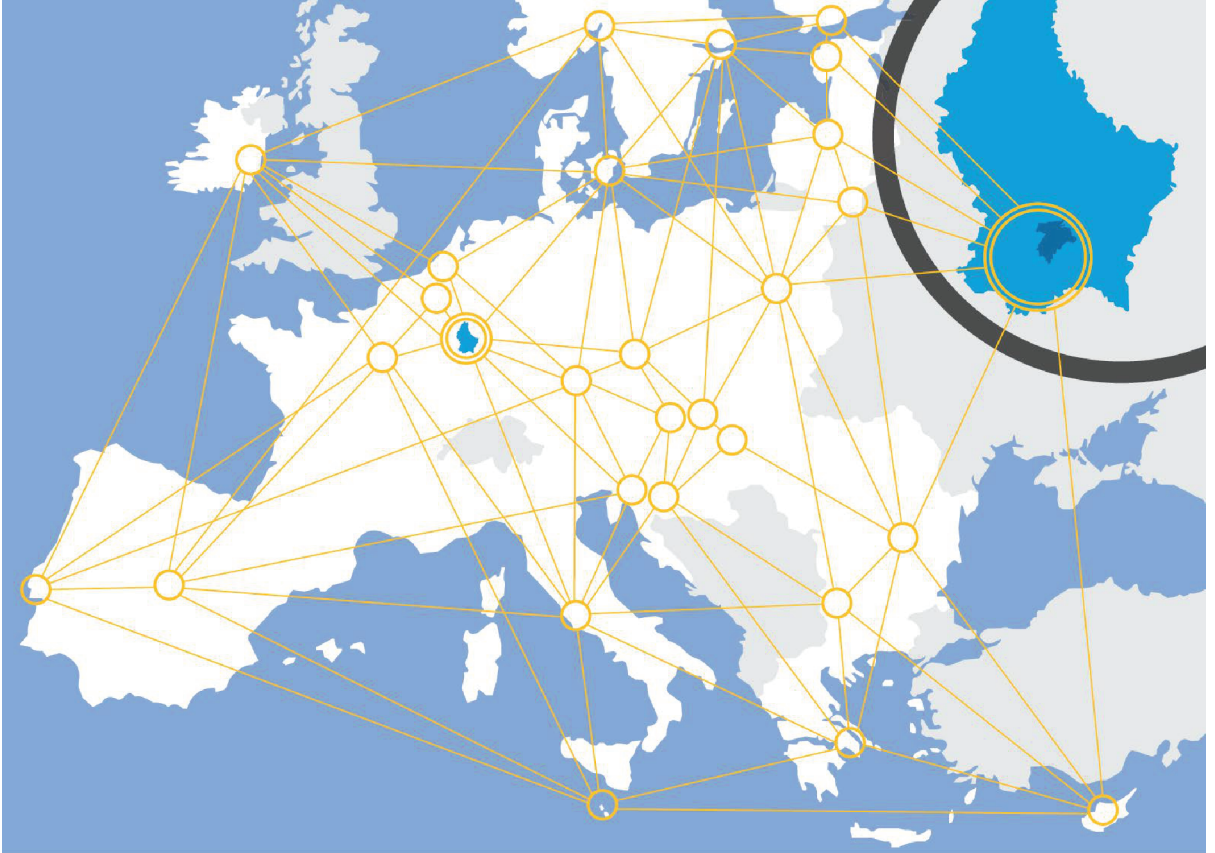


EMN

European Migration Network



LËTZEBUERG



Guardianship of unaccompanied minors

February 2024

1. Introduction

Aims and Scope

EMN Member States and must ensure the protection of children who are without parental care, no matter their nationality or residence status¹. Children who are not accompanied by their family are thus entitled to special protection and assistance by the State.² While EU law acknowledges the importance of guardianship and legal representation to protect the well-being of unaccompanied minors, the concept of guardian is not universally defined.³ At EU level, even though the institution of guardian is integrated in most of the EU Member States legal systems, the terminology that is used when dealing with unaccompanied minors varies (i.e. guardian, representative).⁴ When dealing with third-country national unaccompanied minors there is some confusion as several terms are used such as “guardian”, “representative” and “ad-hoc administrator”.

At the request of the Luxembourgish Ombudsman for Children and Youth (OKaJu), EMN Luxembourg launched an Ad-Hoc Query on this topic. 23 Member States⁵

provided information through the EMN Ad-Hoc Query mechanism. The aim of this EMN Luxembourg inform is to map how guardianship systems for unaccompanied minors operate in EU Member States and try to bring some clarity to this issue.⁶

This document is considered a living document as a basis for further discussion of this topic. It is envisaged to update the document as needed on an annual basis (see section 13).

Background and Definitions

An unaccompanied minor (hereinafter “UAM”) is defined as someone “who arrives on the territory of an EU Member State unaccompanied by the adult responsible for them by law or by the practice of the EU Member State concerned [...] for as long as they are not effectively taken into care of such a person or who are left unaccompanied after they have entered the territory of the EU Member State.”⁷

The institution of guardianship dates back to Roman times and was enshrined by the

¹ European Union Agency for Fundamental Rights (2022): Guardianship systems for unaccompanied children in the European Union. Developments since 2014, p.5.

² United Nations (1989): Convention on the Rights of the Child, p.6.

³ European Union Agency for Fundamental Rights (2014): Guardianship for children deprived of parental care: A handbook to reinforce guardianship systems to cater for the specific needs of child victims or trafficking, p.13.

⁴ E.g. In Estonia we speak about representative who is not appointed by the court, then guardian who is appointed by the court and then there is the legal representative who provides legal assistance.

⁵ AT, BE, BG, CY, CZ, DE, EE, EL, FI, FR, HR, HU, IE, IT, LV, LT, LU, NL, NO, PL, PT, SK, SE

⁶ DISCLAIMER: This inform is based on the responses of the contributing Member States regarding EMN ad-hoc query 2023.24. These responses have been provided primarily for the purpose of information exchange among the EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided information that is to the best of their knowledge up-to-date, objective and reliable. However, the information provided in the present summary is produced **under the exclusive responsibility of EMN Luxembourg** and does not necessarily represent the official policy of an EMN NCP’s Member State nor of the European Commission.

⁷ EMN Asylum and Migration Glossary, unaccompanied minor, https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/unaccompanied-minor_en

Romans in the Code of Justinian.⁸ Later this institution was transcribed in the French Civil Code of 1804⁹ and it was adopted by most European and Latin-American Civil Codes.

According to the Council of Europe the term “guardian” refers to a person who is appointed or designated to support, assist and, where provided by law, represent unaccompanied or separated children in processes concerning them. [...] The guardian acts independently to ensure that the child’s rights, best interests and well-being are guaranteed. The guardian acts as a link between the child and all other stakeholders with responsibilities towards him or her.¹⁰

The EMN Glossary defines the term **guardian** in the migration context as “an independent person appointed to act on behalf of a child, in the absence of (both) parents or the adult responsible for the child by law or by practice, who safeguards the best interests of the child (BIC) and general well-being, and to this effect complements the limited legal capacity of the child, when necessary, in the same way

that parents do.”¹¹ However, this definition is more restrictive than the definition included in most civil codes¹² as it is limited to the migration context, with guardianship in the civil codes covering national and EU citizens as well.

The EMN Glossary, also provides the definition of **representative** in the migration context: “a person or an organisation appointed by the competent bodies in order to assist and represent a child in different procedures (such as in procedures for international protection) with a view to ensuring the best interests of the child (BIC) and exercising legal capacity for the minor where necessary.”¹³

It is worth noting that as both of these EMN definitions are similar, it may be difficult to distinguish between them in practice.

Finally, an **ad-hoc administrator** is a representative duly appointed either by an administrative body or a judge.¹⁴

Depending on the Member State where the UAM resides, their residence status, type of procedure and personal circumstances of

⁸ The Enactments of Justinian, Book V, Titles 30 to 75. URL: https://droitromain.univ-grenoble-alpes.fr/Anglica/CJ5_Scott.htm#30

⁹ Articles 389 and ss of the French Civil Code of 21 March 1804. URL:

<https://data.legilux.public.lu/filestore/eli/etat/leg/memorial/1804/a5/fr/pdf/eli-etat-leg-memorial-1804-a5-fr-pdf.pdf>

¹⁰ Council of Europe, Appendix to Recommendation CM/Rec(2019)11 “Guiding principles and implementing guidelines for effective guardianship for unaccompanied and separated children in the context of migration, October 2022, p. 12. URL: <https://rm.coe.int/cm-rec-2019-11-guardianship-en/16809ccfe2>

¹¹ See EMN Glossary definition of guardian. URL: https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/guardian_en

¹² Eg. Articles 373, 389, 420 ff of the French Civil Code.

¹³ See EMN Glossary definition of representative, https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/representative_en See also, article 2 (j) and article 24 of the Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast). URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013L0033>

¹⁴ Article 20 (1) of the amended law of 18 December 2015 on international protection and temporary protection (Asylum Law). URL: https://maint.gouvernement.lu/content/dam/gouv_maint/le-ministere/immigration/l%c3%a9gislations/update-2022/asile-loi-vc-juillet-2021.pdf

the UAM, tasks and responsibilities of the guardian or representative change.¹⁵

For example, in Luxembourg the institutions of the guardian¹⁶ and the ad-hoc administrator¹⁷ are separate and accomplish different tasks. The guardian is responsible for the day-to-day business of the UAM while the ad-hoc administrator deals with the asylum application during the asylum, immigration (especially with the trafficking of human beings and residence permits) and with the return procedure. In some cases, a lawyer can be appointed to both the position of guardian and ad hoc administrator.¹⁸

Concerning the legal framework for guardianship and representation of UAM, MS also have other legal frameworks that apply to the care and protection of UAM.

Belgium has different guardianship systems, for example the civil guardianship ordered by the justice of the peace and the guardianship ordered by juvenile court when parental authority is removed, these systems are not specific for UAMs and mostly apply to Belgian minors. In the past, it was concluded that these guardianship systems fell short of protecting UAMs. This is the reason why the Guardianship Act was adopted in Belgium and created a specific guardianship for UAMs as well as the Guardianship Service (under the Federal

Public Service Justice). Under this system the **guardian** has responsibilities towards ‘the day-to-day life and towards the asylum and return procedures of the UAM’, but s/he is not the lawyer of the UAM.

At the request of the Luxembourgish Ombudsman for Children and Youth (OKaJu), EMN Luxembourg launched an Ad-Hoc Query on this topic. 23 Member States¹⁹ provided information through the EMN Ad-Hoc Query mechanism. The aim of this EMN Luxembourg inform is to map how guardianship systems for unaccompanied minors applying for asylum and in return procedures operate in EU Member States and try to bring some clarity to this issue.

For the purpose of this inform the term representative will incorporate “representative” and “ad-hoc administrator” to avoid confusion. However, when referring to a specific Member State that use the term “ad-hoc administrator” (mainly France and Luxembourg) it will be used.

2. Key points

- There is no clear and unambiguous definition of the term guardian for unaccompanied minors (UAMs) in Member States in the migration context.

¹⁵ European Union Agency for Fundamental Rights (2022): Guardianship systems for unaccompanied children in the European Union. Developments since 2014, p.6.

¹⁶ Article 389 and ss of the Luxembourg civil code of 5 March 1803. URL: <https://legilux.public.lu/eli/etat/leg/code/civil/20230923>

¹⁷ Article 20 (1) of the amended law of 18 December 2015 on international protection and temporary protection (Asylum Law). URL: https://maee.gouvernement.lu/content/dam/gouv_mae/directions/d8/l/%C3%A9gislations/update-2022/asile-loi-vc-juillet-2021.pdf

¹⁸ In these cases the guardian and ad-hoc administrator is a lawyer.

¹⁹ BE, BG, CZ, DE, EE, IE, EL, FR, HR, IT, CY, LV, LT, LU, HU, NL, AT, PL, PT, RO, SK, FI, SE

- In relation to UAMs there are some countries that refer to guardians, and others as representatives. Nevertheless, while these terms may be used interchangeably, they are not synonyms and depend on the legal framework.
- The appointment procedure of the guardian, representative or ad-hoc administrator varies as well. The majority are appointed by judicial decision but in several Member States they are appointed by the supervising administrative body. The authority requesting the appointment of the guardian, representative or ad-hoc administrator also differs from country to country.
- The appointment and tasks established for the guardians and representatives are mainly governed by specific laws and the civil code in 11 Member States. In 8 Member States these tasks are governed exclusively by the Civil Code and in 4 Member States they are governed by specific legislation only.
- Even though there is no common definition of the term guardian when dealing with migration and asylum issues related to UAMs, most Member States appoint specific guardians, representatives, or ad-hoc administrators to deal with the relevant procedures. In other Member States, however, guardians manage the day-to-day life of the UAMs and some Member States appoint guardians to oversee the relevant procedures and to manage the day-to-day life of the UAMs.²⁰
- The large majority of responding Member States stated there are no clear or specific criteria for appointing a guardian besides the general requirements of the Civil Code.
- Most Member States allow a family member to be appointed as a guardian. Other Member States do not allow it since they considered that the family member could not be capable to deal efficiently with the task s/he must fulfil. Most Member States that allow a family member to be appointed as guardians for UAMs still count these UAMs as eligible for family reunification as the minor continues to be considered as an UAM.
- 9 Member States require that guardians receive specific training focused on UAM-related issues.
- 13 Member States indicate having national-level quality standards, guidelines, or official recommendations for the handling of UAMs to be followed by the guardian or representative.
- Most MS do not have monitoring mechanisms regarding the deadlines for the appointment of the guardians or representatives. Nevertheless, the large majority of Member States have complaint mechanisms for removing or changing the guardian or representative. Only 9 Member States reported the use of monitoring systems.

²⁰ BE, EE (this will depend if the UAM lives with the guardian or not), FI.

- 17 Member States provide interpretation free of charge so that the guardian/representative can communicate with the UAM. Only one Member State reports the use of intercultural mediation for this purpose.

3. Appointing a guardian/representative

3.1. Different appointment systems

Guardians and representatives carry out a range of roles, covering asylum and migration procedures and the day-to-day life relating to the care of the UAM. One of the main complexities is the question how these roles are assigned between guardians and representative in MS. Usually a representative/ad hoc administrator deals with procedures and guardians with day-to-day life, but this is not clearcut in all Member States.

The appointment procedure of the guardian or representative varies from country to country.

In 14 Member States the appointment of a guardian is done by a court decision.²¹

In these Member States where an appointment is made by the court, the procedure varies from country to country as the responsibility can lie either with the district or local courts.²² In other Member States the family courts appointment

appoint the guardians.²³ In these cases, there is no centralized administrative appointment system when dealing with UAMs, and the immigration and asylum authorities, must request the appointment from the courts.

Five member states described a two-step system for the judicial appointment.²⁴ In **Luxembourg**, two actors intervene in the appointment of a guardian/representative. The Directorate of Immigration requests the appointment of the ad-hoc administrator before the court of family affairs. In the case of guardians, the procedure is done before the same court, but it is normally the institution where the UAM is placed that triggers the appointment. In the **Netherlands**, for the appointment of a guardian, an application to the district court may only be submitted by a lawyer.

In **Greece** the Prosecutor appoints the guardian from a list of guardianship service providers. This is done in cooperation with the General Secretariat for Vulnerable Persons and Institutional Protection of the Ministry of Migration and Asylum.

Regarding asylum procedures, representatives or guardians can be appointed by the courts or directly by an administrative authority. In **Bulgaria** the representative is appointed by the National Legal Aid Bureau, in **Croatia** by the Regional Office of the Croatian Institute for Social Work, in **Cyprus** by the Social Welfare

²¹ AT, CZ, DE, EE, EL, FI, FR, IT, LV, LU, NL, PT, PL, SK.

²² AT (in accordance with Article 109 (1) of the Court Jurisdiction Act), CZ, DE, EE, FI, FR and SK. In Finland, in case of an asylum-seeking UAM the reception centre where the UAM is accommodated requests the appointment of a guardian from a district court.

²³ IT, LU, PL and PT.

²⁴ EE, LV, LU, NL, PL.

Services²⁵, **NIDOS**²⁶ in the Netherlands, National Child Protection Service (Országos Gyermekvédelmi Szakszolgálat - OGYA), the guardianship authority in **Hungary**, the Child and Family Agency TUSLA²⁷ in **Ireland**, and the county governor in **Norway**. In those cases, a clear centralized system is in place. In **Lithuania** and **Sweden** the municipality where the minor lives is responsible for the appointment. However, **Lithuania** appoints at the request of another administration (State Child Rights Protection and Adoption Service, respectively).

In **Estonia** an unaccompanied minor shall be appointed a representative for performance of procedural acts as soon as it has been identified that the applicant is a minor. A representative shall not be appointed if the minor shall probably attain the age of maturity before the Police and Border Guard Board makes a decision on the application. In such cases the unaccompanied minor may independently perform the acts provided for by law.

In **Belgium**, the appointment of guardians of UAMs is not done by a court decision, but by

the Guardianship Service of the Federal Public Service Justice. These guardians oversee the asylum application, the immigration and return procedures of the UAMs²⁸ and propose durable solutions for the minors) and are also in charge of the day-to-day business of the UAMs. Additionally, the Ministry of Social Affairs, though the Social Insurance Board, requests the appointment of the guardian from the local court.

3.2. Which ministry or department is responsible for requesting the appointment?

The appointment can be done either by judicial decision or by administrative decision.

All responding Member States which work by judicial or administrative appointment must do the appointment at the request of another administration.

However, there is no uniformity of the responsible authority that requested the appointment of the guardian or representative, as shown in the table below.

²⁵ The Director of the Social Welfare Services

²⁶ NIDOS provides guardianship for children who apply for asylum without a parent, parents or guardian.

²⁷ TUSLA is the statutory agency responsible for a broad range of services including child protection and welfare. TUSLA workers are allocated to support and monitor UAMs.

²⁸ Among the tasks of the guardians are: requesting the assistance of a lawyer to represent the minors in the various procedures; submitting an asylum application or an application for a residence permit for the minors; exercise remedies when the guardian considers that the decisions regarding the minors are not in accordance with their interests; assisting the minors in all procedures concerning them, and attending all hearings (at the Immigration Office, etc.).

Table n° 1: Authorities which request the appointment of the guardian/representative

Member State	Guardian	Representative
Austria	Child and Youth Welfare Agency	N/A
Belgium	The Guardianship Service of the Federal Public Service Justice	N/A
Bulgaria	Mayor of the Municipality or official appointed by him/her	National Legal Aid Bureau
Croatia		Regional office of the Croatian Institute for Social Work (specific guardian)
Cyprus	Director of the Social Welfare Services	Idem
Czech Republic	Municipal authority of a municipality with extended powers as a Social-Legal Child Protection Authority (OSPOD). Appointment by the Asylum and Migration Policy Department of the Ministry of Interior	Preferably a relative or close person if not Social-Legal Child Protection Authority (OSPOD). Appointment by court
Estonia	Social Insurance Board, Ministry of Social Affairs ²⁹	Social Insurance Board, Ministry of Social Affairs/Police and Border Guard Board ³⁰
Finland		Reception Center
France	Social child and youth care services	French Office for the protection of refugees and stateless persons (OFPRA) for UAMs applying for asylum Border Police authorities for UAMs in waiting areas
Germany	Local Youth Welfare Office (Jugendamt)	Idem
Greece	General Secretariat for Vulnerable Persons and Institutional Protection, Asylum Service, Reception and	Idem

²⁹ However, according to the Family Law Act (§ 171), officials of vital statistics offices, any other government agencies, rural municipality, city government officials, police officers, heads of medical institutions and social welfare institutions, judges, prosecutors, notaries and bailiffs who have information concerning a child in need of guardianship **are required to notify the rural municipality or city government and a court of the need of guardianship**. The same obligation also rests with the relatives of a child in need of guardianship.

³⁰ Regarding migration procedures, Aliens Act, Act on Granting International Protection to Aliens (AGIPA) and Obligation to Leave and Prohibition on Entry Act (OLPEA) set special rules that must be followed in administrative proceedings. As the first contact with UAMs is usually the PBGB, the PBGB also involves the Social Insurance Board and the local authority where the child lives. Thus, as a first thing, UAM must be appointed a representative for procedural acts.

	Identification Service of the Ministry of Migration and Asylum, as well as any authority that identifies an unaccompanied minor, e.g. the Police.	
Hungary	Immigration and asylum service	Idem
Ireland	Immigration Service ³¹	
Italy	Legal Representative ³² of the Reception Center or the Public Security authority	
Latvia	Orphan's Court, Office of Citizenship and Migration Affairs and the State Border Guard	Office of Citizenship and Migration Affairs and the State Border Guard ³³
Lithuania	State Child Rights Protection and Adoption Service (hereinafter – the Service)	N/A
Luxembourg	Institution where the UAM is accommodated	Directorate of Immigration
Netherlands	NIDOS (National guardianship institution)	Legal Aid Board
Norway	State Civil administration of the Ministry of Justice	
Poland	Border Guard/Office of Foreigners ³⁴	Border Guard
Portugal	Public Prosecutor	Public Prosecutor
Slovakia	Office of Labour, Social Affairs and Family	
Sweden	Swedish Migration Agency	Idem

³¹ In Ireland, there is no specific legislation on appointment of a guardian of an UAM. Tusla has statutory responsibility for the care of UAMs referred to them. While UAMs are referred to Tusla under the provisions of the Child Care Act 1991 by the immigration service (on arrival or if they present to make a protection application) this is not a formal request to appoint a guardian. Where there are care orders being sought for UAMs, there is provision for the Court to appoint a guardian ad litem, but the functions of this role differ from that of guardian in the migration context.

³² As soon as they have notice of the presence of a minor, to inform the Public Prosecutor's Office at Juvenile Courts and the Ministry of Labor and Social Policy for their respective competencies. See Article 19 of Legislative Decree 142/2015.

³³ The guardian's duties are performed by the chairman of the orphan's court until another guardian is appointed.

³⁴ In Poland, if in proceedings for granting international protection it comes to light that the applicant is an unaccompanied minor, the Head of the Office for Foreigners applies for the appointment of a guardian. This is an exception to the rule in which it is the Border Guard which applies to the Court in these matters. See Article 61(8) of the Act on Granting Protection to Foreigners within the territory of the Republic of Poland of 2003.

3.3. Is there any specific legislation governing the appointment of a guardian/representative?

Regarding the appointment of guardians/ad-hoc administrators of UAMs, Member States can be divided into three different categories:

- a) Member States that have specific legislation³⁵;
- b) Member States where specific legislation and the general civil law apply³⁶;
- c) Member States where only the general civil law applies;³⁷
- d) General child protection legislation.³⁸

3.3.1. Specific legislation

In **Belgium, Cyprus, Hungary, Finland, and Sweden** specific legislation governing the appointment of guardians is in place.

In **Belgium**, the Guardianship Act regulates the guardianship of unaccompanied foreign minors, the role of the Guardianship Service and the guardian.³⁹ In **Cyprus**, Article 10 of the Refugee Law⁴⁰ determines the role of

the guardian. In **Finland**, the appointment of a representative for an UAM asylum seeker is regulated in the Act on the Reception of Persons Applying for International Protection and on Identifying and Assisting Victims of Trafficking in Human Beings.⁴¹ In **Hungary**, the assignment of a child protection guardian to an unaccompanied minor is regulated by Act 80 of 2007 on the right to asylum and Act 31 of 1997 on the protection of children and guardianship administration (hereinafter: Child Protection Act) and its implementing Government's Decree 149/1997, which makes the procedure partially identical to the appointment of a child protection guardian in general cases (for minors with Hungarian citizenship). In **Sweden**, there is a specific law for the appointment of guardians for unaccompanied minors.⁴²

³⁵ BE (Guardianship Act of 24 December 2002), CY (Refugee Law), FI, HU (Act 80 of 2007 on the right to asylum and Act 31 of 1997 on the protection of children and guardianship administration), SE. In Bulgaria, regarding appointment of representatives for UAMs in an asylum procedure the provision of Article 25 of the Law on Asylum and Refugees applies according to which a lawyer from the National Legal Aid Bureau is appointed as a representative of the UAM.

³⁶ In DE, EL, EE, FR, IT (the appointment is regulated in both the Civil Code and Legislative Decree 142 of 2015 and I. 47/17), LV, LT, LU, PL, PT, NO as the general civil law applies for appointing a guardian and the specific law authorized the appointment of a specific guardian/ad-hoc administrator to represent the UAM during the asylum procedure.

³⁷ AT (Austrian Civil Code), BG, HR (Family Act), CZ (Civil Code), NL (Civil Code), SK.

³⁸ IE. Tusla has statutory responsibility for the care of UAMs referred to them.

³⁹ Guardianship Act of 24 December 2002.

⁴⁰ Refugee Law of 2000.

⁴¹ There is no legislation regulating the guardianship of UAMs applying for a residence permit instead of asylum. It is regular practice of the Permits and Nationality Unit of the Finnish Immigration Service to ask the municipal social services to designate a guardian for the child before the child is interviewed.

⁴² Lag (2005:429) om god man för ensamkommande barn ("Act (2005:429) on guardianship for unaccompanied minors").

3.3.2. Specific legislation and general civil law

9 Member States⁴³ stated that while there is specific legislation to appoint a representative to represent UAMs in asylum procedures, the general civil law applies for the appointment of guardians.

In **Germany**⁴⁴, **France**⁴⁵, and **Luxembourg**⁴⁶ specific legislation governs the appointment of ad-hoc administrators. However, the appointment of guardians for the day-to-day management of UAMs' affairs is carried out in accordance with the Civil Code.⁴⁷

In **Greece**, law 4960/2022 amended and supplemented law 4939/2022 is the specific legislation governing the appointment of guardians for UAMs. However, guardianship of minors who lack parental care is regulated by the Civil Code and can apply at any time to UAMs.⁴⁸

In **Estonia**, guardianship over a minor is regulated by the Family Law Act.⁴⁹ The

guardian is appointed by the court. Until appointment of the guardian, the duties of a guardian are performed by the rural municipality or city government of the child's place of residence entered in the population register. In addition, there are specific provisions on representation in the AGIPA⁵⁰ and OLPEA⁵¹. In accordance with the principles of administrative procedure, an unaccompanied minor may not perform procedural acts under these laws without a representative (unless these laws provide otherwise).

In **Lithuania**, both general civil law⁵² and specific law⁵³ on the Legal Status of Foreigners apply.

General civil law applies with modalities established in the Act of 13 June 2003 on granting protection to foreigners in the Republic of **Poland**.

In **Portugal**, the law for the Promotion and Protection of Children and Young People in Danger and regulates the appointment of

⁴³ DE, EE, EL, FR, LT, LU, PL, PT, NO.

⁴⁴ Section 42a of the Social Security Code. In case of the arrival of an UAM the local youth welfare office gets the preliminary custody by law until due process and a guardian is appointed.

⁴⁵ Article L.343-2 and article L. 521-9 of the Code on the Entry and Residence of Foreigners and the Right of Asylum (CESEDA).

⁴⁶ Article 20 (1) of the amended law of 18 December 2015 on international protection and temporary protection (Asylum Law).

⁴⁷ In Germany, sections 1773-1813 of the Civil Code provide the legislation for the appointment of a guardian. In France, the public prosecutor refers the case of the UAM to the children's judge based on articles 375 et Seq. of the Civil Code. The minor is placed in care pursuant to Article 375-3. Guardianship of an UAM is established in accordance with the common law rules of the Civil Code⁴⁷. In practice, the UAM is taken into care of the social child and youth care services. In Luxembourg, the appointment of the guardian is made in accordance with article 389 ss of the Civil Code.

⁴⁸ The Civil Code states that Greek courts are competent to appoint a guardian if the foreign minor has their habitual residence in Greece.

⁴⁹ Part 3, Chapter 12.

⁵⁰ Aliens Act, Act on Granting International Protection to Aliens (AGIPA).

⁵¹ Obligation to Leave and Prohibition on Entry Act (OLPEA).

⁵² Chapter VIII of the Civil Code of the Republic of Lithuania

⁵³ Law on the Legal Status of Foreigners (Articles 2, 32, and 140^27)

guardians however, the Civil Code subsidiarily applies.

In **Norway**, the Norwegian Immigration Act regulates the guardianship for unaccompanied and separated children in the asylum procedure. In general, guardianship for unaccompanied and separated children is regulated by the Norwegian Guardianship Act.⁵⁴

3.3.3. General Civil Law

In **Austria**, general civil law regulations on custody are governed by the Austrian Civil Code.⁵⁵ In **Bulgaria**, a guardian of a child is appointed in the cases explicitly mentioned in the Family Code. In **Croatia**, guardianship of UAMs is regulated by the Family Act. However, the rights and obligations of the special guardian are also defined in the Protocol on the Treatment of Unaccompanied Children. In the **Czech Republic**, in case of foreigners, general civil law is applied.⁵⁶ The appointment of a guardian tasked with the protection of a child's rights and to defend his/her interests is covered by the general provisions of the Civil Code.⁵⁷ In **Italy**, the appointment of a guardian is regulated partly by Law 47/17, partly by Legislative Decree 142/2015, and partly by the Civil Code. The Civil Code

therefore regulates both the appointment and the conduct of guardianship to the extent that its general provisions are compatible with those specifically provided for the guardianship of UAMs, while the execution of guardianship is regulated by the provision of the Civil Code. In **Latvia**, the general norms of the Civil Law and of the Asylum Law apply to the appointment of the guardian. In the **Netherlands**, child custody proceedings are governed by civil law and in **Slovakia**, the guardian is always appointed by a court under the Civil Procedure Code⁵⁸ in application of the Civil Code, the Family Act⁵⁹ and the Social and Legal Protection of Children and on Social Guardianship⁶⁰.

In **Ireland**, there is no specific legislation for the appointment of guardians for UAMs. Under the International Protection Act⁶¹ the Child and Family Agency, Tusla is notified if an unaccompanied child is seeking to make an application for international protection or is the subject of a preliminary interview. A dedicated Social Work Team for Separated Children Seeking International Protection has responsibility for unaccompanied children who come to Ireland. Specialist social workers working with unaccompanied minors in Ireland fulfil all the roles outlined in the definition of

⁵⁴ Original: Lov om vergemål (vergemålsloven)

⁵⁵ Article 158 ff of the Austrian Civil Code.

⁵⁶ Sections 878(2) and 928 et seq. of the Civil Code.

⁵⁷ Act No. 89/2012 Coll. The appointment of an UAMs guardian must always be decided by the court issuing the decision on proceedings pursuant to Section 466 et seq. of Act No. 292/2013 Coll., on Special Court Proceedings.

⁵⁸ The court proceeds according to article 111 of the Act No. 161/2015 Coll. Civil Codex and Act 160/2015 Coll. Civil Procedure Codex in matters not regulated by the civil code.

⁵⁹ Act 36/2005 Coll. on the Family Act and on Amendments to Certain Acts (in particular Section 60 et seq.).

⁶⁰ Act No. 305/2005 Coll. on the Social and Legal Protection of Children and on Social Guardianship in connection with the Civil Codex is also important in the process.

⁶¹ Section 14 of the International Protection Act of 2015.

‘guardianship’ in Recommendation CM/Rec(2019)11.⁶²

Under Ireland’s equity of care principle, the child is assessed under the same criteria as any other child needing care and protection and receives the same standard of care. The Child Care Act of 1991 applies.

4. Representation of unaccompanied minors in the asylum procedures

The guardians as well as the ad-hoc administrators/ representatives play an important role regarding information and assisting UAMs from the moment they enter the system until the moment they reach the age of majority.

However, neither in the international context nor at EU or national level is there a uniform definition and use of the terms guardian and representative. Sometimes both terms are understood interchangeably.⁶³ Even though the EU acquis recognizes the importance of a guardian and representation for the

children, it neither defines the term “guardian” nor its tasks. According to the Fundamental Rights Agency (FRA) by using the terms ‘representative’ and ‘special representative’ to describe the person appointed to assist and support unaccompanied children or children whose parents are precluded from exercising parental rights, the EU acquis adds a layer of complexity to this issue.⁶⁴

According to the EMN Asylum and Migration Glossary, the term guardian in the migration context, is defined as an “independent person appointed to act on behalf of a child, in the absence of (both) parents or the adult responsible for the child by law or by practice, who safeguards the best interests of the child (BIC) and general well-being, and to this effect complements the limited legal capacity of the child, when necessary, in the same way that parents.”⁶⁵

The representation of UAMs can be grouped into three categories based on the responses received:

⁶² <https://rm.coe.int/cm-rec-2019-11-guardianship-en/16809ccfe2>

d. “guardian” refers to a person who is appointed or designated to support, assist and, where provided by law, represent unaccompanied or separated children in processes concerning them. Where an institution or organisation is appointed or designated as a guardian to support, assist and exercise the legal capacity for a child, it should designate a natural person to carry out the duties of guardian as set out in these guidelines. The guardian acts independently to ensure that the child’s rights, best interests and well-being are guaranteed. The guardian acts as a link between the child and all other stakeholders with responsibilities towards him or her. This operational definition takes into account that the term used, as well as the function and manner of appointment of a guardian, vary from jurisdiction to jurisdiction.

⁶³ European Migration Network Asylum and Migration Glossary, Definition of guardian. URL: https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/guardian_en

⁶⁴ Fundamental Rights Agency, Guardianship for children deprived of parental care: A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking, 2015, p. 13. URL:

⁶⁵ European Migration Network Glossary on Asylum and Migration, Definition of guardian. URL: https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/guardian_en

- a) Guardians that inform and represent UAMs in different procedures and assist them in daily life;⁶⁶
- b) Representatives (ad-hoc administrators, lawyers, etc.) that inform and/or accompany UAMs in different procedures;⁶⁷
- c) Other actors or institutions that inform and/or accompany UAMs in different procedures.⁶⁸

4.1. Information on administrative and legal procedures

One of the most important tasks that guardians or representatives relates to the asylum procedure and their obligation to inform UAMs on, for instance, how the asylum and immigration procedures (and

other procedures) work, their rights, and how to prepare to their personal interview.

In some Member States, while the guardian/representatives have a role in the provision of information regarding the procedure, it is also provided by the authorities in written form.⁶⁹ In most cases this information is provided in a child-friendly manner.

Nevertheless, it is the task of the appointed guardian⁷⁰ or representative to represent the UAM in all procedures and to inform them on the different steps of the procedures.⁷¹ The same applies to ad-hoc administrators⁷² representatives⁷³ and other institutions⁷⁴ appointed for this task.

⁶⁶ BE, CZ, EE (in case the child lives with the guardian), IE. In Belgium, the guardian informs and represents the UAMs but it does not manage their day-to-day business. The management of the day-to-day business of the UAM is the task of the counsellor of the reception centre where the UAM resides or of the family where the young person stays (in case of foster care). The guardian does have responsibilities towards the daily life of the UAM (e.g. enrolling in a school, thinking about leisure activities together with the counsellor of foster family, ...).

⁶⁷ BG, DE, EE, FI, FR, HR, HU, LU, NL, NO, PL.

⁶⁸ EL, LT, NO, PT, SK, SE.

⁶⁹ In federal care facilities in Austria, the Basic Care Division of the Federal Agency for Reception and Support Services (Bundesagentur für Betreuungs- und Unterstützungsleistungen – BBU GmbH) provides all unaccompanied minors with a comprehensive brochure in a form appropriate to their age and stage of development with general information about the asylum procedure in Austria. This brochure is available in English, Dari/Farsi, Arabic, Somali and German. A "Who is Who" flyer for initial information was also developed and designed specifically for this target group. In BE, there is the Guide for unaccompanied minors who apply for asylum in Belgium This guide explains the stages an unaccompanied minor goes through when he/she applies for asylum in Belgium. At the request of the Commissioner General for Refugees and Stateless Persons (CGRS), the Immigration Office presents this guide to every unaccompanied minor when his/her asylum application is being registered. This guide is available in Dutch, French, English, Arab, Tigrinya, Dari, Pashto, Pulaar, Somali and Albanian. Available on <https://www.cgrs.be/en/publications> The same happens in CZ, FI, FR (also in FR, the association France Terre d'Asile has also published a "Practical guide to the care of unaccompanied foreign minors and asylum seekers" and a "Legal guide to the care of unaccompanied foreign minors and asylum seekers"), LU, NL, SE.

⁷⁰ IT. Article 357 of the Civil Code.

⁷¹ BE, CY, CZ, EE, IE, IT, FI, LV, LT, NL, SK, SE.

⁷² LU.

⁷³ BG, HR (a specific guardian is appointed), EE, FI, FR, DE, HU (this is done by the child protection guardian, NL (the lawyer appointed by NIDOS to represent the UAM), NO (it can be provided by the guardian/legal representative, but the information can be provided by Caritas), PL (legal guardian)

⁷⁴ In Greece, the relevant authorities and bodies to inform minors of their rights, procedures, decisions and consequences in a language they understand, to seek the opinion of unaccompanied minors and to take it into account, depending on their age and degree of maturity. Besides the guardian, in LT the State Boarder Guard Service inform and

4.2. Criteria for becoming a guardian/representative

The criteria for appointing a guardian/representative vary from Member State to Member State.

4.2.1. No clear or specific criteria

12 responding Member States stated that there are no clear or specific criteria for appointing a guardian⁷⁵ or representative besides the general requirements of the Civil Code as detailed below.

In **Austria**, even though there are no clear criteria the guardian has to fulfil, the appointment has to take into consideration the best interest of the child⁷⁶ and the candidate must inform the court of any circumstances that make him/her appear unsuitable for this task⁷⁷ (i.e. conflict of interest, incapacity, etc., not having financial problems).

In **Croatia**, the Regional Office of the Croatian Institute for Social Work issues a decision on the appointment of a special guardian who is a professional worker

employed by the institution.⁷⁸ In **Cyprus**⁷⁹ the same situation applies.

In **Finland**, the guardian can be any legally competent, suitable, and consenting person who is found able to carry out the required duties correctly and who has a clean criminal record.

Even though, there is no specific criteria outside of what is required by the Civil Code⁸⁰, in **Germany**, according to estimates, 80% of the guardians are employees of the youth welfare service with appropriate training.

Italy requires that the guardian fulfils the following criteria: a) be at least 25 years old; b) be resident of the country; c) have verified knowledge of Italian; d) enjoy civil and political rights; e) have a clean criminal record (including absence of condemnation of security and preventive measures); f) if not an EU citizen, have a valid residence permit; g) honourability clause (irreproachable conduct); h) good financial situation (not been declared bankrupt); i) no conflict of interest with the UAM; j) must

assist in various administrative procedures. In NO information can be provided by the staff of the reception centres). In PT the information is provided by the responsible person of the reception facility and the reference technician (case worker) assigned to the UAM. In SK it is the Centre for Children and Families (CCF) which also, besides information provided by the guardian, conveys necessary information to UAM. Besides the information provided by the guardian, the Swedish Migration Agency will also provide information to the UAM. In IE, the Legal Aid Board provides legal advice to unaccompanied minors seeking protection.

⁷⁵ AT, CY, CZ, DE, EE, FI, HR, LU, NL, NO, PL, SK.

⁷⁶ Article 205 (1) of the Austrian Civil Code.

⁷⁷ Article 206 (1) of the Austrian Civil Code.

⁷⁸ However, when hiring them the Regional Office assesses level of education (academic degree), and the completed educational program (if it includes social work, psychology, social pedagogy, educational rehabilitation) and the clean criminal record.

⁷⁹ The guardians are social service officers of the Social Welfare Services.

⁸⁰ Section 1779 subsection 1 of the German Civil Code specifies the general requirements of a guardian (the guardian must be suitable in regard to his knowledge and experience, personal qualities, financial situation etc.). Section 1784 of the German Civil Code lists the grounds for exclusion.

not have been removed from another guardianship; and k) must have time and energy available to exercise his or her function.

Similar conditions apply in **Luxembourg, Poland, and Slovakia** as the Civil code does not contain qualitative criteria for the appointment of the guardian. However, in **Slovakia**, if the guardian is not a person close to the UAM, the judge will appoint an employee from the socio-legal protection of children and social guardianship. In this case the qualification requirement for the purpose of implementing those measures are regulated by law.

In **Latvia**, the person must be of legal age (at least 18 years old) and cannot be criminally punished.

In **Lithuania** a person who intends to become guardian must submit to the State Childs Rights Protection and Adoption Service the following documentation: a) health certificates - both their own and of persons over the age of sixteen who live with them; b) a written consent of persons older than sixteen living together with them; c) in case the applicant has lived in another country for longer than 6 months, s/he must provide information about

his/her criminal record and any convictions in those countries. If it is a family member, the candidate does neither need to submit the health certificates nor the criminal record. After the application is evaluated and accepted, the candidate will be sent to a special training for guardians (which is not the same as for fostering UAMs).

The **Netherlands** does not provide criteria for a guardian/ad-hoc administrator, which have to be fulfilled before appointment. NIDOS is certified by the Keurmerkinstuut, which in turn is established and guaranteed by the Dutch government. **Norway's** only requirement for appointing a guardian is that it is a person whom the UAM can trust, and s/he can attend to the UAM's special needs. The individual must have a good knowledge of Norwegian language and can navigate the public system.⁸¹

4.2.2 Specific criteria required

Several Member States⁸² have clear criteria the guardians must fulfil.

In **Belgium**, there are three types of guardians: a) guardians with a voluntary status⁸³, b) self-employed guardians⁸⁴ and c) employee guardians (individuals who are employed by an association working with

⁸¹ The applicant must submit an application, CV, provide references and a copy of his/her criminal record. This application is assessed by the Country Governor.

⁸² BE, CZ, FR, EL, HU, IE, PT and SE.

⁸³ A guardian who exercises up to eight guardianships per year enjoys a tax exemption. All fees relating to those guardianships are exempt from tax. As such one can speak of a status of "volunteer" for which no administrative formalities have to be completed. From the 9th guardianship, the guardian is considered self-employed in principal or secondary occupation as the activity is considered a profitable professional activity and thus as an independent activity.

⁸⁴ For becoming a guardian with a voluntary status or a self-employed guardian, the applicant must submit a written application to the Guardianship service with the following documents: a) motivation letter, b) curriculum vitae; c) the national identity number so that the Federal Public Service Justice can request an extract from the candidate's criminal record; and d) any additional information attesting the candidate's training, availability, and skills.

vulnerable groups).⁸⁵ In all three cases, the criteria for appointing a guardian are related to skills and knowledge regarding the issues of UAMs even though applicants are not required to have a specific diploma. Furthermore, they must prove: 1) a commitment to the UAMs' issues; 2) relational skills, 3) organisational and coordination skills; 4) absence of conflict with the minor; 5) be of age, reside in Belgium (national, EU citizens, or legally residing third-country national) and 6) have a clean criminal record.

If the applicant meets the criteria, the Guardianship Service invites the candidate to an interview to assess the candidate's motivation, their vision of the role of guardian, pedagogical and psychological qualities, knowledge, and experience on the issues regarding UAMs and their supervision, knowledge of migration and asylum law, youth law and property management law.

One of the particularities of the Belgium system is that becoming a guardian with a voluntary status, or a self-employed guardian is compatible with a simultaneously exercised professional activity. On average, a full-time working persons can carry out one to two guardianships, depending on their availability.

The **Czech Republic** also has clear criteria that the guardians have to fulfill. The basic criteria are: professional qualification, clean criminal record, age of majority and full legal capacity.

In **Estonia**, for the selection of a guardian, the following elements are taken into consideration: a) personal characteristics, b) financial situation, c) ability to perform the obligations of a guardian, d) the presumed will of the parents, e) the relationship with the child, f) the need for consistency of raising of the child and g) the child's national, religious, cultural and linguistic origin. Upon the selection of a guardian, the court and rural municipality or city government has the right to require the personal documents and any useful information for the assessment of his or her suitability.

In **France**, the Family Affairs court appoints a guardian for the UAM, who usually is the president of the Departmental Council of the UAM's place of residence. This responsibility is then delegated to a Child Social Aid (ASE⁸⁶) sector manager, a position opened to candidates who have passed a competitive examination.⁸⁷

The Greek law n° 4960/2022 states that the guardian must fulfil the following conditions: a) hold a degree in humanities, law or social sciences or a diploma awarded

⁸⁵ In this case the association must submit the application attaching all information attesting to their experience and skills in this field: copy of its articles of association, training programmes, etc., and clean criminal record.

⁸⁶ Aide sociale à l'enfance.

⁸⁷ To enter the competition, candidates must have at least a 3-year higher education qualification (i.e. social management or equivalent), or have completed specialized training courses such as CAFERUIS (certificate of aptitude for management and social intervention unit manager functions), the DEIS (State diploma in social engineering), or the CAFDES (certificate of aptitude for the functions of director of a social intervention establishment or service).

by national or equivalent foreign university in the same disciplines; b) have a thorough knowledge of Greek and good knowledge of English or French, or Arabic, Urdu or other language spoken by a significant number of unaccompanied minors in **Greece**; and c) be registered in the Register of Members of Non-Governmental Organisations⁸⁸ Every guardian, whether in the public or private sector, is also required to submit a copy of her/his clean criminal record within the last two months of the year, on an annual basis.

If the guardian is a legal entity, within 3 days after its appointment it shall designate a professional (natural person) to act as guardian. The individual is called a guardianship-mandated person. In order for a legal entity to become a guardian, it has to meet certain requirements as provided in the law (minimum 2-year child protection expertise, non-profit, if NGO registered in the Ministry of Migration and Asylum Registry). Moreover, for someone to become a guardianship-mandated person has to meet certain requirements.

In **Hungary**, the child protection guardian is an individual employed as a civil servant by the regional child protection service. The conditions required for the position are stated by decree. The main requirements are: a) having a higher education qualification⁸⁹; b) having a clean criminal record; c) not having been forbidden to

work; and) not having one's parental rights been forfeited.

In **Ireland**, the Social Work Team for Separated Children Seeking International Protection of TUSLA has the responsibility within Tusla for UAMs. Specialist social workers represent them and fulfil the role of guardians as outlined in the CM/Rec (2019). The team is composed of social work staff with an appropriate level of academic education and professional experience to deliver the specialist support that separated children require. The profession of social workers is a protected title in Ireland, with social workers required to register with the regulatory body CORU - Regulating Health & Social Care Professionals, to provide evidence of relevant continuous professional development and to undergo regular police checks.

In **Portugal** as guardians are members of Portuguese State structures or public utility associations that work with children and youth (including UAMs), their qualification is a prerequisite for being appointed. They must prove that they have the academic and professional experience that enables them to perform as guardians.

Finally, in **Sweden** the guardians of UAMs are normally physical persons. To qualify as a guardian, applicants need to have relevant experience and be suitable (being able to work with minors in a vulnerable situation).

⁸⁸ Article 78 of the law n° 4960/2022.

⁸⁹ It only can be lawyer, administrative organizer, public administration organizer, social sciences (sociology, social policy, social worker), teacher - except religious teacher -, psychologist, behaviour analyst or mental health professional, child and youth protection consultant, family protection consultant with a legal qualification with a diploma: nurse, theologian, religious teacher, certified pastoral counsellor and organizational development specialist.

Their criminal record will be checked and information from references will be retrieved. Guardians should be proficient in Swedish and have a good understanding of Swedish society and institutions (school, healthcare etc.). In addition, they need to act impartially in relation to the authorities and have knowledge about the asylum process. Municipalities have vetting procedures in place to assess candidates' suitability for the mission.

4.2.3. Representatives

In some Member States when the representation of UAMs in the asylum procedures and other administrative procedures is entrusted to a representative the appointed person must be a lawyer.⁹⁰

In **Bulgaria** and **Luxembourg**, the representative can also be appointed as guardian.⁹¹

In **France**, a list of ad-hoc administrators is drawn up every four years within the jurisdiction of each Appellate Court. Ad-hoc administrators can be natural persons or legal entities but in the latter case, the task must be performed by a physical person previously identified. The criteria are defined around interest⁹² and skills regarding UAMs' protection. Candidates

must send to the courts an application accompanied with a motivation letter and with documents demonstrating a particular and long-standing interest in children's issues, a certain competence in this area with legal and psychological knowledge.⁹³ Specific expertise in asylum matters is however not required. Applicants have to prove that they live inside the jurisdiction of the court, that they are at least 23 years old and no older than 70 years, that they have a clean criminal record, that they are not subject to any disciplinary or administrative sanctions for acting in a dishonourable manner, and that they are not subject to personal bankruptcy.

In **Germany**, all ad-hoc administrators are generally the employees of the Youth Welfare Services with appropriate training.

5. Appointing a family member as a guardian

In accordance with the best interest of the child, any family member of UAMs residing in the territory can be entrusted with the guardianship of an UAM.⁹⁴ Some Member States only accept this in the cases of "civil

⁹⁰ BG, LU.

⁹¹ In Bulgaria this occurs when the legal representative has received special representation and care under the Family Code.

⁹² In France, this interest should exist for a sufficient time before this appointment.

⁹³ For example, work contract, work certificate, attestations, certificate of attendance at a training session or internship, diplomas, etc.

⁹⁴ AT, HR, CZ, (following a review of its appropriateness), EE, FR (in this case the family member is appointed as ad-hoc administrator by the Public Prosecutor), DE, HU, IT (following a review of its appropriateness), LV, LT, LU, PL, PT (after a review of the candidate), SK and SE.

guardianship”⁹⁵ but not regarding the international protection procedure.⁹⁶

In BE, BG, CY, FI⁹⁷, NL and NO⁹⁸ family members are not appointed as guardians as they have to be capable to represent the UAM in the legal procedures.

Most of the Member States that allow a family member to be appointed as guardians for UAMs still count these UAMs as eligible for family reunification as the minor continues to be considered as an UAM.⁹⁹ Only **Hungary** and **Luxembourg** consider an UAM with a family member appointed as their guardian no longer as an UAM. As a consequence, the child is not able to apply for family reunification. Following the literal interpretation of the Luxembourgish legislation, the minor is not considered as unaccompanied anymore once a family member has been appointed as a guardian. In principle, no family reunification is granted. A similar explanation is given by Hungary, if a family member is found who is capable of and

willing to legally representing and caring for the minor, the minor is no longer considered an UAM. The child protection guardian is dismissed, and the child protection care is terminated.

6. Specialized training

Training is essential for guardians, representatives, and/or ad-hoc administrators to implement their tasks. At least 9 Member States¹⁰⁰ require that guardians receive specific training appropriate to issues related to UAMs.

In **Belgium** guardians must undergo a 5-day basic training covering the following topics: immigration law, juvenile law, asset management, trafficking in human beings, aspects of pedagogy and psychology, aspects of multicultural care/reception. Once a year, guardians must also undergo further training while exercising their guardianship.¹⁰¹

In **Greece**, in the context of the National Guardianship System for unaccompanied

⁹⁵ BE, EL, PL.

⁹⁶ In BE, the Guardianship Service can only appoint guardians who went through the selection procedure to become an official guardian, who meet the requirements and after the guardians followed the five days basic training. In BG only a lawyer can represent the UAM in the different procedures.

⁹⁷ Even though the law allows that a family member be appointed as the guardian of an UAM the reality is that it will be very difficult that the individual be able to perform the required duties correctly and who does not have a conflict of interest with the minor. This is the reason why in FI family members in practice are rarely appointed.

⁹⁸ In NO, it is possible, but it rarely happens due to the incapacity of the family member to represent the minor.

⁹⁹ AT, CZ, DE, EE, EL (however, an in-depth investigation of the child's best interests will be conducted to evaluate the child's relationships with family members), FR, IT, LV, LT, NO, PL, SK, SE.

¹⁰⁰ BE, CY, CZ, EL, HR, IT (the responsibility for the training of volunteer guardians lies with the regional guarantors and Trento and Bolzano independent provinces' guarantors), LV, LT, NO.

¹⁰¹ Furthermore, the Guardianship Service: a) sends a monthly newsletter to guardians, with information on any legislative changes or changes in the field, information from partners, training offers, ...; b) guardians can also follow external training courses and apply to the Guardianship Service for reimbursement of registration fees, c) has a coaching project, in which experienced employee guardians support guardians with a voluntary status and self-employed guardians, d) makes materials available to guardians, such as thematic information sheets and the Handbook for Guardians.

minors, training and education covers in particular: a) any legal and factual matter relating to the exercise of the functions of guardianship of unaccompanied minors; b) introduction to family, refugee and immigration law, fundamental rights of the child at European, international and national levels, as well as the institutional framework for protecting and safeguarding personal data; c) any legal and factual matter relating to the protection of childhood in general and to the needs and best interests of unaccompanied minors in particular, as well as the procedure for assessing their best interest; d) any matter relating to intercultural mediation, interpretation, and social inclusion; e) counselling and psychological support.

14 other Member States¹⁰² do not require any targeted training for the guardians dealing with UAMs.

Hungary is in the process of developing and implementing a training program for child protection guardians. Nevertheless, the child protection guardians must undergo, as other employees of the social, child welfare and child protection institutional system,

continuing education programs related to their position.

7. Tasks to be carried out by a guardian/representative

The main task foreseen for guardians by Civil Codes or specific legislation is the custody of the minor, which includes care, upbringing, and asset management.¹⁰³

There is no clear consensus regarding the tasks a guardian has to carry out due to the lack of clear distribution of responsibilities between a guardian and a representative in migration and asylum procedures.

7.1. Tasks of the guardian

Based on the replies submitted by Member States, the most common tasks carried out by guardians are listed below:

- a) Assisting and participating in all administrative and judicial procedures concerning the minor¹⁰⁴
- b) Submitting the application for asylum on behalf of the minor¹⁰⁵
- c) Manage assets and financial matters¹⁰⁶
- d) Everyday life, care, and accommodation¹⁰⁷

¹⁰² AT, BG (however, the National Legal Aid Bureau makes training for the lawyers), DE (however as 80% - according to estimates - of the guardians are employees of the Youth Welfare Service with appropriate training), EE, FI (however the Finnish Immigration Service (Migri) recommends that all guardians attend the competent representative online training. Also, reception centres advise them to undergo training), FR, HU, IE, LU, NL, PL, PT, SK, and SE.

¹⁰³ Article 158 (1) of the Austrian Civil Code, EL, LV, LU.

¹⁰⁴ AT, BE, CY, CZ (child procedural guardian), DE, EE, EL, FR, HR, HU, IE, IT, LV, LT, NL, NO (take into consideration that the guardian hires a lawyer to deal with the procedure), PL, SK, SE (if it is not done by legal counsel)

¹⁰⁵ BE, CZ (child's procedural guardian), EE, DE, EL, HU, IE, IT, LV, LT, NL, NO, PL, SK

¹⁰⁶ AT, BE, CZ (residence guardian), EE, FR, DE, EL, HU, IE, LV, LT, LU, NL, NO, SE

¹⁰⁷ AT, BE, CY, CZ (residence guardian), EE (if the UAM lives with the guardian), FR, DE, EL, IE, LV, LT, LU, NL, NO, PT, SK (this is carried out by the CCF), SE

- e) Health (physical and mental)¹⁰⁸ and safety¹⁰⁹
- f) supporting the minor with education¹¹⁰ and integration measures¹¹¹
- g) Maintain contact with the parents of the minor and assist with family reunification¹¹²
- h) Communication with relevant services and authorities¹¹³
- i) Provide information to the minor on the proceedings and prepare them for their interview¹¹⁴
- j) Regularly visit the minor¹¹⁵
- k) Preparing the child for independent life¹¹⁶

7.2. Task of the representative

In other Member States some of the tasks are carried-out by the ad-hoc administrator or the representative. In **Bulgaria**, the representative of the minor seeking or who had been granted international protection shall have the following powers in proceedings until the person reaches the age of majority: 1. to look after his/her legal interests in proceedings for granting international protection until their conclusion by a final decision; and 2. to represent him/her before all administrative authorities, including social, health,

educational and other institutions in the Republic of Bulgaria, with a view to protecting the best interests of the child.¹¹⁷

In **Luxembourg, France, and the Netherlands** the ad-hoc administrator deals exclusively with the asylum and immigration procedures.

In **Finland**, the representative is tasked with ensuring that the child's best interests are realised and that the child is heard in official decisions concerning the child. The representative is always present when the child is interviewed and helps the child to take care of official affairs.

In **Germany**, the ad-hoc administrator is neither exclusively responsible for the asylum procedure nor is the guardian not responsible for it. There are two distinguished phases: a) As long as no guardian has been appointed, the ad hoc administrator of the youth welfare office is responsible, based on the youth welfare office's right of emergency representation during the temporary custody. b) However, as soon as a guardian has been appointed, this person is the first point of contact in asylum and immigration proceedings. He/she also ensures that the minor receives

¹⁰⁸ AT, BE, CY, CZ (residence guardian), DE, EE, EL, FR, HU, IE, IT, LV, LT, LU, NL, NO, PT, SK (this is carried out by the CCF), SE.

¹⁰⁹ AT, BE, CZ (residence guardian), DE, EE, EL, HR, HU, IE, LT, LU, NL, NO, PT, SK (this is carried out by the CCF), SE.

¹¹⁰ AT, BE, CY, CZ (residence guardian), EE, EL, FR, EL, IE, IT, NL, NO, PT, SK (this is carried out by the CCF), SE.

¹¹¹ CY (guardian ensures the integration of the UAM in activities aimed to the socialization and integration in the society (i.e. educational activities, sports activities, etc.), EE, EL, FR, LT, NL, NO, PT, SK (this is carried out by the CCF).

¹¹² BE, HR, EE, EL, IE, IT, LV, LT, NL, SK, SE.

¹¹³ AT, BE, CY, EE, EL, IE, IT, LV, LT, LU, NL, SK, SE (obtaining allowances, apply for services from the social services).

¹¹⁴ BE, CY, EE, EL, HR, IE, IT, NL, NO, SK.

¹¹⁵ BE, DE, EL, IE, NL.

¹¹⁶ IE, LT, NL, SK.

¹¹⁷ Law on Asylum and Refugees.

appropriate advice in the asylum and immigration proceedings and, if necessary, arranges for legal representation.

8. Number of UAMs who can be assigned to one guardian or representative

16 Member States answered that their legislation does not indicate how many UAMs can be assigned to one guardian or one ad-hoc administrator.¹¹⁸ However, even though there is no legal limit, some Member States did impose limitations to the number of children that guardians or ad-hoc administrators are allowed to handle.

The **Netherlands** indicate that the average number of minors managed by NIDOS, was between 21 to 24 in 2019. In **Finland** there is no limitation, and it is up to the representative to decide how many UAMs they can represent at the same time while remaining committed to their tasks. In **Germany**, full-time employees of the youth welfare service without any other tasks are not supposed to manage more than 50 guardianships. In **Ireland**, no standardized case load per worker exists and the number of guardianships depends on the experience and post qualification practice of each social worker.¹¹⁹ In **Luxembourg**, the judge of family affairs is careful not to nominate the same lawyer (ad-hoc administrator) for too

many children. In **Norway**, it is the County Governor who through an internal practice regulates the number of UAMs to be handled by one guardian.

In this context, **Sweden** mentions that there has been criticism that guardians are allowed to handle too many children at the same time. **Estonia** in turn indicates that in general there are not many cases of UAMs being assigned to one guardian/representative.¹²⁰

On the other hand, **Belgium, Cyprus, Greece, Hungary, Italy, and Lithuania**, have adopted specific regulations limiting the number of UAMs that can be managed by one guardian/ad-hoc administrator.

In **Belgium**, the limit of children that one guardian may handle varies according to the type of guardian:

- a) Guardians with voluntary status: up to eight guardianships simultaneously;
- b) self-employed guardians: more than 8 guardianships;
- c) Employee guardians (employed by associations or NGOs) are allowed to manage up to 25 guardianships.

In **Cyprus** each guardian should be responsible for up to 20 UAMs.

In **Hungary**, the Child Protection Act limits the number of minors that can

¹¹⁸ AT, BG, HR, CZ, EE, FI, FR, DE, IE, LV, LU, NL, NO, PL, PT, SE.

¹¹⁹ However, given the current very high level of demand, the Separated Children Seeking International Protection (SCSIP) Tusla social work team currently operate a duty system to respond to minors' needs based on a duty response system where it is not possible to provide all minors an allocated social worker or social care worker.

¹²⁰ However, according to the Family Law Act, the court appoints one guardian to a child. Also, the courts may appoint several guardians if this is reasonable under the circumstances of the case.

simultaneously be managed by one guardian to 30.

In **Greece**, the law determines that one guardian is allowed to handle up to 15 minors.

In **Italy**, the legislation provides for a maximum number of 3 UAMs per volunteer guardian to ensure the principles of proximity and effectiveness. However, according to the law, the limit can be waived only for relevant and urgent reasons.

Lithuania emphasizes the specific situation of foster families. A general limit of 3 fostered children per family exists. It is possible to foster more than 3 minors per family to avoid sibling separation. If it is not possible to foster a minor in a family, the UAM is accommodated in refugee reception centre, where there are no strict restrictions on the number of minors that can be hosted.

9. Quality standards, guidelines, or recommendations for the care of UAMs

8 Member States¹²¹ indicate that there are no quality standards, guidelines, or official

recommendations from authorities at the national level on the care of UAMs to be followed by guardians or ad-hoc administrators.

Estonia mentions that general recommendations for improving the system for appointing guardian/representative of UAMs. have been made, inter alia, by the Estonian Chancellor of Justice, the Social Insurance Board, the Ministry of Social Affairs, the Police and Border Guard Board, and the Ministry of the Interior. These recommendations have been put together in a practical guide about duties/actions carried out by each authority/actor involved. The Social Insurance Board also published a special information brochure regarding unaccompanied minors in the context of the war in Ukraine and temporary protection.

13 Member States¹²² indicate that they have quality standards, guidelines, or official recommendations from the authorities in place with respect to the care of an UAM that need to be followed by the guardian or ad-hoc administrator.

Belgium uses the “Handbook for Guardians”¹²³ and the “General guidelines for guardians of Unaccompanied

¹²¹ AT, DE (at the Federal level), IT (however, there are some guidelines and quality standards from UNHCR, and NGOs. The Ministry of Interior together with EUAA wrote a Vademecum on the reception and care of the unaccompanied minor. This document is addressed to various entities involved in the care of UAMs and not only to the guardians), LT, LU, NO (however, they can receive assistance and guidance from the County Governor), PL, PT.

¹²² BE, CY, CZ, EE, EL, FI, FR, HR, HU, IE, LV, NL, SK, SE.

¹²³ Handbook for Guardians (Book 1: Guardianship service and the role of the guardian; Book 2: Psychosocial support for unaccompanied minors; Book 3: International protection and special residence procedure; Book 4: Other procedures and documents; Book 5: Reception and support; Book 6: Daily life and Book 7: Rights of unaccompanied minors (published in March 2022) which is available in Dutch and French on:

Minors”¹²⁴. The general guidelines also clarify the guardians’ role in relation to other institutional players and social workers. **Croatia** has adopted the Protocol on the Treatment of Unaccompanied children in 2018. In **Cyprus**, guardians have to follow the measures established in the refugee legislation and other internal procedures and guidelines. In the **Czech Republic**, all OSPOD employees are obliged to follow and comply with the detailed quality standards of social-legal protection of children.¹²⁵ In **Finland**, the Finnish Immigration Service follows various guidelines and instructions for representatives.¹²⁶ The Finnish Immigration Service also informs representatives on current issues, provides advice on certain tasks and organizes trainings for the guardians. However, there are no official quality standards. In **France**, the Ministry of Justice published a guide for ad-hoc

administrators.¹²⁷ In **Greece**, the law establishes the relevant guidelines and operating procedures.¹²⁸ Further, the General Secretariat for Vulnerable Persons and Institutional Protection of the Ministry of Migration and Asylum launched on 2 August 2023 the pilot implementation of a new Toolkit. In the framework of the project "Harmonization, Establishment and Certification of Best Interests Procedures", this toolkit shall establish standardized tools and harmonize the best interests assessment procedure of the child.¹²⁹ In **Hungary** and **Slovakia** besides the law, guardians must follow the uniform principles from the child protection guardian methodology, approved by the Ministry of Interior.¹³⁰ In **Ireland**, national regulations for placements in residential and foster care and independent regulatory standards are provided for under the Child Care Act of 1991. The Health Information

https://justice.belgium.be/fr/themes/enfants_et_jeunes/mineur_etranger_non_accompagne_mena/manuel_des_tuteurs.

¹²⁴ These guidelines are available in French and Dutch:

https://justice.belgium.be/sites/default/files/directives_generales_pour_tuteurs_-_02_12_2013.pdf.

¹²⁵ https://www.mpsv.cz/documents/20142/953091/manual_OSPOD.pdf/71acde91-cbdd-36a4-7383-0a4c4552958a

¹²⁶ E.g. “Representing a child applying for asylum without a guardian”.

¹²⁷ https://www.justice.gouv.fr/sites/default/files/2023-05/guide_aah.pdf.

¹²⁸ Article 66-XXIV of Law 4960/2023 states regarding the Guidelines and standard operating procedures: “The Institutional Protection Unit shall organise and coordinate policies for the proper and effective implementation of the European, international and national rules applicable to the guardianship of unaccompanied minors, by: a) establishing standard operating procedures for the exercise of guardianship functions; b) compiling indicators for assessing the best interest of the unaccompanied minor, in collaboration with international and European organisations and, in particular, the UNHCR and the EU Agency for Asylum, and establishing a standard assessment form and procedures for determining best interests; c) developing guidelines and directives on guardianship and training of guardians; and d) exchanging best practices between non-profit services, authorities and private sector bodies.” In this context, a circular has been issued <https://www.nomotelia.gr/photos/File/13539-24.pdf>.

¹²⁹ This toolkit has been distributed to 21 partner child protection actors providing services for the identification and direct support of unaccompanied children, as well as accommodation and care services throughout Greece. During the pilot phase (August 2023-January 2024) the General Secretariat will roll out training sessions for professionals on how to conduct the child’s best interest assessment. The aim of the program, in line with the National Strategy for the Protection of Unaccompanied Minors, is to harmonize the best interest procedures.

¹³⁰ In Slovakia besides the law and international standards the methodical guidelines of the Central Office of Labour, social Affairs and Family has to be followed.

and Quality Authority (HIQA)¹³¹ also regularly inspects Tusla placements of unaccompanied minors and reviews compliance with relevant standards, including regarding the provision of care of UAMs by a child's allocated social worker. The placements for unaccompanied children provided by the voluntary and private sector are inspected by Tusla against the same national standards as for all children in state care. **Latvia** has guidelines and recommendations concerning guardianship issues. This information is periodically prepared and distributed by non-governmental organizations as well as by the Orphans' courts. In the **Netherlands**, NIDOS adheres to specific methodologies regarding guardianships.¹³² This methodology was evaluated in 2011 and comprehensively improved in the process. Finally, in **Sweden**, government agencies and the Swedish Migration Agency refer to their webpages for general information and support.

10. Monitoring and complaint mechanisms

10.1. Deadlines of the appointment

Austria, Germany, Estonia, France, Italy, Luxembourg, and Slovakia have mentioned that no monitoring mechanism exists for the deadlines of the appointment.

In **France**¹³³ and **Slovakia**, time limits for appointing a guardian are not laid down by law. In practice, however, courts act without delay, as soon as possible. In France, the "Vulnerabilities Plan" from 2021, set up as an interministerial working group, aimed at speeding up the appointments of representatives of UAMs.¹³⁴

10.2. Complaint mechanisms

In the Member States where the appointment is made by a judge, complaints can be addressed directly to the court that appointed the guardian.¹³⁵ The same applies to the cases in which the administrative authorities carried out the appointments¹³⁶.

¹³¹ Ireland's independent regulator for health and social care.

¹³² NIDOS is committed to aligning its methodology with scientific insights regarding the pedagogical guidance of children. In pursuit of this objective, NIDOS established its own chair at the University of Groningen in 2012, in part to further advance this endeavour. In 2011, an evaluation of the methodology employed for guardian adolescents was conducted, resulting in a comprehensive improvement program aimed at addressing various aspects of the approach. See NIDOS, 'Methodology', <https://www.nidos.nl/en/home/missie-en-visie-van-nidos/methodiek/>

¹³³ French case law has also imposed time limits for the appointment of the ad hoc administrator. In particular, the Court of Cassation ruled in a judgment of 22 May 2007 (no. 06-17238) that "a delay of thirty-nine hours between the disclosure of minority and the appointment of the ad hoc administrator necessarily adversely affects the minor" and in a judgment of 6 May 2009 (no. 08-14519) ruled that "any delay in implementing the obligation to appoint an ad hoc administrator, in the absence of justification of particular circumstances, necessarily adversely affects the interests of the minor".

¹³⁴ There are also plans to amend the Civil Code to clarify the use of legal guardianship for UAMs whose parents are alive but geographically distant, pending legislation.

¹³⁵ DE, EE, FR, IT, LV, LU, PL, PT, SK

¹³⁶ HR, CY, CZ, FI, EL, HU, NO, SE.

In **Belgium**¹³⁷, the complaints from minors or external parties about the work of the guardian are filed with the Guardianship Service or with the Justice of the Peace. If the Guardianship Service establishes that the guardian is not performing properly or at all, it may withdraw the recognition of the guardian. The guardian will always be heard prior to this and given the opportunity to rectify his/her actions. In case of serious allegations, the Guardianship Service suspends the guardian. When the recognition of a guardian is withdrawn, this person can no longer act as guardian. In case of suspension or a withdrawal of recognition, the Guardianship Service shall immediately appoint another guardian for the minors concerned.

In **Finland**, the reception centre or a child who is 15 years old or older can file an application to a district court to exempt the representative from their tasks.

In **France**, complaints can be filed with the Children's Judge or the Family Affairs Judge.

In **Greece**, the law provides for the establishment of a Complaints Mechanism, according to which every Guardianship Service Provider applies clear, transparent and child friendly procedures to receive and examine complaints of unaccompanied children under guardianship. For violations of the rules on guardianship, the complaints are referred to the Guardianship Council established in the General Secretariat for Vulnerable Persons and Institutional Protection.

In **Ireland**, any complaints regarding a child's care can be made through TUSLA.¹³⁸ In situations where an investigation is required, the complaints officer prepares a report and advises the complainants in writing of their right to have the recommendations regarding their case reviewed internally and their right to refer the complaint to the Ombudsman or Ombudsman for Children.

¹³⁷ It is important to mention that the situation described in the monitoring section for Belgium applies in the management of complaint mechanism. Both the Guardianship Service and the Justice of the peace monitor the work of the guardian. It is the Justice of the peace who is competent to adjudicate 'points of contention' between the guardian and the minor. As soon as a petition (can be a simple e-mail) is submitted to the Justice of the Peace, the Guardianship Service appoints a guardian ad hoc pending the Justice of the Peace's decision.

¹³⁸ <https://www.tusla.ie/get-in-touch/feedback-and-complaints1/>

10.3. Monitoring systems

Several Member States have implemented monitoring system of guardians:

In **Belgium**, within 15 days of being appointed, the guardian must submit an initial report to the Guardianship Service and the Justice of the Peace. This is a regular report that has to be submitted twice a year. This means that the guardian is subject to two types of supervision:

- a) supervision by the Guardianship Service¹³⁹ and
- b) checks by the Justice of the Peace of the minor's residence.

The Guardianship Service carries out controls on daily administrative dealings and the practical organisation of the guardian's work.¹⁴⁰ The reference person from the Guardianship Service who monitors the guardian reads the guardianship reports of the guardian, reviewing whether the guardian properly performs.

In addition, the Justice of the Peace also reviews the guardianship reports and keeps the administrative file of the minor.

The Justice of the Peace is competent to deal with any complaint against the

guardian filed by the minor or a third party.¹⁴¹ The Justice of the Peace must immediately inform the Guardianship Service when a petition has been filed. The Guardianship Service will appoint an ad-hoc guardian. This guardian assumes the tasks of the normal guardian until a final decision is taken. The Justice of the Peace hears the minor, the guardian, possibly the lawyer, and any other person deemed useful. The Justice of the Peace may decide whether to continue the guardianship or to terminate it. The Justice can terminate the guardian's assignment of an individual guardianship in case of serious disagreements with the minor or when the guardian has not fulfilled her/his assignment with due care. Within 24 hours, the court clerk notifies the Guardianship Service by court letter of the order to terminate the guardian's assignment, which immediately appoints a new guardian.¹⁴²

¹³⁹ The Guardianship Service not only supervises the guardian, but also has a supporting role towards the guardian for more information see the Handbook for Guardians, Book 1 Guardianship Service and the role of the guardian, available in French and Dutch:

https://justice.belgium.be/fr/themes/enfants_et_jeunes/mineur_etranger_non_accompagne_mena/manuel_des_tuteurstutrices).

¹⁴⁰ For example, checking that the tutor still meets the conditions of recognition, ensuring the uniformity of practice, monitoring the way in which the guardian performs his or her duties etc. The Guardianship Service also ensures that the guardian seeks a lasting solution that is in the best interests of the minor.

¹⁴¹ For example, a supervisor of a reception facility, a family member, the Guardianship Service, etc.

¹⁴² The Guardianship Service will first ask the guardian ad hoc to continue the guardianship. In practice, a Justice of the Peace checks whether a relationship of trust still exists between the minor and his or her guardian. If the Justice of the Peace finds that there is no trust, he or she usually terminates the guardianship, even if no manifest negligence is found on the part of the guardian.

In **Croatia**, the work of special guardians is supervised by the Regional Office of the Croatian Institute for Social Work. If special guardians abuse their authority or perform their duties disorderly, which may cause damage to the person they represent, the Regional Office of the Croatian Institute for Social Work relieves the current special guardians of their rights and obligations and appoints another special guardian.

In **Finland**, the Finnish Immigration Service (Migri) monitors the representative. UAMs and other parties¹⁴³ can make complaints against the representative to the Migri. The application to relieve the representative of her/his responsibilities has to be filed either by the reception centre or by the minor if s/he is at least 15 years of age with the district court.

In **France**, the guardian is monitored by the guardianship judge and the Public Prosecutor¹⁴⁴ ensuring that the minor's care in the exercise of the guardianship function is effective and respects all his or her rights. In case of a conflict of interest between the minors and their guardian¹⁴⁵, the judge will appoint an ad-hoc administrator.¹⁴⁶ The Family Affairs judge or the Children's judge can withdraw any guardianship responsibility in case if deemed necessary.

The same applies where a dispute or conflict of interests prevents the guardian from pursuing the minor's best interests.¹⁴⁷ Similarly, in **Italy** the responsibility for monitoring the development of the guardianship belongs to the Family Court which appointed the volunteer guardian. Quantitative and qualitative monitoring is carried out by the National Guarantor.¹⁴⁸

In **Portugal**, where the monitoring is carried out by the court, which requests periodic evaluation reports from the guardian. Anyone can point out deficiencies in the work carried out, including the child.

In **Hungary**, activities of the guardian are supervised by the guardianship authority. The National Child Protection Service (guardianship authority), itself is supervised by its capital and country government officers. In **Ireland**, the Health Information and Quality Authority (HIQA) inspects placements of UAMs and reviews compliance with relevant standards and in **Norway**, the county governor is responsible for monitoring guardians.

In **Greece**, the Institutional Protection Unit of the General Secretariat for Vulnerable Persons and Institutional Protection is responsible for monitoring and regularly

¹⁴³ For example, If an employee of the reception centre notices that a representative is neglecting their tasks or is not otherwise suitable for the task, the reception centre will hear the child and the representative on the matter.

¹⁴⁴ Article 411-1 of the Civil Code.

¹⁴⁵ For example, when there is a dispute over minority, reassessment, or failure by the guardian to take steps to reconstitute the minor's civil status, etc.

¹⁴⁶ Article 388-2 of the Civil Code.

¹⁴⁷ Article 396 of the Civil Code.

¹⁴⁸ This is part of the project *Supporting the monitoring of voluntary guardianship for unaccompanied foreign minors* carried out in partnership with the Don Calabria Foundation for Social E.T.S. and the National Coordination of Reception Communities (Cnca). See the latest report: [DEFINITIVO V Report monitoraggio 03.11.2023 \(DEFINITIVO\) 0.pdf \(garanteinfanzia.org\)](#)

evaluating the work of guardians by a) reviewing regular and extraordinary reports submitted by the guardians and the coordinators; b) carrying out onsite sample checks at the headquarters of the GSPs in charge of guardianship; c) checking the individual files of unaccompanied minors under guardianship; d) hearing unaccompanied minors; and e) exchanging information with other competent authorities or professionals or notifying persons or bodies supporting unaccompanied minors, in particular by filling out specific questionnaires or submitting complaints.

In **Latvia**, the monitoring is conducted by the State Inspectorate for the Protection of Children's Rights. In **Lithuania**, the State Child Rights Protection and Adoption Service acts as a centralized child protection institution and, in fulfilling its functions, may accept complaints¹⁴⁹ and supervises the quality of guardianship. Finally, in **Sweden**, the County Administrative Board carries out inspections on a regular basis of the chief guardian. At the inspections they review whether the chief guardian's proceedings comply with laws and regulations and are carried out in a legally secure and appropriate manner.

11. Interpreting service

In order to facilitate communication between UAMs and guardians, if necessary,

17 responding Member States¹⁵⁰ provide interpreting services free of charge. In some Member States, interpreting services are provided during international protection and judicial proceedings.¹⁵¹ In other Member States, the interpretation services are used whenever they are needed.¹⁵²

Lithuania and **Luxembourg** reported however that lately, due to an increased influx of migrants and the diversity of cultural origins, there have been practical problems with finding interpreters in certain languages. In Lithuania, the Red Cross, the Order of Maltese, Save the Children, and other NGOs provide various types of support, including translation services at the primary reception centres to cope with this problem.

Only **Austria**, **Italy**, **Latvia**, **Poland**, and **Portugal** do not provide this service. However, in **Italy** cultural mediators are responsible for resolving any interpreter issues. In **Poland**, guardian can use interpreters at their own cost, and they will be reimbursed by the state. Finally, in **Portugal** even though there is no centralized interpreter service for this purpose, assistance can be obtained from the High Commission for Migration or other NGOs.

¹⁴⁹ The complaint can also be submitted to the municipal administration responsible for the appointment of a guardian, in compliance with the established deadlines.

¹⁵⁰ BE, BG, HR, CY, CZ, DE, EE, EL, FI, HU, IE, LT, LU, NL, NO, SK, SE

¹⁵¹ BG, CZ, DE, IE (these services are provided by cultural mediators), IT (during the administrative phase of international protection, an interpreter is always present during the interview at the territorial commission and even before at the Police Headquarters), LU, PL, SK.

¹⁵² BE, EL, FI, HU, IE, SE.

12. Intercultural mediation system

20 Member States¹⁵³ reported that they do not have an intercultural mediation system in place for the communication between UAMs and the authorities. The only Member State with such a system is **Italy**, which is free of charge. **Ireland** occasionally works with culturally appropriate NGOs to get assistance when the Separated Children Seeking International Protection (SCSIP) team recognises any communication difficulties with minors. Interpretation services are also provided by SCSIP to the UAMs for free. In **Greece**, to enhance children's right to participation, a youth network has been developed comprised of teenage unaccompanied children. This network discusses matters that concern teenage unaccompanied children and is coordinated by the mentors' team (former unaccompanied minors) of the General Secretariat for Vulnerable Persons and Institutional Protection. In **France** a local project¹⁵⁴ run by NGOs exists but no system that has been uniformly implemented through the country. Finally, in **Luxembourg**, intercultural mediators which are provided by the Ministry of National Education free of charge are only used in educational matters.

13. Further work

This mapping exercise has illustrated the complexity of this topic. This document is considered as a living document to facilitate discussion and further inputs to update the content will be invited.

Please contact the EMN Luxembourg team (emn@uni.lu) if you wish to notify of any corrections or significant updates to the content of this EMN Luxembourg Inform. The Inform will also be circulated to EMN NCPs on an annual basis to verify content and to request any updates.

¹⁵³ AT, BE, BG, CY, CZ, DE (not at the Federal level), EE, EL, FI, HR, HU, LV, LT, LU, NL, NO, PL, PT, SK, SE

¹⁵⁴ The MIMNA ('Information Mediation for Unaccompanied Minors') project, born of the convergence of field expertise developing an intercultural approach, and supported by Grenoble-Alpes University, the Foyer de l'Enfance Sud Isère and Savoie Mont Blanc University, is an interdisciplinary initiative. It aims to promote access to information for UAMs by developing non-linguistic tools for mediating knowledge, taking into account their situation of linguistic, intercultural, psychological and procedural vulnerability (as recommended by the European recommendations of the Council of Europe in 2018). The various field analyses carried out as part of this project have served as a basis for formalising knowledge mediation principles and strategies capable of guaranteeing information that is effectively adapted to UAMs. By information that is effectively adapted, they mean enabling the UAM not only to activate meaning, but also to appropriate the information and construct knowledge that is meaningful to them.

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