, education, training, sport facilities, albeit with ultimately an assisted voluntary return. However, there is a concern that even these returns may give rise to problematic issues owing to difficulties to monitor the reintegration process, even if several projects and programs involving Italian Municipalities (especially big cities) and various countries of origin are ongoing.

An unaccompanied minor is returned from **Lithuania** only in the case when, in the country of return, they will be properly cared for, taking into account their needs, age and level of independence. An attempt is first made to trace the parents and, if this is not possible, the Migration Department of the country of return or other responsible institution is contacted

with the request to confirm that the unaccompanied minor is a national of that State and that they would accept the minor. Most often, the return is implemented by the *State Border Guard Service*, the *Refugees' Reception Centre* or territorial police units. There are no other procedures employed to verify whether the unaccompanied minor is properly cared for in the country of return. There is an indication that sometimes the return procedure is initiated immediately after the unaccompanied minor turns 18 years old, because the procedure is then easier to implement. Over the period 2002 to 2008, a total of nine unaccompanied minors were returned.

Whilst existing and offered to them, the experience in **Malta** is that no unaccompanied minors have returned to their country of origin via programmes run by the IOM in co-operation also with many other stakeholders (*SOS Malta* and *Med-Europe*, the *Ministry for Justice and Home Affairs*, the *Police*, the *Armed Forces*, A*WAS*, *Suret il-Bniedem*, the *Emigrants' Commission*, the *Refugee Commissioner* and the *Employment and Training Corporation*). In part this is because of the stringent measures in place, which makes the whole process complex, particularly to countries where administrative capacity is limited, and because the unaccompanied minors, more than 60% of whom come from Somali, have no interest in returning to their country of origin. An alternative approach being taken by the authorities is to promote Resettlement Programmes to other countries, where an unaccompanied minor has relatives. In 2007, five applications for unaccompanied minors were lodged with the UNHCR for resettlement in the USA, following a Best Interest Determination by the staff working at the centres.

Unaccompanied minors who do not qualify for a residence permit are obliged to leave the **Netherlands** and the now former *State Secretary for Justice* has stated that it is important that they return before reaching the age of 18 years. Given this, the *Repatriation and Departure Service (DT&V)* intensifies its return guidance to unaccompanied minors who do not have the prospect of a residence permit (after coming of age) and gives them priority in the performance of removals. In each individual case, an assessment is made regarding the extent to which the unaccompanied minor is sufficiently independent, whether or not there is adequate reception available in the country of origin, and how and under which conditions the unaccompanied minor may return. The DT&V, Nidos, and the *Central Agency for the Reception of Asylum Seekers (COA)* hold intensive consultations before deciding on the return

of unaccompanied minors. A study[109] on the motivations for return, as stated by unaccompanied minors themselves, revealed that a relatively large percentage of girls were negative about return, whilst nearly all mothers with babies were also negative about staying illegally, sometimes exactly because of the fact of having a child. The presence of family in the country of origin appears to be related to an ambivalent or positive attitude towards return. Those who have fled a violent situation or who have serious psychological complaints do not always have a negative attitude towards return. Over the period 2003 to 2006, a total of 375 unaccompanied minors have been returned, 145 via forced return. In 2008, the total was approximately 45. Assisted voluntary return is implemented primarily by the IOM through its *Return and Emigration of Aliens from the Netherlands (REAN)* scheme. They also, in June 2008, launched a specific project[110] initially intended for the provision of assistance in reintegration to 75 unaccompanied minors, which has proven successful with 68 persons having left and at least 34 persons indicating they wish to do so via this scheme. Another activity concerns Angolan or Congolese unaccompanied minors in respect of whom contact with the family has not yet been established and who consequently do not have a place to go to after their return. They may be placed in a shelter in Mulemba in Luanda (Angola) or the Don Bosco Shelter in Kinshasa (Democratic Republic of the Congo), financed by the Dutch government. Reception in those shelters is at least guaranteed until the unaccompanied minor reaches the age of 18 years. There is also a large group of unaccompanied minors who have left for an unknown destination. These may be victims of trafficking and smuggling; or those who seek refuge outside the reception centre; or because of their fear of (forced) removal.

Unaccompanied minors often remain in **Poland**, with, as of May 2009, only one minor returned to Chechnya via the IOM programme in co-operation with the *Border Guard* and the *Office for Foreigners*. In conformity with the practice of the IOM in implementing its return programmes, before the return occurred, the IOM contacted the family, and once it was confirmed that the return to the country of origin really was in the best of the child's interest, safe transportation was organised. The opinion is that more unaccompanied minors are expected to take advantage of such an opportunity in the future.

[109] Ministry of Justice, Research and Documentation Centre (WODC) (2006) *Unaccompanied underage asylum seekers: repatriation and departure for unknown destinations (Terugkeer en MOB bij Alleenstaande Minderjarige Vreemdelingen*), summary available at http://english.wodc.nl/images/ca06-5_summary_tcm45-59205.pdf.

[110] *Counselling, Return and Reintegration of (ex) Unaccompanied Minor Migrants*, see http://www.iom-nederland.nl/english/Programmes/Return/Return_projects/Additional_support_for_former_unaccompanied_minors.

The return of unaccompanied minors from **Portugal** is possible only if there is agreement from the country of return that they will guarantee adequate shelter and assistance. In practice, return is executed only if there is a guarantee of assistance, on arrival, by an adult who is responsible for the minor, primarily one of the parents. If the minor is very young and/or not sufficiently mature, it is possible that they are accompanied by an official during the journey. In 2006 and 2007, three and two unaccompanied minors respectively, returned to their country of origin using the programme of the IOM. There were no returns in 2008.

The *Body of Socio-Legal Protection of Children and Social Guardianship* in the **Slovak Republic** plays a role in the return of an unaccompanied minor. The duties undertaken include informing the embassy of the country, in which the unaccompanied minor originated, of measures undertaken for their return or relocation. Such a demand is only made if the return is to a safe country and an international convention (e.g. the *Convention on and the Civil Aspects of International Child Abduction*) is not applicable to the unaccompanied minor. It is also possible that an approach is made to the embassy of a country where the unaccompanied minor has no usual residence, but in which their parent(s) or a person who provides for the personal care of the minor resides. The Embassy of the Slovak Republic in the (third) country concerned or the *Ministry of Foreign Affairs* is usually notified of the return and provided with information about the person to whom the child is entrusted, if such a person is known. Returns of unaccompanied minors are also undertaken by the IOM Office in the Slovak Republic via their *Assisted Voluntary Return Programme* in co-operation with IOM Offices in the country of origin of the minors.

The legal framework on return in **Slovenia** does not foresee any specific measures for the removal of unaccompanied minors. There are essentially only two criteria for deciding whether an unaccompanied minor will be returned to their country of origin or another country willing to accept them. Specifically, that suitable reception is provided and that international and/or European norms are respected. However, legislation does not currently include any detailed procedure for establishing whether a suitable reception will in effect take place, unless it concerns an unaccompanied minor who has had their asylum application refused. In order to meet the relevant provisions of the Return directive, transposition into national legalisation will require a change to this current situation. Over the period 2004 to 2008, a total of 163 unaccompanied minors were returned, including 19 in 2008.

The return of unaccompanied minors from **Spain** is based upon the principle that all minors, whatever their nationality, should be integrated within their family and/or social surroundings, as long as it does not contradict their best interests. In accordance with legislation, the procedure for return consists of four phases: Initiation, Instruction, Finalisation and then Execution. A number of problems and difficulties were identified by different professionals who work with the minors on a daily basis and from reports of several of the Regional and Children's Policies on reception, return and integration arrangements for unaccompanied minors. These were problems with regard to analysing the personal, family and social circumstances of an unaccompanied minor in their country of origin; the absence of a uniform practice in the return procedures; difficulties that the unaccompanied minors have in accessing legal advice independent of the entity which assumes their guardianship, despite the conflict of interests which may exist between the relevant entities with regard to return procedures; and difficulties of the Government Delegations and Sub-Delegations in carrying out the return of unaccompanied minors, to the point that in practice returns have been paralysed since 2008. To illustrate this latter point, over the period 2004 to 2008, a total of 292 unaccompanied minors were actually returned (out of 4 410 with return decisions), including 6 (out of 379 with return decisions) in 2008. As also mentioned in Section 3.2.7, bilateral agreements specifically covering the return and reintegration of unaccompanied minors have been signed with Morocco and Senegal. An innovative aspect of these agreements, further outlined in Section 10.11, is that they approach international co-operation in depth, from all perspectives, such as the prevention of migration, including supporting child protection entities in these countries; the protection of minors in Spain; as well as the return and reintegration in their countries of origin.

Since 1993, the **United Kingdom** has made a commitment that no unaccompanied minor would be removed unless it was satisfied that adequate reception and care arrangements were in place in the country to which the minor was to be returned. Usually, this condition was deemed to have been met if the return was to parents. In practice, however, it is reported that it is very difficult to arrange return because the parents often refuse to co-operate. Consequently, consideration is currently being given to alternative ways of returning unaccompanied minors that are consistent with the overall policy. Return is primarily executed through two programmes run by the IOM, namely the *Voluntary Assisted Return and Reintegration Programme (VARRP*), for anyone who has been in the asylum system at

any stage, applying, appealing, refused, and the *Assisted Voluntary Return for Irregular Migrants scheme (AVRIM)*, for illegally staying migrants who have overstayed their visas or have been smuggled or trafficked into the country.[111] An unaccompanied minor can apply to be included in either the VARRP or AVRIM programmes, according to their situation. For either programme, reintegration assistance is provided, primarily for education and training. For the AVRIM scheme, this assistance may also include, in cases when no family can be traced and subject to a review by the minor's social/care worker, placing the minor in a foster family or children's home.

9. STATISTICS ON UNACCOMPANIED MINORS

An overview of the available statistics, as presented in the National Reports, is given in this section. To the extent possible, these are presented in a comparable manner.

9.1 Asylum Applications

As also highlighted elsewhere in this report, the most reliable and comparable data are with respect to asylum applications. However, even with these data, certain caveats must be borne in mind when making comparisons with other Member States. In this respect, the Notes accompany the following Tables must be consulted, also to find details of any additional data that could be provided by a Member State.

Table 4 provides a summary of the number of applications submitted by unaccompanied minors for the period 2004 to 2008 inclusive. For some Member States, data for 2009 has also been provided, but 2008 is the last year in which data for almost all Member States can be presented. One striking observation from these data is of the situation in **Italy** and **Spain** who, although receiving large numbers of unaccompanied minors (see Section 2), find that a very low percentage actually apply for asylum.

In 2008, there were a total of 11 292 applications for asylum lodged by unaccompanied minors in the 22 Member States participating in this study. The distribution of applications across Member States varied widely, from less than 10 to up to 4 285. A comparison with 2007 is possible for 21 of these Member States (exception is **Italy** for which no data are

[111] These programmes are co-financed by the UK Border Agency and the European Refugee Fund (ERF). Further details available from http://www.iomlondon.org/projects.htm.

available in 2007), when there were 8 050 such applications. For these 21 Member States, there was then an increase of +33% in 2008 (with 10 719 applications) compared to 2007.[112]

It is also possible to present data disaggregated according to the country of nationality of the unaccompanied minor (Table 5) and also by their sex and age (Table 6). These data are presented for the year 2008, but equally exist, though not for all Member States, for previous years down to 2004. With regard to Table 5, note that the numbers of unaccompanied minors for a particular third country should not be interpreted as representing the total for the 22 Member States participating in this study, since numbers below five are not given and generally only the main ten nationalities in each Member State are presented, except for **Austria**, **France**, **Germany** and **Sweden** where additional nationalities of significant number and/or common nationalities in other Member States have been added. One can at least gain an indication of the wide range of third countries from which the unaccompanied minors originate, with overall nationals of Afghanistan, Iraq and some African states prominent.

Concerning the data presented in Table 6, it is observed that, owing to the different practices in the Member States with regard to recording the age of an unaccompanied minor, it is not possible to provide a direct comparison by age, although some comparison by age range is possible. Generally the most significant group were males aged 16 years or above.

[112] According to Eurostat, for 2009, a total of 10 960 unaccompanied minors lodged applications in 22 Member States (this time excluding Czech Republic, Denmark, France, Poland, Romania). This represented an increase of +1 265 from 2008 (or +135) when there were 9 695 asylum applications by unaccompanied minors in the same 22 Member States.

Table 4: Overview of Asylum Applications submitted by unaccompanied minors over the period 2004 to 2008

	2004	2005	2006	2007	2008	TOTAL	% Change from 2007	Main Nationality(ies) in 2008
Austria	914	790	414	516	697	3 331	35%	Afghanistan
Belgium	675	654	491	555	470	2 845	-15%	Afghanistan, Guinea
Czech Republic	95	106	92	56	36	385	-36%	Turkey
Estonia	0	0	0	0	0	0	N/A	N/A
Finland	140	220	112	90	706	1 268	684%	Iraq, Somali, Afghanistan
France	1 221	735	571	459	410	3 396	-11%	DR Congo, Angola, Russia
Germany	636	331	186	180	763	2 096	324%	Iraq
Greece	N/A	N/A	N/A	44	296	N/A	573%	Pakistan, Afghanistan
Hungary	59	41	61	66	176	403	167%	Somalia, Pakistan
Ireland	128	131	131	94	98	582	4%	Nigeria
Italy	N/A	N/A	N/A	N/A	573	N/A	N/A	Afghanistan
Latvia	0	3	0	0	4	7	N/A	Afghanistan
Lithuania	11	9	3	5	1	29	-80%	Russia (Chechnya)
Malta	Unknown	23	58	84	56	N/A	-33%	Somalia
Netherlands	594	515	410	433	726	2 678	68%	Somalia, Iraq
Poland	230	278	282	356	376	1 522	6%	Russia
Portugal	N/A	N/A	3	7	6	N/A	%	West Africa
Slovak Republic	196	101	138	157	72	664	-54%	Moldova
Slovenia	104	82	21	27	18	252	-33%	Afghanistan
Spain	N/A	N/A	N/A	12	13	N/A	8%	Morocco, West Africa
Sweden	388	398	820	1 264	1 510	4 380	19%	Iraq, Afghanistan, Somalia
United Kingdom	2 990	2 965	3 450	3 645	4 285	17 335	18%	Afghanistan
TOTAL (EU-22)	N/A	N/A	N/A	N/A	11 292	N/A		

Notes:

1. N/A means that data are Not Available.

2. For **Austria**, these data do not include applications made by persons from whom majority age was then determined. In 2004 there were 298 such applications, in 2005 there were 91, in 2006 there were 74, in 2007 there were 66 and in 2008 there were 104.

3. For **Belgium**, these data include applications made by persons for whom majority age was then determined. In 2004 there were 93 such applications, in 2005 there were 169, in 2006 there were 104, in 2007 there were 120 and in 2008 there were 106. With regard to Decisions, in 2004, 71 were given refugee status, in 2005 88 were given refugee status, in 2006, 96 were given refugee status and 1 subsidiary protection, in 2007 61 were given refugee status and 12 subsidiary protection, and in 2008 114 were given refugee status and 22 subsidiary protection.

4. For **Estonia**, there has been one application by an unaccompanied minor from Armenia in 2001, plus three applications by unaccompanied minors from Afghanistan in 2009.

5. For **Finland**, data on Decisions are also available. In 2004, 112 decisions were made (66 for some form of protection, 39 rejections and 7 annulments), in 2005, 182 decisions were made (104 for some form of protection, 59 rejections and 19 annulments), in 2006, 116 decisions were made (89 for some form of protection, 23 rejections and 4 annulments), in 2007, 112 decisions were made (100 for some form of protection, 10 rejections and 2 annulments) and in 2008, 141 decisions were made (133 for some form of protection, 5 rejections and 3 annulments).

6. For **France**, data given have been provided by OFPRA (French Office for the Protection of Refugees and Stateless People). Most unaccompanied minors who are known to the authorities and who have crossed the border, submit an asylum application (more than 400 per year – 459 in 2007 and 410 in 2008 out of an estimated total annual flow of 500), with the vast majority of decisions granting the status of refugee (93% of unaccompanied minors). In 2007 and 2008, this was to nationals of the Democratic Republic of Congo (representing more than ¼ of first asylum applications, 120 in 2008) and, in 2007 and 2008, Angola representing around 10% of first asylum requests. This is then followed by Turkey, Russia, Guinea-Conakry and Sri Lanka for 4 to 8%, depending on the year.

7. For **Germany**, data on Decisions are also available. For 2004 to 2007 this is only for unaccompanied minors aged up to 15 years, whilst for 2008 this is for all unaccompanied minors. Noting this, in 2004, 690 decisions were made (78 for some form of protection, 593 rejections and 19 formally settled), in 2005, 319 decisions were made (18 for some form of protection, 225 rejections and 76 formally settled), in 2006, 157 decisions were made (21 for some form of protection, 119 rejections and 17 formally settled), in 2007, 111 decisions were made (18 for some form of protection, 80 rejections and 13 formally settled) and in 2008, 268 decisions were made (116 for some form of protection, 132 rejections and 20 formally settled).

8. For **Hungary**, the proportion of applications relative to the total number is also given, i.e. in 2004 unaccompanied minor applications constituted 3.7% of the total number of applications, in 2005 it was 2.5%; in 2006 it was 2.9%; in 2007 it was 1.4% and in 2008 it was 5.1%. Data on Decisions are also available. In 2004, 5 unaccompanied minors were given protection (3) or authorised to stay (2), in 2005, 1 unaccompanied minors was authorised to stay, in 2006, 13 unaccompanied minors were given protection (7) or authorised to stay (6), in 2007, 7 unaccompanied minors were given protection (4) or authorised to stay (3) and in 2008, 44 unaccompanied minors were given protection (41) or authorised to stay (3).

9. For **Malta**, there were significantly more claimed to be an unaccompanied minor when applying for asylum, e.g. in 2005 there were 141 such claims, in 2006 there were 219, in 2007 there were 397 and in 2008 there were 300. Following an age assessment many were deemed to be adults and thus the data presented in the Table relates to the number of persons who were eventually accepted as being minors. In terms of the proportion of accepted asylum applications as an unaccompanied minor compared to the total number of applications submitted, in 2005 this was 1.3%, in 2006 it was 3.3%, in 2007 it was 7.8% and in 2008 it was 1.3%.

10. For **Poland**, one should bear in mind that these data are not the exact number of minors from other countries staying in Poland without real guardianship. The data for the age group from 0 to 13 years also includes newborn babies – minors of the parents under the asylum procedure, born in Poland after their parents had applied for asylum (thus having proper parental custody). This results from the system adopted for the registering of such minors applying for refugee status by themselves, and not covered by the application lodged by their parents. Among the minors included in the data, there are also older minors remaining in Poland together with their relatives. Data on those granted protection and those refused protection are also available. In 2004, 91 were refused and 36 granted protection, in 2005 these figures were 66 and 19 respectively, in 2006 they were 30 and 50 respectively, in 2007 they were 42 and 33 respectively and in 2008 they were 33 and 30 respectively.

11. For **Slovenia**, data corresponds to the number of unaccompanied minors accommodated in the International Protection Status Section and Asylum Home.

12. For **Spain**, it is striking to note, like also for **Italy**, the low number of asylum applications compared to those in care.

13. For **Sweden**, data on Decisions are also available. In 2004, 489 decisions were made (177 for some form of protection or temporary residence, 312 rejections), in 2005, 370 decisions were made (165 for some form of protection or temporary residence, 205 rejections), in 2006, 368 decisions were made (257 for some form of protection or temporary residence, 111 rejections), in 2007, 1 090 decisions were made (1 006 for some form of protection or temporary residence, 84 rejections) and in 2008, 1 481 decisions were made (954 for some form of protection or temporary residence, 527 rejections).

14. For **United Kingdom**, data on where an application was submitted, as well as on Decisions are also available. For those unaccompanied minors aged 17 years or less at the time, in 2004, there were 3 055 decisions made (including 2 585 for some form of protection or temporary residence, 470 rejections), in 2005, 2 560 decisions were made (2 120 for some form of protection or temporary residence, 440 rejections), in 2006, 2 655 decisions were made (2 150 for some form of protection or temporary residence, 505 rejections), in 2007, 2 780 decisions were made (2 150 for some form of protection or temporary residence, 630 rejections) and in 2008, 2 675 decisions were made (2 090 for some form of protection or temporary residence, 585 rejections).

Table 5: Asylum Applications submitted by Unaccompanied Minors in 2008 disaggregated by their country of nationality

	Austria	Belgium	Czech Republic	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Malta	Netherlands	Poland	Portugal	Slovak Republic	Slovenia	Spain	Sweden	United Kingdom
Afghanistan	216	106			70	16	61	95	17		200				94			12	9		347	1 800
Albania																						70
Algeria	13						17				15											
Angola		17			12	45	6			<10												
Armenia						9																
Bangladesh								5			10							6				85
Belarus																5						
Bosnia-Herzegovina	6																					
Cameroon		17					7			<10												
Chad						8																
China							5								49						6	200
DR Congo		36			7	120	10			<10												
Eritrea							23			<10	49				20						32	370
Ethiopia					5	6	36															
Gambia	16						10															
Georgia	13																					
Ghana										<10	36											
Guinea	10	89			6	23	48							6	33							
India	12	13					20								14							75
Iran	5						12															390
Iraq	23	25			214		228	14		<10					184						464	485
Ivory Coast						6					20			12								
Kenya							12			<10												
Kosovo	25	18				6			27													
Mali														14								
Moldova	65																	42				
Mongolia	18																					
Morocco	18						6															
Nigeria	59					7	18	15		29	66				<10							
Pakistan	5						10	130	54													
Palestine									5													
Russia	55	27			5	26	18									358					13	
Rwanda		12				19																
Serbia	21					5			11												14	
Sierra Leone							8								15							
Somalia	53	13			359		20		39	<10	69			15	198						345	135
Sri Lanka						21	16															75
Sudan							10															
Syria							7	11														
Turkey	5		23			28	10															
Ukraine			5																			
Vietnam							68															
Total (incl. Others)	**697**	**470**	**36**	**0**	**706**	**410**	**763**	**296**	**176**	**98**	**573**	**4**	**1**	**56**	**726**	**376**	**6**	**72**	**18**	**13**	**1 510**	**4 285**

Notes:

1. Data for a specific Member State/Country of Nationality is only presented here when it is 5 or above (i.e. numbers below 5 are excluded). Generally, only the main top 10 nationalities in each Member State are presented, except for **Austria**, **France**, **Germany** and **Sweden** where additional nationalities of significant number and/or common nationalities in other Member States have been added. Where there are no data by nationality for a particular Member State this is because the data are Not Available. In which case, the cells are left blank and only the total number given.

2. For **Belgium**, these data include applications made by persons for whom majority age was then determined. In 2008 there were 106 such applications.

3. For **France**, data given have been provided by OFPRA (French Office for the Protection of Refugees and Stateless People).

4. For **Ireland**, data protection means that it is not possible to publish specific data when the number is below 10. The top five countries of origin of those granted asylum in 2008 were Somalia, Nigeria, Cameroon, Uganda and Ethiopia. For each country, the number granted asylum was <10 and the overall total was 13. With regard to those refused asylum in 2008, the top five countries of origin were Nigeria (25), DR Congo (<10), Iraq (<10), Somalia (<10), Ghana (<10), with the overall total of refusals being 82.

5. For **Italy**, a precise breakdown by country of origin is not given, but the data indicate that they are mainly coming from Afghanistan (54%), Somalia (12%), Eritrea (10%), Ivory Coast (5 %), and Ethiopia (4%).

6. For **Lithuania**, a breakdown by country of origin is given for the period 2000 to 2008. Of the 137 unaccompanied minors who applied for asylum during this period, 77 were from Russia, 23 from Afghanistan and 10 without declared citizenship.

7. For **Poland**, one should bear in mind that these data are not the exact number of minors from other countries staying in Poland without real guardianship. The data for the age group from 0 to 13 years also includes newborn babies – minors of the parents under the asylum procedure, born in Poland after their parents had applied for asylum (thus having proper parental custody). This results from the system adopted for the registering of such minors applying for refugee status by themselves, and not covered by the application lodged by their parents. Among the minors included in the data, there are also older minors remaining in Poland together with their relatives. A breakdown by nationality of those granted and those refused protection is also given. For example, in 2008, of the 30 applicants granted protection, 26 were from Russia and one each from Afghanistan, Armenia, Ethiopia and Rwanda. With regard to the 33 rejections in 2008, 27 were for nationals of Russia, 3 for Vietnam and one each for Armenia, Bangladesh and India.

8. For **Portugal**, a breakdown by nationality is not given (also for data protection reasons). Over the period 2006 to 2008, the majority of applications came from nations of the Economic Community of West African States.

9. For **Slovak Republic**, one unaccompanied minor was granted subsidiary protection in 2008 and in 2007 this type of protection was granted to two unaccompanied minors. In 2006, asylum was granted to one unaccompanied minor. There were no cases of protection being granted to unaccompanied minors in 2005 and 2004.

10. For **Slovenia**, data corresponds to the number of unaccompanied minors accommodated in the International Protection Status Section and Asylum Home.

11. For **Spain**, the breakdown by nationality for 2008 is not available. For 2007 these data do exist, with the 12 applications coming from nationals of Nigeria, Ivory Coast, DR Congo, Somalia, Morocco and Cameroon.

12. For **Sweden**, data on the nationalities of those unaccompanied minors receiving a positive decision and those being refused are also available. In 2008, for nationals of Afghanistan there were 246 positive decisions and 18 refusals, for nationals of Somalia there were 235 positive decisions and no refusals, for nationals of Iraq there were 210 positive decisions and 307 refusals, for nationals of Eritrea there were 28 positive decisions and no refusals, and for nationals of Ethiopia there were 3 positive decisions and 10 refusals.. Of positive decisions were made to stateless persons (14) and nationals of Burundi (7), Syria (4), Sierra Leone (3), Azerbaijan (3). Concerning other refusals, these were made to nationals of Russia (18), Serbia (15), Iran (12), Mongolia (10), Burundi (8) plus Stateless (10).

13. For **United Kingdom**, data on the nationalities of those unaccompanied minors receiving a positive decision and those being refused are also available. In 2008, for nationals of Afghanistan there were 1 290 decisions (1 110 for some form of protection or temporary residence, 180 rejections), for nationals of Iraq there were 390 decisions (320 for some form of protection or temporary residence, 70 rejections), for nationals of Iran there were 355 decisions (290 for some form of protection or temporary residence, 65 rejections), for nationals of Eritrea there were 310 decisions (255 for some form of protection or temporary residence, 55 rejections) and for nationals of Somalia there were 120 decisions (110 for some form of protection or temporary residence, 10 rejections). Of decisions were taken on nationals of China (150), Bangladesh (100), Sri Lanka (55), Pakistan (65) and Nigeria (60).

Table 6: Asylum Applications submitted by Unaccompanied Minors in 2008 disaggregated by their Sex and Age (Range)

	Sex		Age (in years)								
	Male	Female	up to 10	11	12	13	14	15	16	17	Total
Austria	597	100	61				160		476		**697**
Belgium	214	150	53				55		256		**364**
Czech Republic	28	8	10				2	4	8	12	**36**
Estonia	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	**0**
Finland	576	130	9	6		44		341		229	**706**
France	257	153	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	**410**
Germany	570	193	87				237		439		**763**
Greece	N/A	N/A	59					237			**296**
Hungary	160	16	1				175				**176**
Ireland	51	47	15				<10	15	29	33	**98**
Italy	520	53	60				45		468		**573**
Latvia	3	1	-	-	-	-	2	-	2	-	**4**
Lithuania	0	1									**1**
Malta	54	2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	**56**
Netherlands	582	144	31				46	97	224	220	**726**
Poland	200	176	290				11	18	23	32	**376**
Portugal	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	**6**
Slovak Republic	71	1	3				20		49		**72**
Slovenia	18	0	0				6		12		**18**
Spain	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	**13**
Sweden	1 201	309	115			488			907		**1 510**
United Kingdom	3 755	530	380				1 035		2 015		**4 285**

Notes:

1. N/A means that data are Not Available.

2. For **Austria**, age data are disaggregated according to 0 - 13 years, 14 -15 years and 16 - 17 years.

3. For **Belgium**, age data are disaggregated according to 0 - 13 years, 14 - 15 years, 16 - 17 years. These data do not include the 106 persons who submitted an application as an unaccompanied minor but were then determined to be an adult.

4. For **Czech Republic**, age data are disaggregated according to 0 - 13 years, 14, 15, 16 and 17 years.

5. For **Finland**, age data are disaggregated according to 0 - 10 years, 11 - 12 years, 13 - 14 years, 15 - 16 years and 17 years. In 2008, there were at least 57 persons whose age was unknown.

6. For **France**, data given have been provided by OFPRA (French Office for the Protection of Refugees and Stateless People).

7. For **Germany**, age data are disaggregated according to 0 - 13 years, 14 - 15 years and 16 - 17 years. In 2008, of the 87 applications submitted by unaccompanied minors aged 13 years or less, 55 were male and 32 were female. Of the 237 applications submitted by unaccompanied minors aged 14 - 15 years, 177 were male and 60 were female.

8. For **Greece**, age data are disaggregated according to 0 - 5 years, 6 -14 years and 15 - 17 years. A breakdown of the data by sex is not available.

9. For **Hungary**, age data are disaggregated according to 0 - 13 years and 14 - 17 years.

10. For **Ireland**, age data are disaggregated according to 0 - 13 years, 14, 15, 16 and 17 years. Data protection means that it is not possible to publish specific data when the number is below 10.

11. For **Italy**, age data are disaggregated according to 0 - 13 years, 14 -15 years and 16 - 17 years.

12. For **Lithuania**, a breakdown by sex and age is given for the period 2000 to 2008. Of the 137 unaccompanied minors who applied for asylum during this period, 83 were male and 54 were female. 11 were aged 0-12 years, 36 were aged 13 - 15 years and 90 were aged 16 - 17 years. The unaccompanied minor applicant in 2008 was a teenager.

13. For **Netherlands**, age data are disaggregated according to 0 - 13 years, 14, 15, 16 and 17 years. In addition to the above data, there were a further 108 whose age was unknown.

14. For **Poland**, one should bear in mind that these data are not the exact number of minors from other countries staying in Poland without real guardianship. The data for the age group from 0 to 13 years also includes newborn babies – minors of the parents under the asylum procedure, born in Poland after their parents had applied for asylum (thus having proper parental custody). This results from the system adopted for the registering of such minors applying for refugee status by themselves, and not covered by the application lodged by their parents. Among the minors included in the data, there are also older minors remaining in Poland together with their relatives. This might explain the significant difference from most other Member States in the large proportion of unaccompanied minors below 13 years of age. A breakdown by sex and age of those granted and those refused protection is also given. For example, in 2008, the 30 applicants granted protection were to 15 male and 15 females, with 29 aged 13 years or less. With regard to the 33 rejections in 2008, 21 were male and 12 female, with 21 aged 13 years or less. Age data are disaggregated according to 0 - 13 years, 14, 15, 16 and 17 years.

15. For **Portugal**, a breakdown by sex and age is not given (also for data protection reasons). Over the period 2006 to 2008, the majority of applications came from males aged 16 - 17 years.

16. For **Slovak Republic**, age data are disaggregated according to 0 - 13 years, 14 - 15 years and 16 - 17 years.

17. For **Slovenia**, data corresponds to the number of unaccompanied minors accommodated in the International Protection Status Section and Asylum Home. Age data are disaggregated according to 0 - 13 years, 14 - 15 years and 16 - 17 years.

18. For **Sweden**, age data are disaggregated according to 0 - 6 years, 7 - 12 years, 13 - 15 years and 16 - 17 years.

19. For **United Kingdom**, there were 5 cases where sex was not recorded and 850 cases where the age is unknown. Age data are disaggregated according to 0 - 13 years, 14 - 15 years and 16 - 17 years.

9.2 Unaccompanied Minors in Care

Data on those unaccompanied minors in the care of the relevant authorities are also available for most Member States. In the following Table 7, an overview of the number of unaccompanied minors in care for the period 2004 to 2008 is presented. This is followed by Table 8 which presents an overview for 2008 disaggregated according to nationality of the unaccompanied minor and Table 9 which disaggregates by Sex and Age. Once again reference must be made to the notes accompanying the table to further clarify the data being presented.

Table 7: Unaccompanied Minors in the care of public authorities over the period 2004 to 2008

	2004	2005	2006	2007	2008
Austria	N/A	N/A	N/A	N/A	N/A
Belgium		2 040	1 702	1 558	1 878
Czech Republic	79	116	140	112	100
Estonia	0	0	0	0	0
Finland	140	220	112	90	706
France	N/A	N/A	N/A	N/A	N/A
Germany	919	602	612	888	1 099
Greece	N/A	N/A	N/A	N/A	N/A
Hungary	N/A	N/A	36	N/A	N/A
Ireland	611	661	537	331	344
Italy	8 100	7 583	6 453	7 548	7 797
Latvia	N/A	N/A	N/A	N/A	N/A
Lithuania	N/A	N/A	N/A	N/A	N/A
Malta	30	31	57	60	47
Netherlands	1 626	954	633	1 182	1 858
Poland	N/A	N/A	N/A	N/A	163
Portugal	N/A	N/A	N/A	N/A	N/A
Slovak Republic	17	43	46	313	164
Slovenia	N/A	N/A	N/A	N/A	N/A
Spain	2 004	3 160	3 064	4 497	4 916
Sweden	360	378	629	773	1 165
United Kingdom	N/A	N/A	N/A	N/A	N/A

Notes:

1. N/A means Not Available which, for some Member States, may be owing to the low number of unaccompanied minors.

2. For **Austria**, no relevant data are available.

3. For **Belgium**, these data are based on the number of unaccompanied minors registered by the Guardianship Service.

4. For **Czech Republic**, data are provided by Facility for Foreign Children.

5. For **Finland,** the number of unaccompanied minors in care is the same as the number for those applying for asylum (every unaccompanied minor has to be registered under some Reception Centre). Unaccompanied minors living with their relatives are also registered in some of the Reception Centres, and regardless of their place of residence (and/or existing relatives in Finland) are regarded as unaccompanied minors (de facto most of the unaccompanied minors arrive in Finland with their distant relatives).

6. For **France,** it is difficult to obtain accurate data to precisely measure the number of unaccompanied minors present or arriving at the borders. The government estimates that between 4 000 and 6 000 unaccompanied minors are present, with an estimated average annual inflow of just under 500, most of whom apply for asylum.

7. For **Germany,** numbers refer to unaccompanied minors who have been taken into the care of public authorities for the first time in the respective years. The numbers given are not "stock data", i.e. they do not refer to the overall number of unaccompanied minors in the care of authorities.

8. For **Greece,** whilst data per year are not available, in August 2009, some 340 unaccompanied minors were being housed in 8 Reception Centres, with the size of accommodation ranging from 15 persons to 100 persons.

9. For **Hungary,** reliable data are only available for 2006, although the indication is that the number has risen in subsequent years. Of this 36, most came from Serbia-Montenegro (9), Ukraine (6), Moldova (7), China (3) and two each from Russia, Mongolia and Vietnam.

10. For **Ireland,** these data are based on the number of referrals to the Cork and Dublin Social Work Teams only and thus should be taken as a lower estimate.

11. For **Italy,** these data are based on the number of unaccompanied minors reported to the Committee for Foreign Minors. According to national definitions, these data do not take into account unaccompanied minors applying for asylum or victims of trafficking.

12. For **Lithuania,** over the period 2002 to 2008, a total of 30 unaccompanied minors were accommodated at the Refugees Reception Centre.

13. For **Malta**, these data relate to persons in the AWAS referral database and who are accommodated in residential homes.

14. For **Netherlands**, these data relate to the reception by the Central Agency for the Reception of Asylum Seekers (COA) of unaccompanied minors applying for asylum plus those who are accommodated with foster families (for those aged less than 13 years). They are different from the Asylum Application data as they include those who applied for asylum in a particular year plus also in previous years. In 2004, 205 unaccompanied minors were placed with foster families, in 2005 this was 163, in 2006 this was 146, in 2007 this was 105 and in 2008 this was 142.

15. For **Slovak Republic**, these data relate to the number of unaccompanied minors accommodated in a children's home, according to the Ministry of Labour, Social Affairs and Family. Data for 2008 includes also 4 minors from the Netherlands. with regard to the designation of a guardian, in 2004, this was done for 16 unaccompanied minors, in 2005 for 43, in 2006 for 39, in 2007 for 284 and in 2008 for 158.

16. For **Spain**, these data relate to the number of unaccompanied minors as provided by the Autonomous Communities and Cities. The data used correspond to those unaccompanied minors known to the authorities on the 31st December of a particular year. They should be compared with the very low of asylum applications submitted. With regard to new receptions, there were 9 117 in 2004, 5 718 in 2005, 5 087 in 2006, 5 408 in 2007 and 5 344 in 2008.

17. For **Sweden**, these data relate to the number of unaccompanied minors applying for asylum accommodated by the Swedish Migration Board at the end of each year (foster families, accommodation at special institutions and distant family members are also included).

Table 8: Unaccompanied Minors in the care of national authorities in 2008 disaggregated by their country of nationality

	Austria	Belgium	Czech Republic	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Malta	Netherlands	Poland	Portugal	Slovak Republic	Slovenia	Spain	Sweden	United Kingdom
Afghanistan		356			70						663				171			25			247	
Albania											975										7	
Algeria		111																		133		
Armenia																6					6	
Angola					12										114							
Bangladesh																		10				
Belarus																5						
Cameroon										6												
China			5							20					114							
DR Congo		69			7					19											8	
Egypt											1 068											
Ethiopia					5																	
Eritrea											390				45						30	
Gambia																				93		
Ghana										8												
Guinea		135			6										132					103	7	
Guinea-Bissau																				64		
India		263													34							
Iraq		119			214					7	288				317						391	
Malawi										9												
Mali																				477		
Mauritania																				177		
Moldova																		102				
Mongolia																					19	
Morocco		124									1 193									3 436	5	
Nigeria										163	320				38							
Pakistan																		6				
Palestine		45									741										24	
Russia					5											7					18	
Senegal																				433		
Serbia		51									296										15	
Somalia					359					9	304			21	378						179	
South Africa										8												
Turkey			31																		16	
Ukraine			10													34						
Uzbekistan																					17	
Vietnam			14													10						
Yugoslavia		51																				
Zimbabwe										20												
Total (incl. Other	**N/A**	**1 878**	**100**	**0**	**706**	**N/A**	**1 099**	**N/A**	**N/A**	**336**	**7 797**	**N/A**	**1**	**47**	**1 716**	**163**	**N/A**	**164**	**N/A**	**4 916**	**1 165**	**N/A**

1. N/A means data are Not Available and data for a specific Member State/Country of Nationality is only presented here when it is 5 or above (i.e. numbers below 5 are excluded). For some Member States (e.g. **Germany**), data on unaccompanied minors taken into care disaggregated by county of nationality are not available, although the total number is. In such cases, data for the Total cell only are added.

2. For **Austria**, no relevant data are available.

3. For **Belgium**, these data are based on the number of unaccompanied minors registered by the Guardianship Service.

4. For **Czech Republic**, data are provided by Facility for Foreign Children.

5. For **Finland,** the number of unaccompanied minors in care is the same as the number for those applying for asylum (every unaccompanied minor has to be registered under some Reception Centre). Unaccompanied minors living with their relatives are also registered in some of the Reception Centres, and regardless of their place of residence (and/or existing relatives in Finland) are regarded as unaccompanied minors (de facto most of the unaccompanied minors arrive in Finland with their distant relatives).

6. For **Ireland,** these data are based on the number of referrals to the Dublin Social Work Team only and thus should be taken as indicative.

7. For **Italy,** these data are based on the number of unaccompanied minors reported to the Committee for Foreign Minors. According to national definitions, these data do not take into account unaccompanied minors applying for asylum or victims of trafficking.

8. For **Lithuania,** over the period 2002 to 2008, a total of 30 unaccompanied minors who applied for asylum were accommodated at the Refugees Reception Centre. The country of origin of these minors was Azerbaijan (1), Afghanistan (7), Russia (9), Pakistan (3), Palestine (1), Nigeria (1), Unknown (2), Uzbekistan (4), Vietnam (1), DR Congo (1).

9. For **Malta**, these data relate to persons in the AWAS referral database and who are accommodated in residential homes.

10. For **Netherlands**, these data relate to the reception by the Central Agency for the Reception of Asylum Seekers (COA) of unaccompanied minors applying for asylum but NOT those who are accommodated with foster families (for those aged less than 13 years). They are different from the Asylum Application data as they include those who applied for asylum in a particular year plus also in previous years. In 2004, 205 unaccompanied minors were placed with foster families, in 2005 this was 163, in 2006 this was 146, in 2007 this was 105 and in 2008 this was 142.

11. For **Poland**, these data relate to the number of children in foster custody. A total of 89 EU nationals are also in such care, including 65 from Romania, 9 from Bulgaria, 3 from Latvia, 2 each from Czech Republic, Estonia, Greece, Germany and 1 each from Belgium, Lithuania, Hungary and Italy.

12. For **Slovak Republic**, these data relate to the number of unaccompanied minors accommodated in a children's home, according to the Ministry of Labour, Social Affairs and Family. Data for 2008 includes also 4 minors from the Netherlands.

13. For **Sweden**, these data relate to the number of unaccompanied minors applying for asylum accommodated by the Swedish Migration Board at the end of each year (foster families, accommodation at special institutions and distant family members are also included).

Table 9: Unaccompanied Minors in the care of national authorities in 2008 disaggregated by their Sex and Age (Range)

	Sex		Age (in years)								
	Male	**Female**	**up to 10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**Total**
Austria	N/A	N/A									**N/A**
Belgium	1 503	384	93	30	62	106	173	310	592	509	**1 886**
Czech Republic	73	27	27					73			**100**
Estonia											**0**
Finland	576	130	9	6		44		341		229	**706**
France											**N/A**
Germany	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	**1 099**
Greece											**N/A**
Hungary											**N/A**
Ireland	175	161	146				26	45	55	64	**336**
Italy	7 056	741	920					889	2 043	3 945	**7 797**
Latvia											**N/A**
Lithuania										1	**1**
Malta	23	4	5				5	9	5	23	**47**
Netherlands	1 244	472	66				92	226	579	753	**1 716**
Poland	93	70	92	9	11	10	8	9	10	10	**163**
Portugal											**N/A**
Slovak Republic	162	2	4				19	28	58	55	**164**
Slovenia											**N/A**
Spain	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	**4 916**
Sweden	961	204	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	**1 165**
United Kingdom											**N/A**

Notes:

1. N/A means data are Not Available and if the cell is blank then this means zero. For some Member States (e.g. **Germany**), data on unaccompanied minors taken into care disaggregated by county of sex and age are not available, although the total number is. In such cases, data for the Total cell only are added.

2. For **Austria**, no relevant data are available.

3. For **Belgium**, these data are based on the number of unaccompanied minors registered by the Guardianship Service and data by year are available. Total includes 11 who were aged 18 years. In addition data from the Guardianship Service gives a total of 43 unaccompanied EU minors (33 from Romania). An indication from the Immigration Department, based on the number of apprehensions, gives 355 unaccompanied EU minors (293 from Romania).

4. For **Czech Republic**, data are provided by Facility for Foreign Children. Age data are disaggregated according to 0 - 14 years, 15 - 18 years.

5. For **Finland,** the number of unaccompanied minors in care is the same as the number for those applying for asylum (every unaccompanied minor has to be registered under some Reception Centre). Unaccompanied minors living with their relatives are also registered in some of the Reception Centres, and regardless of their place of residence (and/or existing relatives in Finland) are regarded as unaccompanied minors (de facto most of the unaccompanied minors arrive in Finland with their distant relatives).

6. For **Ireland,** these data are based on the number of referrals to the Dublin Social Work Team only and thus should be taken as indicative. Age data are disaggregated according to 0 - 13 years, 14, 15, 16 and 17 years.

7. For **Italy,** these data are based on the number of unaccompanied minors reported to the Committee for Foreign Minors. Age data are disaggregated according to 0 - 6 years, 7 - 14 years, 15, 16 and 17 years.

8. For **Malta**, these data relate to persons in the AWAS referral database and who are accommodated in residential homes. Age data are disaggregated according to 0 - 13 years, 14, 15, 16 and 17 years.

9. For **Netherlands**, these data relate to the reception by the Central Agency for the Reception of Asylum Seekers (COA) of unaccompanied minors applying for asylum but NOT those who are accommodated with foster families (for those aged less than 13 years). They are different from the Asylum Application data as they include those who applied for asylum in a particular year plus also in previous years. In 2004, 205 unaccompanied minors were placed with foster families, in 2005 this was 163, in 2006 this was 146, in 2007 this was 105 and in 2008 this was 142. Age data are disaggregated according to 0 - 13 years, 14, 15, 16 and 17 years.

10. For **Poland**, these data include also 89 EU-nationals. Age data per year are recorded and there were four 4 18 year olds also.

11. For **Slovak Republic**, these data include also 4 minors from Netherlands. Age data are disaggregated according to 0 - 13 years, 14, 15, 16 and 17 years.

12. For **Sweden**, these data relate to the number of unaccompanied minors applying for asylum accommodated by the Swedish Migration Board at the end of each year (foster families, accommodation at special institutions and distant family members are also included).

9.3 Unaccompanied Minors in Detention

There are less extensive data on detentions and Table 10 provides an overview for the period 2004 to 2008 for those Member States where data exist. Referring to Section 7, this may be owing to no detentions occurring in a Member State or because the numbers are so low (typically less than 10) that data protection legislation prevents their publication.

Table 10: Unaccompanied Minors in the detention over the period 2004 to 2008 and for those Member States where data exist

	2004	2005	2006	2007	2008	TOTAL
Czech Republic	**84**	**79**	**44**	**18**	**8**	**233**
Finland	**4**	**15**	**12**	**4**	**7**	**42**
Germany	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**At least 377**
Lithuania	**3**	**1**	**5**	**0**	**2**	**11**
Slovenia	**112**	**91**	**67**	**83**	**40**	**393**
Sweden	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**9**

Whilst data on unaccompanied minors in detention is not available in **Austria**, general data on minors in *detention pending deportation* is. For those aged 14 -15 years, there were, in 2004, 25 in such detention, in 2005 it was 14, in 2006 it was 14, in 2007 it was 31, and in 2008 it was 20. For those aged 16 - 18 years, the corresponding numbers are, in 2004, 250, in 2005, 157, in 2006, 171, in 2007, 132 and in 2008, 161.

The data might not be entirely accurate for **Finland** since the minor's age may change during the process. In 2009, the number of unaccompanied minors in detention was 15. Data on the average duration of detention of an unaccompanied minor are also available. In 2005, this was 22.3 days, in 2006 it was 25.3 days, in 2007 it was 19.3 days, in 2008 it was 9.3 days and in 2009 it was 10 days.

For **Germany**, the data in Table 10 are for detention for the purpose of removal over the period 2005 to 2008 and the total is at least 377. A yearly breakdown is not possible, but a

breakdown by Federal States over this period is. This shows, for example, that most minors were detained in Berlin (155), North Rhine-Westphalia (86) and Saxony (65).

In 2004, two unaccompanied minors in **Lithuania**, both nationals of Russia, having served their sentence were detained and returned following a decision of the *Migration Department*. One 17 year old Ukrainian national was accommodated at the *Social Assistance and Prevention Centre for Minors* in Kaunas and later returned to their parents. In 2005, one unaccompanied minor, also a national of Ukraine having served a sentence, was returned to Russia. In 2006, five nationals of Russia, aged 17, 16 and 15 years, having served their sentence, were returned to Russia. In 2008, one 17 year old Turkish national, detained in Lazdijai and sentenced for illegal border crossing, was returned, whilst another minor from Uzbekistan subsequently applied for asylum.

There is currently no detailed information available on the numbers of unaccompanied minors in detention in the **Netherlands**. The *Directorate for Migration Policy (DMB)* has stated that in 2008, approximately 160 unaccompanied minors were placed in detention, the majority of them being males. The detention of females only occurs sporadically. Most were in the age range of 16-17 years. The nationalities that were detained most frequently in 2008 were from Afghanistan, Iraq and Morocco and there was also a significant group with unknown nationalities.

The data in Table 10 for **Slovenia** refer to the number of unaccompanied minors held in the Aliens Centre of the Police prior to their return, either via family reunification (5 over the period 2004 to 2008) or removal.

Yearly data on detentions are also not available for **Sweden**. However, the numbers are understood to be low. Over the period 2005 - 2008, there were a total of 9 unaccompanied minors detained. In terms of nationalities, these were 3 from Iraq and one each from Afghanistan, Bulgaria, China, Somalia, Vietnam plus unknown. Three of the total were female, two were aged 13 years or less, 2 aged 15 years, one aged 16 years and 3 aged 17 years.

9.4 Assisted Returns of Unaccompanied Minors

There are also less extensive data on returns and Table 11 provides an overview for the period 2004 to 2008 for those Member States where data exist. Referring to Section 8, this may be owing to no returns taking place from a Member State or because the numbers are so low (typically less than 10) that data protection legislation prevents their publication.

Table 11: Assisted Returns of Unaccompanied Minors over the period 2004 to 2008 and for those Member States where data exist

	2004	2005	2006	2007	2008		TOTAL
Belgium	22	16	21	16	22		**97**
Finland	N/A	N/A	N/A	5	3		**N/A**
France	11	23	11	13	6		**64**
Germany	N/A	54	43	21	19		**N/A**
Ireland	8	3	1	1	1		**14**
Italy	126	108	8	1	*2*		**245**
Netherlands	100	40	40	N/A	N/A		**N/A**
Slovak Republic	1	2	0	0	0		**3**
Slovenia	31	18	46	49	19		**163**
Spain	111	65	87	23	6		**292**
Sweden	61	49	42	32	46		**230**

The data in Table 11 are primarily for assisted returns organised by the IOM for the following Member States and, in some case, include also Dublin transfers to other Member States. Data for 2008 for **Italy** are provisional.

In **Austria**, in the years 2005 to 2008, a total of 40 unaccompanied minors have been assisted in their return by the IOM (18 in 2005; 8 in 2006; 5 in 2007; and 9 in 2008). The assisted

returns organised by the IOM in 2008 consisted of the return of nationals of Serbia (3), Kosovo (2) and one each of Afghanistan, India, Moldova and Russia. The return of 25 of these unaccompanied minors (6 to Bulgaria, 4 to Romania, 4 to **Hungary** and 2 to **Poland**) were also organised in 2008 by the crisis centre "Drehscheibe."

For **Belgium**, in 2005, the IOM assisted in the return of one unaccompanied minor each to Bulgaria and to Romania, in 2006, one to Bulgaria, one to **Lithuania** and three to Romania, in 2007, one to Bulgaria, three to **Hungary** and one to Romania, and in 2008, two to Bulgaria, one to **Poland**, three to Romania and six to **Slovak Republic**. In terms of third-country nationals, returns were organised in 2008 for nationals of Brazil (5) and one each of Democratic Republic of Congo, Mongolia, Russia, Rwanda and Syria.

There were additional Dublin Transfers to other EU Member States from **Finland**. In 2007, there were 9 such transfers and in 2008 there were 19 transfers. A breakdown of the total number of return or Dublin Transfers by age, sex and country of nationality is also provided. For example, in 2007, those returned or transferred were primarily male, aged 16 years or over and nationals of Afghanistan and Iraq. The same pattern occurred in 2008 with this time the addition of nationals of Somalia.

The assisted returns from **Germany** organised by the IOM's REAG/GARP Programmes, included, in each year 2005, 2006 and 2007, one to Bulgaria. In terms of third-country nationals, returns were organised in 2008 for nationals of Iraq (4), Serbia (3), Turkey (3), Russia (2), Vietnam (2) and one each of Guinea, Lebanon, Nigeria and Ukraine.

The 2005 and 2007 data for **Ireland** includes also 18 year olds who initially entered as minors. Data on referrals to the IOM with a view to implementing a return are also available, these being 38 in 2004, 31 in 2005, 19 in 2006, 13 in 2007 and 13 in 2008.

For **Greece**, data on forced returns of minors conducted by the *Hellenic Police* are available. In 2007 there were 1 153 such removals.

Since 2005, the number of assisted returns of unaccompanied minors from **Italy** has significantly decreased. The reasons for this decline are strictly linked with the changed range

of countries of origin (no longer from European countries) and, in particular, with the improved situation in Albania.

In **Lithuania**, over the period 2002 to 2008, a total of 8 forced returns to third countries have been executed, to India (3), Vietnam (2), Russia (2) and Turkey (1).

Given that the *Repatriation and Departure Service (DT&V)* in the **Netherlands** started its tasks in the return process in 2007, it is possible only from 2008 onwards to give a complete and reliable picture of the number of unaccompanied minors who either left voluntarily or were removed under the responsibility of the DT&V. In 2008, approximately 45 unaccompanied minors left the Netherlands voluntarily or by force. The majority were male. The largest group consists of unaccompanied minors who had Angolan nationality, followed by unaccompanied minors with Moroccan and with Iraqi nationalities. In terms of Forced Removals, in 2004 there were 50, in 2005 there were 30, and in 2006 there were 15.

Assisted returns from the **Slovak Republic** were undertaken via the IOM's Assisted Voluntary Returns Programme. The three assisted returns that have occurred were for male unaccompanied minors and all to Moldova. In total, over the period 2002 to 2008, there have been 15 returns (three conducted by the IOM as indicated in Table 11 and twelve conducted by the *Offices of Labour, Social Affairs and Family*), all for male unaccompanied minors, ranging in age from 14 years (1) to 15 years (2) to 16 years (5) to 17 years (7). The countries of return were Bangladesh (1), India (2), Moldova (3), Pakistan (5), Turkey (1) and Ukraine (3).

For **Spain**, data on the number of unaccompanied minors with agreements to return are also provided. In 2004, there were 582, in 2005 there were 412, in 2006 there were 1 657, in 2007 there were 1 380 and in 2008 there were 379. Finally, for **Sweden**, data on the number of unaccompanied minors who were transferred to the police but then absconded and who were transferred to the police and then subject to forced return are also provided. With regard to absconders, in 2004, there were 54, in 2005 there were 61, in 2006 there were 17, in 2007 there were 29 and in 2008 there were 52. For forced return, in 2004, there were 24, in 2005 there were 16, in 2006 there were 7, in 2007 there were 9 and in 2008 there were 30.

9.5 Additional Data

A number of Member States were also able to provide additional (albeit limited) data. These included data on:

- Refusals of Entry (**France**, **Portugal**)
- Apprehensions, including at the border (**Belgium**, **Germany**, **Greece**, **Slovak Republic**)
- Victims of trafficking in human beings (**Belgium**, **Greece**, **Portugal**, **Sweden**)
- Family Reunification (**Finland**, **Malta**, **Slovak Republic**, **Slovenia**)

In addition, data on checks made on unaccompanied minors in the Eurodac system were reported by **Sweden**. In 2008, a total of 1 135 were made, primarily on unaccompanied minors who were nationals of Iraq (417), Afghanistan (315) and Somalia (273). Of this total, 187 were female, with the majority being males aged 16 – 17 years (619).

9.5.1 Refusals of Entry

A high proportion of unaccompanied minors are refused entry to **France**. For example, of the total number of unaccompanied minors who arrived at the border, almost 1/3 were sent back to their country of origin in 2007 and 2008: 270 out of 852, i.e. 31.7% in 2007, and 353 out of 1 108, i.e. 31.9% in 2008.

Refusals of entry of unaccompanied minors at the borders of **Portugal** decreased from a peak in 2002, when there were 208 refusals, to 79 refusals in 2003, 50 in 2004, 40 each in 2005 and 2006, 70 in 2007 and 64 in 2008. From 2006 onwards, information on the country of origin of the unaccompanied minors refused entry are recorded, showing that the vast majority were from Brazil (27 in 2006, 62 in 2007 and 54 in 2008), primarily arriving at the border post at Lisbon Airport.

9.5.2 Apprehensions, including at the border

Out of the approximately 30 000 apprehensions in **Belgium** in a 12-month period in 2007-2008, 8.5% were unaccompanied minors, who were often apprehended multiple times (e.g. 8 times or more) and often criminal offences had been committed. Such multiple apprehensions were predominantly unaccompanied minors coming from Romania and Serbia. Noting the inherent inaccuracies in data on apprehensions because of, for example, multiple

apprehensions not being distinguished, data from the police authorities indicates that in 2006 there were a total of 521 apprehensions (167 of which were nationals of Romania, 59 of Serbia-Montenegro, 46 of Algeria, and 33 of Iraq). There was then a significant increase in 2007 to a total of 1 440 apprehensions (236 of which were nationals of Serbia-Montenegro, 125 of India, 101 of Bosnia-Herzegovina, 127 of Algeria and 95 of Croatia), increasing still further in 2008 to 2 122 apprehensions (398 of which were nationals of India, 293 of Romania, 286 of Serbia, 207 of Algeria and 165 of Morocco).

The number of unaccompanied minors under the age of 16 years apprehended while entering **Germany** in 2004 was 118, of which 48 then declared their desire to lodge an application for asylum. Corresponding figures for 2005 were 136 (26), for 2006 it was 76 (18), for 2007 it was 143 (25) and for 2008 it was 174 (67). In terms of country of origin, in 2007 and 2008, Afghanistan was the most frequent country (41 in 2007 and 79 in 2008), whilst in 2004 to 2006 it was Turkey (32 in 2004, 41 in 2005 and 17 in 2006). Over the period 2003 to 2008, other important countries of origin were Russia, Vietnam, Serbia (and Montenegro) and – with reservations – Nigeria. Unaccompanied minors from Iraq did not make their appearance in significant numbers until 2008 (11). Data on the decisions taken upon entry are also provided. With regard to unaccompanied minors who entered illegally and were then subsequently apprehended, the data are less extensive. The sole indications (arising from an answer to a parliamentary enquiry in 2006) are that, between 1st October 2005 and 30th June 2006, a total of 75 unaccompanied minors were detected inside Germany. Of these, 41 were under the age of 16, 34 were aged 16 or 17 years, 16 were girls and 59 were boys.

Data on apprehensions of minors are available in **Greece** for 2007 (plus forced returns) and for 2008. For 2007, a total of 6 031 apprehensions were made, out of which 1 153 forced returns were made. The most significant nationalities were Afghanistan (2 502 with no removals), Albania (1 515 with 1 093 removals), Somalia (1 017 with no removals) and Iraq (591 with 9 removals). Corresponding data in 2008 had 8 298 apprehensions, with the same most significant nationalities, i.e. Afghanistan (4 062) followed by Albania (1 859), Somalia (1 155) and Iraq (691).

Available data on apprehensions from the **Slovak Republic** contain the number and nationality of unaccompanied minors who entered illegally and are illegally residing. In 2006, 42 unaccompanied minors were identified, the most common country of origin being India

(30). In 2007, the number was 165, most of whom came from Moldova (62), Pakistan (51), India (15) and Bangladesh (13) and in 2008, it was 151, the majority of whom, again, came from Moldova (101) followed this time by Afghanistan (21). In terms of Age and Gender breakdown, for 2007, 158 were male and 7 were female with most (134) aged 16 years or over. The corresponding figures for 2008 had 148 males and 3 females, with again most (110) aged 16 years or over.

9.5.3 Victims of Trafficking in Human Beings

Data available in **Belgium** on unaccompanied minors who were victims of trafficking is based on those who have initiated the procedure "victims of human trafficking." In 2004, there were 22 such unaccompanied minors, 7 in 2005, 16 in 2006, 9 in 2007 and 6 in 2008. In terms of nationality of the unaccompanied minors, in 2006 the most significant were of Morocco (4), Iran (3) and Burundi (2), whilst in 2007 it was Brazil (5). These numbers are considered to be relatively low, in part owing to difficulties in meeting the necessary conditions to be recognised as a victim.

Over the period 2002 to 2008, **Greece** granted residence permits on humanitarian grounds and for the protection of victims of trafficking to a total of 258 unaccompanied minors, with the most significant nationality being, by far, Albania (201), followed by Georgia (22).

According to information obtained from the *Observatory for Human Trafficking*[113] in **Portugal**, nine victims of the crime of human trafficking were detected in 2008, aged between 10 and 20 years. The majority of these cases concerned sexual exploitation and there is no detailed information about the origins of the minors and whether they were accompanied or not.

Underage victims of trafficking operations in **Sweden** have been between the ages of 12 and 18 years. An increase in the number of minors forced to engage in begging, slave labour and prostitution was recorded in 2005 and 2006. Preliminary investigations have indicated that the victims are minors from South-Eastern Europe exploited for the purposes of robbery and begging. Confirmed information exists which shows that some of these victims were girls who have been exploited for purposes of robbery in several towns in Sweden, as well as other

[113] See http://www.otsh.mai.gov.pt/.

countries in Europe. The offenders are suspected of having purchased or rented the minors from poor parents in order to travel around Europe with them with the intention of exploiting them for purposes of robbery.

9.5.4 Family Reunification

Between 2003 and 2009, the *Finnish Immigration Service* in **Finland** received a total of 229 applications for family reunification submitted by minors. In 2008, a record year for unaccompanied minors seeking asylum, the number of applications was 46, involving one to thirteen family members. A positive decision on an application for family reunification submitted by a minor is estimated to be issued on 80-85% of applications. In 2007, the average processing time for applications for family reunification submitted by minors was 114 days.

Since 2007, there have been three cases of family reunification in **Malta**, with none prior to this. The reunifications concerned males of unknown age, two of whom were nationals of Somalia.

According to the statistics of the *Ministry of Labour, Social Affairs and Family* in the **Slovak Republic**, family reunifications took place in the years 2007 and 2008. The reunification of a family with a 17 year old male unaccompanied minor from Sri Lanka was carried out in 2008 and the reunifications of four unaccompanied minors originally from the Ukraine (two 16 year old and two 17 year old boys) took place in 2007.

Over the period 2004 to 2008, the *Aliens' Centre* in **Slovenia** launched five procedures of family reunification, all of which were successfully concluded. In addition, in 2007 and 2008, the *Integration Division - Refugee and Foreigner Integration Section, International Protection Division* launched two procedures of family reunification, both were so called "Dublin cases" and both were concluded successfully.

10. IDENTIFIED BEST PRACTICE

A number of "best practice" examples were given in the National Reports, which can be considered as elements of measures taken in the "best interests of the child."

10.1 Obtaining more extensive statistics

All Member States expressed the need for more reliable statistics and not only on those unaccompanied minors applying for asylum. In some cases, data are limited owing to the low number of unaccompanied minors in a particular Member State, whilst for others it was not always possible to determine, with sufficient reliability, numbers of unaccompanied minors outside of the asylum process, often because there was no centralised mechanism in place to record such data.

In order to address the lack of extensive statistics in **Belgium**, efforts are underway to develop a uniform and centralised registration system which would lead to better matching with the information needed and better assessment of the situation of unaccompanied minors. Currently, mapping of the different statistics and co-ordination with the different data providers is underway.

Germany, amongst others, explicitly identified a need for an improvement of the situation regarding data and awareness of unaccompanied minors. Other than those unaccompanied minors who have applied for asylum, there is currently no reliable information available concerning the total number of unaccompanied minors living in Germany. In particular, data on apprehensions and/or identification inside Germany is missing, as is the systematic collection of data concerning those removed or those who are in detention for the purpose of removal. To improve the situation, the possibility of incorporating the storage of data concerning unaccompanied minors into the *Central Register of Foreign Nationals (AZR)* could be considered.

Since 2000, the *Committee for Foreign Minors* in **Italy** has created a special database of unaccompanied minors and relevant data are made public on a periodical basis. The database is updated daily consisting of *inter alia* new presences on national soil, minors who have now reached legal age, minors who have returned to their country of origin, those who die and also those who have applied for international protection. With regard to data on unaccompanied minors applying for asylum, this is the responsibility of the *National Commission on Asylum*

Rights at the *Ministry of Interior.* Another useful source of data is on the reception and assistance activities implemented by the *Protection System for Asylum Seekers and Refugees (SPRAR).*

In order to get a better picture about the actual number of unaccompanied minors who are staying in **Poland**, it is considered necessary to collect and exchange data and information between the authorised entities. To this end, and similar to **Germany** above, it was suggested that the existing POBYT[114] information technology system might be adapted, so that it could include data on unaccompanied minors. The type of data could include, for example, unaccompanied minors who are staying in educational care centres; those in detention; those who have been apprehended by the Police or the Border Guard; and those who attend Polish schools.

The lack of centrally held data on trafficked minors in the **United Kingdom** was highlighted, with the key difficulty being in the identification of trafficking victims. The *UK Human Trafficking Centre (UKHTC)*[115] is working with the *Home Office*, the *Department for Children, Schools and Families* and the *Department of Health* in developing protocols for recording child trafficking cases. The UKHTC will also be a partner as the central repository for all information on trafficking (including child trafficking) on behalf of the *ACPO Organised Immigration Crime Group*.

10.2 Better Exchange of Information and Knowledge

Many Member States also highlighted the added value in better exchanging information between relevant stakeholders, both at national and EU level. The following gives some specific examples of how information and knowledge might be better exchanged.

Co-operation between different stakeholders in **Austria**, for example, in the framework of Working Groups and Round Tables was considered to be an efficient way in which to discuss and exchange information between the different actors in the field. Prominent amongst these

[114] The POBYT system in **Poland** collects data on administration procedures concerning foreigners (inter alia granting permits to settle, residence permits for a fixed period, granting the refugee status or another form of protection, visas issued by voivodes, expulsions, persons related to repatriation proceedings, etc.). The users system include the Office for Foreigners, Citizens' an Migration Issues Departments of Voivodeship Offices, Border Guard units, Police, Ministry of Foreign Affairs and others. The maintenance of the System is the responsibility of the Head of the Office for Foreigners.

[115] See http://www.ukhtc.org/

are the *Working Group on Unaccompanied Refugee Minors (Arbeitsgruppe Unbegleitete Minderjährige Flüchtlinge)*, the *Working Group on Child Trafficking (Arbeitsgruppe Kinderhandel)* and the *Roundtable Child Trafficking (Runder Tisch Kinderhandel)*.

Similarly, initiatives in **Belgium** to have a better exchange of information between the different stakeholders (Immigration department, police services, reception centres, guardians, etc.) have been taken at different levels (task force, protocol agreements, Guardianship Service).

The work of the inter-agency working group with non-governmental organisations in the **Czech Republic** is perceived very favourably. This working group *inter alia* tackles the current problems in this field, co-ordinates the efforts of governmental and non-governmental institutions and promotes initiatives for legislation changes. In fact, the contribution of non-profit and international organisations in this field, notably the *Organisation for Assistance to Refugees*, the *Consultation Centre for Refugees*, *La Strada*, *IOM Prague* and *UNHCR*, is appreciated, particularly for their social-legal consultancy, their activities performed in the positions of guardians and their organisation of leisure time activities for these minors.

A Conference organised in **France** by the *Défenseure des Enfants*[116] in June 2008, brought together professionals dealing with unaccompanied minors. This represented a first step towards the harmonisation of national and then European practices, intended to improve management of these minors. The conference highlighted best practices, enabled exchanges between all actors present and identified a number of issues. Amongst these were the inadequate number of *Ad Hoc Administrators (AHAs)*, the difficulty in differentiating minors from adults, the difficulty experienced by minors in obtaining training, and inequality of care between different Member States. The conclusions of this conference recommended: (1) Immediate protection of minors arriving by land; (2) Better respect of the right to information of minors arriving by air; (3) Progress to be made in relation to validating the age of the minor; and (4) Validating of rights in comparison with other children of the same age.

Improved transparency was identified as a possible measure for improvement in **Germany** in respect of the procedures and practices, as well as a more intensive exchange of experiences

[116] Further details available from http://www.lesdefenseuresdesenfants.org/.

between actors such as, for example, the *Federal Police* and *Länder Authorities* dealing with unaccompanied minors. Another suggestion is to examine the extent to which procedures, harmonised on both a national and a European level, could be created, and the existing basic conditions adjusted, i.e. age assessment.

A major challenge in **Italy** is considered to be the need to strengthen the co-ordination between central bodies (*Committee for Foreign Minors*, which is part of the *Ministry of Labour and Social Policies*), local bodies (Municipalities represented by the ANCI) and, then, to the issue of enhancing the full potential of civil society and associations for the reception and integration of unaccompanied minors.

Establishing co-operation among all involved in the treatment of unaccompanied minors has been considered effective in the **Slovak Republic**, with employees of the *Border and Alien Police* and *Migration Office* praising the level of communication between and co-operation among representatives of the *Ministry of Labour, Social Affairs and Family* in receiving unaccompanied minors into care. In addition, several training sessions for employees of the *Ministry of Labour, Social Affairs and Family*, the M*igration Office* and NGOs organised by UNHCR, IOM, and non-governmental organisations, such as the *Slovak Humanitarian Council*, served to provide the opportunity for an international exchange of experience and knowledge, as well to make contacts for future co-operation.

The positive experience in **Slovenia** has been the active engagement in, and support for, the realisation of interdepartmental co-operation by the Police with the Aliens Centre. Two interdepartmental meetings on unaccompanied minors, with the aim to present the situation and find alternative possibilities of accommodation of unaccompanied minors, were organised.

Referring also to Section 5.5, **Lithuania** in particular considered that the provision of training to Border Guards in dealing with an unaccompanied minor arriving at an external border of the EU would be advantageous, also as a firm basis in the next steps taken with an unaccompanied minor. Training along these lines has already been provided in the **Slovak Republic** by the *Slovak National Centre for Human Rights* for employees of the *Border and Alien Police* on the rights of children and unaccompanied minors. The AWAS, mainstream welfare, home ministry, security, NGOs, International Organisations (e.g. ENARO, Save the

Children and COST HOME) and University personnel in **Malta** have promoted and participated in learning and exchange courses and seminars. For example, the University of Malta launched a Masters in Social Work and in Social Policy of Migration from October 2009, aimed at practitioners active in Malta and the Mediterranean. Elsewhere, an ad-hoc parliamentary committee on immigration which will scrutinise the whole system, including for unaccompanied minors, was established in 2009.

10.3 Reception and Accommodation

All Member States highlight that accommodation specifically for unaccompanied minors, with suitably trained staff offering continuous care and protection, would enhance the process of reception.

The care provided by the *NGO Verein.Menschen.Leben*[117] in the Initial Reception Centre for asylum applicants in **Austria** has been identified as good practice by the experts consulted, with activities such as psychological care, escorts to doctoral visits, German language courses, and legal advice. Another example of best practice is considered to be the project Welcome,[118] which offers primary care (accommodation, boarding, basic equipment), psycho-social support (both individual or in groups), German language courses and leisure activities for unaccompanied minors.

It is believed that unaccompanied minors in **Belgium** are best accommodated in small-scale reception centres of 40 persons maximum or in families. For really young minors (<12 years old), reception in a foster home is considered the best option. However, it is also identified that unaccompanied minors placed in families should also be able to benefit from the same support they would get in a centre (e.g. not only from their guardians, but also from psychologists, etc.) and there should also be appropriate monitoring of their situation.

For the **Czech Republic**, the establishment of a specialised *Facility for Foreign Children*, based on co-operation with a broad range of actors, including the inter-agency working group and NGOs, was considered worthwhile.

[117] See http://www.menschen-leben.at/index.php?option=com_content&task=blogcategory&id=13&Itemid=33.
[118] See http://www.zebra.or.at/projekte8.php.

As also outlined in Section 6.3, there is good experience in **Finland** in organising the accommodation arrangements of unaccompanied minors according to age, with the setting and life organised so as to resemble home as far as possible. In addition to studying the Finnish language and culture, minors are required to have the opportunity to retain and maintain their own language, culture and religion both at the group and family group homes and in various forms of support housing. The objective in all operations is that the minor has the required social and life management skills when they leave the group or family group home or support housing.

The aforementioned conference in **France** also recommended separating minors from adults in accommodation facilities and to systematically have a medical inspection for all minors with psychological support for those who wish it. Furthermore, it was recommended to extend jurisdictional assistance to allow the unaccompanied minor to receive the assistance of a lawyer beyond majority, and up to the age of 21 years, in all procedures relating to obtaining a legal status.

Measures identified in **Germany** which were considered to better address the reception of unaccompanied minors, were an improvement of the ability of the protagonists involved to act with confidence. Improvement of the available care, including "age-appropriate accommodation," and sharing of burdens within Germany (i.e. between the Federal States), as well as between the Member States were also suggested. In this respect, the introduction of the "clearing procedure," which is being carried out successfully in some Federal States and which makes it possible to group together a range of skills and competencies when dealing with newly-arrived unaccompanied minors, throughout Germany, or at least wherever the numbers of unaccompanied minors suggest a sufficient demand, is suggested. Such a procedure based on an approved and standardised model and oriented towards the individual requirements of each unaccompanied minor would make possible a transparent procedure that took full account of the interests of the child. The “clearing procedure” is carried out before any subsequent asylum procedure that may eventually follow.

The recommendations arising from the report of the *Children's Ombudsman* in **Greece** (see Section 7.1) for the effective protection of unaccompanied minors in all aspects of their reception was cited. Amongst these was the suggestion to adopt legislation enabling reception centres to perform the duties of the legal guardians. In this respect, the operation of a

permanent number of specialised reception centres for unaccompanied minors is proposed, in order to satisfy their special needs. This would also serve to minimise the serious risks unaccompanied minors are facing when they work illegally, to ensure the effective enrolment of all unaccompanied minors at schools and to promote the effective protection of their rights and well being in an environment respecting their special needs.

An aspect for consideration proposed by **Hungary** was to have a more consistent approach with regard to the provision of accommodation and care, independent of whether or not the minor has applied for asylum. With regard to those unaccompanied minors who subsequently turn 18 years before a decision on their status is determined, the *Home for Young Adults* was cited as an effective approach to ensure that this specific group receives further support and assistance, thereby increasing their chances for successful integration.

A consideration for **Ireland** and for **Lithuania** in particular, was the lack of an individual actor, body or agency which is ultimately held accountable for the type and quality of reception and care of unaccompanied minors, owing to the devolved nature of care provision and the many stakeholders involved. In the case of **Ireland**, an improvement in the type of accommodation provided has occurred, however, with four residential units specifically for unaccompanied minors and appropriately trained staff now available providing constant care provision (i.e. including also "out-of-hours"). These units are registered with the Social Services and subject to inspection.

Regarding problems related to heterogeneous practices and procedures at a local level in **Italy**, the recent evaluation of the reception facilities for unaccompanied minors by the *Psychoanalytic Institute for Social Research (IPRS),* in collaboration with the *Committee for Foreign Minors,* has underlined the growing response of these facilities to the needs of the minor through different hosting skills and in the presentation of initiatives and programs geared towards social inclusion. Key personnel identified were the cultural mediator and the psychologist. This evaluation was a full-blown monitoring which aimed at creating proper reception conditions for unaccompanied minors, including to have a standardisation of intervention measures and facilities and to move from an emergency phase to a more

structured one. In this respect, the *National Program for Protection of Unaccompanied Foreign Minors*[119] which was launched in 2007, has a fundamental role.

The immediate fast tracking of persons arriving in **Malta** and claiming to be unaccompanied minors, their referral to a panel of qualified evaluators and the avoidance of the bone test for the majority of applicants are considered to be beneficial practices. Additionally, it is proposed that extra fast tracking efforts concentrate on those claimants who, by their appearance and through other perceptible signs, appear more convincingly to be a minor. The help from translators, also identified by **France**, **Greece** and **Lithuania**, as well as the free legal aid offered through NGOs, UNHCR and the law faculty are also considered to be a progressive practice that facilitates understanding and fairness in this crucial process. Other beneficial practices are considered to be the provision of two residential homes specifically for unaccompanied minors, providing a specialised setting and individual care programs according to their needs.

As part of the reception process in **Slovenia**, there was considered to be a need to provide special accommodation where a 24 hour professional treatment, protection and suitable psychosocial programmes adapted to the minors' needs would be ensured, regardless of their status. Other best practices cited were specific projects allowing asylum applicants to be provided with free-of-charge legal counselling and suitable information prior to completing their application. Special workshops have been organised for vulnerable asylum applicants in this respect.

With regard to the role of municipalities in **Sweden** in providing care and accommodation for unaccompanied minors, a project whose aim was to identify best practices and potential improvements by identifying a number of strategic development areas related to the reception of unaccompanied minors (such as their needs, guardians, tracing of parents, minors missing from State care, age assessments/determinations and the needs of reception municipalities for support/skills enhancement), is mentioned.

The *UK Border Agency* approach is to work with local authorities in the **United Kingdom** to ensure that the asylum screening unit is child-friendly and that essential child protection

[119] Available from http://www.anci.it/index.cfm?layout=sezione&IdSez=10786.

services are in place with a team of social workers *in situ*, supported by special funding arrangements. The *Children's Commissioner*[120] made a number of recommendations for improving the working environment and the care arrangements, most of which the *UK Border Agency* agreed with and a programme of work is in place to implement them.

10.4 Guardianship

Related also to the process of reception, most Member States also cited the appointment of a suitably qualified guardian as best practice.

In light of the experience with the *Guardianship Act* in **Belgium**, a number of aspects which might lead to further improvements have been identified. These include whether there should be a uniform, professional status for all guardians; whether there should be more clearer criteria for allocating a guardian to an unaccompanied minor (e.g. taking into consideration a guardian's past cases, specialisation in certain countries), as well as the unaccompanied minor's specific circumstances (such as victim of trafficking, asylum applicant, having psychological problems); and the provision of regular training to guardians plus a forum for exchange of knowledge and experiences. With regard to conflicts which might arise as a result of differences of opinion between guardians and relevant government Ministries, the establishment of a *Code of Deontology* (or ethical guidelines based on moral obligations) has been suggested which would serve to resolve uncertain issues, such as whether a guardian can communicate information to the relevant government Ministry, which might be of importance in order to consider return as a durable solution, and to what extent the guardian is bound by professional secrecy.

Similar to **Belgium**, the arrangements for the legal representation of unaccompanied minor asylum applicants in **Hungary** to be more concise and effective was suggested. Instead of only representing the minor in the asylum procedure, having a guardian responsible also for all other aspects of legal representation was deemed advantageous.

The provisions of guardianship by an NGO was considered by **Slovenia** to be advantageous because of the organisation's independence and greater flexibility in comparison with governmental services.

[120] Available from http://www.11million.org.uk/content/publications/content_173.

One opinion expressed in **Sweden** is that a guardianship mandate would be a good step to having a representative who can protect the interests of an unaccompanied minor. Mandatory training for guardians was also supported, with joint training initiatives undertaken by, for example, the *Office of the Chief Guardian*, *Save the Children* and the *Red Cross*[121] cited as good examples.

With regard to the appointment of guardians in the **United Kingdom**, some stakeholders, including the *Refugee Consortium* and *Children's Commissioner for England*, believe that they should be introduced for unaccompanied minors. The view of the Government, however, is that the care and support unaccompanied children receive from local authorities, under the same statutory arrangements as other children in need, fully meets EU and international obligations.

10.5 Disappearances

A co-operation agreement has been signed in **Belgium** between the different services responsible for the reception and support of unaccompanied minors in the *Observation and Orientation Centres (OOC)*. It intends to better co-ordinate the actions of the different actors in cases of disappearance. Proposals to better address this phenomenon include increasing awareness among those involved in dealing with unaccompanied minors; taking more seriously any signs that point to a possible disappearance; better pedagogic assistance in the first reception phase; better registration of fingerprints and the circumstances at the time of apprehension; more rapid assignment of a guardian; and, at EU level, enhanced practical co-operation for tracking unaccompanied minors.

Given the reported disappearances from care in **Ireland**, it was suggested that if an unaccompanied minor is considered to be at significant risk of abduction or going missing from care, then they should be placed in emergency accommodation for their own protection.

The previously (Section 6.4) described protected reception in the **Netherlands**, which involved a number of stakeholders and kept the unaccompanied minors under intensive

[121] Through the project "*Training for nominated guardians of unaccompanied minors*," funded by the European Refugee Fund (ERF) and the Swedish State Inheritance Fund.

supervision, is considered to have contributed to a positive trend in respect of the prevention of disappearances.

The suspicion in the **United Kingdom** is that minors who have been trafficked go missing from local authority care. A number of measures have been undertaken to tackle this phenomenon and the *Operation Paladin* and *Operation Newbridge*, in place at certain ports and asylum screening units, are considered to be highly successful in this respect. These are joint operations to safeguard children travelling through ports by identifying offenders and children at risk; investigating cases; gathering and sharing intelligence; and working with other agencies.

10.6 Age Assessment

All Member States favoured a more reliable approach with regard to methods and practices used to determine age, taking into account the vulnerable situation of the unaccompanied minor and the respect of human rights.

The so-called "triple test" used in **Belgium** to determine age is considered to provide enough guarantees that minority can be acknowledged, given that it is a combination of three tests, and that the lowest attested age is then used, although this approach has been criticised. **Hungary** has suggested that a concise and EU-wide applicable assessment framework be developed, focusing on minimum standards and best practices.

In the **United Kingdom**, the *UK Border Agency* makes its age assessment based mainly on the age assessment carried out by local authorities' children's services. National courts have set out in the previously mentioned *Merton* case,[122] guidance for local authority social workers: i.e. that they should consider a range of relevant indicators when determining a person's age which may include their family and educational background, ethnic and cultural information and an assessment of their general credibility.

[122] See Section 3.1 of document at http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/assessing-age?view=Binary#7.

10.7 Asylum Procedure

A lot of efforts have been undertaken in **Belgium** to improve the asylum procedure for unaccompanied minors. Whilst not part of the legal framework, these efforts include appointing specialised caseworkers; having a co-ordinator for unaccompanied minors who is in contact with the different stakeholders; and handling the applications as a priority. Interviews are adapted to the degree of mental development, level of trauma and maturity of the child and, when deciding on the asylum application, minority is taken into account. The development of best practises within the context of the European Asylum Curriculum (EAC)[123] is also cited.

Currently several actors in **Finland** take part in the reception of minors seeking asylum and the related processing of applications. Within 2010, however, the steering of operations in the reception and placement are to be transferred to the *Finnish Immigration Service*, which will also be responsible for the training of representatives of minors seeking asylum. This transfer to a central agency level was deemed justified as the steering of reception activities and the appropriate placement of asylum seekers in reception centres forms a key part of the asylum process. Various non-governmental organisations have expressed their concern over this transfer, particularly with respect to a minor's legal protection. Elsewhere, the *Ombudsman for Minorities*[124] commissioned a study on a minor's best interest within the asylum process and reception arrangements. With regard to the interviewing, the *Finnish Immigration Service* uses guidelines specifically for unaccompanied minors with various considerations to be taken into account, such as gender, age, cultural background, level of development and of traumatisation, as well as practical tips on how to meet minors. Asylum interviews also utilise a dedicated interview form with separate versions for persons over and under 15 years of age. Where necessary the interviews exploit visual and functional measures (e.g. drawing, play).

The practice in **Germany** of using "asylum officials with special responsibilities" with legal and psychological training for interviewing unaccompanied minors and for checking on their reasons for asylum is considered to have proved its worth, making it possible to respond purposefully to the requirements of minors. Of particular importance in this respect is the

[123] A project undertaken by GDISC with support from the European Union, see Section on "Interviewing Children" at http://www.gdisc.org/uploads/tx_gdiscdb/final_curriculum_EAC.pdf.

[124] See http://www.vahemmistovaltuutettu.fi/ and the report itself is available from http://www.vahemmistovaltuutettu.fi/intermin/vvt/home.nsf/pages/84FCA7A8B0F6510DC22573C2004B7694?opendocument.

identification of former child soldiers. Another practice that has turned out to be meaningful is that of allowing the legal guardians of 16 and 17-year-old unaccompanied minors to be present at interviews, even though the minor has the legal right to represent themselves without a guardian or legal representative.

The recruitment of translators who will enable proper communication of an unaccompanied minor with the authorities responsible for their care and assistance was a particular consideration for **Greece**. This would serve to facilitate proper communication so that issues like complete assessment of an asylum application; age assessments; healthcare provision, especially psychological care; and appropriate accommodation and care may be effectively addressed. The need for translators was also highlighted by **France**, **Lithuania** and **Malta**.

An example of best practice highlighted by **Portugal** was the fact that the views of the *UNHCR* and the *Portuguese Refugee Council (CPR)* were heard during the legislative process of preparing the present *Asylum Law*. As a result of this hearing, some of the proposals of these organisations were effectively incorporated into the said law, ensuring that the law is particularly suited to the needs identified by organisations that directly intervene in the process. The legal recognition of the CPR as an entity intervening in the asylum procedure, which is likewise responsible for mechanisms to support and integrate the candidates, is also considered an innovative solution.

A number of projects undertaken in **Sweden** are cited as examples of best practice in the asylum procedure and, in general, NGOs are also considered to play a key role in the whole process. One project aims at improving the quality and efficiency of asylum examinations involving unaccompanied minors through developing and implementing a method of working with child impact assessments in the asylum examination process; to develop access to country of origin information; and identifying investigation methods in asylum examination. Amongst other projects is one on "*The Best Interests of the Child in the Asylum Process*," aimed at concretising the contents and import of the principle of the 'best interests of the child.'[125] With regard to family tracing, an extremely difficult but very high priority, the *Migration Board*'s '*Project Reunification*' has tested the use of local lawyers connected to Swedish embassies in or near the minors' countries of origin.

[125] Carried out in 2007-2008 by the *Children's Rights in Society (BRIS)* in partnership with the *University of Malmö*, co-funded by the ERF, see http://www.sweden.gov.se/sb/d/11901/a/125270.

10.8 Measures for unaccompanied minors not in the asylum procedure

An aspect identified by **Ireland** and **Lithuania** in particular, is that unaccompanied minors not in the asylum process or identified as victims of trafficking, have no official immigration status and, therefore, no defined independent right to reside. This may lead to differences in their treatment dependent not only on the Member State in which they enter, but also on which region of a Member State they reside in. In some cases, such unaccompanied minors have been recommended to apply for asylum in order that they will then have a clearly defined legal status.

A *September 2005 Circular Procedure* has been developed in **Belgium** whose aim is to provide a durable solution for those unaccompanied minors who have not applied for asylum or can not/no longer apply for another residence procedure. The *Immigration Department* which implements this procedure, provides three possibilities (family reunification, return, residence) which is decided on a case-by-case basis, although there has been criticism from NGOs that the basis of these decisions sometimes appears arbitrary and not based solely on the best interests of the minor. These decisions, however, are always open for appeal to the *Aliens Litigation Council*. For those unaccompanied minors who are victims of trafficking, it is considered that the conditions to benefit from protected status are hard to meet and insufficiently adapted in that it is practically and psychologically difficult for an unaccompanied minor to collaborate with the authorities and to file a complaint against their offenders. To address this, the Action Plan approved by the government in July 2008 recommended adapting legislation so that collaboration with the judicial authorities is no longer a prerequisite.

Minors who turn 18 years and are not asylum applicants, refugees or persons in need of subsidiary protection have no clear legal right to be in **Ireland** and may be issued with an order to leave, possibly after spending a large part of their childhood in the country. The *UNHCR*, *Irish Refugee Council* and others have advocated that an alternative route to temporary residency be found when determined to be in the minor's best interests.

10.9 Measures for unaccompanied EU national minors

From a legislative perspective, these unaccompanied minors are different in that they are subject to Union law which guarantees the fundamental and personal right to reside and move

freely in the territory of the EU Member States to all its citizens, including unaccompanied minors.

Since such minors are, by definition, excluded from the *Guardianship Act* in **Belgium**, a specialised service, *Signalement des MENA Européens Vulnérables (SMEV)*[126] has been created. This allows such minors to be placed in a reception facility (OOC) for a maximum of one month, but with no guardian assigned. The *Immigration Department* examines the individual residence situation of each minor and searches for an appropriate solution in a European context. Suggestions to better address this particular circumstance are for better practical co-operation and bilateral agreements with the other Member States and for more initiatives at the level of the European Union (e.g. with the Roma community, network of contacts, improvement of education in country of origin).

A specific *Central Body (OCR)* for the protection of unaccompanied minors coming from EU-10+2 Member States was created in **Italy** in October 2007 within the *Ministry of Interior*. The OCR is responsible for ensuring the rights of unaccompanied EU national minors, evaluate projects for reception and also assisted return, as well as ensure the implementation of the Italy-Romania Agreement (June 2008) for the protection of unaccompanied Romanian minors in Italy.

10.10 Integration Measures

The project 'Connecting People'[127] in **Austria**, which offers young refugees and asylum applicants orientation and safety through the establishment of a long-term and stable relationship with a so-called godfather/godmother, is, according to the experts consulted, seen as a best practice for integration measures. Another successful measure is considered to be the placement of an unaccompanied minor in 'Production Schools',[128] which eases their transition from school to vocational training or professional life, as well as involvement of unaccompanied minors in local sports clubs. Likewise, **Belgium** too has identified its so-called "onthaalklassen/classes passerelles" as a very efficient way to integrate unaccompanied minors in a school.

[126] Further information available at http://www.adde.be/index.php?option=com_content&task=view&id=87.
[127] Details available at http://www.asyl.at/connectingpeople/.
[128] See www.produktionsschule.at.

In order to try to better motivate integration into society in the **Czech Republic**, the *Organisation for Assistance to Refugees (OAR)* holds, on a regular (typically weekly) basis, meetings with minors as part of a project entitled "*At the Start*."[129] These meetings are based on a close co-operation of a lawyer and a social worker and are oriented around a systematic and comprehensive preparation of minors for independent life after their departure from an accommodation facility. In order to address a perceived discordance by non-profit organisations between the measures aimed at integrating minors and the subsequent complexity of obtaining legal residence, it is planned to implement a system of individual integration plans for unaccompanied minors who obtained asylum. The same entity also implemented another project whereby unaccompanied minors were provided with assistance in addressing their situations and current problems through the employees of OAR. University students were also invited, after receiving training, to spend some of their free time with the minors, based on a friendly relationship, as "individual assistants" helping them to get to know the Czech environment and to resolve common problems of everyday life.

10.11 Co-operation with Countries of Origin, including in the context of Return and Re-integration

Monitoring of the reintegration process in the countries of origin in order to guarantee the sustainability of the return carried out by *Drehscheibe,* a facility for unaccompanied minors of the City of Vienna, was emphasised by **Austria**. Another important aspect in this context, is the transfer of practical know-how through training courses for national practitioners working in the country of origin to guarantee the best possible care and help for the minors.[130]

The *Immigration Department* in **Belgium** considers that return may be a durable solution in the best interests of the child. However, the number of assisted voluntary returns is very low and this may be because guardians are often reluctant to agree that this is a durable solution. Since a removal order that is issued for an unaccompanied minor is seldom implemented, the *Immigration Department* considers that this may create a "pull factor" leading to the misuse of the unaccompanied minor status. It is also noted that, whilst acknowledging the efficiency of the IOM Voluntary Return programmes, the level of the reintegration funding may not be sufficient in relation to the amount parents might have invested to send their child to Belgium.

[129] Details available at http://www.opu.cz/index.php?option=com_content&task=view&id=258&Itemid=25&lang=cs.
[130] See www.wien.gv.at/menschen/magelf/

The return of unaccompanied minors from **Finland** has benefitted from the assistance of the IOM return programmes. The IOM requires that an integration programme and a monitoring system are in place for minors returning to their country of origin within their return programmes. The *Ministry of the Interior* is preparing a project which aims at seeking opportunities for supporting reintegration through development co-operation. The project co-operates with national and international organisations, with the aim of establishing a co-operation network of NGOs in the country of return to support reintegration of vulnerable groups. This approach would also take into consideration broader implications in the country of return like, for example, support of the development of the local civic society.

As a best practice example, **Italy** cited the reinsertion projects, funded by the government, for encouraging the return of unaccompanied minors to Albania, which consists of training courses followed by an apprenticeship period and a subsequent job insertion in their country of origin, whenever possible. Although the unaccompanied minor can decide to participate or not in these projects, in case of refusal, an attempt to convince them otherwise is made giving two main reasons: offering the opportunity of reintegration after a failed attempt to enter Italy- which sometimes is a traumatic experience - and to avoid their subsequent entry again to Italy.

Slovenia also proposed that special attention be paid to the creation of suitable, sustainable programmes for the return of an unaccompanied minor to their country of origin. This would also serve to break the vicious circle that some minors are caught in, since after their return to the country of origin, many again face the same situation they had left behind upon their first departure and, due to a lack of support and assistance, they leave their country of origin once again in hope of a better future.

In accordance with the policy of the government in **Spain**, a multilateral perspective is applied in order to prevent illegal migration; provide protection while in Spain; and facilitate the assisted return and reinsertion of unaccompanied minors in their countries of origin. Towards this goal, an assessment was undertaken to better understand the motivations for an unaccompanied minor to leave their country of origin so that the authorities there might be assisted in order to reduce this motivation. As part of this assessment, interviews were held with unaccompanied minors under guardianship and with those who have reached legal age in

order to explore in depth the personal and family situation in their country of origin, their motivations for emigrating, and who made the decision for them to embark on this adventure. The level of satisfaction of their expectations was also explored in depth, asking them if, as a last resort, they would repeat the migratory adventure.

As an example, the *Global Strategy of Spanish Co-operation* in support of vulnerable minors in Morocco, supports the establishment of child protection entities, especially in the regions from which the minors migrate; strengthens the network of the *Moroccan Entraide National Centres*; creates a programme to combat early school leaving, including the improvement of the quality of education and the promotion of informal education; introduces actions as regards professional training and mentoring for employment; and introduces a mediation and reintegration programme with guarantees for unaccompanied minors returned from Spain. Elsewhere, the *Spanish International Co-operation and Development Agency* is currently working towards establishing co-operation in the support of vulnerable minors in Senegal. Spain also co-operates with countries of origin in order to fight against migrant-smuggling gangs and, to this end, actions are being carried out to raise awareness among the minors, their families and society at large as to the risks inherent to such emigrations by unaccompanied minors.

10.12 Published Best Practice Guidelines

Austria has engaged with the governments of **Belgium**, Bulgaria, **Czech Republic**, **Poland** and Romania in the exchange of information and best practices on first reception, protection and treatment of unaccompanied minors in the framework of the aforementioned (Section 1.3) project *'Exchange of Information and best practices on first reception, protection and treatment of UAMs. Manual of best practices and recommendations*' implemented by the IOM in 2008.

In light of the (albeit currently inconsistent across the Federal States) practice in **Germany** of not compelling the departure of unaccompanied minors who have been refused protection status, it was suggested by **Germany** that steps towards unification as defined in the UNHCR Guidelines on *'General principles and procedures for the treatment of UAMs who are seeking asylum*' (see Section 1.3), and in the *Separated Children in Europe Programme*, could be considered.

A recent *UK Border Agency* report on improving the care of unaccompanied asylum seeking minors, "*Better Outcomes: The Way Forward Improving the Care of Unaccompanied Asylum Seeking Children*",[131] puts forward five key reforms as a result of lessons learned from current practice.

11. CONCLUDING REMARKS

This European Migration Network (EMN) study on unaccompanied minors describes, as comprehensively as possible, the situation in the 22 participating Member States, principally up to mid-2009. In this way, it has also provided the possibility to present in one report, an overview of the available, but distributed, information in the Member States, to give at least an initial, general understanding of the situation in the EU.

The situation of unaccompanied minors has increasingly gained more and more importance, both on the political agenda and with the wider public across the EU, albeit less so in those Member States with low numbers of unaccompanied minors. Consequently, many Member States have undertaken a number of initiatives, including financial, like, for example, the development of a National Action Plan, to address and further improve the situation with regard to the treatment unaccompanied minors.

In keeping with the EMN's objectives, the information provided by this study, in both the National Reports and this Synthesis Report, may serve as a reference for policymakers when determining whether to create or strengthen new initiatives for unaccompanied minors. In particular, the expectation is that any such initiatives would be in the context of the Action Plan, as foreseen in the Stockholm Programme, proposed by the Commission (COM(2010) 213) in May 2010 and complemented by this EMN study. In the remainder of these concluding remarks, aspects identified by the study, which may serve to indicate to policymakers and other relevant stakeholders where further developments might be advantageous, are highlighted.

The *UN Convention on the Rights of the Child* and the principle of the "best interest of the child" *inter alia* lie at the basis of both national and indeed EU acquis in regard to the

[131] January 2008, available from http://www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/uasc/betteroutcomes.pdf?view=Binary.

treatment of unaccompanied minors. The consequent extensive safeguards, both in the relevant EU acquis, as well as the adoption of other legislative measures in the Member States, can be argued as providing, on the whole, appropriate measures. However, there might be certain elements which are not considered as being effectively covered or could be further improved like, for example, the development of common standards across the EU in regard to reception and the provision of assistance to unaccompanied minors from entry onwards.

The manifold, but interrelated, motivations and circumstances identified in this study for an unaccompanied minor to seek to enter the EU demonstrate the complexity of the phenomenon. However, there would seem to be scope for a more comprehensive overview of these motivations and circumstances, particularly from the perspective of the countries of origin, as well as between those Member States who are primarily targeted countries of destination and those who primarily experience the transit of unaccompanied minors.

Whilst an unaccompanied minor who applies for asylum upon arrival at an external border of the EU is then subject to established procedure, which is more-or-less consistent across all Member States, if no application for asylum is made, and noting that an unaccompanied minor might not have the awareness to do this immediately upon arrival, then there are varying practices. For example, refusal of entry can most commonly occur if an unaccompanied minor does not apply for asylum, but this is not a universal practice for all Member States.

As a consequence of the growing numbers of unaccompanied minors in many Member States, new challenges have emerged, for example with regard to the capacities of care and reception facilities for the successful reception and integration of unaccompanied minors. The role of and care provided by a guardian, or similar representative, from the initial stages of entry of an unaccompanied minor appears to be crucial in determining the most appropriate course of action to taken, again based on the principle of the best interests of the child. As part of the reception and care process, all Member States provide accommodation and a number of best practices have been highlighted. Of particular concern to many Member States were disappearances from accommodation facilities. Elsewhere, and in the context of integration measures, one of the issues identified was in respect to the provision of education, namely the lack of sufficient knowledge of the Member State language making it difficult for an

unaccompanied minor to participate in a class with their peers. In this particular instance, Member States address this circumstance through the provision of additional language tuition.

Other challenges identified were in regard to developing an accurate assessment of the age of an unaccompanied minor, in cases where there was a doubt, and with regard to what happens when an unaccompanied minor turns 18 years of age. With regard to age determination, whilst the general approach of all Member States is to give the "benefit of the doubt," the importance of establishing an approach which gives more confidence in age determination was identified. In a similar vein, further consideration of the practices in respect to an unaccompanied minor turning 18 years of age in order to address the ambiguity of status that sometimes occurs might be advantageous.

In spite of the efforts undertaken by the Member States, successful family tracing seems to occur in only few cases. Bearing in mind that the best interests of the child might not be to reunite them with their family, still there might be some scope for further assessing how this process might be better facilitated. With regard to family reunification of an unaccompanied minor's family in the EU, and referring also to comments below with regard to the limited availability of data, again a more extensive assessment across all Member States may be useful in order to obtain a more representative overview.

Likewise, the indication is that detention and (assisted) return occur rarely rather than routinely. Certainly the policy of most Member States with regard to detention is that this occurs only as a "last resort." For the process of return and reintegration, and given the interconnection with family tracing, there might also be scope for further assessing how this process might be better facilitated. For example, some, albeit limited, information on the motivations of an unaccompanied minor wishing to return is available. Conversely, it is also reported that unaccompanied minors have no interest in returning to their country of origin and there have also been difficulties in co-operating with the authorities in the potential country of return. Another aspect is the situation of unaccompanied minors whose asylum applications have been refused, but whose return to their country of origin is not enforced due to their age and/or uncertain family set-up. These minors can find themselves in a legal limbo or with weak residence status, circumstances that can impact negatively on their personal and educational development.

A recurring difficulty in all Member States is the availability of comprehensive data both at national level and also comparative data at EU level. Whilst there have been improvements in the availability of data, it can be argued that the range, availability and comparability could be further improved in order to provide policymakers with a more comprehensive overview of the scope of the challenges presented by unaccompanied minors. Examples of where there could be improvements in complementary and standardised statistics are with regard to unaccompanied minors who have not applied for asylum, as well as on the accommodation, care, education and disappearances of unaccompanied minors.

Whilst best practice in addressing some of the issues identified by this study have been given, there are a number of other aspects identified, like, for example, actions for those unaccompanied minors who do not apply for asylum or for those unaccompanied minors who turn 18 years old, that may warrant further investigation to establish whether best practices in these instances also exist.

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