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Ad-Hoc Query on 2023.16 Residence procedure specifically for unaccompanied minors (2)

Requested by Belgium on 27 April 2023

Compilation produced on 20 June 2023

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden (23 in Total)

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## 1. BACKGROUND INFORMATION

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The vulnerable group of unaccompanied minors needs additional protection. This is why, in addition to the international protection procedure, Belgium has a special residence procedure for unaccompanied foreign minors, known as the Best Interest Procedure, which is accessible regardless of other procedures initiated by the minor or his guardian, including an application for international protection. This procedure is based on the United Nation Convention on the Rights of the Child (UNCRC) and is characterised by the search for a durable solution for each minor according to his or her best interests.

The law determines 3 types of durable solution:

1. Family reunification with the parents in the country where they are legally entitled to stay;
2. A return to the country of origin with guarantees on adequate reception and protection, either by the parents or other adults, or by public authorities or non-governmental organisations;
3. A residence permit in Belgium;

The ultimate aim is to provide a stable and secure environment for the child in which his or her fundamental rights are respected and guaranteed. This secure environment must also allow for the educational and personal development of the minor into a balanced and independent adult.

Based on the information obtained during the investigation in the country of origin and after considering all the elements in the best interests of the minor, the Immigration Office will make a decision on the durable solution.

If it is considered that the durable solution is that the minor remains in Belgium, a temporary residence permit will be issued (this document is renewable annually under certain conditions and there is the possibility that it can be converted into a permanent residence permit).

If the durable solution is a return to the country of origin or another country, the UAM's guardian will be notified of the return order. The guardian should organise the minor's return.

According to return legislation and policy in Europe, in line with international law obligations, the EU Charter of Fundamental Rights, and the EU Return Directive, the return of an unaccompanied foreign minor to his or her country of origin or other country can only be considered if there are sufficient and appropriate guarantees of reception and care in the latter.

The Belgian authorities are looking to improve/review this procedure. In this context it would be very useful to obtain more information from other Member States who have a similar residence status, specifically for unaccompanied minors.

In order to collect the information we are organising the questions around three aspects: 1) the existence of a specific residence procedure for UAMs in the Member States (questions 1-6); 2) the procedure followed in case the durable solution is considered a return to the country of origin or another country, more specifically in relation to the specific residence procedure and with a focus on the assessment of adequate reception (questions 7-12); and 3) enquires for information on the implementation of a return decision (13-15).

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As the three sections are all around the topic of unaccompanied minors we have discussed with the co-chair of the ad-hoc query working group on the best way of launching the queries. As the same experts have to respond to all the questions we have agreed to launch them in one questionnaire but that will count for three ad-hoc queries and with a deadline of six weeks.

**We would like to ask the following questions:**

**1. Does your country issue return decisions to UAMs?**

*Available choices: Yes, No*

**2. If you answer YES to Q.1, does the assessment in the context of a return decision differ from the assessment in the context of a specific residence procedure for UAMs if applicable (see AHQ ...)? Please explain.**

**3. If you answer yes to Q.1, when and at what stage the assessment of adequate reception in the country of origin is carried out (e.g. during the assessment in the context of a specific residence procedure or only in the context of an assessment in the context of a return decision)?**

**4. If you answer yes to Q.1, how and by whom is the assessment of adequate reception in the country of origin carried out (e.g. separate service)?**

**5. If you answer yes to Q.1, what happens if the assessment of adequate reception cannot be carried out in the country of origin (e.g. Somalia, Afghanistan...)?**

**6. If you answer yes to Q.1., in case the UAM previously applied for international protection, are elements from the international protection procedure taken into account during the assessment of adequate reception?**



We would very much appreciate your responses by **8 June 2023**.

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## 2. RESPONSES

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		<b>Wider Dissemination<sup>2</sup></b>	
	<b>EMN NCP Austria</b>	<b>No</b>	
	<b>EMN NCP Belgium</b>	<b>Yes</b>	1. 2. See below (3) 3. The Office of the Commissioner General for Refugees and Stateless Persons is exclusively responsible for investigating if a person fears persecution, conflict or violence if they return to their country of origin (according to the 1951 Convention and

<sup>1</sup> If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

<sup>2</sup> A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."


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			<p>Subsidiary Protection). There will be no specific investigation on the existence of adequate reception and care.</p> <p>While during the durable solution procedure the aim of the investigation is to gather as much objective, reliable and neutral information as possible about the minor and his or her family situation in the country of origin. This is essential for the determination of a durable solution and the assessment of the child's best interests. Research on adequate reception and care is there for one of the main assignments</p> <p>4. The Belgian Immigration Office will call upon Belgian diplomatic posts abroad or external partners to carry out a Family Assessment in the country of origin (i.e. Social Services, local organisations, ...). Sometimes the partnership is not limited to governmental representatives: there has been excellent cooperation with lawyers in some third countries (Suriname and Guinée) , although this approach can be costly and riskier; on some occasions a NGO (Terres des Hommes) would offer to help out and do the assessment. If possible, the immigration officer himself will contact directly the concerned person (family, neighbor, school director, hospital, ... )</p> <p>5. If an investigation in the country of origin cannot be carried out, the office will make a decision on the durable solution after carefully considering the elements in the best interests of the child and this is based on all the relevant information available in the file.</p> <p>6. All information gathered will be taken into account while investigating the durable solution, including information obtained through other procedures.</p>
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	<p><b>EMN NCP Bulgaria</b></p>	<p><b>Yes</b></p>	<p>1. Yes Yes, Bulgaria issues return decisions to UAMs. Unaccompanied minors shall be represented in the proceedings under the Law on Foreigners in the Republic of Bulgaria by the “Social Assistance” Directorate at their place of residence.</p> <p>2. Unaccompanied minors who have entered the territory of the Republic of Bulgaria with a companion but who have been subsequently abandoned and have not applied for protection under the Law on Asylum and Refugees or whose application for international protection has been validly rejected, may receive only prolonged residence in Bulgaria until they reach the age of majority. The permit shall be issued under the procedure set out in the Regulation on the implementation of the Law on foreigners in the Republic of Bulgaria.</p> <p>3. The police authority that has found an unaccompanied minor shall inform the Social Assistance Directorate at the place of residence. It shall send a notification letter and immediately hand the child over to an official of the Child Protection Department or to the director of that Directorate in order to accommodate the child outside the family as a measure under the Law on Child Protection. Within 3 days after receiving a social report, “Migration” sectors/groups under the Regional Directorates of the Ministry of Interior shall draw up a reasoned opinion on the possibility either of returning the unaccompanied minor to the country of origin, a transit country, a third safe country, or</p>


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			<p>of issuing a residence permit. The reasoned opinion shall be sent to the Migration Directorate with enclosed interview report and social report.</p> <p>4. The “Migration” sectors/groups under the Regional Directorates of the Ministry of Interior shall draw up a reasoned opinion on the possibility of returning the unaccompanied minor to the country of origin, a transit country or a third safe country.</p> <p>5. When the return of the child is not possible due to inadequate reception, the Migration Directorate – Mol shall draw up a summary opinion which is to be sent (directly or through the relevant “Migration” sector/group under the Regional Directorates of the Ministry of Interior) to the unaccompanied minor through his/her representative , informing him/her of the possibility of initiating proceedings for granting the right of prolonged residence. The Director of the Migration Directorate or an authorised official may provide the child a prolonged residence under the procedure described in the answer of Q2.</p> <p>6. Before issuing a return decision, the relevant authorities, different from those implementing the forced return, shall provide assistance by taking into account the best interests of the child. Before returning the unaccompanied minor, the authorities shall ensure that he/she will be returned to a member of his/her family, a determined guardian or an adequate reception facility in the state of return.</p>
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	<b>EMN NCP Croatia</b>	<b>Yes</b>	<p>1. Yes</p> <p>2. The Aliens Act, in the chapter on measures to ensure return, contains a special provision on protection in the return process. This provision stipulates that the best interests of minors and other vulnerable persons, family life and health will be taken into account when taking measures to ensure return.</p> <p>The At also stipulates that before the forcible removal of an unaccompanied minor citizen of a third country, it must be determined whether the minor will be handed over to a family member, a appointed guardian or an appropriate reception institution during the state return.</p> <p>The facts and circumstances established in the residence permit procedure can be used in the return procedure and vice versa.</p> <p>Every unaccompanied minor is appointed a representative guardian whose task is to protect the best interests of the child.</p> <p>If it is determined that a safe return of the minor to the country of origin is not possible, that it is not in the best interest of the child, this may be a reason for granting a residence permit for humanitarian reasons.</p> <p>3. In the return procedure, the facts of adequate reception in the country of origin will also be considered - see answer 2.</p> <p>4. Whether the reception of unaccompanied minors is adequate in the country of origin is determined by the authority leading the procedure (police department/station, or Mol) in cooperation with the competent authority from social welfare system (which also appoints the child's guardian) and in cooperation with the Ministry of Foreign and European Affairs.</p>
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			<p>5. If all the necessary circumstances cannot be established, it is possible to extend the deadline for voluntary departure or to postpone the forced removal. Another solution should be found in the best interest of the minor, which is most often approval of residence for humanitarian reasons, or if the conditions are met, approval of international protection.</p> <p>6. Yes</p>
	<p><b>EMN NCP Cyprus</b></p>	<p><b>Yes</b></p>	<p>1. Yes</p> <p>2. Yes. A separate assessment must be carried out by the Social Welfare Services (the legal guardian) on the best interest of the child.</p> <p>3. Before deciding to issue a return decision, the Social Welfare Services (the legal guardian) make assessment on the best interest of the minor. Before the removal, the Social Welfare Services (the legal guardian) must make sure that the minor will be returned to a family member, a guardian or to adequate reception facilities in the country of return.</p> <p>4. Social Welfare Services (the legal guardian).</p> <p>5. In cases where the assessment of adequate reception cannot be carried out for any reason, the removal is postponed/cancelled.</p>


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			6. Yes
	<b>EMN NCP Czech Republic</b>	<b>Yes</b>	<p>1. Yes</p> <p>2. The Czech Republic issues a return decision, however it is rather theoretical, in general there are no returns of UAMs carried out, only at in exceptional cases on the explicit request of UAM. Until now, we have only implemented the return of unaccompanied minors to the country of origin based on the client's own request.</p> <p>3. The assessment of adequate reception in the country of origin usually is carried out based on the unaccompanied minors' expressed interest in return.</p> <p>4. The assessment of adequate reception conditions is carried out in cooperation with the Office of International Legal Protection of Children, which should express its opinion on the return.</p> <p>5. N/A So far, such situation has never occurred.</p> <p>6. N/A</p>

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	<b>EMN NCP Estonia</b>	<b>Yes</b>	<p>1. Yes</p> <p>2. Estonia is mostly a transit country and we have not had such cases. If there is a UAM, a representative is always assigned, and the representative must be convinced that all decisions have been made in the best interests of the child. Usually, the representative is from the local municipality. Also the PBGB must ensure that all decisions made by PBGB are always in the best interest of a child.</p> <p>3. Assesment is carried out in both situations (residence permit and return decision). In case of return, pursuant to the Obligation to Leave and Prohibition on Entry Act, it is the obligation to issue a precept for departure to all foreigners who are staying without a legal basis. The decision shall take into account all relevant circumstances, including the prohibition of expulsion. If, during the course of compliance with the obligation to leave or removal, becomes apparent that the conditions of the prohibition on removal have arisen, it is possible to suspend compliance with the obligation to leave.</p> <p>4. Country of origin information is always collected and, in the decision, taken account by the PBGB.</p> <p>5. We have not had such cases.</p>


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			6. Yes, but we have not had such cases.
+	EMN NCP Finland	Yes	<p>1. Yes</p> <p>2. Finland does not have a specific residence procedure for UAMs besides international protection. The possible return decision is therefore part of the international protection assessment.</p> <p>3. The assessment of adequate reception in the country of origin is carried out within the international protection assessment.</p> <p>4. Return is possible if the conditions laid down in Art. 10 of the Return Directive are met. In practice, the vulnerable situation of unaccompanied minors and the difficulties in ensuring a safe and secure return mean that unaccompanied minors are rarely issued return decisions.</p> <p>If the case worker considers that the applicant does not have grounds for international protection or a residence permit under section 52 of the Aliens Act, and the applicant comes from a country with a high level of security; the applicant is in contact with his or her parents/de facto guardians; the applicant has the contact details of his/her parents/de facto guardians the Finnish Immigration Service's direct contact with the applicant's parents will be considered in the matter.</p> <p>Background information, contact details and the opinion of the minor and legal representative of the minor will be gathered during the asylum interview. After the interview assessment of the case and tracing possibilities are appraised in cooperation and coordination of a senior adviser specialized in minors. If the conditions are met the senior adviser contacts the parent/de facto guardian. After that the final assessment of</p>


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			<p>the case, including assessment of the adequate reception is made.</p> <p>5. Tracing and assessment of adequate reception is not possible in countries with armed conflict. If there are no grounds for international protection and a minor comes from a country with no stable security situation, the minor will be granted a residence permit basis on compassionate (humanitarian) grounds (Aliens Act 52 §).</p> <p>6. The assessment of adequate reception is always made as a part of the international protection assessment if the conditions are met.</p>
	EMN NCP France	<b>Yes</b>	<p>1. No</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p> <p>5. N/A</p> <p>6. N/A</p>

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	<b>EMN NCP Germany</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes</li> <li>2. Due to the federal system in Germany, there is a shared responsibility of the Federal Office for Migration and Refugees and the Federal States. While Federal Office is responsible for issuing the asylum decision and may issue a return decision against UAMs as part of the asylum decision under certain conditions and in accordance with the requirements of Union law, the Federal States are responsible either for enforcing the return decision or - if enforcement of the return decision is not possible - for securing the UAMs residence in Germany. For this reason, the Federal Office can only provide information on the assessment of adequate reception in the country of origin/country of former habitual residence (in the following: country of return) within the framework of an asylum procedure.</li> <li>3. Since there exists no specific residence procedure in Germany comparable to the Belgian Best Interest Procedure, the assessment of adequate reception in the country of return is carried out in the context of a return decision.</li> <li>4. In its decision of 14 January 2021 (C-441/19 - TQ v Netherlands) the CJEU emphasized that when issuing a return decision under Directive 2008/115/EC, the best interest of the child must be taken into account at all stages of the procedure. In this sense, there is an obligation for a double assessment: <ol style="list-style-type: none"> <li>1. Before issuing a return decision the Member State must be satisfied that the UAM can be handed over to a member of his or her family, a nominated guardian or an adequate re-ception facility in the State of return. The Federal Office's assessment of adequate reception for an UAM in the country of return:</li> </ol> </li> </ol>
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		<ul style="list-style-type: none"> <li>• Personal Interview: carefully questioning the UAM about family structures, living conditions, education, financial situation in the country of return and if contact to family members is maintained; also inquire on the situation in Germany.</li> <li>• Research in Databases</li> <li>• Internal request to the country analysis of the Federal Office; e.g. regarding existence and capacities of children's homes, preconditions of a guardianship in the country of return.</li> </ul> <p>Provided that a return before the age of majority appears to be significantly probable:</p> <ul style="list-style-type: none"> <li>• Investigating further findings of the local foreigners authority</li> <li>• Where/if applicable inquiries to the German Federal Office with regard to existing family environment of the UAM in the country of return.</li> </ul> <p>2. Before removing that UAM from the territory of the Member State, it must be ensured that an adequate reception facility for him/her still exists. Otherwise the Member State will no longer be able to enforce the return decision.</p> <p>At the time when the return decision is enforced, the local foreigners authority assesses under its own responsibility whether an adequate reception in the country of return still exists. According to Sec. 58 (1a) of the German Residence Act "before deporting unaccompanied foreign minors, the authority must ensure that, in the country to which they are to be returned, they will be handed over to a family member, to a person having right of care and custody or to an appropriate reception centre".</p> <p>5. No return decision will be issued without the information on a specific and individual reception option in the country of return.</p>
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			6. All essential and relevant information gathered by the Federal Office will be taken into account during the assessment of adequate reception.
	EMN NCP Hungary	Yes	<p>1.</p> <p>2. Unaccompanied minors may only be expelled if family reunification or public or other institutional care is adequately guaranteed in their country of origin or other host state.</p> <p>3. -</p> <p>4. In order to establish an expulsion obstacle, the aliens policing authority shall without delay contact the guardianship office in order to ascertain whether family reunification or state or other institutional care is adequately provided for the unaccompanied minor in the state of nationality or other host state and to obtain information from the country regarding the institutional care of minors in the state of nationality or other host state.</p> <p>5.</p> <p>If an expulsion obstacle arises, the aliens policing authority will immediately contact the guardianship office in order to accommodate the unaccompanied minor.</p> <p>6. Yes</p>




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	<b>EMN NCP Ireland</b>	<b>Yes</b>	<p>1. No Ireland does not forcibly remove unaccompanied minors. Ireland does not participate in the Return Directive 2008/115/EC. The national law governing return of persons who do not meet conditions of stay, other than unsuccessful protection applicants, is the Immigration Act 1999 (as amended). Return of unsuccessful protection applicants is governed under the International Protection Act 2015. Under the Immigration Act 1999, a person who no longer fulfils conditions of stay is issued with a letter with the intention to deport. The person can a) either consent to the making of the deportation order 2) make representations as to reasons they should be given leave to remain. If leave to remain is not granted, and following an assessment of the prohibition of refoulement, a deportation order is made. Voluntary return, including assisted voluntary return, is possible up to the issuing of a deportation order. It is theoretically possible to issue deportation orders to unaccompanied minors, however, in practice, deportation orders are not issued for unaccompanied minors.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p> <p>5. N/A</p> <p>6. N/A</p>
	<b>EMN NCP Italy</b>	<b>Yes</b>	<p>1. No</p>


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			<p>Return procedures for minors are foreseen only in cases where it does not involve a risk of serious harm for the minor, at the instance of the Questore (if certain situations arise), and the decision is taken by the Juvenile Court (Art. 31 paragr.4 Immigration Law (Testo Unico Immigrazione (TUI))</p> <p>2.</p> <p>3.</p> <p>4.</p> <p>5.</p> <p>6.</p>
	EMN NCP Latvia	<b>Yes</b>	<p>1. Yes</p> <p>2. No, the assessment does not differ, because it does not matter what type of decision has to be taken – child’s best interests shall be assessed anyway. According to Law on the Protection of the Children's Rights in all activities in regard to a child, irrespective of whether they are carried out by State or local government institutions, public organisations or other natural persons and legal persons, and also courts and other law enforcement institutions, the ensuring of the rights and interests of the child shall take priority. These persons shall take into consideration the best interests of the child in all activities which directly or indirectly affect or may affect the child:</p>

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			<p>1) in evaluating any case related to the child;                  2) in acting in any matter related to the child;                  3) in taking any decision in relation to the child.</p> <p>3. The assessment of adequate reception in the country of origin would be carried out in the context of a return decision.</p> <p>4. The assessment of adequate reception would be carried out by the competent authority, which is responsible for taking return decision.</p> <p>5. In case of Somalia and Afghanistan most likely would be examined question of international protection.</p> <p>6. Yes, the elements from the international protection procedure are taken into account.</p>
	<b>EMN NCP Lithuania</b>	<b>Yes</b>	<p>1. Yes</p> <p>2. A precondition for issuing a residence permit to an unaccompanied minor is that the minor cannot be returned. Thus, it is the same assessment.</p> <p>3. The assessment of the possibility of return (including adequate reception in the country of origin) takes place before issuing a residence permit.</p>


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		<p>4. The Migration Department assesses information about the situation in a foreign UAM's country of origin or country of return, as well as information on whether the UAM would be <b>safe to return</b> to the country of origin or some other foreign state. The procedure for the age determination, accommodation, procedural steps, and services to unaccompanied minors who are not asylum seekers is laid down in Order A1-229/1V-289/V-491 of 25 April 2014 of the Minister of Social Security and Labor, the Minister of the Interior, and the Minister of Health. According to Article 25 of this document, the State Child Rights Protection and Adoption Agency under the Ministry of Social Security and Labor must seek to obtain information about the UAM's family members or other legal guardians abroad from the Migration Department, the State Border Guard Service, the Refugee Reception Center or by other means. Having received such information it must within 5 working days contact the relevant institutions of the foreign state to obtain information that would help determine whether the UAM's <b>rights and best interests</b> would be ensured by returning the UAM to the legal guardians.</p> <p>5. There have been no such cases in Lithuania. The best interests of the child would be assessed and a decision on non-return could be passed.</p> <p>6. If the UAM had previously applied for asylum and it was found that the application is not supported or does not meet the criteria for granting asylum, it would then be assessed whether the principle of non-refoulment applies. It is found that the UAM cannot be returned to a foreign state, a decision <i>to not grant asylum but to issue a temporary residence permit</i> would be passed in accordance with Article 40.1.8 of the Law on the Legal Status of Foreigners.</p>
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	<b>EMN NCP Luxembourg</b>	<b>Yes</b>	<p>1. Yes YES. Luxembourg can issue return decisions taking into consideration the best interest of the child against unaccompanied minors in accordance with article 103 of the amended law of 29 August 2008 on free movement of persons and immigration (Immigration Law). The best interest of the child is assessed by the Consultative Commission of the best interest of the child, that will determine if the UAM can be returned or not. The ad hoc administrator, appointed to represent the unaccompanied minor, is invited to give his or her views to the Commission.</p> <p>2. N/A. As it was answered to Q.1 of ad-hoc query n° 2023.015, Luxembourg does not have any specific procedure to grant a residence permit outside of the international protection procedure.</p> <p>3. The assessment of adequate reception in the country of origin is carried out after the international protection application is rejected and a return decision is going to be taken. The family assessment in the country of origin is conducted before the return decision. It is at this moment that the Consultative Commission of the best interest of the child does the assessment.</p> <p>4. In order to carry out the assessment of adequate reception in the country of origin, the Directorate of Immigration relies on the services of IOM which will conduct an assessment in the country of origin, to determine if the family members, a tutor or the state can provide the adequate reception conditions in order to return the UAM.</p> <p>5. If the assessment cannot be carried out because of the dangerous situation in the country of origin the return decision will not be taken. In any case, Luxembourg does not return UAM to countries like Afghanistan or Somalia.</p>
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			6. As the only procedure open to the UAM is the international protection procedure, the Consultative Commission of the Best interest of the Child will take the decision with all the elements that are at their disposal plus the assessment report of the IOM.
	EMN NCP Netherlands	Yes	<p>1. Yes</p> <p>2. N/A</p> <p>3. In the Netherlands, there is no specific procedure (apart from the international protection procedure) for unaccompanied minors, see response to Q1. However, an assessment of adequate reception in the country of origin is carried out by the Immigration and Naturalisation Service (IND) during the assessment of the application for asylum.[1] If, at the moment the application for asylum is rejected, additional research for the assessment of adequate reception in the country of origin is required, the IND will hand over the assessment to the Repatriation and Departure Service (Dienst Terugkeer en Vertrek, DT&amp;V), which will carry out the additional research proactively and within a reasonable time frame (maximum of one year).[2]</p> <p>[1] Parliament Papers II, 2021-2022, 29344, no. 152. [2] Parliament Papers II, 2021-2022, 29344, no. 152.</p> <p>4. The assessment of adequate reception in the country of origin is carried out by the IND during the asylum procedure (mostly by asking questions on e.g. parents, other family members and addresses during the asylum interviews)[1], reinforced by possible additional research carried out by the DT&amp;V in the country of origin after an</p>

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		<p>asylum application is rejected (see also the answer to question 8.) The criteria for adequate reception are defined in Section B8/6.1 of the Aliens Act Implementation Guidelines (Vc) 2000.<sup>[2]</sup> The feasibility of adequate reception must be mentioned and motivated in the intended decision and order when issuing a return decision.<sup>[3]</sup></p> <p><sup>[1]</sup> This information is provided by the Immigration and Naturalisation Service (IND) on 17 May 2023.</p> <p><sup>[2]</sup> Departure and Repatriation Service (Dienst Terugkeer en Vertrek, DT&amp;V), 'Kinderen en alleenstaande jongeren', <a href="https://www.dienstterugkeerenvertrek.nl/het-terugkeerproces/bijzondere-groepen/gezinnen-en-alleenstaande-jongeren">https://www.dienstterugkeerenvertrek.nl/het-terugkeerproces/bijzondere-groepen/gezinnen-en-alleenstaande-jongeren</a>, last accessed on 28 April 2022.</p> <p><sup>[3]</sup> Communication of information (Informatiebericht) IND/SUA, 2022/74, 'Beslissen op Amv zaken na Afdelingsuitspraken van 8 juni 2022', <a href="https://puc.overheid.nl/ind/doc/PUC_1293025_1/1/">https://puc.overheid.nl/ind/doc/PUC_1293025_1/1/</a>, last accessed on 28 April 2022.</p> <p>5. In section C7 of the Aliens Act Implementation Guidelines (Vc) 2000 country specific policies are mentioned. The feasibility of adequate reception provided by the authorities of the specific country is one of the topics mentioned here. If there is generally no adequate reception provided by the authorities, it is still possible that – after research - in an individual case adequate reception can be established and realised.<sup>[1]</sup> If the assessment of adequate reception cannot be carried out when rejecting the application for asylum by the UAM, it is mentioned by official order (ambtshalve toets) that the UAM is momentarily not eligible for a residence permit (on the basis of the UAM no fault policy (amv-buitenschuldbeleid) because the assessment of adequate reception is not yet finished. In the intended decision the following must be mentioned:</p>
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		<ul style="list-style-type: none"> <li>• DT&amp;V will carry out an additional investigation. In principle, this assessment lasts for a maximum period of one year from the moment the decision was issued. (See also the answers to questions 3 and 4.)</li> <li>• The current status of the assessment/investigation of adequate reception.</li> <li>• The reason why a decision cannot be made yet on the feasibility of adequate reception, as well as which aspects should be investigated additionally.<sup>[2]</sup></li> </ul> <p><sup>[1]</sup> This information is provided by the Immigration and Naturalisation Service (IND) on 17 May 2023.</p> <p><sup>[2]</sup> Communication of information (Informatiebericht) IND/SUA, 2022/74, 'Beslissen op Amv zaken na Afdelingsuitspraken van 8 juni 2022', <a href="https://puc.overheid.nl/ind/doc/PUC_1293025_1/1/">https://puc.overheid.nl/ind/doc/PUC_1293025_1/1/</a>, last accessed on 28 April 2022.</p> <p>6. Yes, in fact the assessment of adequate reception already starts with the assessment of the application for international protection (asylum). Elements which may be taken into account during the assessment of adequate reception include 1) statements made by the UAM during interviews and 2) possible research within the framework of the Dublin Regulation (e.g. information provided by another Member State in which the UAM has made statements regarding his family or address of original habitation). 3) Also Nidos, the national guardianship institution for unaccompanied and separated children, may be questioned on information provided by the UAM about his family and address of original habitation.<sup>[1]</sup></p> <p><sup>[1]</sup> Communication of information (Informatiebericht) IND/SUA, 2022/74, 'Beslissen op Amv zaken na Afdelingsuitspraken van 8 juni 2022', <a href="https://puc.overheid.nl/ind/doc/PUC_1293025_1/1/">https://puc.overheid.nl/ind/doc/PUC_1293025_1/1/</a>, last accessed on 28 April 2022.</p>
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	<b>EMN NCP Poland</b>	<b>Yes</b>	<p>1. Yes</p> <p>2. The decision to oblige a foreigner to return issued to a minor foreigner shall be enforced if:</p> <p>1) the foreigner is provided with the care of parents, other adults or care institutions in the country to which he/she was obliged to return, in accordance with the standards set out in the Convention on the Rights of the Child, adopted by United Nations General Assembly on 20 November 1989;</p> <p>2) the return takes place under the care of a statutory representative or the foreigner shall be handed over to his/her statutory representative or a representative of the competent authorities of the country to which the return will take place.</p> <p>If the above conditions are not fulfilled then return decision should not be executed.</p> <p>3. As the lack of adequate reception in the country of origin is the reason for not executing the return decision the assessment has to be made before execution of already issued decision. However, if it occurred before the issuance of the return decision that the return would violate the rights of the child as defined in the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989, the assessment could be made also before the issuance of return decision, which would result in issuance of the consent for stay for humanitarian grounds.</p> <p>4. Usually it is the authority executing the decision on return.</p>



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			<p>5. We do not have much experience in this regard as in most countries it is possible to fulfil the condition of adequate reception. However, if it occurs that the return would violate the rights of the child as defined in the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989, the consent for stay for humanitarian grounds should be issued in such case.</p> <p>6. The assessment in international protection procedures and the assessment when executing the return decision are two separate procedures and one do not depend on another.</p>
	<p><b>EMN NCP Portugal</b></p>	<p><b>Yes</b></p>	<p>1. No.</p> <p>2.</p> <p>3.</p> <p>4.</p> <p>5.</p> <p>6.</p>

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	<b>EMN NCP Slovakia</b>	<b>Yes</b>	<p>1. No According to the provisions of Article 83 par. 8 letters a) "the police department cannot administratively expel a child under the age of 18; this does not apply if the expulsion of this child is in his interest." To proceed according to this provision, the consent of the body for the social legal protection of children and the social guardianship, which is the guardian of a minor, is required. If the body for the social legal protection of children and social guardianship declares that it is in the best interest of the minor to expel him, based on their written opinion, the police department will then issue a decision on administrative expulsion. In case the deportation is not in the best interest of the minor, he is granted a tolerated stay according to Article 58 par. 1 letter a) of the Act on Residence of Foreigners (a minor found on the territory of the Slovak Republic).</p> <p>2. NA</p> <p>3. NA</p> <p>4. NA</p> <p>5. NA</p> <p>6. NA</p>
	<b>EMN NCP Slovenia</b>	<b>Yes</b>	<p>1. Yes</p> <p>2. In the event of the procedure with the UAM who is illegally residing in the Republic of Slovenia, the Police shall immediately inform the Centre for Social Work, which shall</p>


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			<p>immediately appoint a guardian for a special case according to the provisions of the Family Code. The Pllice shall issue a return decision to the UAM only once the special case guardian, after careful consideration of all the circumstances, has established that it is in the best interests of the UAM to do so.</p> <p>The UAM shall not be removed to his/her country of origin or to a third country willing to accept him/her until he/she has been granted admission there. Before the return takes place, it must be ensured that the UAM will be returned to the family member, the chosen guardian or the appropriate reception center in the country of return. However, in any case, the UAM may not be returned in violation of the Convention for the Protection of Human Rights and Fundamental Freedoms, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment or the Convention on the Rights of the Child and the European Convention on the Exercise of the Rights of the Child.</p> <p>3. The assessment of adequate reception in the country of origin is by the responsibility of the Centre for Social Work. The question of the assessment of the appropriate reception can arise and change before the return decision is issued as well as before the return decision is implemented, and therefore must be subject to assessment throughout the entire procedure.</p> <p>4. The assessment of adequate reception in the country of origin is under the responsibility of the Centre for Social Work.</p> <p>5. If an adequate reception cannot be guaranteed in the destination country, the minor may be issued with a Permission to stay in the Republic of Slovenia, which is valid for 6 months and may be extended for as long as there are grounds for such a decision.</p>
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			<p>6. The assessment of adequate reception in the country of origin is solely by the responsibility of the Centre for Social Work. In case an adequate reception in the destination country cannot be provided and a Permission to stay must be considered, then the Police is able to request the Ministry responsible for the interior to provide information on general and specific information on the country of origin of the minor, as provided for in the law governing international protection, and to provide the administrative decision or order issued in the international protection procedure, in order to determine the grounds for issuing a Permission to stay.</p>
	<b>EMN NCP Spain</b>	<b>Yes</b>	<p>1. No</p> <p>2. Yes. The residence procedure is only started after return has proved not to be possible, or 90 days after the social services have taken care of the minor, whichever comes earlier.</p> <p>3. The assessment of adequate reception in the country of origin is made for the return procedure.</p> <p>4. The assessment of adequate reception in the country of origin is made by the Government Delegate in the region or the Deputy Government Delegate in the province, with information provided by the National Police, the Ministry of Foreign Affairs, the social services, the Public Prosecutor and representants of the minor.</p>

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			<p>5. Unless family ties are detected in another country, the residence procedure would be started.</p> <p>6.</p>
	<b>EMN NCP Sweden</b>	<b>Yes</b>	<p>1. Yes</p> <p>2. Not applicable</p> <p>3. Not applicable</p> <p>4. Swedish Migration Agency</p> <p>5. Reception must be assessed</p> <p>6. Not applicable</p>

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