



POLICIES, PRACTICES AND DATA ON UNACCOMPANIED MINORS IN BELGIUM 2014 UPDATE

Focused Study of the Belgian National Contact Point
of the European Migration Network (EMN)

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The European Migration Network was set up with the purpose of providing up-to-date, objective, reliable and comparable information in the areas of asylum and migration for the European institutions, national authorities and other stakeholders.

The Belgian National Contact Point is a mixed point composed of experts from the Immigration Office, the Federal Migration Centre and the Office of the Commissioner General for Refugees and Stateless Persons.

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The European Migration Network (EMN) is coordinated by the European Commission with National Contact Points (EMN NCPs) established in each EU Member State plus Norway.

Belgian study and EU comparative study

This is the **Belgian Contribution** to the EMN focused study on policies, practices and data on unaccompanied minors. **Other EMN National Contact Points** (NCP's) produced a similar report on the topic for their (Member) State.

In **2008-2009, the EMN undertook** the comparative study "Policies on reception, return and integration arrangements for, and numbers of, unaccompanied minors". This study provided a comprehensive overview of (Member) States' policies and practices relating to different elements of the migration process affecting unaccompanied minors, such as entry procedures, the asylum process, reception and integration arrangements as well as return.

This 2014 update aims to inform about changes in (Member) State's policies and practices that have occurred after 2009, as well as to provide new comparable statistics. The update also aims to **fill knowledge gaps** identified by the previous EMN work on unaccompanied minors, notably data on UAMs who have not applied for asylum, those in the return process or whose application for protection was rejected, exploring the issue of a UAM reaching 18 years of age whilst in the care of the public authorities, and next steps in terms of service provision, integration or return.

The different National reports were prepared on the basis of a **common template** to ensure, to the extent possible, comparability. References to questions from the common template are made in this report (e.g. Q1 refers to Question 1 in the common template).

On the basis of all national Contributions a **Synthesis Report** is produced by the EMN Service Provider in collaboration with the European Commission and the EMN NCP's. The Synthesis Report gives an overview of the topic in all (Member) States.

The Belgian report, the Synthesis report and the links to the reports of the other (Member) States and to the 2009 report are available on the **website** www.emnbelgium.be.

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Executive Summary

During the period 2004-2009, Belgium registered about 1,800 (self-declared) unaccompanied minors (UAMs) per year. In 2009 and 2010 there were about 2,500 newly arrived unaccompanied minors and the number peaked in 2011 with more than 3,200 UAMs. Since 2012, the number of unaccompanied minors has been decreasing and in 2013, about 1,800 persons who declared to be UAMs were registered by the Guardianship Service. The increase in the number of UAMs since 2009 and the drop since 2012 was mainly caused by the increasing and decreasing number of UAMs applying for asylum, particularly originating from Afghanistan.

In **Section 1** an attempt is made to describe the **motivations of UAMs to come to Belgium**. It is not easy to provide a clear overview of the reasons why unaccompanied minors come to Belgium. This is because the motivation is often multilayered and depends on the country of origin, social and cultural background and personal or familial aspirations.

A lot of **asylum seeking UAMs** come from Afghanistan, Guinea and the Democratic Republic of Congo. The search for security, better educational and job opportunities seem to be important reasons for migrating. However, these are mostly reasons for leaving the country of origin, and not so much reasons for coming specifically to Belgium. The presence of friends, family or a large community from the own ethnic and/or national background is often a key factor why these young asylum seekers preferred Belgium to another European country, plus the choices made by family members and/or smugglers. The profile of **non-asylum seeking UAMs** is somewhat different: a significant share of them originates from Maghreb countries, especially Morocco and Algeria; others belong to the Roma community and come from the Western Balkans. The reason why they are in Belgium is mostly to find a better future (no perspectives in their country of origin) and to raise money. Moreover, it seems that one major difference with the group of asylum seeking UAMs is that these minors don't always want to be registered as UAMs or don't want to be cared for in reception centres.

Section 2 of the report aims to provide an **overview of the entry and residence procedures** for UAMs in Belgium.

All foreign nationals, including UAMs who are non-EU citizens, should in principle have a valid passport or equivalent travel document containing a valid visa. A non-asylum seeking UAM without valid travel documents can be refused **entry at the border** but cannot be detained. The UAM will be placed in an Observation and Orientation Centre where he/she will have extraterritorial status. An UAM who is refused entry at the border can be returned if this is a durable solution in the best interest of the child, if family members in the country of origin or the country ensuring a legal right to stay are willing to take care of the minor and if the minor agrees to return. This concerns a limited number of cases.

If the minor **applies for asylum**, it is evident that any return decision is suspended during the examination of the asylum application. A specialised caseworker conducts the interview and assesses if the UAM can be granted the refugee or subsidiary protection status. During the interview and the assessment, the protection officer takes into account the minor's age, maturity and other personal and cultural factors; and the principle of the benefit of the doubt has a larger field of application.

Article 61/14 to 61/25 of the Belgian Immigration Act provides for a **specific residence procedure for UAMs** who are no (longer) asylum seekers. The Immigration Office interviews the minor and takes the decision providing the most appropriate, durable solution. The Belgian Immigration Act defines a durable solution as a family reunification in the country where the parents have legal residence, a return to the country where the UAM has legal residence and where adequate reception is available, or a settlement in Belgium. Until a definitive durable solution is found, a temporary residence permit of six months is issued. If the UAM has stayed in Belgium with a temporary residence permit during three years, a permanent residence permit is issued.

The UAM can also resort to a procedure to be recognized as a **victim of human trafficking**. This procedure can lead to a temporary residence permit, as long as the investigation is still ongoing, or a permanent residence permit, for example if the statements of the UAM have led to conviction. The number of UAMs in this procedure is limited, but victims of human trafficking, especially for what concerns UAMs, continue to be a point of concern. The new Action Plan 2012-2014 on the fight against trafficking in human beings underlines the need to (continue to) train different actors on the identification of victims of human trafficking. These actors include police officers and border guards, but also staff from reception centres for unaccompanied foreign minors.

Besides these three procedures, UAMs can also apply for **regularisation on humanitarian or medical** grounds (Article 9bis and 9ter of the Immigration Act). Furthermore UAMs can also be present in other long-term residence procedures but no detailed statistics on the number of UAMs in each specific residence procedure are available.

If these different procedures don't lead to a residence permit being issued to the minor, **he or she cannot be removed by force** as long as he or she has not reached the age of 18 years old. Also an order to leave the territory cannot be issued to an UAM. An order to return the minor can be issued to the guardian, but this is rarely enforced, and only if it is in the best interest of the child.

In this section there is also detailed information provided on the Guardianship arrangements and the procedure for **assessing the age** of a (self-declared) UAM. The identification (including date of birth) occurs on the basis of the identity documents the person can provide. In case of doubt, for example related to the minor's physical appearance, behaviour or when no reliable documents are presented, an age assessment can be performed. Belgium opted for a combination of three medical tests¹, to increase the validity and reliability. A standard deviation is taken into account and in case of doubt, the lowest age is taken into consideration; also the submitted documents and their reliability are considered. Despite this, the number of persons who can't be considered as minors because of the outcome of the age assessment test is substantial.²

Once identified as being under age, this Guardianship Service **assigns a guardian** to assist the UAM. The Guardianship Service is in charge of the general coordination, training and supervision of the guardians. A guardian can be a volunteer or an employee and has to meet certain requirements to become a guardian. The main tasks of the guardian are outlined in specific guidelines and the Guardianship Act. The guardian is the legal representative of the minor and has to ensure that all decisions taken are in the best interest of the child.

Section 3 of this report describes reception arrangements, including integration measures for UAMs.

The detention of unaccompanied minors is forbidden by law, although there is one exception: if an UAM arrives at the border, and there is a doubt about the age, he/she can be held in detention for three working days (exceptionally extendable for another three working days). Once minority has been proved, the UAM is transferred to an Observation and Orientation Centre within 24 hours.

In Belgium UAMs are accommodated according to a **three-phase reception system**. Regardless of their administrative status (asylum seekers as well as non-asylum seekers newcomers) UAMs stay during the 1st reception phase in the Fedasil Observation and Orientation Centres (OOC). These Observation and Orientation Centres organise the reception of all newly arrived UAMs to allow for their identification and the assignment of a guardian by the Guardianship Service (Federal Public Service Justice), and initial observation and orientation. In the second reception phase, the UAM who has no particular needs is referred to a federal collective reception centre (Fedasil) or a collective centre from one of the reception partners, like the Red Cross. The UAM can stay there for a period from 4 months up to 1 year. In the third reception phase, the UAM, from the age of 16 years old, can be directed towards a more individual reception facility, mostly an individual local reception initiative (LOI), organized by the Public Centres for

¹ Examination of the dentition, hand and wrist and medial ends of the collarbones.

² In 2012, on a total of 2811 (self-declared) UAMs, 953 age assessment tests were carried out, resulting in 689 persons that could not be considered minors. In 2013, on a total of 1786 (self-declared) UAMs, 536 age assessment tests were carried out, resulting in 405 persons who were considered to be adults.

Social Welfare in Belgium. The **victims of human trafficking** are referred to specialised facilities for UAM victims of human trafficking.

All reception centres within the Fedasil network employ social workers and educators, and some reception centres have a coordinator who provides individual support and follow-up. UAMs are entitled to **free legal support** and they have **access to medical care** and to health insurance under certain conditions. UAMs, just like all minors in Belgium, have **access to education**. Foreign minors, including UAMs, who arrive in Belgium can make use of specially adapted programmes for primary and secondary education that allow them to attend normal mainstream education on a regular basis after this initial period. School is also one of the most important factors in the integration process. Besides, there are also specific **integration programs** organised by several partners. Reception and integration support provisions are in principle never withdrawn from UAMs. Minors with behavioural and emotional difficulties can be enrolled in a six-day supervision programme in a specific location.

Section 4 provides information on **UAMs who go missing** from guardianship and reception facilities.

Although there are no comparable or systematic evaluations nor comprehensive statistics on the numbers of UAMs who go missing or abscond from guardianship or different reception facilities; this is a major concern. It is a concern because these vulnerable young people who disappear sometimes have a traumatic history, an uncertain residence status, lack a stable family framework and they may be in need of psychological support and practical assistance. Besides this, they are at risk of becoming a victim of human trafficking and other forms of exploitation.

The difference between the number of UAMs who are reported and the number of guardianships which are assigned illustrates that there is a significant number of (self-declared) UAMs who **abscond before a guardian is appointed**, an age assessment test is performed and/or before they are accommodated in a reception centre. Generally this concerns persons who declare to be 16 or 17 years old and it often concerns persons originating from Maghreb countries (especially Morocco and Algeria) or from the Roma community.

For those who **disappear from reception facilities**, most disappearances occur during the 1st reception stage (from the Fedasil Observation and Orientation Centres (OOCs)). As to disappearances during the second reception stage, practitioners state that this mainly concerns UAMs who find it difficult to adapt to the life in a reception centre or who receive negative decisions in asylum or residence permit procedures and are almost 18 years old.

Minors who are not demanding to be taken care of, are considered by the reception centres as **"voluntary leavers"**. Besides these 'voluntary leavers' there are also the so-called **"worrying disappearances"**, referring to UAMs who risk to become victims of human trafficking or cases considered as worrying disappearances because of other criteria specified in legal provisions (very young children, UAMs with medical problems, etc...).

There are protocols and legal provisions detailing the measures that are to be taken in cases of disappearances. These instruments and measures mainly address "worrying disappearances".

Section 5 examines the **arrangements for former UAMs once they reach the age of 18 years old**.

If the former UAMs are still in the asylum procedure when they reach the age of 18 years old, or if they are granted refugee status/subsidiary protection, they receive the same support and care as adults with a similar status.

The fact of turning 18 without being in possession of a definitive residence permit has as a consequence that the former UAM is no longer able to benefit from the specific residence procedure for UAMs and **might turn into an illegally staying person**. In principle, the former UAM has to leave the reception facility. As adult, he/she loses the support of the guardian. However most guardians stay available for further (limited) questions from the former UAM once he/she becomes an adult. If the former UAM turns into an illegally staying adult, other difficulties arise such as access to employment, health insurance and community services.

However it should be mentioned that the **residence permit can be extended** by the Immigration Office once the UAM turns 18, if certain conditions are met such as having a job or being enrolled as a fulltime student, and if efforts are made to present identification documents. Besides this, different organisations, reception structures and agencies, including the Guardianship Service, have recently put more focus on this transition phase, and have installed training

moments and reflections on what the different actors, organisations and agencies can do to support the minor more throughout this transition.

In **Section 6** of this report, the return policies with regard to UAMs are described. In Belgium there are no forced returns of UAMs. Those UAMs who are refused entry at the border can only be returned to their home country or another country where they have the right to stay following a thorough assessment of the situation and assuming that the guardian agrees that return to his/her country or to a third country is a durable solution and in the best interest of the child; which is also the case for a Dublin transfer to another European Member State. The UAMs who are refused entry at the border cannot be detained awaiting return but they have extraterritorial status in an orientation and observation centre. Voluntary return is organised by IOM Brussels in cooperation with Fedasil and its reintegration partners such as Caritas International.

It should be emphasized that, in comparison with the total number of UAMs who are registered, the number of returns of UAMs who are refused entry at the border and the number of UAMs transferred according to the Dublin regulation are limited. Also the number of UAMs returning voluntarily via IOM is quite small.³

Section 7 briefly outlines the **EU legal framework** guiding national legislation in relation to UAMs. It maps substantive and procedural provisions in the EU acquis that regulate the protection of UAMs. The section also illustrates how the EU acquis relates to the broader international legal framework on UAMs.

Finally, **section 8** of this report presents conclusions, concerns and best practices that can be useful for policymakers at national and EU levels.

³ In 2013 IOM organised 25 UAMs (or ex-UAMs) assisted voluntary returned with reintegration support and 3 additional voluntary returns without reintegration support. The numbers from previous years were even significant less (see table 5.3 of the statistical annex).

Top-line 'Factsheet'

The major developments on UAMs since 2009 can be summarised as follows:

Increase and decrease of the number of UAMs and reception capacity problems

Until 2011 there was a sharp increase of UAMs as registered by the guardianship service compared to previous years. In 2011, the number of persons declaring to be an unaccompanied minor increased up to 3,258 persons. This was a significant increase compared to 2,510 UAMs in 2010 and 1,887 in 2008. In 2012 there were 2,811 self-declared UAMs registered by the Guardianship Service and the number significantly dropped in 2013 with 1,786 UAMs.⁴ This trend was mainly caused by the increasing and decreasing number of unaccompanied asylum seeking minors.⁵

There are specialised centres and specific places in regular centres for unaccompanied minors. However due to the high number of asylum applicants there was a reception crisis between 2009 and 2012 which also affected the reception quality for unaccompanied minors dramatically. Due to a lack of reception places minors were housed in hotels with little assistance, in inappropriate reception structures or in adult departments. Currently, due to creation of additional places, but especially due to the decrease of the number of asylum applicants and unaccompanied minors applying for asylum there are now sufficient places to accommodate them all since 2013. Furthermore, a more established system of reception in different phases, in particular for minors applying for asylum or granted refugee/subsidiary protection status, has been realised and strengthened.

Task force unaccompanied minors

Belgium established a task force on unaccompanied minors in 2009, which examined possible actions with the aim of risk -minimizing for this group of migrants, most notably the risk of being the victim of smuggling and human trafficking. In June 2010 the task force, which was led by Ilse Derluyn (Ghent University) published its final report, which addressed to the Minister in charge several recommendations concerning the detection, identification and protection of UAMs⁶. The task force also elaborated a "cartography" to facilitate the cooperation between different entitled authorities. All Federal and Community actors that have a specific role or mission regarding unaccompanied minors are mapped. This mapping facilitates exchange of information. The emphasis is on the manner in which the prevention, detection, identification and monitoring of unaccompanied minors in (potential) situations of abuse – with special attention to child trafficking and smuggling – is now happening and how this can be improved. Next to this cartography the work of the Task Force has also resulted in a series of recommendations covering the entire travel route of a minor travelling alone with the focus on maximum prevention with regard to potential victimization of unaccompanied minors; as well as possible to achieve.

Incorporation of the Circular Procedure for UAMs in the Immigration Act

A Circular of 2005 introduced a specific procedure for UAMs who had not applied for asylum and who could no longer apply for another residence procedure. The objective of this specific residence procedure for UAMs was to find a durable solution in the best interest of the child for each UAM. The procedure aims at UAMs who are no (longer) asylum seekers. On September 12, 2011, an Act regarding the granting of residence permits to unaccompanied minors has been adopted and the specific procedure for UAMs described in the circular was incorporated in the Immigration Act. The circular was repealed and was incorporated in the Immigration Act and as a consequence providing greater legal certainty for this category of unaccompanied minors.

⁴ Source: Guardianship Service

⁵ In 2011, the number of unaccompanied asylum seeking minors increased up to 2,039 asylum applications of persons declaring to be an UAM (of which 1,385 turned out to be a minor after the age assessment test who was performed for those whose age was doubtful). This was a significant increase compared to 1,081 UAMs applying for asylum in 2010 (860 after age assessment test), 935 UAMs applying for asylum in 2009 (711 after age assessment test) and 470 in 2008 (364 after age assessment test). From 2012 on, the number decreased again considerably, with 1,558 persons in 2012 (975 after age assessment) and only 683 in 2013 (420 after age assessment) applying for asylum as a minor.

⁶ <http://www.lesfamilles.be/documents/TaskForceNL.pdf>

Protocol Agreement on Unaccompanied minors (non-asylum)

In January 2013, a new Protocol Agreement, developed by a working group consisting of representatives from the Cabinet of the State Secretary for Migration and Asylum Policy, the Immigration Office, the Guardianship Service, Fedasil and the Police, came into force. The purpose of this Protocol Agreement is to prevent illegally staying UAMs from living on the street where they could be the victims of exploitation or trafficking. The Protocol Agreement between the different bodies active with UAMs provides for a more systematic monitoring of UAMs (who are not asylum seekers). The Agreement stipulates concrete methods and a roadmap for identification, age determination and reception, this taking as little time as possible. It is also the intention to optimize the deployment of the expertise in identification and reception fields.

General Guidelines for Guardians of Unaccompanied minors

On 2 December 2013 general guidelines for guardians of UAMs were issued. These new guidelines for guardians are intended to harmonize the actions of the guardians and to define a framework for their activities. On the other hand these guidelines clarify the role of the guardian in relation to other institutional actors and social workers. The guidelines provide an overview of the mandate and the most important legal acts of the guardian, as stipulated in the Guardianship act.

Decree integrated youth care

On February 21, 2014, the Flemish Parliament approved the implementation of the Decree "Integrated Youth Care". As a result, the integrated Youth Care in Flanders is a fact since March 1, 2014. This means that the access to the Youth Care, including services for people with disabilities, for very small children,... is reorganized.⁷ For UAMs, special access procedures will be created. Overall, mainstream youth care services (organised by the Flemish, French and German-speaking Community) are accessible for those UAMs who are in need of specific support. With this Flemish Decree the distinction between asylum seekers and not asylum seekers is abandoned. The administrative status of the UAM no longer plays a role in the procedures giving access to youth assistance.

Extension of the Guardianship Act for European UAMs

As indicated in the 2009 EMN report on UAMs the Guardianship Act excluded by definition UAMs with a nationality of one of the countries of the European Economic Area.⁸ A recent bill of March 20, 2014⁹, makes it possible for the Guardianship Service to appoint a guardian for European UAMs who are in a vulnerable situation or who are in the procedure for victims of human trafficking and to providing assistance to the European UAMs in finding a durable solution (a residence permit in Belgium or voluntary reunification of the minor with his parents). This measure ensures better protection and equal treatment regardless of the nationality of the child or the minority population to which he or she belongs (these European UAMs often concern people of Roma origin). This new law is also in accordance with the National Action Plan against trafficking of human beings and to combat abuse and exploitation of minors in general.

⁷ More information on: <http://www4wvg.vlaanderen.be/wvg/ijh/vlaanderen/nieuws/paginas/default.aspx>

⁸ EMN, BELGIAN CONTACT POINT, Unaccompanied minors in Belgium, Reception, Return and Integration Arrangements, p.68.

⁹ The Law is expected to be published in the Official Gazette (and come in to force) in October 2014.

Section 1: Motivations and circumstances of UAMs for entering the EU

Q1. Motivations and circumstances of UAMs for entering (Member) States

It is not easy to provide a clear overview on the motives of unaccompanied minors to come to Belgium. This because the motivation is often multi-layered and depends on the country of origin, social and cultural background and personal or familial aspirations. Furthermore, in their contact with the Belgian authorities, or even towards their guardian, unaccompanied minors are reluctant to reveal all their motives, or might indicate other reasons than the actual reason why they came to Belgium. Thirdly, the migration motives revealed might differ regarding the 'procedure' UAM choose for, and this choice might depend on the 'chances' they judge they have in particular procedures.

Asylum-seeking UAMs vs non-asylum seeking UAMs

There is an obvious difference in the profiles between UAMs applying for asylum and those who do not apply for asylum.¹⁰

Asylum seeking UAMs often flee their country out of fear for persecution or out of generalised violence in their country of origin. During the last 5 years (2009 – 2013), about 36% of all asylum applications from UAMs in Belgium were Afghans, 19% came from Guinea and 6% from Congo.¹¹ These three countries make up about 60% of all asylum applications from UAMs during the past five years. Most UAMs who apply for asylum come from countries where the general security situation is problematic or where human rights violations are common, in combination with a poor economic situation.

A recent scientific article¹² based on interviews with 52 Afghan UAMs revealed that finding security and studying particularly influenced the decision to migrate. With some exceptions, the socio-economic status of most participants in this survey was rather low: large families, headed by one parent or child-headed, limited financial means and few educational opportunities. It is interesting to learn that in most cases the decision to migrate was made in the first place by one or both parents or another family member, usually an uncle, and not by the minor him/herself.

Pamir, for example, had never thought about leaving Afghanistan and did not feel it was necessary. But his father insisted that he went. He had the strong conviction that Pamir, as a young boy, was too attractive for the Taliban and that they would take him away. Pamir had told his father: "No, I want to stay at home, I don't want to go abroad because I don't know how far away I will be from you and where I will stay" But his father said that he had to go to Europe because there he would study and be safe.

Besides finding a secure environment, UAMs also left their country with high aspirations related to educational and job opportunities.

*"They don't say it in your face, but you hear that, if someone is recognized as a refugee in another country and if he works there and makes money, that he is a good son. They praise this person."*¹³

So the search for security, better educational and job opportunities seem to be important motives to migrate. However, these are mostly motives to leave the country of origin, and not so much reasons to come specifically to

¹⁰ Source: Guardianship Service and EMN, Unaccompanied minors in Belgium, Reception Return and Integration Arrangements, 2009, p.13.

¹¹ Source: Eurostat Database and own calculations

¹² Vervliet, M., Broekaert, E. & Derluyn, I. (2014). The aspirations of Afghan unaccompanied refugee minors before departure and at arrival in the host country. *Childhood-A Global Journal of Child Research*. Doi: 10.1170/0907568214533976

¹³ Vervliet, M., Broekaert, E. & Derluyn, I. (2014). The aspirations of Afghan unaccompanied refugee minors before departure and at arrival in the host country. *Childhood-A Global Journal of Child Research*. Doi: 10.1170/0907568214533976.

Belgium. The presence of friends, family or a large community from the own ethnic and/or national background is often a key factor why these young asylum seekers preferred Belgium above another European country, together with the choices made by family members and/or smugglers¹⁴. This could be one of the reasons why during the past five years, Belgium was also for adult asylum seekers from Afghanistan, DR Congo and Guinea a popular destination. Nevertheless, there are also UAMs who did not plan to come to Belgium, but arrived in Belgium by coincidence or by choice of a smuggler¹⁵. Some of the UAMs are apprehended by the police and are on their way to other European countries such as UK or Sweden¹⁶.

UAMs who do not apply for asylum have a different profile. A significant share of them is originating from Maghreb countries, especially Morocco and Algeria. Others belong to the Roma community and come from the Western Balkans. There are also European minors, who also often belong to the Roma population. The reason why they are in Belgium is mostly to find a better future (no perspectives in their country of origin) and to raise some money¹⁷. Moreover, it seems that one major difference with the group of asylum seeking UAMs is that these minors not always want to be registered as an UAM or do not want to be cared for in reception centres¹⁸. They are intercepted by the police, frequently do not respond to the invitation for registration at the Immigration Office or disappear from the reception structures. Much is rather unknown about this group, for example whether they are together with other young people (in particular to commit certain offences), or if they are actually in Belgium without the guidance of a person with parental authority, and often they take up different identities, rendering it difficult to identify or 'follow' them. Given these specific difficulties, it is a large group of concern regarding human trafficking and sexual or other forms of exploitation.¹⁹

¹⁴ Derluyn, I. & Broekaert, E. (2005). On the way to a better future: Belgium as transit country for trafficking and smuggling of unaccompanied minors. *International Migration*, 43, 31-56

¹⁵ Cloet, M. (2007). *Voldongen feit? Opvang en begeleiding van buitenlandse, niet-begeleide minderjarigen*. Antwerpen: Garant.

¹⁶ Derluyn, I. & Broekaert, E. (2005). On the way to a better future: Belgium as transit country for trafficking and smuggling of unaccompanied minors. *International Migration*, 43, 31-56

¹⁷ Cloet, M. (2007). *Voldongen feit? Opvang en begeleiding van buitenlandse, niet-begeleide minderjarigen*. Antwerpen: Garant.

¹⁸ Derluyn, I. & Broekaert, E. (2005). On the way to a better future: Belgium as transit country for trafficking and smuggling of unaccompanied minors. *International Migration*, 43, 31-56

¹⁹ Cloet, M. (2007). *Voldongen feit? Opvang en begeleiding van buitenlandse, niet-begeleide minderjarigen*. Antwerpen: Garant; <http://www.lesfamilles.be/documents/TaskForceNL.pdf>

Q2. Prevention actions and initiatives with the aim to address the root causes of UAMs' migration

As described above, the search for **better education** is one of the motivations for minors to leave their country of origin. The Belgian development agency, BTC, together with authorities in the South, intervenes in the education sector through dozens of interventions. One of the main concerns is to provide more access to better education and at the same time to ensure equal access for boys and girls. BTC is mainly active in building schools, in technical and vocational education, in teachers' training, in schoolbooks (policy), and in financing and planning education. Via budget support and institutional strengthening of the whole education system BTC also supports primary education.²⁰ Education and training also constitute one of the five sectors targeted by Belgian Development Cooperation. Over the past decade, between 10 and 12% of DGD expenditure was devoted to the education sector. During this time, Belgium's commitment to the sector was updated with the signature of the Millennium Development goals, two of which concern education, and the introduction of new forms of aid, such as sectorial budget support for the ministries of education in a number of partner countries.²¹

Further, the Minister of Migration and Asylum Policy has undertaken several **awareness-raising missions** to countries of origin of important groups of migrants, such as countries in the Balkan region, Guinea and DR Congo. These missions aimed at explaining the Belgian migration policies and asylum system to the local populations, in order to refrain possible migrants – all migrants, not specifically UAMs – from heading to Belgium.

²⁰ More information about the Belgian development agency BTC and its projects can be found on <http://www.btctb.org/en/btc-homepage>

²¹ More information about the Belgian Development Cooperation and its partner countries can be found on: http://diplomatie.belgium.be/en/policy/development_cooperation/

Section 2: Entry and assessment procedures including border controls for UAMs

Section 2.1 Documentation required by unaccompanied minors for legal entry to the (Member) State (non-asylum seeking UAMs, but also asylum-seeking UAMs in some instances)

Q3. What documents are required by third-country national UAMs at the border to fulfil the entry requirements ?

Entry documents required by unaccompanied minors	Please provide more information about the types of documents required and the conditions that apply, with a particular focus on developments since 2009.	Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.
Visa permitting entry and stay	UAMs have to apply for a visa at the Belgian embassy or consulate abroad. This application should be made by the legal representative.	No difference for minor's whose age is doubtful
Passport	All foreign nationals, including UAMs who are non-EU citizens, should have a valid passport or equivalent travel document containing a valid visa permit. ²²	No difference for minor's whose age is doubtful
Travel documents	All foreign nationals, including UAMs who are non-EU citizens, should have a valid passport or equivalent travel document containing a valid visa permit.	No difference for minor's whose age is doubtful
Other (please state)	UAMs who fulfil the entry conditions will be allowed access to the territory. ²³	No difference for minor's whose age is doubtful

²² Article 2 of the Belgian Immigration Act

²³ If the UAM is under the age of 12 or 14 the child will fall under the regulation of the procedure for "unaccompanied minors" of airline companies and the person waiting to meet the UAM will have to prove, by means of documents, the family ties with the UAM. In case if it is a -12years old, many flight companies request a document with the permission of the parents/legal guardian to travel.

Section 2.2 Circumstances where an unaccompanied minor may be refused at the border (non-asylum seeking UAMs)

Q4. Can a unaccompanied minor be refused entry at the border if they do not fulfil the entry requirements set out above?

Categories of unaccompanied minors that may be refused entry at the border	Please provide more information about the circumstances under which unaccompanied minors may be refused entry at the border: a) in <u>national legislation</u> / policy and b) in <u>practice</u> , with a particular focus on developments since 2009.	Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.
Non-asylum seeking unaccompanied minor arriving at a land / sea border or airport	A non-asylum seeking UAM without valid travel documents can be refused entry at the border but he cannot be detained. The UAM will be placed in an Observation and Orientation Centre where he will have extraterritorial status. Regarding minors arriving at the sea border, in certain cases, it remains rather undetermined which procedures and regulations need to be followed, which also resulted in an explicit recommendation of the Ministerial Task Force "Minors Travelling Alone". ²⁴	In case the minors' age is doubtful the person may be kept in detention for the time necessary to assess the age. The age assessment test must be concluded within three calendar days, which can exceptionally be prolonged with another three days.
Asylum seeking unaccompanied minor arriving at a land / sea border or airport	The return decision is suspended during the investigation of the asylum application.	The return decision is suspended during the investigation of the asylum application.
Asylum seeking unaccompanied minor arriving at an internal authority (e.g. police, child protection service, etc.)	The return decision is suspended during the investigation of the asylum application.	The return decision is suspended during the investigation of the asylum application.
Other (please state)	In case there are suspicions of human trafficking, the minor can be put either in an Observation and Orientation Centre, either in a special centre for minor victims of trafficking.	The return decision is suspended during the investigation of the possible trafficking suspicions, and possible other procedures (e.g. asylum application).

²⁴ <http://www.lesfamilles.be/documents/TaskForceNL.pdf>

Section 2.3 Apprehensions of unaccompanied minors by national authorities (non-asylum seeking UAMs)

Q5. National rules and procedures that apply where a non-asylum seeking unaccompanied minor is apprehended / identified at the border and within the territory.

Non-asylum seeking UAMs at the border

If the UAM does fulfil the entry conditions and has valid travel documents, he will be allowed access to the territory. If a person does not fulfil the entry conditions at the external border he can be returned. Awaiting return, an adult person can be kept in detention in a closed centre located at the border, but an UAM will not be detained. An UAM will be placed in an Observation and Orientation Centre where the UAM will have extraterritorial status. In case entry on the territory is refused the costs of return can be charged to the airline company according to the Chicago Convention.²⁵

If a UAM arrives at the border, and there is a doubt about the age, the person can be held in detention for three working days (exceptionally extendable for another three working days). Once minority has been proved, the UAM will be transferred to an Observation and Orientation Centre within 24 hours.²⁶

Regarding minors arriving at the sea border, in certain cases, it remains rather undetermined which procedures and regulations need to be followed, which also resulted in an explicit recommendation of the Ministerial Task Force "Minors Travelling Alone".²⁷

Interception within the territory of non-asylum seeking UAMs

Specifically for the non-asylum seeking UAMs who are intercepted within the territory, a new Protocol Agreement was developed at the end of 2012 by a working group consisting of representatives from the Cabinet of the State Secretary for Migration and Asylum Policy, the Immigration Office, the Guardianship Service, Fedasil and the Police. The purpose of this Protocol Agreement is to prevent illegally staying UAMs from living in the street where they could be the victims of exploitation or trafficking. The Protocol stipulates concrete steps to be followed for identification, age determination and reception.²⁸

The protocol follows the principle that the registration of persons who claim to be non-asylum seeking unaccompanied minors is centralized at the Immigration Office. This implies that the UAM responds the invitation for registration at the Immigration Office in person, or that he or she is brought to the Immigration Office by the police or by the Guardianship Service.

The protocol was evaluated on 3 September 2013 by the working group. One of the concerns presented during the evaluation by the working group was that the protocol states that the Guardianship Service is responsible for the organization and financing of the transport of the UAM (to a hospital, a housing center, the Immigration Office. In practice, the full implementation of the protocol is not achieved due to budgetary restrictions and practical obstacles; sometimes the minor doesn't want to go to the Immigration Office for registration and to be placed in a reception centre. Since only a minority of UAMs are actually transferred to the Immigration Office or the Observation and Orientation Centre, and most of them receive an invitation for registration (but do not respond to this), the risk on absconding – and also possible victimhood to exploitation or trafficking – increases.

The protocol prescribes that when an UAM is apprehended, an age assessment test should occur as quickly as possible when the minor's age is doubtful. The evaluation report of the protocol indicates that the age assessments tests are indeed carried out very quickly for the UAMs who present themselves to the Immigration Office.

²⁵ Guardianship Service, Vademecum for guardians of unaccompanied minors, 2007, p. 103.

²⁶ EMN, BELGIAN CONTACT POINT, Unaccompanied minors in Belgium, Reception, Return and Integration Arrangements, 2009, p.41.

²⁷ <http://www.lesfamilles.be/documents/TaskForceNL.pdf>

²⁸ Samenwerkingsprotocol betreffende de registratie van personen die verklaren niet begeleide minderjarige vreemdeling (NBMV) te zijn en die geen asielzoeker zijn en op het Belgische grondgebied zijn gesignaleerd, van kracht sinds 28 januari 2013, 11p.

Section 2.4 Training of Border Guards and / or Police Authorities

Q6. Specific training to Border Guards and Police Authorities to recognise the situation of unaccompanied minors who try to enter the territory illegally or are apprehended within the territory, or who may be the victims of trafficking in human beings.

The **new Action Plan 2012-2014 on the fight against trafficking of human beings** (THB) underlines the need to (continue to) train different actors on the identification of victims of human trafficking. These actors include police officers and border guards, but also social inspectors, prosecutors, staff from reception centres for unaccompanied foreign minors and closed centres. The integrated and coordinated approach mentioned in this national plan is based on

- Prevention (page 12 - 17 of the national action plan)
- Protection (page 17 - 21 of the national action plan)
- Prosecution (page 26 - 33 of the national action plan)
- Partnership (page 33 - 39 of the national action plan)²⁹

Obviously the "4 P's" in this national action plan refer to the EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016.³⁰

Although not always specifically aimed at UAMs, the tools, training sessions and workshops on the fight against THB could be useful for the identification of UAMs who may be victims of THB.

Specialized reception centres for victims of THB (Pag-Asa, Payoke and Sürya, and Esperanto) organize training modules for different target groups, including the police, legal guardians, medical staff, public social welfare centres, students and the wider public. The training sessions for the police are given on a regular basis, others are on an ad hoc basis. There are both elementary training courses for those who don't specialize in THB (start-of-career police officers, magistrates in internship), and refresher or advanced training courses for those who specialize in THB, including police officers and prosecutors (every year refresher courses for police investigators, supplementary week-long theme-based training courses for investigators, twice a year thematic training sessions for police officers and open to reference prosecutors within the public prosecutor's office).³¹

The Police also elaborated an "**Investigation Manuel THB**" for frontline services. This Manuel incorporates information on how to use the Victim Translation Assistance Tool – VITA.³²

Following the recommendations of the Task Force "Minors Travelling Alone", also specific training modules on detection of (possible) risk on trafficking in minors travelling alone for police men were implemented.³³

²⁹ [National Action Plan against trafficking in human beings for 2012-2014.](#)

³⁰ [EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016.](#)

³¹ [EMN Focusses study](#), Identification of victims of trafficking in human beings in international protection and forced return procedures, 2013, pp.32-33).

³² [VITA](#) is a unique new tool using audio messages, that allows law enforcement officials to provide a level of basic assistance to victims of human trafficking. Human trafficking survivors contributed to the development of these messages, which were also supported by experts in human trafficking focused on victims' needs. This audio tool, consisting of key encounter messages, was developed to facilitate the identification of a trafficked person and the launch of a criminal investigation. Thirty-five basic questions and messages have been recorded and translated into 40 languages, taking into account special questions for children.

³³ <http://www.lesfamilles.be/documents/TaskForceNL.pdf>

Section 2.5 The organisation of the national asylum procedures for asylum-seeking UAMs

Q7. National rules and procedures that apply where an unaccompanied minor apprehended / identified at the border and within the territory of the (Member) State lodges an application for asylum

Asylum-seeking UAM within the territory

To apply for asylum, the UAM must present him/herself at the **Immigration Office**. The UAM is separated from the other asylum seekers and is assisted by staff from the Immigration Office trained to deal with UAMs. Basic information on the identity of the UAM will be collected and fingerprints and photographs are taken. If the Guardianship Service has not been informed yet on the presence of the UAM, an identification form for UAMs has to be filled out. The identification form is transferred to the Guardianship Service, which will take charge of the UAM and transfer the person to one of the Orientation and Observation Centres (OOCs). In case of possible victims of trafficking – even when there is still an ongoing asylum procedure, the person will be transferred to a special centre for minors victims of trafficking and very young children to special centres within the youth care system.

If there has been expressed **doubt about the age** of the UAM, the **Guardianship Service** will perform an age assessment test. If the minority is confirmed, a guardian will be appointed. In consultation with the UAM, the guardian will decide if the asylum application is the appropriate procedure to follow in the best interest of the child.

If it has been decided to apply for asylum and the asylum application has been registered, the UAM and the guardian will be invited together to the **Immigration Office** to be **interviewed by a specialised caseworker** trained in interviewing vulnerable persons. The UAM will be asked to fill out a questionnaire, with the help of the guardian, the interviewer and interpreter. The UAM will receive a document annex 26 as proof of the asylum application.³⁴

The UAM will be invited to the Office of the **Commissariat-General for Refugees and Stateless Persons (CGRS)** for the actual asylum interview, where the UAM will need to explain the motives for applying for asylum. The guardian will be present during the interview, and the UAM may also be assisted by a lawyer or another trusted representative. Also an interpretator (appointed by the government) will be present, if needed.

A specialised caseworker of the CGRS will conduct the interview and will take into account the minor's age, maturity and other personal and cultural factors. The CGRS caseworkers who interview the minors are specialised in the geographical area the minor is originating from, and have received specific training.³⁵ The CGRS has a coordinator for UAM who is closely involved in the development and updating of the EASO teaching modules on interviewing children, vulnerable persons and interview techniques. The Interviewing Children module is built on the structured interview method presented in the core module 'Interview Techniques'. The module aims to help protection officers acquire skills to perform personal interviews in a sensitive and empathic manner, while taking due consideration of the age and maturity of the child, cultural variances and effects of trauma and/or distress.³⁶

After the interview, the asylum application will be further assessed to qualify if the UAM **can be granted the refugee or subsidiary protection status**. The age and personal development of the minor will be taken into account and the fact that the applicant is a minor will shift the burden of proof more towards the authorities and the principle of the benefit of the doubt will have a larger filed of application. If the decision about the asylum application and subsidiary protection status is negative, an appeal can be lodged at the Council for Aliens Law Litigation (CALL).

In 2014 the CGRS worked on a project regarding the **best interests of accompanied and unaccompanied children**. A literature research was conducted, as well as research was done on how the concept "best interest of the child" should be interpreted according to national and international legislation and jurisprudence. Besides, also a questionnaire was launched to other member states via EASO and workshops with relevant stakeholders were organised.

³⁴ EMN, BELGIAN CONTACT POINT, Unaccompanied minors in Belgium, Reception, Return and Integration Arrangements, pp. 46-47.

³⁵ More information on www.cgrs.be

³⁶ More information about the EASO training curriculum can be found on the [training and quality section of the EASO website](#)

Asylum-seeking UAM at the border

It is rather sporadic that an UAM arrives at the border and makes an asylum application. The procedure is essentially the same as where the UAM applies for asylum within the territory, with the exception that the identification and registration of the asylum application by a caseworker of the Immigration Office will be conducted at the border (usually Brussels Airport). In case the minors' age is doubtful, the person may be kept in detention for the time necessary to assess the age. Further, an immediate appointment of a (temporary) guardian is needed in this case. Regarding minors arriving at the sea border, in certain cases, it remains rather undetermined which procedures and regulations need to be followed, which also resulted in an explicit recommendation of the Ministerial Task Force "Minors Travelling Alone".³⁷

Q8. Specific rules and procedures that apply in respect of the (asylum) applicant's status as an (unaccompanied) minor.

As explained above, if there has been expressed **doubt about the age of the UAM**, the Guardianship Service will perform an age assessment test. If the **minority is confirmed a guardian will be appointed**. If not already done so, the guardian can help the minor to introduce an asylum application for their UAM. The guardian attends the interviews at the Immigration Office and the CGRS in the framework of the asylum procedure (see question Q7 for more information whether and when the asylum interviews are conducted).

At the time the asylum interview at the CGRS is conducted, in principle the age assessment procedure has already been undertaken, so there is no more doubt about the minority of the asylum applicant. If the result of the age assessment indicates that the person should not be considered as a minor, and this is contested, the interview at the CGRS will be postponed.

The Guardianship Service appoints a guardian as fast as possible, when the identity and the age of the minor have been confirmed, but often the actual appointment only happens in the second phase of the reception process, when the minor is transferred from the first Orientation and Observation Centre to a more stable housing situation (see Q15). The Guardianship Service appoints a guardian to an UAM.

In particular cases, such as for minors arriving at Brussels Airport or for very young unaccompanied minors, a temporary guardian is appointed within 24 hours after arrival, up until a definitive guardian is appointed.

Q9. Procedure for assessing the age of an asylum-seeking UAM who claims to be a minor.

When the UAM presents at the Immigration Department to apply for asylum, the identification form will be filled out and the information on the identity of the UAM, such as the claimed date and place of birth, will be registered.

If the Guardianship Service, the Immigration Office or the Office of the Commissioner General for Refugees and Stateless Persons have any doubt about the person concerned being underage, a medical age assessment can be ordered, at the expense of the authority applying for it. In case of doubt, for example related to the minor's physical appearance, behaviour, or way of speaking, or when no identity documents are presented or when the authenticity of these documents cannot be confirmed, an age assessment can be performed. The test is explained to the minor, with the help of an interpreter, and the minor receives an explanation about the test in his/her own language.

The **age assessment** is done by means of a medical test. The medical test is a **so-called triple test**:

- clinical impression of a dentist, a radiological examination of the dentition,
- the hand and wrist of the non-dominant hand,
- medial ends of both collarbones

³⁷ <http://www.lesfamilles.be/documents/TaskForceNL.pdf>

Belgium opted for a combination of these three tests, to increase the validity and reliability.³⁸ In case the three tests give different results, the lowest age is taken. Furthermore, the age minus 1 standard deviation on that particular test is used to determine whether one is indeed below or over 18.³⁹ Article 7 of the Guardianship Act stipulates that when there is a doubt on the outcome of the medical test, the lowest age has to be taken into consideration.

On the basis of the information gathered in the course of the various medical examinations, the doctor will draw up a report, which will be sent to the Guardianship Service that will take the decision. This decision is sent to the Immigration Office and to the person in question.

If the person is considered to be older than 18 years old, it is the Immigration Office that determines their age. The "Gauss curve" is hereby used, whereby the mean age is retained, given the smaller probability that the person will be at the margins of the curve (e.g. the doctor stated in his report that the applicant has an age of 20.6 years with a margin of error of 2 years, 20.6 is then the most probable age. The chance of him/her being younger than 18.6 or older than 22.6 is very low). If the age as claimed by the UAM is possible according to the report of the doctor, the date of birth as claimed by the applicant is accepted. If the asylum applicant claims to be 15 years old, but the age test demonstrates that the age is between 16.6 and 18.6, the person is considered to be 16.6 years old. In that case the Guardianship service will take 16.6 to determine the age of birth and the date on which the guardianship will come to an end.

Once the guardianship Service has decided on the age assessment, the CGRS and the Immigration Office must respect this and adjust the registered age in the asylum file and in all other files. Hereby, an "alias" is used in which the claimed age upon registration is mentioned.

The guardian and/or the minor can provide additional proof about the minor's age (e.g. official birth certificate, obtained through the embassy of the country of origin in Belgium or its neighbouring countries), and the guardian can express his/her views about the minor's age. If the minor and/or his/her guardian disagree with the decision of the Guardianship Service, they can file, with the help of a lawyer, an appeal with the Council of State.

Q10. duration of an asylum procedure for a UAM.

There are no reliable statistics on the average duration or median of an asylum procedure for UAMs. Migration authorities aim at limiting the duration of the asylum procedure and the objective is to issue a first instance asylum decision within 6 months after lodging the asylum application. Asylum applications of UAMs are prioritized, but this is no longer the case if the age determination test does not confirm the age claimed by the asylum applicant.

³⁸ EMN, BELGIAN CONTACT POINT, Unaccompanied minors in Belgium, Reception, Return and Integration Arrangements, p.26.

³⁹ ECRE/BCHV-CBAR, AIDA National Country Report Belgium, 2013, pp.43.

Section 2.6 Guardianship and age assessment for non-asylum seeking UAMs

Q11. Arrangements for guardianship of UAMs.

The arrangements for guardianship of non-asylum seeking UAMs do not differ from the arrangements for guardians of asylum-seeking UAMs.

It is the **Guardianship Service** who is in charge of the general coordination, training and supervision of the guardians. The Guardianship Service is part of the Federal Public Service (FPS) Justice.

Further, the Guardianship Service will also take charge of the UAM as soon as they are informed about the presence of the UAM and for the organisation of the identification and age assessment as described above. Once identified as being an unaccompanied minor according to Belgian legislation, the Guardianship Service will assign a guardian to assist, support and represent the UAM.

There are **some qualifications required to become a guardian**. The guardian must be an adult and reside in Belgium or have a permanent residence permit. (S)he must explain his/her motivation to be a guardian, and must demonstrate that (s)he has particular competencies related to UAM, in particular with respect to migration and youth care law, guardianship law, psychological and pedagogical aspects related to UAM, and care for UAM, in particular its intercultural aspects. Further, the applicant must give an official attestation of "good behaviour, model 2" (proof that there were no convictions related to offenses against vulnerable people, including children).

If these criteria are met, the Guardianship Service invites the applicant for an interview. The Guardianship Service will question the applicant about his/her motivation and motives to become a guardian, his/her attitude towards the target group, and will try to explore the skills and knowledge of the applicant (is there a genuine concern with the issue of UAMs, relational skills, skills in the area of organisation and coordination, etc...).

There are **three different types of guardians** for UAMs in Belgium:

- A guardian can be a private person who works as a volunteer and takes up to 5 guardianships.
- Other guardians are registered as independent **self-employed** persons. Such a guardian can have between 1 and 40 guardianships.
- An "employee system", where the guardian is an employee of an NGO (receiving subsidies for organising guardianship for UAM). The employee guardian will have around 25 guardianships.

At the end of 2013 there were **223 guardians**. Although about 60 % of all the guardians are volunteers who take up no more than 5 guardianships, they represent only about 15% of the total number of guardianships. Each guardian who works as volunteer or as a self-employed guardian receives a yearly lump sum payment of about 600 euros for one guardianship, as well as a lump sum expenses payment of 85 euro and reimbursement of travel expenses.⁴⁰

All guardians receive a basic **training**, on procedures, task of a guardian, psychological aspects, trafficking, return, family tracing,..., and also further training and supervisions once they have started with their guardianship. Several organisations of guardians, in particular those in the "voluntary system", bring guardians together to share experiences and knowledge, and also organise training and lectures for their members.

Regular **evaluations and supervision** of the guardian are carried out by the Guardianship Service (through, yearly evaluation meetings with the Guardianship Service). Further, a minor can always submit an inquiry to the Justice of the Peace to appoint another guardian, although minors seldom do this, as barriers are rather high⁴¹.

The Guardianship Service has created some 'pools' of guardians with special expertise in specific situations, for example the guardianship of minors arriving at Brussels Airport or in a seaport, given that the immediate presence of a guardian is required there. These are mainly guardians who work in the "employee system".

⁴⁰ Source: Guardianship Service

⁴¹ Vervliet, M. & Derluyn, I. (2014). *De trajecten van niet-begeleide buitenlandse minderjarigen. Verwachtingen, agency en psychosociaal welzijn*. Gent: Academia Press.

The **guidelines for guardians of UAMs of December 2, 2013** provide a functional description of the guardian. The main **tasks of the guardian as stipulated in the Guardianship Act** are the following⁴²:

- a guardian is the legal representative of the UAM in all legal/judicial acts, in particular in all residence procedures (asylum application or other procedures), and in all other legal/judicial or administrative procedures; the guardian will assist the UAM during these procedures
- the guardian must develop a relation of confidence with the UAM, by having regular contacts with him/here;
- the guardian must appoint a lawyer at the beginning of his guardianship;
- the guardian must ensure that the authorities competent for reception take the necessary measures to providing the UAM with adapted and adequate housing; (the guardian should not house the UAM at his own house)
- the guardian has to ensure the UAM goes to school
- the guardian must ensure the UAM receives adequate psychological and medical assistance (in consultation with the reception agency)
- the guardian has to manage the goods of the UAM in the best interest of the child
- the guardian takes all appropriate measures to trace family members of the minor. He makes proposals to find a durable solution in the best interest of the minor. He acts in consultation with the minor, with the person or institution responsible for reception and with the migration authorities
- the guardian has to apply for the benefit of social aid;
- the guardian has to explain to the UAM all decisions with which he is concerned;
- the guardian has to submit regular reports (to the Justice of the Peace and to Guardianship Service):
 - a first report 15 days after assignment
 - intermediary reports (every 6 months)
 - a final report (15 days after the end of guardianship)

The **guardianship will come to an end** in the following situations⁴³:

- if the minor is entrusted to the person exercising parental authority or guardianship;
- when the minor reaches the age of 18;
- in case of decease, adoption or marriage of the minor;
- when the minor acquires the Belgian nationality or the nationality of a Member State of the European Economic Area;
- when the minor disappeared and the guardian has received no news from the minor during 4 months
- when the minor is expelled from the territory.

If the UAM is granted the refugee status or subsidiary protection status or receives a residence permit of limited or unlimited duration on other grounds, the role of the guardian can be taken over by a civil guardian (as for Belgian minors in need of a guardian), also appointed by the Justice of the Peace. The initial guardian will initiate this procedure.

A recent bill of March 20, 2014, makes it possible for the Guardianship Service to appoint a guardian for European UAMs who are in a vulnerable situation or who are in a procedure to be recognised as victims of human trafficking and to provide assistance to European UAMs in finding a durable solution.

⁴² Federal Public Service, Justice, Algemene richtlijnen voor voogden van niet-begeleide minderjarige vreemdelingen, 2 december 2013; and website Federal Public Service Justice, [Opdrachten van de voogd](#)

⁴³ Website Federal Public Service, Justice, [Einde van de Voogdij](#)

Q12. Procedure for assessing the age of a non-asylum seeking UAM who claims to be a minor.

As mentioned above, if the Guardianship Service or any other public authority responsible for migration and asylum would have any doubt about the person concerned being underage, a medical age assessment can be ordered, at the expense of the authority applying for it.⁴⁴

A part from the fact that the UAM will not be registered as an asylum seeker, the actual age assessment procedure and medical test is not different compared to the age assessment procedure for asylum seekers (see Q9).

It is possible that the police who apprehends the minor performs a simplified age test to get a fast assessment on the age of the person. The Guardianship Service is not bound by the outcome of this test and can execute a more reliable age determination test (the so-called triple-test).

Section 2.7 Residence permits granted to unaccompanied minors (both asylum- and non-asylum seeking UAMs)

Q13a. Residence options available to unaccompanied minors not applying for asylum and to those whose claims for asylum have been rejected.

If a minor is not applying for asylum or if the application for asylum has been rejected and no other procedures for residence documents are initiated, three other options to obtain a residence permit are open to the minor.

I. Specific procedure for UAMs

The most important procedure in practice is intended specifically for UAMs who are no asylum seekers. It was introduced in a Circular of 15 September 2005 and subsequently included in **articles 61/14 to 61/25 of the Belgian Immigration Act**. The procedure can only take place if no other residence procedure has been initiated (and if no application for asylum has been filed). The overall goal of this specific procedure is to find a “durable solution” for the UAM. The guardian assigned to the UAM can file a request for a residence permit with the Belgian authorities. Then, the authorities will interview the minor and decide on the most appropriate, “durable solution” in his or her specific situation. In this respect, three possibilities are described in the Law as a durable solution⁴⁵:

- Family reunification in the country where the parents have legal residence in accordance with article 9 and 10 of the UN Convention on the Rights of the Child;
- Return of the UAM to the country of origin or another country where he/she has a right of residence. There have to be guarantees on adequate reception, depending on the age and degree of autonomy of the UAM. This reception should be provided either by the parents or other adults taking care for the UAM, or by governmental or non-governmental organization;
- A residence permit and settlement in Belgium.

The decision on what is the durable solution in the best interest of the child might take long, and options might change over time. If tracing the family was unsuccessful, a return is less likely.

The MINTEH Bureau of the Immigration Office can decide to issue an immatriculation certificate, if a durable solution for the UAM has not yet been found, and on condition that the minor can present a passport or other identity document. If this is not possible, the guardian will have to provide all documents which prove that all the necessary steps have been taken to obtain identity documents. The Immatriculation certificate allows residence in Belgium for a period of six months. If within these six months no durable solution has been found, the guardian has to submit a new application with a proposal on the most appropriate, durable solution and supporting evidence one month before the day of expiration of the Immatriculation certificate. The Immigration Office will examine the elements of the application and the specific circumstances of the case. The Immigration Office hereby may interrogate the minor. The UAMN can be asked to clarify his family status, the reason for his travel to Belgium, etc. The minor is assisted by his guardian during the hearing.

⁴⁴ Article 7 Guardianship Act.

⁴⁵ Article 61/14 Immigration Act

If the most appropriate solution is not yet clear, the validity of the immatriculation certificate can be extended with another six months. The Immigration Office can also decide to issue a temporary residence permit valid for one year ('electronic A card').

However, if the investigation shows that a return to or a family reunification in another country is the best solution, the Immigration Office will give the mayor (or his representative) the instruction to deliver an order to bring back to minor (annex 38) to the guardian. If no durable solution is found at that time, the child will get a residence permit for 6 months (registration certificate model A).

One month before the date of expiration of the temporary residence permit, the guardian has to submit a file with the Belgian Immigration Office. The file has to consist of different elements that clarify the life of the UAM in Belgium and his or her (future) "life project". Elements that need to be proved here are the specific situation of the minor, his or her family situation, the knowledge of one of the three Belgian, official languages and regular school attendance. If false or misleading information about the age (or other elements of the 'life project') are given, the UAM will receive an order to leave the country by the Immigration Office if he/she turns out to be an adult or they will change the durable solution.

Once the UAM has stayed in Belgium with a temporary residence permit during three years, a permanent residence permit will be granted to that UAM ('electronic B card'), on the condition the person in question is still a minor after these three years.

If the guardian does not agree with the durable solution proposed by the Immigration Office, the guardian can lodge an appeal with the Council for Aliens Law Litigation.

II. Procedure for victims of human trafficking

Apart from the specific procedure for UAMs described above, the UAM can be recognized as **a victim of human trafficking**. Hereto, they need to follow the procedure for "victims of human trafficking", as it also applies for adult victims. Victims of human trafficking are all supported in their procedure by one of the specialized centers for victims of human trafficking⁴⁶, but minor victims of trafficking are generally living in – and supported by – specific centre for minor victims of human trafficking⁴⁷.

The procedure itself works as follows: First, the UAM receives an immatriculation certificate, allowing to stay for three months.

The certificate is granted on four conditions: First, the UAM is victim of trafficking as mentioned in Article 433 quinquies of the Belgian Criminal Code. Second, the UAM cooperates with the authorities investigating the case and has enough information which can lead to an arrest and preferably also a conviction of the suspected offenders. Third, the UAM breaks off all contact with the suspected offenders. Last, the UAM is able to prove his or her identity through providing a passport or other identity document.

The immatriculation certificate can be extended once for another period of three months, when the prosecution authorities are still dealing with the case or when it is not yet clear whether the case concerns human trafficking or human smuggling (although for minors, also smuggling can be considered trafficking).

In case the legal proceedings against the offenders continue, two different types of residence permit can be granted, depending on the progress of the proceedings:

- 1) An electronic A card of 6 months, as long as the investigation is ongoing.

The following conditions apply to obtain the A card: the UAM cooperates with the investigation authorities, the UAM breaks off all contact with the suspected offenders and the UAM does not constitute a threat for public order or national security.

- 2) An electronic B card of indefinite duration, in two situations:
 - The complaints or statements of the UAM have led to a conviction.
 - The Public Prosecutor or the Labour Auditor's charges include elements linked to the traffic of human beings or a serious form of smuggling in human beings.

⁴⁶ Pag-Asa, Sürya and Payoke.

⁴⁷ Minor Ndako and Esperanto.

III. Regularisation

UAMs who do not satisfy the conditions for residence as described in the articles 61/14 to 61/25 of the Belgian Immigration Act and do not qualify as a victim of human trafficking, have the possibility to apply **for regularisation** (article 9bis or 9ter of the Immigration Act).

Article 9bis of the Immigration Act concerns regularization for "**humanitarian reasons**". The guardian should file the application with the municipality of the UAM's place of residence. Afterwards, the decision is made by the Immigration Office. The application should fulfill three conditions: First, the minor needs a place to stay in Belgium. Second, the guardian should explain the exceptional reasons why the UAM wishes to be authorized to stay in Belgium, like for example humanitarian reasons (reasons of integration, no being able to return back to the home country,...). Third, the identity of the UAM should be proved by means of an international passport or an identity card (in this respect some exceptions are allowed). All kinds of documents to support the application should be enclosed with the application.

As regards to the evaluation of the application on the merits, the Immigration Office has a discretionary power to decide whether the application is well-founded. The Immigration Act does not mention specific criteria applicable to an article 9bis request. Each application is evaluated in accordance with the specific circumstances of the case. However, the general criterion applicable is that exceptional humanitarian reasons justify regularisation. In other words, a regularisation is permitted if sending back the UAM to the country of origin would run counter to fundamental human rights, like for example the UN Convention on the Rights of the Child and the European Convention on Human Rights. Some other specific criteria exist in the practice of the Immigration Office, like for example in case of extremely long residence or asylum procedures.

If there is a positive decision, the UAMs will receive a residence permit of limited duration in the form of an electronic A card or a residence permit of unlimited duration in the form of an electronic B card (in certain cases). If the application is refused, an appeal can be made to the Council for Aliens Law Litigation.

Art 9ter of the Immigration Act concerns "**medical regularization**". The application should be made with the Immigration Office. The regularisation for medical reasons is provided for those third-country nationals who are seriously ill and can demonstrate that they could not receive adequate care in their country of origin. UAMs who fulfill these conditions will receive temporary and conditional leave to remain for 1 year ('electronic A card'). The residence permit is conditional, because the leave to remain may be withdrawn if the UAM concerned is no longer seriously ill or if treatment has become possible in the country of origin in the meantime. However, UAMs who still fulfill the conditions after 5 years will be granted a permanent residence permit ('electronic B card').

If the different procedures would not lead to residence permit for the minor he in general cannot be removed by force as long as he or she has not reached the age of 18 (except in cases of family reunion, or when there is adequate reception facilities in his home country or a third country).

Q13b. Residence permit granted to unaccompanied minors whose claims for asylum are successful

When UAMs apply for asylum they will receive an immatriculation certificate and have the right to remain in Belgium as long as the asylum procedure is ongoing.

If the UAM has been recognised as a refugee before turning 18, a residence permit of unlimited duration (electronic card B) will be issued. If the UAM is granted subsidiary protection before turning 18, a temporary residence permit (electronic card A) (two years) will be issued. This card is renewable after two years (after a new evaluation of the application), and after 5 years a permanent residence permit will be issued.

Q13c. Details of the (temporary) residence permit granted to unaccompanied minors who do not fulfil the entry requirements of the (Member) State but are not refused entry at the border / or who are apprehended in the territory of the (Member) State (e.g. tolerated stay, etc.).

Categories of unaccompanied minors	Please describe the residence permits granted to unaccompanied minors	Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.
Non-asylum seeking unaccompanied minor arriving at a land / sea border or airport	Immatriculation certificate or temporary residence permit (electronic card A) depending on the circumstances and procedure (see Q13a)	Immatriculation certificate or temporary residence permit depending on the circumstances and procedure (see Q13a)
Non-asylum seeking unaccompanied minor apprehended in the territory of the (Member) State	Immatriculation certificate or temporary residence permit depending on the circumstances and procedure (see Q13a)	Immatriculation certificate or temporary residence permit depending on the circumstances and procedure (see Q13a)
Asylum seeking unaccompanied minor arriving at a land / sea border or airport	Immatriculation certificate for the duration of the asylum procedure	Immatriculation certificate for the duration of the asylum procedure
Asylum seeking unaccompanied minor apprehended or identified in the territory of the (Member) State	Immatriculation certificate for the duration of the asylum procedure	Immatriculation certificate for the duration of the asylum procedure
Asylum seeking unaccompanied minor arriving at an internal authority (e.g. police, child protection service, etc.)	Immatriculation certificate for the duration of the asylum procedure	Immatriculation certificate for the duration of the asylum procedure
Other (please state)		

Section 3: Reception arrangements, including integration measures for UAMs

Section 3.1: Reception and care arrangements for unaccompanied minors

Q14. Overview of the national legal framework with regard to the reception and care arrangements available to UAMs from first arrival until a durable solution is found.

UAMs who are seeking asylum or have been granted international protection

- » Law of 15 December 1980 on entry, residence, settlement and removal of alien nationals (a.k.a. Immigration Act).
- » Law of 12 September 2011 modifying the Law of 15 December 1980 on entry, residence, settlement and removal of alien nationals for the purposes of granting a temporary residence permit for unaccompanied alien minors.
- » Guardianship Law of 24 December 2002 (Title XIII, Chapter VI "Unaccompanied minor aliens" of the Programme Law of 24 December 2002 (Belgian Official Gazette of 31 December 2002). Modified by the Programme Law of 22 December 2003 and the Programme Law of 27 December 2004.
- » Law of 12 January 2007 on the Reception of Asylum Seekers and Certain other Categories of Aliens.
- » Royal Decree of 8 October 1981 on the entry, residence, settlement and removal of alien nationals.
- » Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI "Unaccompanied minor aliens" of the Programme Law of 24 December 2002.
- » Royal Decree of 13 May 2005 modifying the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI "Unaccompanied minor aliens" of the Programme Law of 24 December 2002.
- » Royal Decree of 9 April 2007 determining the regime and rules of operation of the Observation and Orientation Centres for UMs.
- » Royal Decree of 7 December 2007 to change the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI "Unaccompanied minor aliens" of the Programme Law of 24 December 2002.
- » Royal Decree of 7 November 2011 modifying the Royal Decree of 8 October 1981 on the entry, residence, settlement and removal of alien nationals.
- » Circular of 19 April 2004⁴⁸ on the taking charge of and identification of unaccompanied minor aliens by the Guardianship Service.
- » Circular of 23 April 2004 on the "unaccompanied minor alien" identification form.
- » Circular of 30 April 2004 on cooperation between the Immigration Department and local government departments on the residence of UMs.
- » Circular of 25 July 2008 modifying the Circular of 23 April 2004 on the "unaccompanied minor alien" identification form.
- » Circular of 26 September 2008⁴⁹ on the introduction of multidisciplinary cooperation in the field of victims of human trafficking and/or certain other aggravated forms of trafficking in human beings.

UAMs who are not seeking asylum, including those who entered irregularly and/ or are in a trafficked situation:

- » Law of 15 December 1980 on entry, residence, settlement and removal of alien nationals (a.k.a. Immigration Act).
- » Law of 12 September 2011 modifying the Law of 15 December 1980 on entry, residence, settlement and removal of alien nationals for the purposes of granting a temporary residence permit for unaccompanied alien minors.

⁴⁸ A Circular includes all the rules that a public administration imposes on its civil servants and that have to be respected in individual cases. Some Circulars are published in the Official Gazette and thus offer more legal security. See: Jollet Christophe, La procédure des MENA. Comparaison avec les demandeurs d'asile adultes. Mémoire de stage. SPF P&O- IFA. Août 2008, p.8.

⁴⁹ This Circular tries to raise awareness amongst front-line actors regarding the specific measures that should be applicable to UAM and insists on the necessity of taking their vulnerable situation into account. This Circular was published in the Belgian Official Gazette of 31 October 2008.

- » Guardianship Law of 24 December 2002 (Title XIII, Chapter VI "Unaccompanied minor aliens" of the Programme Law of 24 December 2002 (Belgian Official Gazette of 31 December 2002). Modified by the Programme Law of 22 December 2003 and the Programme Law of 27 December 2004.
- » Law of 12 January 2007 on the Reception of Asylum Seekers and Certain other Categories of Aliens.
- » Royal Decree of 8 October 1981 on the entry, residence, settlement and removal of alien nationals.
- » Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI "Unaccompanied minor aliens" of the Programme Law of 24 December 2002.
- » Royal Decree of 13 May 2005 modifying the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI "Unaccompanied minor aliens" of the Programme Law of 24 December 2002.
- » Royal Decree of 9 April 2007 determining the regime and rules of operation of the Observation and Orientation Centres for UMs.
- » Royal Decree of 7 December 2007 to change the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI "Unaccompanied minor aliens" of the Programme Law of 24 December 2002.
- » Royal Decree of 7 November 2011 modifying the Royal Decree of 8 October 1981 on the entry, residence, settlement and removal of alien nationals.
- » Circular of 19 April 2004 on the taking charge of and identification of unaccompanied minor aliens by the Guardianship Service.
- » Circular of 23 April 2004 on the "unaccompanied minor alien" identification form.
- » Circular of 30 April 2004 on cooperation between the Immigration Department and local government departments on the residence of UMs.
- » Circular of 25 July 2008 modifying the Circular of 23 April 2004 on the "unaccompanied minor alien" identification form.
- » Circular of 26 September 2008 on the introduction of multidisciplinary cooperation in the field of victims of human trafficking and/or certain other aggravated forms of trafficking in human beings.

UAMs who are not yet confirmed as minors:

- » Guardianship Law of 24 December 2002 (Title XIII, Chapter VI "Unaccompanied minor aliens" of the Programme Law of 24 December 2002 (Belgian Official Gazette of 31 December 2002). Modified by the Programme Law of 22 December 2003 and the Programme Law of 27 December 2004.
- » Law of 12 January 2007 on the Reception of Asylum Seekers and Certain other Categories of Aliens.
- » Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI "Unaccompanied minor aliens" of the Programme Law of 24 December 2002.
- » Royal Decree of 13 May 2005 modifying the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI "Unaccompanied minor aliens" of the Programme Law of 24 December 2002.
- » Royal Decree of 9 April 2007 determining the regime and rules of operation of the Observation and Orientation Centres for UMs.
- » Royal Decree of 7 December 2007 to change the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI "Unaccompanied minor aliens" of the Programme Law of 24 December 2002.
- » Circular of 19 April 2004 on the taking charge of and identification of unaccompanied minor aliens by the Guardianship Service.
- » Circular of 23 April 2004 on the "unaccompanied minor alien" identification form.
- » Circular of 30 April 2004 on cooperation between the Immigration Department and local government departments on the residence of UMs.
- » Circular of 25 July 2008 modifying the Circular of 23 April 2004 on the "unaccompanied minor alien" identification form.
- » Circular of 26 September 2008 on the introduction of multidisciplinary cooperation in the field of victims of human trafficking and/or certain other aggravated forms of trafficking in human beings.

Q15. National authorities and organisations responsible for the reception and care of UAMs

Since the **collaboration protocol of 28/01/2013** between the Immigration Office, the Guardianship Service and Fedasil, all persons declaring to be an UAM have to be centrally registered by the Immigration Office (exceptions during the weekends, very vulnerable UAM and during the winter plan).⁵⁰

FEDASIL, the federal agency for the reception of asylum seekers is responsible for the reception of all UAMs regardless of their administrative status (asylum seekers as well as non-asylum seekers newcomers) during **the 1st reception phase** in the Fedasil **Observation and Orientation Centres (OOC)**.

These Observation and Orientation Centres organise the reception of all newly arrived UAM to allow for their identification, the assignment to a guardian by **the Guardianship Service** (Federal Public Service of Justice), and a first observation and orientation.

The organisation of the first reception is an acclimatization and psycho-social assessment phase in view of a first orientation. This phase lasts for a period of 15 days and is renewable once, in case of necessity.

The UAM seeking asylum or vulnerable UAM not seeking asylum (girls, minors younger than 15 years, ...) will be accommodated in two OOC, each of them can accommodate 50 minors (in the towns of Neder-Over-Heembeek and Steenokkerzeel). The UAM not seeking asylum and not vulnerable (boys, minors above 15 years) will be orientated to a specific OOC in the town of Sugny (accommodation for 20 minors), opened in May 2012. This last centre can accommodate a minor from 1 up to 4 months.⁵¹

The young victims of human trafficking are referred to specialised facilities for UAM victims of human trafficking (such as **Esperanto**, a non-profit association accredited and funded by the Youth Care Service of the French Community and **Minor N'Dako & Juna**, a non-profit association accredited and funded by the Youth Care Service of the Flemish Community). This takes place directly if it is clear that they are victims of human trafficking or after an initial stay in the OOC.

The very young (< 13 years) or most vulnerable UAM are also referred to specialized facilities of the Youth Care Services, such as **El Paso**. El Paso, a non-profit association accredited by the Youth Care Services of the French Community, is financed by the French Community (25 UAM), by the Social Integration Federal Public Planning Service through Fedasil (13 UAM) and the Federal And Walloon Government.

UAM arriving at the borders (airport) for which there is a doubt that they are underage, a medical examination for the age assessment is organized within three days of their arrival. During these 3 days, the person concerned will stay in the closed detention centre for adults and families near the airport until the results of the age assessment are known. In case the person is a minor, he will be transferred to an OOC⁵². UAM encountered inland for which there is a doubt that they are underage, will be directly transferred to an OOC (cf. supra).

In **the second reception phase**, with the **Flemish Decree of 12 July 2014** on the integral youth assistance the distinction between asylum seekers and not asylum seeker is abandoned. In the second reception phase, the UAM who has no particular needs will be orientated to a federal collective reception centre (Fedasil) or a collective centre from one of the reception partners, like Red Cross. The minors stay there in a separate ward, with their own team of social workers and educators, and this for a period from 4 months up to 1 year. The minors are accompanied in their

⁵⁰ At the end of August 2014, 1319 reception places were available for UAM.

⁵¹ Since 28.01.2013 – protocol concerning the registration of UAM- UAMs who are not asking for asylum but for whom there is a doubt concerning their age minority, will be first oriented, for a two nights stay, to the OOC of Neder-Over-Heembeek

⁵² For this UM and UM arriving at the border for whom there is no doubt about the age (transfer to the OOC within 24 hours after arriving) the OOCs considered to be an extra territorial place. In this situation, for a period of 15 days, the UM will be considered as not having accessed the territory. During this 15 days the Immigration Office examines if the UM is permitted on the territory (and the OOC ceases to be an extraterritorial place) or is sent back. The return will only be possible if it is proven that this is the durable solution for the UAM.

school career and on a progressive way prepared for more autonomy. Minors in need of specialized aid can be accommodated by the Youth Care Services of the Communities (Flemish, French and German-speaking Community). A special assessment has to be made before the minor is granted a place here. This can be placement in a residential (inpatient) centre, living alone with guidance or placement in a foster family. When there are no places available through the Youth Care Services (which is often the case), the minor still can be accommodated by the Fedasil reception network.

Unaccompanied minors, from the age of 16, can ask to be transferred to the facilities of **the third reception phase**. These are mostly individual reception facilities, the **local reception initiatives** (LOI), organized by the **Public Centers for Social Welfare** in Belgium. Here the minors also receive material aid, but they enjoy more freedom and have more autonomy. But they also get the necessary accompaniment until they turn 18 or until the end of the school year in which they turn 18.

Same as for the reception in collective centres, the reception in a LOI is limited in time. Until the youngster receives the refugee status or subsidiary protection or receives an 'order to bring the minor back' (annex 38). Respectively a 'postponement of departure' or a 'periodical extension of the annex 38' is possible until the age of 18.⁵³

The **three-phase reception** system of Fedasil (not the Youth Care Services) means that UAMs who stay in one of the different reception facilities will not receive financial assistance, but social aid is provided in kind (accommodation, food, clothing, psycho-medical-social assistance and a small daily subsistence allowance). UAMs who stay in the reception centres of one of the three phases will have access to medical care and education. The reception centre covers the costs of medical care and is, depending on the reception structure, reimbursed by Fedasil or the Federal Public Planning Service Social Integration.

At the moment a decision has been taken on the residence permit / procedure of the minor (e.g. granted refugee status or subsidiary protection; overall negative outcome of the asylum procedure,...) or the minor and/or his guardian has received an "order to bring the minor back" (annex 38), Fedasil has no longer the obligation to care for the UAM in their reception structures. Nevertheless a periodical extension of the stay or 'postponement of departure' is allowed (in theory until the guardian has found a solution). In practice the prolongations are given until adulthood.

Like all asylum seekers, the UAM has the right to refuse the accommodation offered by Fedasil, and to choose to live with an adult, often a member of his (extended) family. However, in this case, checks will be carried out by the guardian on the "bona fide" character of the adult and to see if this adult can adequately accommodate the UAM. If this cannot be guaranteed, the UAM will be placed in an adapted reception centre. Also in these cases of "private housing", a guardian is appointed who follows up this living situation.⁵⁴

All minors, regardless of their age and the "phase" of reception, can at any time be referred to the services of the mainstream Youth Care, organized by the regional authorities, on condition that they have 'special needs' which are recognized by the responsible authorities and actors here (recently reorganized in the "Integral Youth Care"). These services encompass reception in residential structures, foster care, and living alone with guidance. The Youth Care is organized by the regional authorities, but private, non-governmental organizations organize the services themselves, hereto recognized and funded by the government. Given their nature and the nature of the funding available, the Youth Care Services differ largely from the services organized by Fedasil, in terms of, amongst other elements, type of accommodation and infrastructure, number of staff and training level of staff, and number of children living

⁵³ from September 2014 on, priority for the transfer to the third phase is given to UAM who are recognized as refugee or granted subsidiary protection. This is also limited in time to allow for the transition to financial aid provided by the Public Centers for Social Welfare and integration in the society.

⁵⁴ If the minor chooses to live outside the Fedasil reception network, he is not entitled to financial or material aid except for medical assistance (paid for by Fedasil based on a payment commitment that the Agency delivers for medical care to asylum seekers outside of the reception network).

together⁵⁵. However, there are long waiting lists to access the Youth Care Services and they are not able to meet all the needs of the youngsters

More about education and health care and the financing, see below.

Q16a. What is considered a durable solution for the child in your (Member) State (could also be derived from practices in place, guidelines used by reception / care facilities, etc.)?

The term “durable solution” is in the Belgian context perhaps a bit misleading. **Regarding documents**, a durable solution could be seen as:

- having a definitive residence permit (e.g. granted refugee status, definitive residence permit as result of a procedure for victims of trafficking, or a residence permit within the special procedure for unaccompanied minors)
- having a relatively stable temporary residence permit, such as the one-years (and renewable) residence permit under subsidiary protection status

In the “**special procedure for Unaccompanied Minors**” (see Section 2.7), the aim is also to look for a “durable solution”. Here, “durable solution” is translated as:

- 1) family reunification with the parents (or other family members), in accordance with articles 9 and 10 of the United Nations Convention on the rights of the child of 20 November 1989, in the country where they have a legal stay;
- 2) a return to the country of origin or another country where the minor is allowed to stay, with guarantees on adequate reception or care, according to his age and his degree of independence. The care can be provided for by the parents, other adults, governmental or non-governmental bodies;
- 3) a residence permit in Belgium.

Priority will always be given to the search for and the reunification with family or other relatives.

Regarding **housing**, a durable solution can be seen as a housing situation in which the minor can stay for longer time, such as for several years, until he is 18 years old. This could be either in the above described model, the second or the third phase, or also a reception in facilities of the Youth Care Services.

Q16b. How quickly do the competent authorities take decisions on durable solutions for UAMs based on the best interests of the child?

Regarding “documents”, this is largely depending on the information available and the time the authorities need to investigate the request. However, in most cases, the decision in the asylum procedure is quite fast, while the final decision in the Special Procedure for Unaccompanied Minors can take long, in many cases without any final decision when the minor reaches the age of 18.

Regarding the housing situation, this also depends on the particular needs of the child, his age (when the minor is older, it is more difficult to find a durable housing situation before he reaches 18), and the services available (e.g. there is a lack of foster parents for this group).

⁵⁵ Derluyn, I. & Broekaert, E. (2008). Unaccompanied refugee children and adolescent: the glaring contrast between a legal and a psychological perspective. *International Journal of Law and Psychiatry*, 31, 319-330; Vervliet, M. & Derluyn, I. (2014). *De trajecten van niet-begeleide buitenlandse minderjarigen. Verwachtingen, agency en psychosociaal welzijn*. Gent: Academia Press.

Section 3.2: Accommodation and other material reception provisions

Q17. Reception and care arrangements granted to UAMs from first arrival until a durable solution is found.

	Please state (Y/N) whether the accommodation types and other material reception provisions listed are available to UAMs (in cash or in kind) in each of the categories below, and provide a brief description of the facilities available in each case:		
Accommodation type and access to other care and material reception provisions	UAMs seeking asylum or have been granted international protection	UAMs not seeking asylum, including those who entered irregularly and / or child victims of trafficking	Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.
Accommodation with adults	<p>Y. Fedasil has organised, in periods of reception crises, a reception of more autonomous youngsters in adult reception places (in principle minors from 17 years on, but also sometimes in function of the maturity of the minor).</p> <p>In the second reception phase, the UAM who has no particular needs will be orientated to a federal collective reception centre (Fedasil) or a collective centre from one of the reception partners like the Red Cross. But the minors stay there in a separate ward, with their own team of counsellors and educators and this for an estimated period of 4 months up to 1 year. The minors are accompanied in their school career and on a progressive way prepared for more autonomy.</p>	Not for child victims of trafficking	When the UAM arrives at the border and his age is contested, he can be cared for in a closed detention centre for adults for the period of the age assessment test, with a maximum of 6 days.
Accommodation with a foster family	Possible within the services of the mainstream Youth Care organized by the regional authorities	Possible within the services of the mainstream Youth Care organized by the regional authorities	In principle only for minors, except in particular circumstances (disability, psychiatric problems,...)
Accommodation / reception facilities specifically for minors	<p>Y</p> <ul style="list-style-type: none"> - Observation and Orientation Centres (but the OOC in Sugny (20 places) is organized within the walls of the general collective reception centre of Fedasil in Sugny) - Vulnerable UAM or UAM with special needs such as the very young (< 13 years) or most vulnerable UAM can be oriented to the facilities of the Youth Care Services. The Flemish Youth Care Service has two specific reception centres for 	<p>Y</p> <p>The young victims of human trafficking are orientated to specialized facilities for UAM victims of human trafficking, such as Esperanto (13 places), a non-profit association accredited by the Youth Care Service of the French Community and Minor N'Dako & Juna (86 places), a non-profit association accredited by the Youth Care Services of the Flemish Community). See Q15</p>	

	<p>unaccompanied minors.</p> <ul style="list-style-type: none"> - a particular project for UAM with behavioral problems that cannot be managed in the regular reception facilities is organized by the non-profit organization Synergie 14 funded by Fedasil (10 places of which 5 in time out and 5 for a longer stay). <p>See Q15</p>		
Accommodation / reception facilities with special provisions for minors	<p>Within the centres organized and funded by FedAsil, UAM are almost always cared for in special wards for unaccompanied minors, located within bigger asylum centres, but mostly separated from the living facilities for adults.</p> <p>Above, there are several reception facilities with special provisions for minors within the general Fedasil reception network :</p> <p>Fedasil reception centres:</p> <ul style="list-style-type: none"> - the reception centre of Rixensaert : reception of child mothers and pregnant girls (40 places) - the reception centre of Sint Truiden: Time Out (10 educational places et 8 emergency places) for young people with behavioural problems or for whom a break is necessary - the reception centre of Charleroi (Jumet) (project still in progress): 15 places for minors with mental health problems <p>The Red Cross reception centres:</p> <ul style="list-style-type: none"> - the reception centre of Overpelt: the very young UAM age 8-9 to 14 years (15 places) <p>Non-profit organizations:</p> <ul style="list-style-type: none"> - 3th phase: Les Sept Lieues (10 places reserved for UAM only out of 56 places in total) 	<ul style="list-style-type: none"> - OOC Sugny (UAM non asylum seekers): the OOC in Sugny (20 places) is organized in the general collective reception centre of Fedasil in Sugny - there are two reception centres for UAM victims of human trafficking (Esperanto and Minor N'Dako & Juna). These UAM centres are responsible for the reception of the UAM, but the legal and administrative guidance concerning their procedure for victims of trafficking is provided by one of the three specialised and accredited centres taking care of all victims of human trafficking (Payoke, Pag-Asa and Sürya). 	
Specialised accommodation facilities available for UAM victims of trafficking	See next column		
Specialised accommodation facilities available to UAMS to meet specific identified needs	See above		

<p>Other types of accommodation (please state, e.g. in adult accommodation facilities if over 16 years of age)</p>	<p>Local Reception Initiatives: from the age of 16, the UAM may ask to be transferred to a local reception initiative (independent living) with a co-ordinated autonomy (higher level of autonomy in third phase reception)</p> <p>The regionalized mainstream Youth Care services have different services, including residential (inpatient) centres, foster care, and living alone with guidance. After assessment and approval, UAM can be referred here.</p>		
<p>Food (please indicate how this is arranged in practice, e.g. meal vouchers to buy or prepare own meals, prepared meals, etc.)</p>	<p>In a collective centre, a UAM will receive in most cases a prepared meal. But the objective is that each centre has his own cooking facilities and a shop, so the UAM can cook themselves (some reception structure already have this). In the third phase, UAM are able to cook for themselves.</p>		
<p>Clothing (please indicate how this is arranged in practice, e.g. provision of a budget to buy clothes, provision of second-hand clothes, etc.)</p>	<p>Most reception centres offer a sort of clothing shop or organize the possibility to obtain clothing from non-profit associations. In the third reception phase the UAM has a budget with which he can buy clothes in regular stores.</p>		
<p>Allowance / pocket money (please provide details on what possibilities there are to earn pocket money in reception facilities, what amount and how this is paid, etc.)</p>	<p>UAM are entitled to pocket money.</p> <p>€4.50 pour minors < 12 years and for minors ≥ 12 years who are not attending school</p> <p>€5.70 for minors accommodated in the OOC</p> <p>€7.40 for minors ≥ 12 years attending school</p> <p>The Youth Care services have own pocket money regulations, which are similar to the ones stated above.</p>		
<p>Other types of material reception provisions (please state)</p>	<p>Scholastic material is provided where needed; as also some possibilities are provided to attend youth and sport clubs, to visit friends, etcetera.</p>		

Q18. Have UAMs the freedom to make their own choices with regard to the provisions available to them?

In a collective centre, an UAM will receive in most cases a prepared meal. But the aim is that each centre has his own cooking facilities and a shop, so the UAM can cook themselves (some reception structures already have this). Most centres offer a sort of clothing shop or organise the possibility to obtain clothing from non-profit associations.

The minor will be prepared, in collaboration with his guardian and the social worker, to develop a 'life project'. They will also motivate the UAM to become a self-reliant and responsible person.

From the age of 16, the UAMs may ask to be transferred to a local reception initiative (independent living) with a co-ordinated autonomy (higher level of autonomy). The minors can cook and buy their food and clothes, within the limited budget allocated to them.

Q20. Tasks of the staff (e.g. care/ social workers, etc.) responsible for the reception and care of UAMs:

All reception centres within the Fedasil network employ social workers and educators; some centers have an overall UAM - coordinator. Each UAM is assigned a social worker and an educator who follow the UAM together.

The main tasks of the **social worker** are:

- ensure a global accompaniment of the UAM;
- individual support to the UAM;
- support the young person in building his 'life project'
- ensure the follow-up of the minor: individualized educational project, 'life' project, ...
- provide explanations on the functioning of the reception in order that the minor is informed of his rights and obligations and can take decisions with full knowledge of the facts;
- being the referent of the UAM and ensure the link between the UAM and the outside world;
- facilitate the link between the UAM and the guardian;
- ensure the follow-up of the procedure (asylum and others) of the UAM;
- follow up if extra socio-psychological support is necessary.

The main tasks of the **educator** are:

- responsible for the daily life of the UAM in the centre;
 - organisation of activities for the group of UAM;
 - working towards autonomy of the UAM (by means of a number of general sessions such as 'how do I take the public transport', the numerous aspects of life in Belgium, sexual education, recycling, learn to cook);
 - organisation of sports activities, follow-up of hobbies & leisure activities;
 - responsible for the follow-up of the schooling of the UAMs (some centers have a separate responsible for this)
- All tasks of the social workers have to be done in consultation with the guardian of the UAM.

The number of UAM per staff member depends on the reception phase, and if it is a centre for the reception for UAM with or without special needs.

1st phase: In the OOC each minor is assigned a personal coach who will monitor the UAM during his stay in the centre. The personal coach will help and advise the UAM, report on his situation and explain the centre's rules and regulations. The regulations will specify how to receive visitors, make telephone calls, see a doctor, but will also give the daily timetable and the rules that need to be respected such as for going out, activities etc.

Through conversations, activities and his daily functioning the coach can get a view on the UAM and his possible needs. The coach will write a report in the perspective of orientation to a second reception facility, based on his impression and a medical and psycho- social evaluation.

The staff to UAMs ration is 1,85.

2nd phase: in the Federal reception centres the staff to UAMs ration is between 2,66 and 4,16.

3th phase: in the local reception initiatives, there is 1 fulltime + 1 part-time (50%) staff member for 8 UAM⁵⁶. There is always a permanence by phone.

All staff are, as much use as possible, appropriately trained (graduated) social workers and educators.

There is specific training for the staff: joint information sessions organised by Fedasil, such as aggression management, the asylum procedure in Belgium, training in dealing efficiently with conflicts and difficult behaviour,

⁵⁶http://www.kruispuntmi.be/sites/default/files/bestanden/omzendbrieven%20en%20instructies/instructie_fedasil_al_gemene_principes_opvang_nbm_derde_fase_20120217.pdf

training in smuggling and trafficking in human beings, ... In addition the centres have a budget to invest in external training for the staff.

The staffing of the Youth Care services, including the special centres for unaccompanied minors and for minor victims of trafficking, are subject to the regulations of the regionalised Youth Care services, including regarding the number of staff and their education. Overall, the staff-youth ratio and the educational level of the staff are higher in the Youth Care Services, compared to the care structures for asylum seekers and recognized refugees.

Q21. Overall assessment of the standard of accommodation / material reception conditions provided to UAMs

Research questioning UAM indicates that they experience large constraints in the accommodation and overall material reception conditions (both in reception centres as in independent living situations). Often, these material stressors even increase the longer they are in the host country.⁵⁷

Further, there are very little possibilities within the system to differentiate the reception and care in relation to the particular needs and situation of the minor. This involves that certain UAMs do not fit into the existing system, and therefore do not receive adequate and adapted care⁵⁸. Above, academics have repeatedly questioned why there are differences in material conditions (including accommodation, staff-client ratio,...) between mainstream Youth Care services and the reception structures for unaccompanied minors in the asylum system – while also UAM can be considered as children and youths who are in need of specific and quite intensive support.⁵⁹ Hereby, it needs to be mentioned that these Youth Care Services are in principle accessible for UAMs, but in practice, it is often difficult to access these.

⁵⁷ Vervliet, M., Lammertyn, J., Broekaert, E. & Derluyn, I. (2013). Longitudinal Follow-Up of the Mental Health of Unaccompanied Refugee Minors. *European Journal of Child and Adolescent Psychiatry*. (DOI) 10.1007/s00787-013-0463-1; Vervliet, M., De Mol, J., Broekaert E. & Derluyn, I. (2013). "That I live, that's because of her." Intersectionality as framework for unaccompanied refugee mothers' experiences. *British Journal of Social Work*, 1-19; Vervliet, M. & Derluyn, I. (2014). *De trajecten van niet-begeleide buitenlandse minderjarigen. Verwachtingen, agency en psychosociaal welzijn*. Gent: Academia Press.

⁵⁸ <http://www.lesfamilles.be/documents/TaskForceNL.pdf>; Vervliet, M. & Derluyn, I. (2014). *De trajecten van niet-begeleide buitenlandse minderjarigen. Verwachtingen, agency en psychosociaal welzijn*. Gent: Academia Press.

⁵⁹ Derluyn, I. & Broekaert, E. (2008). Unaccompanied refugee children and adolescent: the glaring contrast between a legal and a psychological perspective. *International Journal of Law and Psychiatry*, 31, 319-330.

Section 3.3: Access to legal advice (Q22 & Q23)

Legal advice	UAMs seeking asylum or have been granted international protection	UAMs not seeking asylum, including those who entered irregularly and / or child victims of trafficking
<p>Legal advice and other forms of legal support</p>	<p>UAMs are entitled to free legal advice. They can free of charge call on a lawyer for their defence, as well as court costs.</p> <p>It is one of the first duties of the guardian to ensure that the child has suitable legal representation to deal with his/her residence status or asylum claim, or any other jurisdictional or administrative procedure. The Guardianship Act stipulates provisions that the guardian should immediately appoint a lawyer. The guardian has to ask for a lawyer to be appointed, if necessary via the legal aid office in the district where the minor is residing. Many Bar associations (Brussels, Charleroi, Antwerp) have set up a specific group of lawyers who have voluntarily agreed to deal with the files of UAMs, whether seeking asylum or not.</p> <p>Generally, and independent of the asylum procedure, the Crown Prosecutor can bring a case to the Youth Tribunal on the basis of art 36/2 of the law of 8 April 1965 relating to the youth's protection in order to take provisional measures for minors in danger. It is up to the judge to decide whether temporary measures should be taken and whether the legal conditions specified under art 36/2 are met.</p> <p>Nothing prevents the minor to choose a lawyer himself. The guardian must, however, ensure that the lawyer chosen by the minor is specialized in all matters relating to UAMs. The guardian must likewise pay attention that this lawyer is acting in the framework of free legal assistance to prevent that the minor has to pay him fees (honoraria).</p>	<p>To ensure the procedural and legal accompaniment of victims of trafficking 3 specialized centres are financed by the federal government, the Communities and Regions in Belgium:</p> <ul style="list-style-type: none"> •Payoke in Antwerp •Pag-Asa in Brussels •Sürya in Liège. <p>In collaboration with the guardian, the staff of the centre where the UAM stays, and the lawyer, these centers provide the legal and administrative guidance of UAM who have initiated a procedure for victims of trafficking.</p> <p><u>Remark:</u> The procedure for victims of trafficking is given priority over the asylum procedure (the asylum procedure will be put on hold).</p>

Q24: Overall assessment of the provision of legal support to UAMs

There has been no formal evaluations about the access of legal support for UAM. Generally, the access to legal support is considered as being good, although there have been certain complaints regarding the level of specialization in specific asylum and other matters of the involved lawyers and about their commitment to individual cases.

Section 3.4: Access to healthcare (Q25)

	Please state (Y/N) whether the healthcare types listed are available to UAMs in each of the categories below, and provide a brief description of the healthcare available in each case:	
Healthcare	UAMs seeking asylum or have been granted international protection	UAMs not seeking asylum, including those who entered irregularly and / or child victims of trafficking
Emergency treatment	Y	Y
Basic medical care	Y	Y
Essential / specialised healthcare if required	Y	Y
Psychological support / counselling	Y <p>In the area of mental health, there are several mental health services and organisations that offer psychological support to (U)M (such as Rivage in 't Zaet vzw, ExilExterne, Solentra, Ulysse, asbl D'ici et d'ailleurs). Some reception centres have their own psychologist or therapist, such as the Observation and Orientation Centres (first phase of reception structure).</p> <p>When in need for an external treatment, the UAM will be referred by the doctor of the reception facility to one of these services/organisations.</p> <p>Fedasil has signed a convention with the non-profit organisation Synergie 14. It concerns a particular project for UAM with behavioural problems that cannot be managed in the regular reception facilities (10 places of which 5 in time out and 5 for a longer stay).</p> <p>In schools, the Psycho-Medical-Social centres (in the French Community) and the Pupil's Guidance Centres (in the Flemish Community) offer psycho-medical-social assistance to the pupils, mainly in relation to school-related problems; they also can provide particular information, but also this relates mostly to school-related information. Further, they do overall basic medical assessment of all school-going children (once a year) and provide particular vaccinations, if agreed upon.</p> <p><u>Fedasil also recently (01.09.2014) has decided to pay psychological consultations for asylum applicants, including UAM, who live in refugee reception centres (and some smaller other categories)</u>⁶⁰</p> <p>The Office of the Commissioner General on Refugees and Stateless Persons (CGRS) also has a consultant psychologist who provides psychological support. The psychologist advises the CGRS caseworkers on the psychological and mental situation of an asylum seeker, when this can have an influence on the asylum decision. The psychologist organises an individual psychological interview and produces a thorough psychological report thereof. The CGRS will take into account this evaluation (PTSD, memory problems, psychological complaints, etc.) when making a decision on the asylum request.</p>	Y (see left column). <p>Additionally, the special centres for minor victims of trafficking, as organised by the Youth Care structures of the communities have their own psychologist/therapist.</p>
Other (please state)		
Do UAMs have equal access to healthcare as child citizens in the (Member)	Y (see also below: access to health insurance)	

⁶⁰http://www.kruispuntmi.be/sites/default/files/bestanden/omzendbrieven%20en%20instructies/20140901_nota_fedasil_betaalt_psychische_consultaties_nl.pdf

State?		
Are UAMs assessed to ensure their healthcare needs are met (e.g. through a health assessment)?	<p>Y</p> <p>Once the UAM arrives in the OOC, a medical, social and psychological report on the UAM is drawn up with the aim of orienting him/her towards an appropriate second reception phase. In the following reception phases the individual evaluation of the needs of the UAM continues.</p> <p>During these three reception phases the UAM is assisted by his/her guardian, as well as by the personnel, including a doctor and a social workers. These people who work with the UAM on a daily basis will be the first to observe different or problematic behaviour (depression, self-harming, aggression, nightmares, etc.), but sometimes it is the UAM who indicates it himself. It is up to these people to find the best possible help for the UAM. Sometimes, this help will be available in the reception centre itself (from the centre's doctor or psychologist) or externally in a specialised organisation. The most appropriate help will be looked for depending on the specific situation of the UAM.</p>	Y (see left column)
Do UAM have access to health insurance? If yes, under what conditions?	<p>Y</p> <p>UAM are entitled to health insurance if they meet one of the following conditions:</p> <ul style="list-style-type: none"> - the UAM follows education for at least three consecutive months in a by a Belgian Government accredited educational institution - the UAM is accompanied by a service for preventive family support (Kind en Gezin (Child and Family) in the Flemish Community / Office de la Naissance et de l'Enfance (Agency for Birth and Childhood) in the French Community), or is enrolled in an institution for pre-school education - the UAM is temporary exempted from compulsory education by the competent regional authority (only for victims of human trafficking accommodated by Esperanto – the work they do with the youngsters count as education). 	Y (see left column)
How is reception organised for UAMs with psychiatric problems or addictions?	<p>Concerning psychiatric problems: it is difficult to get minors into child psychiatric institutions (overall waiting lists + sometimes reluctance of psychiatric institutions to work with refugees / migrants). So, where possible, they will need to make use of the existing psychological and psychiatric care, but access is limited and waiting lists long. In some cases, the minor will be accommodated by CARDA (centre d'accueil rapproché pour demandeurs d'asile) organised by the Red Cross (normally for adults, but in some cases UAM are allowed).</p>	Y (see left column)

Q26: Other organisations responsible for the healthcare of UAMs

UAM can appeal to the **mainstream health care** in Belgium. But in the reception centres, it is often preferred that the UAM visits the General Practitioner (GP) or nurse of the reception centre or the GP that the reception facility has a partnership with.

In practice, the patient has free choice of doctor/GP. If the UAM chooses a doctor not related to the reception facility, he needs a 'requisitorium' (payment commitment) drawn up by his reception facility for the Agency to intervene for the remaining part of the medical costs borne by the patient (the part that is not taken charge of by the health insurance). If not, this part has to be paid by the patient himself.

For UAM who are accommodated in a federal reception centre, Fedasil will cover immediately and completely all medical costs borne by the patient for primary health care as foreseen in the "Reception Law". The same applies to the collective reception centres of the Red Cross, Croix-Rouge or other reception partners, which, as provided for in the conventions concluded with Fedasil, submit their medical expenses to the Agency.

For specialized healthcare, the part of the medical costs borne by the patient is paid by Fedasil if the patient has a requisitorium for the undergone medical care.

For UAM accommodated in a local reception initiative organised by the Public Social Welfare Centers, the part of the medical cost that is not born by the health insurance will be paid by the Social Integration Federal Public Planning Services.

Q27: What is the overall assessment of the standard of healthcare provided to UAMs

In the asylum centres, minors are mostly referred to the health care providers of the asylum centre, which sometimes means that they need to wait quite some time before having an appointment, and minors sometimes have the feeling that their complaints are not really listened to. Further, although the possibility exists to go to a health care practitioner of their own choice, it is not really easy to exert that right in practice.

The moment the minor is entitled to a mainstream health insurance, access to health care, taking into account the free choice of the minor, largely improves. Access to health care is then overall well guaranteed. However, language and cultural barriers are quite common in health services, rendering adequate and qualitative high health care relatively difficult (not only for UAM, but for all migrants/refugees)⁶¹.

Regarding psychological and mental health care for UAM – and asylum seekers, migrants and refugees in general, there remain quite some argue that there are critical points to mention. Refugees requiring mental health services are confronted with numerous challenges, including frequent misdiagnosis, language barriers and inappropriate use of interpreters, poor access to services, lack of resources to pay for the services, lack of familiarity with mental health systems, inappropriate treatment methods, and difficulties in providing culturally sensitive interventions⁶². In asylum centres, mental health care is limited available, and in mainstream health care, only a few services are specialized in, or open to, refugees and migrants, with the result that only a limited number of refugees - both adults and children - receive appropriate mental health care. Emotional support and/or adequate treatment for psychological and/or psychiatric problems remain thus very scarce, including for UAMs⁶³. Therefore it is not surprising that high levels of emotional and behavioural problems are reported in the centres where UAM stay⁶⁴.

⁶¹ Dauvrin, M., Derluyn, I., Coune, I., Verrept, H. & Lorant, V. (2012). Towards fair health policies for migrants and ethnic minorities: the case-study of ETHEALTH in Belgium. *BMC Public Health* 2012, 12:726. doi:10.1186/1471-2458-12-726.

⁶² Dauvrin, M., Derluyn, I., Coune, I., Verrept, H. & Lorant, V. (2012). Towards fair health policies for migrants and ethnic minorities: the case-study of ETHEALTH in Belgium. *BMC Public Health* 2012, 12:726. doi:10.1186/1471-2458-12-726

⁶³ Derluyn, I. & Broekaert, E. (2008). Unaccompanied refugee children and adolescent: the glaring contrast between a legal and a psychological perspective. *International Journal of Law and Psychiatry*, 31, 319-330.

⁶⁴ Derluyn, I., Mels, C. & Broekaert, E. (2009). Mental health problems in separated refugee adolescents. *Journal of Adolescent Health*, 44, 3, 291-297; Vervliet, M., Lammertyn, J., Broekaert, E. & Derluyn, I. (2013). Longitudinal Follow-Up of the Mental Health of Unaccompanied Refugee Minors. *European Journal of Child and Adolescent Psychiatry*.

Section 3.5: Education

Q28: Please describe access by UAMs to education in your (Member) State.

Please provide information on the issues raised below on access to education by UAMs:		
Education	UAMs seeking asylum or have been granted international protection	UAMs not seeking asylum, including those who entered irregularly and / or child victims of trafficking
Is access to education (appropriate to the age and needs of the UAM) provided for in legislation in your (Member) State?	Y	
How quickly can a UAM access education in the (Member) State?	60 days	
How does the (Member) State ensure that the education provided to UAMs are adapted to their age, level of education in the country of origin and the degree of the language barrier (e.g. individual assessments etc.)?	<p>Apart from the age criterion, there are no entry conditions to the different grades of the primary education.</p> <p>In the secondary education, the education that the UAM has followed in his/her country of origin may be taken into consideration. The social worker/school will attempt to figure out the last grade for which the UAM in his country succeeded, as well as the grade equivalent in Belgium.</p> <p>Certain certificates obtained by the UAM in the country of origin are automatically approved in Belgium. In most cases, however, an "application for equivalence" of the diploma/certificate must be submitted.</p>	
What support measures are available to help the UAM with the transition to education in the (Member) State (e.g. language training, mentoring, vocational training, other support mechanisms – please state?)	<p>Foreign national minors (including UAMs) who arrive in Belgium can make use of specially adapted educational (language) programmes (for primary and secondary education) that allow them to attend mainstream education on a regular and successful basis after this initial period. This kind of education is aimed at minors who have already had some level of education in the past as well as those who are illiterate. As education is the responsibility of the Communities (Flemish, French and German), some differences can be discerned⁶⁵:</p> <p>The Flemish Community organises 'OKAN-classes' (welcoming classes for non-Dutch speaking newcomers). The non-Dutch-speaking newcomers in the secondary education will get a Dutch "language bath" during one year and then move on to regular education. The non-Dutch-speaking newcomers in primary schools are from the outset partly taught separately and partly together with the children in the regular classroom. The French Community also organizes special classes for newcomers. These transition classes ('classes-passerelles') offer specific support that helps to adapt to the education system of Belgium. The stay at this bridge classes is limited to maximum one year, and thereafter newcomers must move up to the level of education and – direction that best suited for them. The maximum duration of the stay in the transition classes is limited to one year. The newcomers must subsequently flow through to the education level and – direction that is best suited for them.</p> <p>By their often lasting language deficiency is the move of both the OKAN class as the transitional class to mainstream education not an easy task. This also means that many foreign young people start in a lower year than their peers. However, a system of 'coaches' who further guide the minors after this initial language class is established to diminish this gap as much as possible.</p> <p>The initiative for the creation of these classes is left, both on Flemish and Walloon side, to the schools themselves. The financing is done by the Communities.</p> <p>For UAM victims of trafficking: see below</p>	
Do UAMs have the same right to education as other children in the (Member) State?	Y	

⁶⁵ Ingleby, D. & Derluyn, I. (2012). *Educational integration of asylum-seeking and refugee children in Belgium*. Country Report for the ERF project INTEGRACE (Integrating Refugee and Asylum-seeking Children in the Educational Systems of EU Member States: Evaluation and Promotion of Current Best Practices). Sofia: Center for the Study of Democracy, 35 pp.

<p>Do UAMs receive education in specialised educational establishments? If yes, does the (Member) State have plans to integrate these UAMs in the general education system?</p>	<p>For their protection, UAMs who are victims of human trafficking are accommodated by the specialised reception centre for minor victims of trafficking Esperanto will get preparatory courses in the reception facility</p>
<p>How does the education provided to UAMs support their social integration in the (Member) State?</p>	<p>School is very an important factor in the integration process. The UAM will develop his own network of people (teacher, director, fellow students), will learn a national language, will make friends and will participate in the 'real life' instead of staying in the more artificial environment of the reception centres. It will facilitate to participate in local sport/youth associations, etc.</p>
<p>How does the (Member) State prepare UAMs for accessing their labour market (e.g. provision of training, vocational guidance, etc.)?</p>	<p>There are no real provisions to prepare UAMs for the labour market, besides their preparation in the mainstream educational system, and the support they receive to be oriented towards services that support the access to the labour market. Some organisations have special offers of educational activities for minors (sometimes specifically for UAMs, sometimes for all minors) who do not fit in the mainstream educational system. These activities mainly include educational skills (writing, reading, mathematics), often aspects of vocational training and guidance towards the labour market, and sometimes (depending on the target group) language and cultural orientation aspects.</p> <p>Further, one new governmental initiative in this respect can be mentioned: since September 2014, the reception federal reception centres of Bovigny and Arendonk created a specific pilot project for UAM (between 16 years and 17 years and 9 months old) who have no residence perspective in Belgium, "My Future". They get an intensive preparation for the end of their stay in Belgium through an intensive and practical vocational training, useful for their future. The UAM may alternate learning and working (1 day general education, 1 day vocational training and during 3 days follow a work-focused track) and choose adapted modules.</p> <p>Examples of training modules are: personal care (module housekeeping, health module, module communications, logistics assistant in hospitals and care institutions, health care, child care), decoration (publicity painter, painter, wood, metal), maintenance (maintenance worker buildings, gardener), cycle repair.</p> <p>These training are combined with a continuous preparation for adulthood and the corresponding required autonomy (functional and emotional) aiming to empower the participants. The coaches will also cooperate with the network of the minor (contacts in Belgium; family in country of origin; the guardian; etc.) and all relevant actors (authorities, voluntary return, tracing, social workers). "My Future" is a pilot project for the course of one year and participation is on a voluntary basis.</p>

Q29: Other organisations are responsible for the education of UAMs

The responsibility and the funding of the mainstream educational system is done by the Flemish, the French and the German-speaking Communities in Belgium. Some specific initiatives are taken by non-governmental organisations, mostly with financial support of the government.

Q30: Overall assessment of the standard of educational support provided to UAMs

The access to education is well established, not only for UAM, but for all minors without appropriate language skills⁶⁶. The organization of the languages classes is good, and there is large expertise in the organizing schools. Above, the introduction of 'coaches' who can follow-up the minors after their 'transfer' to the mainstream educational system is an important added value. However, the transition from language classes to mainstream education is often highly

⁶⁶ Ingleby, D. & Derluyn, I. (2012). *Educational integration of asylum-seeking and refugee children in Belgium*. Country Report for the ERF project INTEGRACE (Integrating Refugee and Asylum-seeking Children in the Educational Systems of EU Member States: Evaluation and Promotion of Current Best Practices). Sofia: Center for the Study of Democracy, 35 pp.

difficult, which is also for the minors very stressful. This also involves that many minors are in classes with peer of much younger age, which is from a social point of view often quite difficult⁶⁷.

Above, minors indicate that the separated system of language classes largely limits their possibilities to create a new social network and new friends, in particular with peers of the host community.

Further, schooling is not an easy task for minors who come with no literacy skills or educational experience at all, although specific measures and initiatives are largely implemented to meet the particular needs of these minors.

Last, many minors do not obtain a diploma when their residence documents end (mainly at their 18th birthday), which often contrasts with their high educational aspirations when coming to Belgium.⁶⁸

⁶⁷ Derluyn, I. (2005). Emotional and behavioural problems in unaccompanied refugee minors. Unpublished PhD dissertation. Gent: Ghent University.

⁶⁸ Vervliet, M., Broekaert, E. & Derluyn, I. (2014). The aspirations of Afghan unaccompanied refugee minors before departure and at arrival in the host country. *Childhood-A Global Journal of Child Research*; Cloet, M. (2007). *Voldongen feit? Opvang en begeleiding van buitenlandse, niet-begeleide minderjarigen*. Antwerpen: Garant.

Section 3.6: Access to support to employment (Q31)

	Please state (Y/N) whether the measures to support access to employment listed are available to UAMs in each of the categories below:
Access to support to employment	UAMs seeking asylum or have been granted international protection
What is the minimum age a UAM can take up employment in the (Member) State?	15 years
Is access to employment for UAMs conditional upon obtaining legal (residence) status, a work permit, etc.?	Work permit C
Under what circumstances does a UAM receive a permit to work in the (Member) State once the minimum age is reached?	If, after 6 months, there is still no negative decision in the asylum procedure from the CGRS.
Is labour market access limited to a maximum number of days per year?	Yes, limited to 50 days per year
Can UAMs take up paid employment / household tasks for pocket money from the accommodation facilities where they are residing?	Yes, community services in the reception centres on Wednesdays afternoon and in the weekends
What other forms of support are available to UAMs once working age is reached if they are unable to find employment?	None

Q32. Organisations responsible for providing employment access support to UAMs

The Flemish Region, the Region of Brussels-Capital and the Walloon Region are responsible for employment and also the public employment services of the different Regions in Belgium

Q33. Overall assessment of the standard of employment access support provided to UAMs

The support for access to employment is generally rather limited; and restricted by the work permits needed and other legislative frameworks regarding work possibilities for minors in Belgium. This is often stressing for minors, because many want to work and earn money, and also came with this particular aspiration, and are now not able to meet this goal set⁶⁹.

⁶⁹ Vervliet, M., Broekaert, E. & Derluyn, I. (2014). The aspirations of Afghan unaccompanied refugee minors before departure and at arrival in the host country. *Childhood-A Global Journal of Child Research*. Doi: 10.1170/0907568214533976

Section 3.7: Other integration measures (Q34)

Between the arrival of a UAM in the territory and the end of the different procedures, a long period can elapse (from a few months to even two or three years). The guardian will assist the UAM during this whole period, will work with the UAM and will thus have an important role to play in the UAMs integration. To begin with, the guardian will have to build a relationship of trust with the UAM. This first step towards the UAMs integration is to make him/her understand that he/she can have a place in Belgium and, like any other citizen, will have certain rights and obligations. School will be an important factor in the integration process.

A great deal of work on the UAM's integration is done in the different **reception centres**. As well as providing accommodation, these reception centres also provide other kinds of assistance to the UAM in the light of his/her 'life project'. This will often require a personalised approach for each UAM, depending on his/her capabilities. It requires the UAM to be a member of different social networks (guardian, lawyer, social worker, but also other people in the reception centre, people in the education area (teacher, director), people in sports and cultural associations, religious associations, friends at school, etc.), and to adapt him/herself to his/her current environment. Specific projects can be developed to prepare the UAM for being an adult: possibility to prepare his/her own meals, learn how to deal with a budget.

From the third reception phase on, the accompaniment takes more the form of **one-to-one coaching**. The reception facility will put more responsibilities on the shoulders of the UAMs and will allow them to live more independently. The stay in the third phase reception structures must help the transition towards a greater degree of independence (from a reception structure toward private housing). During this phase the social worker must provide the tools and skills in order to become an adult and to become more self-reliant.

Furthermore, some **non-governmental organisations have created programmes** to help UAM (often for UAM recognised refugees or beneficiaries of subsidiary protection) to integrate.

For example:

- Caritas International: Accompaniment towards autonomy and integration of UAM recognised refugees or beneficiaries of subsidiary protection with additional vulnerabilities (no social network, limited knowledge of a national language, single mothers, etc.) that can form obstacles on the path toward integration;
- Cirkant: Mobile accompaniment of UAM recognised refugees or beneficiaries of subsidiary protection: enhancing the self-reliance and the independently functioning on different domains of life (living, administration, budget, work and school, free time, network and integration, psychosocial support) of UAM who move from a reception structure to independent living;
- Mentor Escale: The project's goal is to improve the integration and independence of UAM and a former UAM up to the age of 26 in the Belgian society, by offering solutions, resources and assistance solutions with which the UAM can find their place in the society;
- Bon vzw: Summer projects are set up to further enhance the language skills of the UAM's, and to further support their knowledge about Belgium and their overall "integration".

As mentioned, education is one of the main steps towards integration. Besides education, UAMs benefit (under particular conditions) from other social and economic rights: the right to welfare aid and benefits, access to health care and the right to work.

Section 3.8: Withdrawal of reception and integration support

Q35. Under what circumstance can any of the above reception and integration support provisions be withdrawn from UAMs?

Type of support (please list)	Circumstances for withdrawal of reception / integration support	
	UAMs seeking asylum or have been granted international protection	UAMs not seeking asylum, including those who entered irregularly and / or child victims of trafficking
	<p>Reception and integration support provisions are seldom withdrawn from UAM.</p> <p>In September 2012, the ' Time-out ' project for UAM was set up. Time out is aimed at situations in which cooperation between the social worker/educator and the minor is very difficult or threatens to stop. Minors with behavioural and emotional difficulties are enrolled in a six-day supervision programme in another location, in the federal reception centre of Sint-Truiden. The objective is primarily to create peace and distance for both parties: the minor gets time for self-reflection and to think why certain situations each time turns out to be a problems. The ultimate goal of the time-out programme is a sustainable return of the minor to the original reception centre. This to avoid an escalation of disciplinary measures and transfers. At the end of the programme a renewed guidance agreement is drawn up between the minor and the reception centre. All UAM are eligible, except those who need specialised assistance, such as minors with drug problems or mental health problems. The latter category is directed to other specialised bodies, although the number of places is limited there.</p> <p>In problematic situations, when the reception network of Fedasil and his partners is not able to provide the appropriate assistance and there is a need for an adapted specialised aid (available from the Youth Care Services), the guardian and the social worker will take all possible steps to obtain a suitable reception facility. So in very exceptional cases Fedasil and the guardian will indicate that they find themselves unable to accommodate a certain youngster because they cannot deliver the appropriate care and will ask the competent services (Youth Care Services) to take their responsibilities (for example through the juvenile court judge).</p> <p>Moreover, (not actually a withdrawal of provisions) minors who were granted refugee status or subsidiary protection, and decide not to stay in the reception network (2nd or 3th phase) and leave to live on their own with equivalent living wages provided by the Public Centres of Social Welfare, will be refused a reception facility in the reception network of Fedasil if for one reason or another they want to come back afterwards, since they are no longer entitled to material aid by Fedasil (but are entitled to equivalent living wages provided by the Public Centres of Social Welfare).</p>	

Q36. Complaint mechanisms available to UAMs in case of withdrawal of reception and integration support

UAMs can make use of the complaint mechanisms available for all beneficiaries of reception according to art. 46 & 47 of the Law of 12 January 2007 on the Reception of Asylum Seekers and Certain other Categories of Aliens with the help of their guardians.

Section 3.9 Identified challenges and good practices (Q37)

There are a number of challenges related to the reception, care and integration of UAM's in Belgium, as also listed in the sections above. Without extensively repeating these, we here give an overview of some of these challenges, which are mainly based on particular academic publications⁷⁰:

- **large asylum centres**, with limited number of staff and often with limited educational background
- large **emotional challenges** due the particular living situations (alone, in a 'strange' country; often traumatizing experiences), in combination with lack of psychological support in asylum centres and difficult access to mainstream mental health care services, including psychiatric care.
- **limited differentiation** the living and care arrangements, whereby not all specific needs of particular groups can be met (e.g. children who lived already for long time in the streets often do not fit any more in the strict regime of an asylum centre; lack of foster care arrangements; limited care, guidance and support in independent living arrangements)
- **difficult transition processes** from separate language classes to mainstream educational systems
- **difficulties in creating social networks** with peers and other members of the host communities due to separate living arrangements (asylum centres) and separated educational systems (language classes)
- access to **appropriate housing** (independent living) with granted refugee status or subsidiary protection
- lack of possibilities to meet the **educational and financial aspirations** they came with (difficulties to obtain a diploma, given the limited time in education (up till 18) and the language barriers; difficulties to work)
- access to **leisure activities** limited because of financial constraints and practical barriers (geographical location of the asylum centre for example)
- number of **daily stressors** (financial limitations, difficulties in access to services,...) aggravating the psychological stress
- large contrasts between the integration dream and efforts (e.g. in education) and the long-lasting insecurity regarding residence documents (and often the negative outcomes of residence procedures).

⁷⁰ Dauvrin, M., Derluyn, I., Coune, I., Verrept, H. & Lorant, V. (2012). Towards fair health policies for migrants and ethnic minorities: the case-study of ETHEALTH in Belgium. *BMC Public Health* 2012, 12:726. doi:10.1186/1471-2458-12-726; Derluyn, I. & Broekaert, E. (2008). Unaccompanied refugee children and adolescent: the glaring contrast between a legal and a psychological perspective. *International Journal of Law and Psychiatry*, 31, 319-330; Derluyn, I., Broekaert, E. & Schuyten, G. (2008). Emotional and behavioural problems in migrant adolescents in Belgium. *European Child and Adolescent Psychiatry*, 17, 1, 54-62; Derluyn, I., Mels, C. & Broekaert, E. (2009). Mental health problems in separated refugee adolescents. *Journal of Adolescent Health*, 44, 3, 291-297; Mels, C., Derluyn, I. & Broekaert, E. (2008). Social support in unaccompanied asylum seeking boys: a case study. *Child: Care, Health and Development*, 34, 6, 757-762; Vervliet, M., Broekaert, E. & Derluyn, I. (2014). The aspirations of Afghan unaccompanied refugee minors before departure and at arrival in the host country. *Childhood-A Global Journal of Child Research*. Doi: 10.1170/0907568214533976; Vervliet, M., De Mol, J., Broekaert E. & Derluyn, I. (2013). "That I live, that's because of her." Intersectionality as framework for unaccompanied refugee mothers' experiences. *British Journal of Social Work* (2013) 1-19; Vervliet, M. & Derluyn, I. (2014). *De trajecten van niet-begeleide buitenlandse minderjarigen. Verwachtingen, agency en psychosociaal welzijn*. Gent: Academia Press; Vervliet, M., Lammertyn, J., Broekaert, E. & Derluyn, I. (2013). Longitudinal Follow-Up of the Mental Health of Unaccompanied Refugee Minors. Manuscript accepted for publication in *European Journal of Child and Adolescent Psychiatry*. (DOI) 10.1007/s00787-013-0463-1

Section 4: UAMs that go missing / abscond from reception / care facilities

Q38. Evaluations or studies on the number/ rate / country of origin of UAMs who go missing or abscond from guardianship/ reception/ care facilities

To our knowledge, there are no comparable or systematic evaluations nor figures on the numbers of UAMs who go **missing or abscond from guardianship, or the different reception and care facilities**. Recent statistics from the reception agency Fedasil illustrate that for what concerns disappearances out of reception facilities during the first 7 months of 2014, there were 96 disappearances, with the top nationalities Morocco (25), Eritrea (15) and Afghanistan (9). Of these 96 cases, there were 83 boys and 13 girls. Of these 96 disappearances, 38 of them were so-called "worrying disappearances". 69 of these 96 UAMs disappeared from the Observation and Orientation Centres, 23 during the second reception phase (federal collective reception centre if no particular needs), and 4 during the third reception phase (local reception initiatives).⁷¹

Besides UAMs who go missing or abscond from guardianship and reception facilities there is also a significant number of (self-declared) UAMs **who abscond before a guardian was appointed**, an age assessment test was performed and/or before they were accommodated in a reception centre. The difference between the total number of unaccompanied minors registered at the Guardianship Service and the number of guardians who were appointed, minus those for who no guardian was appointed because of the outcome of the age assessment procedure, could give an indication on the number of UAMs that disappeared before a guardian was appointed.

	2009	2010	2011	2012	2013
New UAMs signalled (1) (source GS)	2501	2510	3258	2811	1786
Age Assessment Tests (2) (source GS)	411	390	1042	953	536
Decision Majority (3) (source GS)	322	324	729	689	405
Definitive Appointment Guardian (4) (source GS)	1093	1232	1521	1587	969
Disappearances before appointment of a guardian (1-3-4) ⁷²	1086	954	1008	535	412

Q39. Reasons for the disappearance of UAMs

It often concerns minors who are not demanding to be taken care of, and are considered by the OOCs as '**voluntary leavers**'. For example, they may be on their way to join their family or the group they belong to in Belgium or abroad; they may be using the reception in the OOC as a temporary shelter while they are having problems within their community; they may have another final destination, e.g. UK or Scandinavia; and some disappearances might be double-counted as UAMs sometimes use different identities or are referred to the OOC multiple times. However, there are also disappearances further on (2nd and 3rd phase of the reception): UAMs who find it difficult to adapt to the life in a reception centre; UAMs under a removal order disappearing just before they turn 18; or those who have received negative decisions in one of the procedures that could have provided them with a residence permit; or they just decide to seek their future elsewhere.⁷³

Besides these 'voluntary leavers' there are also the so-called "**worrying disappearances**", referring to UAMs who risk to become victims of human trafficking and smuggling are who are considered by Child Focus as a worrying disappearance (see Q44).

⁷¹ Source Data Fedasil

⁷² This calculation encounters several methodological issues such as the fact that the year the UAM was signalled, the year the age assessment was performed and the year the guardian was appointed are not necessarily the one and the same; therefore this estimation on the number of disappearances before the appointment of a guardian is merely indicative.

⁷³ EMN, Unaccompanied minors in Belgium, Reception Return and Integration Arrangements, 2010, p.52.

The distinction between these two groups is made on basis of the trajectory of the minor (e.g. when (s)he was intercepted while trying to reach the UK) and on basis of the evaluations made by the social workers and guardian (if already appointed). However, there are no studies evaluating whether this distinction and the evaluations of cases by social workers and guardian indeed fit reality.

Q40. Socio-demographic profile of UAMs that go missing

Most UAMs who **disappear are non-asylum seekers**. They often disappear during the first reception stage or before a guardian has been appointed. The disappearances often concern minors originating from Maghreb countries (especially Morocco and Algeria) or from the Roma community. Furthermore, also minors who are apparently (for example because they are intercepted in the port, when trying to enter a ferry) transiting to another country (UK, France, Scandinavian countries) often disappear, either right after their interception (not placed in a reception centre), either from the reception centre.

For what concerns the disappearances during the second reception stage, accounts from practitioners state that this mainly concerns UAMs who find it difficult to adapt to the life in a reception centre or who received negative decisions in asylum or residence permit procedures and are almost 18 years.

Q41. When are UAMs most likely to disappear

A lot of "disappearances" occur **before a guardian was appointed and before accommodation in a reception facility**. These persons often do not want to be taken to the Immigration Office, or ignore to invitation to present themselves at the Immigration Office.

For those who disappear from reception facilities, most disappearances occur during the **1st reception phase** out of the Fedasil Observation and Orientation Centres (OOCs). During the first 7 months of 2014, there were 96 disappearances of which 69 out of Observation and Orientation Centre, 23 during the second reception phase (federal collective reception centre if no particular needs) and 4 during the third reception phase (local reception initiatives).

Q42. The impact of guardianship/ reception/ care facilities on the proportion of missing or absconding UAMs.

Practitioners indicate that if the assistance is more intensive and personalised, the rate of absconding is lower (see Q46). The fact that a lot of UAMs disappear during the first days at the reception centre, regularly even before a guardian has been appointed can be an indication of the positive influence of guardians and social workers in reception facilities regarding the risk of absconding, although no systematic scientific evaluation has been carried out yet.

Also the location of the reception facility might have an impact, according to practitioners: A reception centre in a large city may lead to a higher risk of absconding. The most recent Observation and Orientation Centre, opened in May 2012 is located in a small town Sugny (accommodation for 20 non-asylum seeking UAMs), which makes it more difficult to abscond.⁷⁴

Q43. Measures to prevent or to react to disappearances of UAMs

In the past years several measures were taken to address the problem of disappearances:

- The creation of **secured reception centres** for minor victims of trafficking (organised and funded by the Youth Care services)
- The signing of a **cooperation protocol** between different actors (police, Observation and Orientation Centres, Child Focus,...) for what concerns 'worrying disappearances' of UAMs
- **training for relevant actors**, including police, border guards and guardians, in order to detect (possible) victims of trafficking as fast as possible, and to act appropriately in cases of disappearances of UAMs

- The creation of a **Task Force “Minors Travelling Alone”** (Ministerial Task Force) in order to enumerate and implement a range of actions to prevent and react to possible situations of abuse and trafficking in the group of minors travelling without parents or legal guardian (of which UAMs are a large part). Many of these recommendations were taken forward during the Belgian Presidency of the EU (including discussing a range of these recommendations during an international conference related to this theme)
- Establishing a **national focal point** within the European context in order to act as main contact point for other Member States in cases of international disappearances or missing children
- **Child Focus**, also a partner of Missing Children Europe, acts as a national NGO coordinating actions and alerts in cases of missing and disappeared children, including UAMs
- files of UAMs are completed as much as possible, through a **nation-wide used registration document** completed and shared by all relevant actors (police, Immigration authorities, Guardianship Service, reception centres); fingerprints are taken when legally allowed (>12 or >14 years of age), as also pictures are taken and a detailed description of the physical characteristics of the UAMs.

Overall, there is yet little knowledge on the impact of these measures onto the prevention and reaction to disappearances of UAMs.

Q44. Procedures and practices to report and deal with disappearances of UAMs

In November 2008, a **cooperation protocol** has been signed to manage disappearances from the Observation and Orientation Centre. The aim of this protocol was to align the activities of the various stakeholders in order to prevent the disappearance and to ensure the rapid return of UAMs who disappear. In Belgium, an UAM is considered as having left a reception structure 24 hours after his absence has been noticed. After these 24 hours, the police is informed about the absence of the UAM as is the guardian or the Guardianship Service.

There are also additional **legal provisions** detailing the measures that should be taken in the case of disappearances.⁷⁵ These prescribe that the police should be informed as well as other competent authorities such as Child Focus (organisation working on missing children) in the case of a worrying disappearance. **Child Focus** has the objective to implement every possible action in order to find missing children and to fight against their exploitation. However, Child Focus doesn't open a file for all disappearances of UAMs. In the past this used to be the case but since 2006, Child Focus has a new modus operandi and will only open a file if there is a minimum of information available on the UAM and the circumstances of his disappearance; and if Child Focus's help can offer added value. This will in most cases be for **“worrying disappearances”**. According to the criteria in the Ministerial Directive of 20 February 2002 for Child Focus, a disappearance is considered as worrying if one or more criteria apply: the missing person is under 13 years old; the missing person has a physical or mental disability; the missing person is dependent on medication or medical treatment; the missing person may be in a his / her life-threatening situation; the missing person may be in the company of others who are being may threaten or is the victim of a crime; or the absence of the young person is in complete contrast to his normal behaviour.⁷⁶

The police has its regular procedures to deal with missing persons, including the registration and sharing of information amongst police and other authorities.

Further, a **Task Force** was commissioned under the authority of the State Secretary of Asylum and Migration Policy in 2010-2011 to formulate recommendations towards the prevention and early detection of minors who are travelling alone and who are/might be of risk of being/becoming victims of trafficking⁷⁷.

Q45. Registration of disappearances of UAMs

The registration of disappearance of UAMs is done case by case (for each individual child), with as much information as possible.

⁷⁵ Circular of Public Prosecutors of 11 October 2004; Ministerial Directive on the search for missing persons of 20 February 2002 adapted on 20 April 2003.

⁷⁶ Annual Report Child Focus 2013, p.7.

⁷⁷ <http://www.lesfamilles.be/documents/TaskForceNL.pdf>

Fedasil registers all disappearances of UAMs out of the reception structures for asylum seekers and refugees. Youth Care authorities register disappearances from youth care services. Guardians need to report the disappearance of their UAMs to the Guardianship Service.

In case of 'worrying disappearances', the missing child is registered by police and all other relevant actors here (Child Focus, Public Prosecutor,...). In case of suspecting international travelling of the missing child, competent authorities in other countries are alerted.

Q46. Challenges associated with UAMs who go missing or abscond from guardianship/ reception/ care facilities

As the 2009 EMN report describes, the disappearances of UAMs are a major concern time in Belgium. It is a concern because these vulnerable young people who disappear sometimes have a traumatic history, an uncertain residence status, lack a stable family framework and are in need of psychological support and practical assistance. They risk to become a victim of human trafficking and other forms of exploitation.

Most disappearances occur within the first reception stage during the stay at the orientation and observation centre, even within the first days of arrival at the OOC. The OOCs are open reception centres without locked gates or fences - law also forbids the detention of UAMs - so UAMs are free to leave if they so desire. It is a challenge in this context to protect the UAM "against" himself or third parties. The reception centres Minor Ndako, Juna and Esperanto that accommodate the extremely vulnerable minors, such as victims of human trafficking, have established a better balance between securing the centre on the one hand and the UAMs right to freedom. Although it is also in these centres not possible to fully secure the centre due to practical reasons such as fire safety, UAMs have to attend school, etc...

The most important reason why a lot less UAMs disappear from the centres for victims of human trafficking compared to the OOCs lies in the fact that the OOCs are the first centres to accommodate UAMs, while Juna, Minor Ndako and Esperanto are in fact second-line reception centres and thus encounter a different profile of UAMs since most disappearances occur the first days. Another reason probably also lies in the fact that the assistance at the specialised centres for victims of human trafficking is much more intensive and personalised. Such staffing is for budgetary reasons not possible at the OOCs or in other refugee reception centre within the Fedasil network.

Further, because of the relatively high numbers of UAMs disappearing from the reception centres, and in many cases the limited information available, one has decided to make a distinction between 'voluntary leavers' and 'worrying disappearances'. This means that it is left over to social workers and guardians to report missing UAMs to the competent (police) authorities, which might not exclude that also those considered as 'voluntary leavers' are in fact in vulnerable situations.

The Task Force "Minors Travelling Alone" also indicated a number of elements which need improvement if we really want to prevent minors from falling into situations of trafficking or other abuses, such as a better sharing of information between migration authorities, police authorities and social services, an international follow-up of UAMs who disappeared, care structures with a closer follow-up, etcetera .

Last, little information is known about those UAMs who are detected at some point on the territory, but are not put in reception centres, and do not report themselves further to the authorities. These minors could be(come) in dangerous situations, but there is no follow-up of these cases . Practitioners from the Guardianship Service indicate that it is difficult to bring UAMs to reception facilities against their own will. There is no mandate to use force to bring the persons to a reception centre, and the chance they would abscond from reception facilities is high. Mostly this concerns UAMs who declare to be 16 or 17 years old.

Q47. Good practices regarding UAMs who go missing or abscond from guardianship/ reception/ care facilities

Good practices related to UAMs who go missing or abscond from guardianship or reception and care facilities mainly are the specific centres for minor victims of human trafficking (Minor Ndako, Juna, Esperanto) organised by the communities, where a good balance seems to be found between 'securing' the minors against (new) abuses or trafficking and respecting the 'liberty' and 'own choices' of the minors. Moreover, also the cooperation protocol between different actors involved with UAMs and with missing children is a good step forward. However, no formal evaluations have been carried out of these practices.

Case study:

An 11-year-old Afghan boy, who was in Belgium with the objective to go to Britain to be reunited with his family, disappears. His disappearance is immediately considered as a “worrying disappearance” because of his young age and the presumption that his transfer to England is organised by a network of human traffickers. The boy is found a first time in Belgium, but absconds again from the reception facility. Child Focus insists that his disappearance is signalled to the British police and the organisation Missing People, based in London. Thanks to these international contacts, a few months later, the message is sent that the boy has reached Britain safely and an asylum application has been submitted.⁷⁸

⁷⁸ Sandra Voet, Niet-begeleide minderjarige vreemdelingen : blootgesteld aan talloze gevaren, Annual Report Child Focus 2013, p.16.

Section 5: Arrangements for UAMs when turning 18 years of age

This section examines the arrangements for former UAMs, both those seeking asylum and those not seeking asylum, once they reach the age of 18 years.

Q48. Situation in your Member State for former UAMs once they reach the age of 18 years:

	Please describe the situation in your Member State for former UAMs once they reach the age of 18 years	
Arrangements for former UAMs	UAMs seeking asylum or who have been granted international protection	UAMs not seeking asylum including those who entered irregularly and / or child victims of trafficking
What residence permit provisions are in place for the UAM turning 18 years of age in your (Member) State? What are the consequences for the rights and obligations of the former UAM in accordance with these residence provisions?	<p>If the UAM has been recognised as a refugee before turning 18, a residence permit of unlimited duration (electronic card B) will be issued.</p> <p>If the UAM is granted subsidiary protection before turning 18, a temporary residence permit (electronic card A) will be issued. This card is renewable and after 5 years a permanent residence permit will be issued.</p> <p>If the asylum procedure is still ongoing, the person will have an immatriculation certificate⁷⁹, which implies to right to stay in Belgium as long as the asylum procedure is ongoing.</p>	<p>A residence permit within the framework of the procedure for victims of human trafficking can be granted if certain conditions are fulfilled (see Q13a); if the procedure is ongoing, the temporary residence permit is prolonged as long as the procedure runs</p> <p>The UAM who turned 18 can apply for regularisation (Article 9 bis of the Immigration Act).</p> <p>The residence permit for UAMs who were in the specific procedure for UAMs (article 61/14 – 61/25) can be extended by the long-term residence office of the Immigration Office once the UAMs turns 18, if the conditions set by the MINTEH Bureau are met:</p> <ul style="list-style-type: none"> - either: being enrolled as a full-time student (or apprenticeship) to a government-approved institution, accompanied by evidence of own subsistence; - Or: having a job (and a legal permission to work established by a professional card or work permit); - Presentation of a valid national passport or demonstrate that all possible efforts have been made to obtain a valid national passport.
Are there any exceptions to the residence provisions that are in place for UAMs who are turning 18 years of age? If not, what are the implications of these provisions for the reception arrangements and	<p>UAMs seeking asylum who reach the age of 18 years will no longer be placed in the specific reception facilities for UAM. They will be transferred to the regular reception centres for adults or in local reception initiatives for adults.</p>	<p>The accommodation may be extended until the end of the school year.</p> <p>If the minor stays in a service of the mainstream Youth Care (e.g. special centre for minor victims of trafficking), the care can be extended</p>

⁷⁹ attest van immatriculatie (NL)/attestation d'immatriculation (FR)

Integration measures that have supported the UAM up to that stage?	If the minor stays in a service of the mainstream Youth Care, the care can be extended up till 20 (foster care) or 21 years of age (other services).	up till 20 (foster care) or 21 years of age (other services).
What measures are in place to support the UAM in advance of the transition (e.g. integration support, return support)?	There are several support programmes for the integration of persons who were granted international protection. In 2014, Caritas International started with a specific programme for UAMs who were granted international protection. At the end of the assistance programme, the young adult should be able to live autonomously. ⁸⁰ For those still in asylum procedure, their transfer to an adult refugee reception centre is prepared.	The guardian and involved social workers elaborate the different possibilities with the minor (return, illegal stay,...), and in order to see which options are there. Once decided, the necessary steps are taken to prepare this transition (access to services for undocumented people; access to the voluntary return program in case of return).
What measures are in place to support the former UAM after the transition (e.g. formal follow up or after-care service, open door policy at residential homes, personal adviser, pathway plan, etc.)?	There are no specific measures to follow-up former UAM after the transition over 18. But, if they are still in asylum procedure, or if they are granted refugee status/subsidiary protection, they will receive the same support and care as adults with similar procedure/status. Moreover, most guardians stay open for further (limited) questions of the pupil once overage. Besides, Caritas International's integration cell offers specific support to recently recognized refugees or beneficiaries of subsidiary protection throughout the integration process. A professional will inform and advise the person throughout the different integration stages. ⁸¹	No further follow-up is foreseen, although most guardians stay open for further (limited) support.
What are the implications of the change in residence status for the access to education and/ or training of the former UAM?	The former UAM is now considered as an adult and will have access to education (or not) as other adults with similar status/documents. If international protection has been granted, the person will have a residence permit and will encounter no problems regarding access to (adult) education or vocational training.	If the person is no longer a minor and he or she has no longer a residence permit, difficulties may arise regarding registration in an educational institution. Access to education for minors is no longer possible, and also adult education is highly difficult to access. The Immigration Office can decide to extend the residence permit if the person goes to school up till the end of the ongoing school year.
What are the implications of the change in residence status for the access to employment of the former	A person who is granted internal protection has full access to employment.	If the UAM turns 18, he or she will in principle no longer be able to benefit from the specific residence procedure for UAMs and might fall in irregular

⁸⁰ More information about this project can be found on the [Website of Caritas International](#)

⁸¹ Caritas International, [Integration of recognised refugees](#)

UAM?	An (adult) asylum seeker has access to the labour market after 6 months without first instance decision of the CGRS.	stay. This implies that the person has no access to (legal) employment. However, the residence permit can be extended if the person has a job. ⁸²
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Q49. Monitoring mechanisms in place to ensure the effective transition of unaccompanied minors from the age of minority to 18 years of age

There are no formal monitoring mechanisms to follow-up minors once they have turned eighteen, not for those with a residence permit (although they stay 'known' to the migration authorities and often also to the social services), and certainly not for those in situations of undocumented stay.

If the UAMs who turned 18 applies for an extension of his residence permit, he or she has to meet the imposed conditions (and be able for example to present an employment contract).

Q50. Challenges associated with the transition to 18 years of age experienced by unaccompanied minors

The transition to 18 years of age is for most UAMs quite challenging, as also illustrated in a recent study⁸³:

- the kind of support they receive changes drastically, in all kinds of services, but in particular for those living in asylum reception centres (living in adult reception centres, less staff members, less leisure and group activities,...)
- guardianship ends, so also this support is reduced considerably
- they are in most cases no longer entitled to go to mainstream education (which is contrasting the expectations and aspirations they came with, and also limits their social network considerably)
- for those who have a temporary residence document under the special procedure for UAM as earlier described, the documents will end, which means that they will become in illegal stay. This means that they will need to leave the reception facility where they are living (except in some situations, a prolongation in Youth Care services is allowed until 20 or 21 years of age), and they will turn to a living situation of undocumented migrants, with many, many challenges, such as difficulties in access to housing, health care (except urgent medical care), financial resources, social network, etcetera.

Q51. Good practices regarding the transition to 18 years of age of UAMs

Good practices are mainly related to efforts of particular organisations, agencies and/or persons to prepare the minor as much as possible for this transition, in particular when the minor will become into a situation of illegal stay. Different organisations, reception structures and agencies, including the Guardianship Service, have recently put more focus onto this transition point, and have installed training moments and reflections on what the different actors, organisations and agencies can do to support the minor more throughout this transition. However, no formal evaluations or descriptions of these "good practices" exist yet.

The fact that turning 18 will not immediately result in a situation of irregular stay could be considered as a good practice regarding the transition to 18 years of age. The MINTEH Bureau will inform UAMs in writing of the different procedures that can be started when they turn 18 and will usually extend the validity of residence permits if certain conditions are fulfilled (looking for a job, providing identification documents etc...)

⁸² More information can be found on the website of [Kruispunt Migratie – Integratie](#)

⁸³ Vervliet, M. (2013). The trajectories of unaccompanied refugee minors: Aspirations, agency and psychosocial wellbeing. Unpublished PhD dissertation. Gent: Ghent University

Section 6: Return practices, including reintegration of UAMs

This section of the Synthesis Report will provide an overview of (Member) States' Return policies with regard to unaccompanied minors. (Member) States are also requested to provide information on the procedures that apply when an unaccompanied minor claims to be a minor and once minority is either confirmed or disproved.

Q52. Can an unaccompanied minor be returned (through voluntary or forced return) to the country of origin if s/he does not fulfil the entry requirements set out in Section 2?

Categories of unaccompanied minors that may be returned to the country of origin	Please provide more information about the circumstances under which unaccompanied minors may be returned <u>voluntarily</u> to the country of origin a) in <u>national legislation</u> / policy and b) in <u>practice</u> , with a particular focus on developments since 2009.	Please provide more information about the circumstances under which unaccompanied minors may be the subject of a <u>forced return</u> to the country of origin / Dublin country / transit country a) in <u>national legislation</u> / policy and b) in <u>practice</u> , with a particular focus on developments since 2009.	Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.
<i>Non-asylum seeking unaccompanied minor arriving at a land / sea border or airport</i>	Minors can return voluntarily to their home country with agreement of the guardian and when all necessary documents can be issued.	Returns ⁸⁴ of unaccompanied minors at the border (the airport/sea border) do not occur often. Normally, minors can only be returned to their home country or another country following a thorough assessment of the situation and assuming that the guardian agrees that return to his/her country or to a third country is a durable solution. In some cases (e.g. very young children), the guardian will accompany the minor back to the home country or the third country to which (s)he is returned.	A removal order or return decision cannot be taken as long as the age is doubtful.
<i>Non-asylum seeking unaccompanied minor apprehended in the territory of the (Member) State</i>	The number of UAMs who return voluntary is very low (see table 5.2 and 5.3 in annex). Voluntary return is organised by IOM Brussels in cooperation with Fedasil or its partners such as Caritas International. In accordance with UNHCR	Minors can only be returned by to their home country or another country following a thorough assessment of the situation and assuming that the guardian agrees that return to his/her country or to a third country is a durable solution. In some	A removal order or return decision can not be taken as long as the age is doubtful

⁸⁴ An order to leave the territory (annex 13 quater) can in principle not be issued to UAMs, but an order to bring back the minor (annex 38) can be issued to the UAMs guardian.

	<p>guidelines repatriation of minors, assistance with respect to the return of UAMs is limited to candidates who meet the following requirements:</p> <ul style="list-style-type: none"> • UAMs who have formally expressed the wish to return home and for whom it has been decided that return is in the best interests of the child; • UAMs for whom parents / family members in countries of origin have formally indicated their agreement to welcome the child back and assist him/her in his/her reintegration process; • UAMs for whom IOM can provide/link to appropriate reintegration and follow-up assistance in their countries or origin. 	<p>cases (e.g. very young children), the guardian will accompany the minor back to the home country or the third country to which (s)he is returned.</p>	
<i>Asylum seeking unaccompanied minor arriving at a land / sea border or airport</i>	<p>If the guardian in consultation with the minor has decided that it is in the best interest of the child to apply for asylum, there will in principle be no voluntary return before the outcome of the asylum procedure.</p>	<p>UAMs who are still in asylum procedure cannot be returned by force</p>	<p>A removal order or return decision cannot be taken as long as the age is doubtful</p>
<i>Asylum seeking unaccompanied minor apprehended in the territory of the (Member) State</i>	<p>If the guardian in consultation with the minor has decided that it is in the best interest of the child to apply for asylum, there will in principle be no voluntary return before the outcome of the asylum procedure.</p>	<p>UAMs who are still in asylum procedure cannot be returned by force.</p>	<p>A removal order or return decision cannot be taken as long as the age is doubtful</p>
<i>Asylum seeking unaccompanied minor arriving at an internal authority (e.g. police, child protection service, etc.)</i>	<p>If the guardian in consultation with the minor has decided that it is in the best interest of the child to apply for asylum, there will in principle be no voluntary return before the outcome of the asylum procedure.</p>	<p>UAMs who are still in asylum procedure cannot be returned by force.</p>	<p>A removal order or return decision cannot be taken as long as the age is doubtful</p>
<i>Other (please state)</i>			

Q53a. Can unaccompanied minors be detained whilst awaiting return?

No, only when an UAM arrives at the border and there is doubt about the age of the UAM, he can be held in a detention centre until minority has been confirmed (This detention period will in principle not exceed 3 working days).

Q54. Alternatives to detention in place in the (Member) State for unaccompanied minors awaiting return?

UAMs can not be returned by force, nor be detained awaiting their return. The alternatives for detention that are existing in Belgium are serving as an alternative for the detention of families with minor children. Law forbids the detention of unaccompanied minors. The reception facilities for unaccompanied minors as described in section 3 should not be considered as an alternative for detention.

Q55 a & b. Reintegration support to unaccompanied minors returning to their country of origin under return procedures.

In case of **voluntary return**, the reintegration measures and support of UAM follows the procedures for all voluntary returnees: meetings with social workers of the organisations responsible for voluntary return (IOM, Caritas Belgium), practical organisation of the return, meetings with the guardian. Once returned back home, reintegration support is executed by the local partners of the NGO's organising the voluntary return.

Since 2009 IOM Brussels has specific guidelines and internal procedures on return and reintegration assistance to unaccompanied minors.⁸⁵

These guidelines help to assess the needs of vulnerable migrants, such as unaccompanied minors or victims of human trafficking.

Reintegration assistance is generally provided through support with housing/rent, training/education, material assistance, professional equipment and set up of an income-generating activity taking into account the resources and local circumstances in the Countries of origin. There are specific and tailored assistance packages geared to the needs of vulnerable groups, such as unaccompanied minors. In 2012 IOM launched a pilot project for an enhanced reintegration approach as durable solution for Moroccan Unaccompanied Minors - and former Unaccompanied Minors - identified in Belgium.⁸⁶

The return and reintegration of vulnerable groups to any country, ensures pre-departure counselling; providing of adequate, neutral and timely information on the possibilities of reintegration and the set-up of adapted reintegration mechanisms to support reintegration activities. Based on a case by case evaluation, the operational assistance provided to UAMs comprises the following actions⁸⁷:

- providing assistance upon departure and, where possible, in transit.
- arranging for travel escorts – medical or non medical – where needed.
- Upon arrival at the airport in the countries of origin, IOM staff from the national offices welcomes the returnees.
- General follow-up and post-arrival counselling to the returnees is arranged via the IOM office in the country of origin.
- If an appropriate referral mechanism cannot be established, the IOM offices will identify organizations that can provide adequate assistance to the returnees.
- In co-ordination with local NGOs and governmental organizations, the IOM offices in countries of origin can provide tailor-made reintegration assistance to the returnees.

There is also special attention to support the continued education of the children. If the person would already have reached the age of completion of the standard school system, special counselling can be provided to assist the orientation in the labour market, this can include assistance in seeking employment or vocational training.

Minors who are refused entry to the territory (and are in a reception centre with extraterritorial status) or those who are transferred via a Dublin procedure are prepared on their return by social workers and by their guardian. In case of very little children, somebody (either the guardian and/or somebody from the Migration authorities) accompanies the minor during the flight.

⁸⁵ IOM Brussels, [Guidelines on the return and reintegration of unaccompanied minors](#)

⁸⁶ IOM Country Office for Belgium and Luxembourg, year report 2012.

⁸⁷ IOM website, [How can IOM help migrants belonging to a vulnerable group](#)

Q55c. Monitoring mechanisms in place to ensure the effective reintegration of unaccompanied minors

The **local partners** of the organisations responsible for voluntary return perform a follow-up of the returnee and report on each case to the head office in Brussels.

These local partners in the countries of origin report to the head offices in Brussels on the progress of reintegration activities and the implementation of the reintegration plan for each person.

There are also monitoring missions of these organisations to the countries where returnees return to in order to better understand the importance of the reintegration system and its impact on the returnees and their communities. These monitoring missions are not necessarily only targeted on unaccompanied minors.

Caritas International, as second important stakeholder for what concerns voluntary return and reintegration, has developed, in collaboration with its local partners in 14 target countries, a new program designed specifically for those with projects and those identified as vulnerable, including unaccompanied minors. Since 2010, as part of STAVR (Strengthening Tailor-made Assisted Voluntary Return) program funded by the European Commission project, these vulnerable persons can benefit from more intensive and personalized support and assistance, if they come from one of the following countries: Armenia, Bosnia, Brazil, Cameroon, Ecuador, Georgia, Guinea, India, Mongolia, Nepal, Senegal, Togo or Ukraine. STAVR seeks to increase the chances of successful reintegration for people returning voluntarily to their country of origin after their stay in Belgium.⁸⁸

In December 2013, Caritas International has organised a conference in Guinea. The main topic on the agenda was voluntary return and reintegration of Unaccompanied Minors. In addition to partner organisations from Guinea, Cameroon and Morocco, several social workers and guardians joined the event. Belgian representatives who attended the conference gained new insights during the conference. Guardian at the Red Cross Belgium, Wim Bonny, concludes that the most important lesson he has learned during this conference is that the UAM's family in the country of origin should be contacted from the very beginning. By providing information about their trajectory in Belgium, with the help from mediators, the family can get a realistic view on the situation. Kleo Dubois, pedagogue and educational team coordinator at Minor Ndako⁸⁹ says the idea of returning is often only mentioned when an UAM is no longer entitled to stay legally in Belgium. Now she thinks, that return should always be an option for young migrants – also for those who just arrived. She states that the taboo on UAMs and voluntary return should be broken.

Case study successful reintegration: The voluntary return of two Mongolian minors⁹⁰

In July 2013, 2 UAMs, brother and sister, returned to Mongolia. Returning was not an evident choice as they were both well integrated, surrounded by friends, attending school and preparing for a good future in Belgium. Since the elder sister almost reached majority and would no longer be allowed to reside in the centre, they started considering several future options, among which voluntary return. The supervisors played an important role as they gradually started to talk about the idea of returning and contacted the reintegration department when the youngsters still had residence rights in Belgium. During a first exploring conversation with Caritas International, the counsellor asked whether they still had family or friends on which they could rely. This was not evident as their sole relative, their grandmother, refused to help them at first.

Another important topic discussed was the purchase of a 'yurt' (tent house) to ensure housing after return. Due to their young age, the questions of schooling, counselling and airport assistance were also raised. The youngsters found it difficult to assess the situation after a long stay in Belgium. Yet, little by little, the preparations concretized after having contacted Caritas Mongolia. Upon the end of the school year, they left for Ulaanbaatar, where Caritas Mongolia was awaiting them in the airport. Thanks to their guardian in Belgium, they could temporarily stay with a friend of hers in the Mongolian capital. Meanwhile they could look for a school and a 'yurt' together with Caritas Mongolia. It took some time to find a piece of land at a reasonable price, but eventually managed to find a place. After some time, their grandmother was yet prepared to move in with her grandchildren in the yurt. In this way, they could start creating a new 'home'. They are currently reintegrating in their new environment and attending school in view of a good future.

⁸⁸ More information on STAVR can be found on the website of Caritas International.

⁸⁹ Minor Ndako is a non-profit organisation who offers specific accommodation facilities for unaccompanied minors in Belgium who are in a vulnerable situation, such as victims of human trafficking. Similar organizations are located in Wallonia (Esperanto) and in Flanders (Juna).

⁹⁰ Website Caritas International, [Breaking the taboo on UAMs and voluntary return.](#)

Conclusions

Good practices

In 2013, about 1,800 persons who declared to be UAMs were registered by the Guardianship Service. This number is comparable with the number of UAMs before 2009. In 2011 the number of UAMs peaked with 3,258 (self-declared) UAMs who were registered by the Guardianship Service.

There are several best practices worth mentioning and several initiatives were taken to improve the situation of unaccompanied minors in Belgium since the previous EMN report on UAMs, published in 2009:

While there is still room for further improvement of the quality of the accommodation, an **adequate reception place for all asylum and non-asylum seeking UAMs is currently available**. In a very recent past, this was not the case. The reception crisis between 2009 and 2012 dramatically affected the quality of reception of UAMs. Due to a lack of suitable reception places, minors were housed in hotels with little assistance, inappropriate reception structures or in adult departments. In previous years efforts have been made to **create additional reception places** within every stage of the reception system. Within a short period of time, a substantial number of additional reception places have been created, such as through the new Orientation and Observation Centre in Sugny, specifically for non-asylum seeking UAMs, which opened in May 2012. Nevertheless, the fact that there are currently sufficient reception places is also largely due to the decrease in the number of asylum applications in general and the reduced number of UAMs in 2012, 2013 and the first half of 2014. Therefore, it remains to be seen whether the efforts that have been made are sufficient to cope with a possible new significant or abrupt increase in the number of UAMs. The same applies for the number of available guardians and the current **proper functioning of the Guardianship Service** with regard to the time needed to perform the identification procedure, the age assessment test in case of doubt and the time needed to appoint a guardian. There have been some structural improvements, such as improved monitoring and training of guardians and the elaboration of detailed guidelines for guardians based on the Guardianship Act. Most guardianships are now carried out by self-employed guardians or employee-guardians, thus in theory providing more guarantees regarding the competence of guardians. The fact that voluntary guardians can now take up to five instead of two guardianships can also be considered as an improvement to deal with a possible future lack of guardians.

Regarding the **age assessment test**, the manner these medical triple test is conducted and the caution regarding the interpretation of the results and the submitted documents are largely considered as good practices definitely a good practice in the best interest of the child. Despite a careful interpretation of the test results and the application of a standard deviation, the high number of persons whose minority can't be confirmed is somewhat problematic.⁹¹ Not only does this cause a distorted picture of the number of UAMs in Belgium, but it also results in a loss of time and resources to reserve for genuine UAMs.

A significant number of UAMs in Belgium **apply for asylum**. The CGRS has continued to improve the asylum procedure for UAMs via the training of specialised protection officers and by taking into account the mental development and maturity of the child during the interview and the examination of the asylum application. In 2014 a project has been launched and workshops have been held regarding the interpretation of the concept "best interest of the child" within the scope of international protection.

Another good practice in Belgium results of the fact that, besides the asylum procedure, a **specific procedure** exists to grant residence permits to UAMs who are no (longer) asylum seekers. This procedure has existed since 2005 based on a circular but has been incorporated in the Immigration Act in 2011, providing greater legal certainty to these UAMs. Furthermore UAMs can also obtain a temporary or permanent residence permit through other procedures such as the procedure for victims of human trafficking, but for this procedure strict conditions apply and only a limited number of UAMs make use of this procedure. Besides this, there are also the regularisation procedures on humanitarian or medical grounds; although these procedures are not specifically developed for UAMs.

⁹¹ In 2012, an age assessment test was performed in 953 cases on a total of 2811 persons who declared to be an UAM. Of these 953 cases, no less than 689 persons could not be considered as a minor. In 2013, on a total of 1786 (self-declared) UAMs, 536 age assessment tests were carried out, resulting in 405 persons who were considered to be adults.

Detention of UAMs is forbidden by law and there are **no forced returns**. Besides the voluntary returns organised via IOM, there is also a limited number of returns of UAMs who are refused entry at the border or who are transferred to another member state via the Dublin regulation. Although these returns cannot be considered as typical assisted voluntary returns, they occur at present only when this is in the best interest of the child and when there are guarantees that the UAM will be taken care of by family members in the country to which the minor is returned or transferred.

Overall it can be concluded that the Belgian authorities, through the different residence procedures, the satisfactory functioning of the guardianship system and the currently sufficient number of places available for adequate reception, **manage to limit the protection gaps** for UAMs. Also UAMs have a good chance of extending their residence permit when reaching majority if they meet certain conditions such as having a job or being enrolled as a fulltime student. A recent bill of March 20, 2014, also allows the Guardianship Service to appoint a guardian for UAMs from an EU member state who are in a vulnerable situation, or who are in the procedure for victims of human trafficking.

Remaining challenges

Though there are no comprehensive statistics available, the number of **UAMs who disappear** during the first reception stage or even before arrival at a reception facility continues to be a major concern. The Protocol Agreement of 2013 signed between the different bodies active with UAMs is a good attempt to implement a more systematic monitoring of UAMs who are not asylum seekers; but this does not prevent a lot of intercepted UAMs to disappear. The protocol stipulates that an UAM who is intercepted should be brought to the Immigration Office; or if this is not possible, should be invited to come to the Immigration Office for registration. In practice, there are more invitations than actual transports and a lot of UAMs ignore the invitation or refuse to come to the Immigration Office or to go to a reception centre. One could argue it is not possible to use force to bring minors to the Immigration Office or to a reception centre and that it is difficult to help UAMs against their own will. The problem of disappearances typically - but not exclusively - concerns UAMs who are not asylum seekers. They often come from Maghreb countries or belong to the Roma-community and frequently claim to be 16 or 17 years old.

Regarding the **disappearances from the reception facilities**, the fully open character of the reception facilities, especially regarding the Orientation and Observation Centres where most disappearances occur, might be worth a debate. Obviously it is a good thing that UAMs cannot be detained, but maybe UAMs could be held in a more secured reception facility, at least during the first days after their interception when the risk of absconding seems to be most significant. The objective of this approach would be to be able to provide at least a minimum of information to the minor regarding his options and to get a better chance of making an assessment regarding the vulnerability of the UAM or the risk to become a victim of human trafficking or other forms of exploitation. Specialised reception centres such as Minor Ndako, Juna and Esperanto could serve as an example in finding a better balance between securing reception facilities in the interest of the child and the right to freedom.

Despite the fact that the Guardianship Act and the Immigration Act stipulate that a **return** to the country of origin or to another country where family members have a legal residence status and can take care of the minor can be a durable solution, in practice the number of UAMs who return is rather limited. Most of them obtain a temporary or permanent permit in Belgium or disappear. Although the number of UAMs who return voluntarily via IOM increased compared to previous years, this number continues to be low.⁹² As indicated in this report, the idea of returning is often only mentioned when an UAM is no longer entitled to stay legally in Belgium. As stated in the previous EMN report on UAMs, some guardians tend to be reluctant to see return as a durable solution in the best interest of the child. In Belgium many actors and services with different legal responsibilities are involved when it comes to UAMs and they do not always necessarily share the same vision on what is in the best interest of the child. In Belgium an order to leave the territory cannot be issued to an UAM, but an order to bring back the minor can be issued to the guardian, if the Immigration Office considers this to be the best durable solution. In practice, however, these orders are rarely enforced and are in fact ignored by guardians. In many cases a return is indeed not the preferable solution, but in other cases this could avoid that UAMs disappear, become victims of human trafficking or become illegally staying persons once they reach majority.

The fact that **several stakeholders** are involved and each of them has its own **statistics** makes it difficult to get a clear overview of the number of UAMs, the number of UAMs within each procedure, or the number of disappearances. It also makes it more difficult to do a follow-up and to develop a policy to address issues such as disappearing, reaching majority, switching from one procedure to another, etc. A centralised database, more concentration and/or

⁹² In 2013, 25 persons were returned via assisted voluntary return.

better exchange of available information between different stakeholders are other challenges where further progress is desirable.

Annex 1: Statistical data

Table 1: Statistics on asylum applications from unaccompanied minors in the (Member) State (2009-2013)

1. Statistics on numbers of <u>asylum applications submitted by third-country nationals unaccompanied minors</u>	2009	2010	2011	2012	2013	Source / further information
1.1 Total Number of Asylum Applications submitted by unaccompanied minors in the (Member) State in each reference period	710	860	1385	975	420	National authorities/ Eurostat, consultation on 25/09/2014
Total Number of Asylum Applicants who claimed to be UAMs	(935)	(1081)	(2020)	(1546)	(679)	

1.2 Total number of <u>Asylum Applications</u> submitted by unaccompanied minors in the (Member) State in each reference period, disaggregated by their country of nationality, where available:	2009	2010	2011	2012	2013	Source / further information
Afghanistan	225	220	570	425	110	Eurostat consultation on 25/09/2014
Guinea	130	215	265	155	60	
Congo (DR)	45	50	50	80	45	
Other: (please include any numbers of unaccompanied minors not included in any of the categories above)	310	375	500	315	215	
Total (must equal the total in 1.1)	710	860	1385	975	430	

1.3 Total number of <u>Asylum Applications</u> submitted by unaccompanied minors in the (Member) State in each reference period, disaggregated by their sex and age, where available:	2009		2010		2011		2012		2013		Source/ further information
	M	F									
Less than 14 years old	30	25	45	25	95	55	55	40	30	25	Eurostat consultation on 25/09/2014
From 14 to 15 years old	170	35	180	50	370	40	210	40	70	30	

From 16 to 17 years old	350	105	395	165	615	210	465	165	180	80	
Unknown	0	0	0	0	0	0	0	0	0	0	
Total (should equal 1.1)	550	165	620	240	1080	305	730	245	280	135	

1.4 Total <u>Asylum Decisions for unaccompanied minors</u>, disaggregated by sex	2009		2010		2011		2012		2013		Source/ further information
	M	F	National authorities								
1.4.1 Total number of <u>asylum decisions</u> for unaccompanied minors in the reference year (disaggregated by sex)	305	189	538	264	614	406	1288	412	1253	455	CGRS
1.4.2 Total number of <u>positive asylum decisions</u> for unaccompanied minors in the reference year (disaggregated by sex)	177	110	278	135	291	248	712	222	625	244	CGRS
1.4.2.1 Of the total positive asylum decisions provided above please provide the <u>status granted to the unaccompanied minor</u> :											CGRS
a) Refugee status	136	110	157	133	202	245	269	215	266	234	
b) Subsidiary protection	41	0	121	2	89	3	443	7	359	10	
c) Humanitarian reasons											In Belgium, a humanitarian status can not be the outcome of an asylum procedure. ⁹³
Total (must equal 1.4.2.1)	177	110	278	135	291	248	712	222	625	244	

⁹³ The Immigration Act provides specific procedures for residence permit on humanitarian and medical grounds (art 9bis and art. 9ter Immigration Act)

1.5 Total number of residence permits granted to unaccompanied minors receiving positive asylum decisions	2009		2010		2011		2012		2013		Source/ further information
	M	F									
Type of residence permit granted 1 etc... (please add in additional rows as required):											See table 1.4. ⁹⁴

1.6 Asylum seeking unaccompanied minors that abscond and/ or are reported as missing from the asylum system (including those then accounted for)	2009		2010		2011		2012		2013		Source/ further information
	M	F									
1.6.1 Total number of Asylum seeking UAMs that <u>abscond and/ or are reported as missing from the asylum system (e.g. before first interview/ decision, etc.)</u> , disaggregated by sex	5	4	11	5	9	5	15	3	18	10	CGRS database ⁹⁵
1.6.2 Total number of Asylum seeking UAMs that <u>are found back (after being reported as missing)</u>											Not available

⁹⁴ All the persons in table 1.4 who were granted refugee status received a permanent residence permit, and all those who were granted subsidiary protection got a temporary (renewable) permit. Although the residence permits for persons who were granted subsidiary protection are in theory temporary (electronic card A), they are in practice always renewed and after five years a permanent residence permit is issued. (electronic card B).

⁹⁵ This reflects the number of implicit withdrawals for UAMs in line with Article 28 of the Asylum Procedures Directive.

Table 2: Statistics on unaccompanied minors NOT applying for asylum in the (Member) State (2009-2013)

Note: In Belgium there are no statistics available specifically on UAMs who did not apply for asylum. An estimation can be made through calculations based on the difference between the total number of unaccompanied minors⁹⁶ (source guardianship service), and the number of asylum seekers considered to be UAMs (source Eurostat database on 25/09/2014)

<i>Statistics on numbers of third-country national unaccompanied minors NOT applying for asylum</i>	2009	2010	2011	2012	2013	Source / further information
2.1 Total number of unaccompanied minors NOT applying for asylum in the (Member) State in each reference period	1469	1326	1144	1147	911	Guardianship Service and own calculations

More detailed statistics are only available for the most important special residence procedure for UAMs who are no asylum seekers (the specific residence procedure as described in Article 61/14 – 61/25 of the Immigration Act).⁹⁷

Procedure for UAMs not applying for asylum (61/14 Immigration Act): <i>Statistics on numbers of third-country national unaccompanied minors NOT applying for asylum</i> ⁹⁸	2009	2010	2011	2012	2013	Source / further information
Number of unaccompanied minors not applying for asylum in the (Member) State in each reference period	263	233	310	207	165	Immigration Office (MINTEH)

Procedure for UAMs not applying for asylum (61/14 Immigration Act): Number of unaccompanied minors NOT applying for asylum in the (Member) State in each reference period, disaggregated by their country of nationality, where available:	2009	2010	2011	2012	2013	Source / further information
Afghanistan	35	9	23	13	15	
Congo (DR)	34	41	75	40	22	
Morocco	43	45	41	39	29	
Algeria	0	12	6	3	0	
Guinea	16	11	28	23	11	
Other: (please include any numbers of unaccompanied minors not	135	115	137	89	88	

⁹⁶ excluding those who cannot be considered as a minor after an age determination test (guardian service: 322 persons in 2009, 324 in 2010, 729 in 2011, 789 in 2012 and 405 in 2013 self-declared UAMs could not be considered as a minor).

⁹⁷ These statistics do not include UAMs who are in the procedure for human trafficking, or in other procedures such as family reunification, regularisation, etc... Those who declare to be an UAM but disappear are also not included.

included in any of the categories above)						
Total (must equal the total in 2.1)	263	233	310	207	165	

Procedure for UAMs not applying for asylum (61/14 Immigration Act): Number of unaccompanied minors <u>NOT applying for asylum</u> in the (Member) State in each reference period, disaggregated by their sex and age:	2009		2010		2011		2012		2013		Source / further information
	Less than 14 years old	60		82		88		53		45	
From 14 to 15 years old	51		35		57		40		32		
From 16 to 17 years old	144		113		161		111		85		
Unknown	8		3		4		3		3		
Total (should equal 2.1)	263		233		310		207		165		

Procedure for UAMs not applying for asylum (61/14 Immigration Act): <u>number of residence permits granted to unaccompanied minors not in the asylum system, disaggregated by sex</u>	2009		2010		2011		2012		2013		Source / further information
	M	F	M	F	M	F	M	F	M	F	
Type of residence permit granted 1 etc... (please add in additional rows as required):											
A Card (temporary permit)	39	56	51	51	36	38	15	34	10	21	
B Card (permanent permit)	19	18	22	29	17	13	10	15	11	23	

Table 3: Statistics on asylum and / or non-asylum seeking unaccompanied minors in the care of public authorities in the (Member) State (2009-2013)

3.1 Statistics on numbers of third-country national unaccompanied minors in the care of the public authorities	2009	2010	2011	2012	2013	Source / further information
						Immigration Office (MINTEH)
Total number of unaccompanied minors in the care of the public authorities in each reference period	1177 (931M/246F)	1431 (1098M/333F)	1591 (1194M/397F)	1591 (1232M/359F)	1558 (1262M/296F)	

3.2 Total Number of unaccompanied minors in the care of the public authorities in each reference period, disaggregated by their country of nationality	2009	2010	2011	2012	2013	Source / further information
						National data Fedasil
Afghanistan	377 (374M/3F)	480 (471M/9F)	605 (591M/14F)	667 (653M/14F)	687 (680M/7F)	
Guinea	186 (116M/70F)	351 (214M/136F)	385 (217M/168F)	309 (157M/152F)	211 (116M/95F)	
DR Congo	70 (29M/41F)	74 (29M/45F)	61 (27M/34F)	81 (26M/55F)	84 (35M/19F)	
Morocco	72 (70M/2F)	34 (32M/2F)	34 (32M/2F)	61 (56M/5F)	77 (74M/3F)	
Iraq	56 (56M/0F)	56 (54M/0F)	42 (39M/3F)	29 (28M/1F)	18 (17M/1F)	
Somalia	18 (17M/1F)	41 (30M/11F)	30 (20M/10F)	31 (17M/14F)	39 (24M/15F)	

Table 4: Statistics on unaccompanied minors in detention pending return in the (Member) State (2009-2013)

4.1 Total Number of unaccompanied minors <u>in detention</u> pending return in each reference period, disaggregated by their sex and age:	2009		2010		2011		2012		2013		Source / further information
	M	F	M	F	M	F	M	F	M	F	National data
Total	0	Law forbids the detention of UAMs									

Table 5: Statistics on unaccompanied minors returned from (Member) States (2009-2013)

5.1 <i>Forced Return measures</i>	2009		2010		2011		2012		2013		Source / further information
	M	F	M	F	M	F	M	F	M	F	National data
5.1 Total Number of unaccompanied minors returned as part of <u>forced return</u> measures in each reference period (where data exists)	0	0	0	0	0	0	0	0	0	0	Immigration Office
Country of return (country of origin) 1 etc...: (please add in additional rows as required):	0	0	0	0	0	0	0	0	0	0	There were no forced returns of UAMs, illegally residing on the territory ⁹⁹
Country of return (Dublin country) 1 etc... (please add in additional rows as required):	A Dublin transfer of an UAM is only possible if the guardian agrees this a durable solution and if it is in the best interest of the child. (A Dublin transfer should thus not really be considered as a forced return). ¹⁰⁰ The past five years, there were a limited number of decisions to request a Dublin transfer for an UAM, but the actual number of transfers was very low (a few cases a year). ¹⁰¹										
Other: Returns of UAMs arriving at the border for whom a refusal of access to the territory was issued (annex 11)	4		6		16		17		6		This concerns UAMs who arrived at the border and for whom a refusal of access to the territory was issued. ¹⁰²

⁹⁹ Source Immigration Office (G. Verbauwheide – Head of unit Return and Detention)

¹⁰⁰ Source Immigration Office (K. Vanhove - Dublin unit)

¹⁰¹ The European Court of Justice stated in its judgment of 6 June 2013 that “where an unaccompanied minor with no member of his family legally present in the territory of a Member State has lodged asylum applications in more than one Member State, the Member State in which that minor is present after having lodged an asylum application there, is to be designated the ‘Member State responsible’”. The court provides herewith an interpretation for the second paragraph of Article 6 of the Dublin Regulation (EC) No 343/2003 of 18 February 2003. The Belgian Immigration Office changed its practice to act according to this judgment of the Court of Justice and will not send back unaccompanied minors according to the Dublin Regulation if there are no family members in another Member State. <http://curia.europa.eu/juris/documents.jsf?num=C-648/11>

¹⁰² Since these returns only occur if the guardian agrees this a durable solution and in the best interest of the child this should not really be considered as a forced return. Source Immigration Office (Border Inspection, J. Neyskens)

5.2 Voluntary Return measures¹⁰³	2009		2010		2011		2012		2013		Source / further information
	M	F	National data Fedasil								
5.2 Total Number of unaccompanied minors returned as part of <u>voluntary return</u> measure in each reference period (where data exists)	1	0	1	2	1	2	1	4	1	2	
Georgia	1										
Canada			1								
Romenia				2							
FYROM					1	1					
Brazil						1		?			
Russian Fed.							1	?			
Iraq									1		
Congo RDC										2	
Other: (please include any numbers of unaccompanied minors not included in any of the categories above)	n/a	n/a									
Total (must equal 5.2)	1	0	1	2	1	2	1	4	1	2	

¹⁰³ This is the number of voluntary returns without making use of reintegration support. A "?" in the table refers to the fact UAMs from this country of origin returned via voluntary return, but the exact number is unknown.

<i>5.3 Assisted (Voluntary) Return measures</i> ¹⁰⁴	2009		2010		2011		2012		2013		Source / further information
	M	F									
5.3 Total Number of unaccompanied minors returned as part of <u>assisted voluntary return</u> measure in each reference period (where data exists)	2	5	5	3	6	4	6	3	19	6	National data Fedasil
Afghanistan					?		?		?		
Angola									?		
Armenia									?		
Bangladesh									?		
Bosnia									?		
Brazil	2	?	1			1				?	
Bulgaria		?									
Albania		?							?		
Congo RDC									?		
Congo-Brazzaville										?	
Kosovo			1	1	?			?		?	
Moldavia			1								
Morocco			1						?		
Nigeria											
Tunisia			1								
FYROM				1		1			?		
Madagascar				1							
Russian Fed.					?	1		?	?		
Rwanda									?		
Mongolia						1					

¹⁰⁴ This is the number of voluntary returns making use of reintegration support. A "?" in the table refers to the fact UAMs from this country of origin returned via assisted voluntary return, but the exact number is unknown.

Nigeria										?	
Iraq							?		?		
Guinea							?				
Gambia							?				
Turkey										?	
Serbia						?		?		?	

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Other relevant sources and literature:

EMN Ad-Hoc Queries

Three EMN Ad-Hoc Queries on UAMs have been launched in the period 2011-2013. The 2011 Ad-Hoc Query¹⁰⁵ was concerned with the detention of families with minors. Further aspects covered in the 2012¹⁰⁶ and 2013¹⁰⁷ EMN Ad-Hoc Queries in relation to UAMs were various facts and figures in relation to UAMs, with a particular emphasis on the increasing numbers of UAMs in the EU.

Studies and reports

A number of European and national level studies have addressed various aspects of the protection of UAMs, notably:

- ★ In 2012, **EASO** sent out a questionnaire to Member States and civil society organisations to assess current policies and practices in the EU, to further contribute towards the development of guidelines on age assessment. In 2014, EASO produced a publication on Age Assessment Practice in the EU;¹⁰⁸ EASO will also develop and publish a document on family tracing.¹⁰⁹ EASO has also updated the European Asylum Curriculum module *Interviewing Children* in a child-friendly manner.
- ★ In 2011, **FRA** issued a comparative report *Separated, asylum-seeking children in European Union Member States*¹¹⁰ which examines the experiences and views of unaccompanied minors and those responsible for their care in 12 Member States in the following areas: i) living conditions, ii) legal issues and procedures, iii) maltreatment and abuse, and iv) turning 18. FRA is also working on a model on guardianship for children deprived of parental care, which includes provisions for UAMs.
- ★ **Frontex'** Joint Operation Hammer has resulted in operational guidelines on how to deal with children, including unaccompanied minors, at the external borders;¹¹¹
- ★ A 2012 workshop of the **European Forum on the Rights of the Child** looked at the role of child protection systems in safeguarding 'children on the move' in recognition of their particularly vulnerable situation.¹¹² The 2013 Forum, for which the report has been recently published, had a workshop on children on the move as well.¹¹³
- ★ In December 2011, an EC-commissioned study on **best practices in the field of return of minors** was carried out by ECRE, in strategic partnership with Save the Children.¹¹⁴ The report provides a detailed overview of the current legislation and administrative practice in each Member State concerning the rights and treatment of children in the return process. It also looks at the administrative practice in 7 countries of return concerning the reception of children.
- ★ In 2012, **European Parliament**¹¹⁵ commissioned research considered the law, policies and practice for gender-related asylum claims in 9 Member States. The study explores the extent to which women (considered as a vulnerable group associated with children) and girls receive gender-sensitive treatment in asylum systems across Europe.

¹⁰⁵ http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/return/332_emn_ad-hoc_query_detention_of_families_with_minors_28jun2011_wider_dissemination_en.pdf

¹⁰⁶ http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/protection/367_emn_ad-hoc_query_unaccompanied_minors_-_updated_facts_and_statistics_23jan2012_wider_dissemina_en.pdf

¹⁰⁷ http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/return/439_emn_ad-hoc_query_on_return_of_uam_13november2012_wider_dissemination.pdf

¹⁰⁸ <http://easo.europa.eu/wp-content/uploads/EASO-Age-assessment-practice-in-Europe.pdf>

¹⁰⁹ <http://easo.europa.eu/wp-content/uploads/Work-Programme-2014.pdf>

¹¹⁰ http://fra.europa.eu/sites/default/files/fra_uploads/1692-SEPAC-comparative-report_EN.pdf

¹¹¹ http://ec.europa.eu/dgs/home-affairs/e-library/docs/uam/uam_report_20120928_en.pdf

¹¹² http://ec.europa.eu/justice/fundamental-rights/files/background_cps_children_on_the_move_en.pdf

¹¹³ http://ec.europa.eu/justice/fundamental-rights/files/s2_forum_move_en.pdf

¹¹⁴ <http://www.ecre.org/component/downloads/downloads/369.html>

¹¹⁵ http://www.europarl.europa.eu/RegData/etudes/etudes/JOIN/2012/462481/IPOL-FEMM_ET%282012%29462481_EN.pdf

- ★ Also in 2013, the **IOM** (amongst others) published a report¹¹⁶ titled *Children on the Move* which targets policy-makers and practitioners in the field of migration and child protection and sheds light on the situation of migrant children. Among other topics the report discusses the role of legal guardians in the context of return of unaccompanied children and the child protection approach to children's migration.
- ★ In 2013, the Platform for International Cooperation on Undocumented Migrants (PICUM) published *Children First and Foremost: A Guide to Realising the Rights of Children and Families in an Irregular Migration Situation*¹¹⁷ which provides tools and strategies based on good practice examples for overcoming practical barriers to accessing undocumented children's rights in the areas of education, healthcare and housing.
- ★ In 2013, the Commission published a study on *Missing Children in the European Union: Mapping, data collection and statistics*¹¹⁸ which identifies UAMs as one category of missing children and provides figures on the numbers of missing UAMs for 12 Member States. In parallel to the above-mentioned research, the Commission has undertaken a Study to collect data on children's involvement in judicial proceedings, which is expected to provide data (if available) on appeals against asylum decisions about UAMs as part of the study's ongoing civil and administrative justice phase.
- ★ In 2014, UNHCR together with the Council of Europe published a report¹¹⁹ on practices in the EU regarding unaccompanied and separated asylum-seeking and refugee children that turn 18. Covered are the Member States Austria, France, Hungary and Sweden.
- ★ In 2014, the European Council on Refugees and Exiles (ECRE) will publish a comparative study on the issue of access and quality of legal assistance for unaccompanied children in various migration and asylum procedures in 7 Member States: Austria, Belgium, Bulgaria, Denmark, Italy, Spain and the UK. The study is part of a project on Right to Justice which aims to develop recommendations and promote good practices on legal assistance to unaccompanied children among legal advisers and professionals working with separated children.¹²⁰

Finally, as a follow-up to the European Parliament Resolution of September 2013, the Commission will work on a handbook compiling all existing legal provisions regarding UAMs that are contained in different EU legal instruments.

¹¹⁶ http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=41_7&products_id=936

¹¹⁷ <http://picum.org/picum.org/uploads/publication/Children%20First%20and%20Foremost.pdf>

¹¹⁸ http://ec.europa.eu/justice/fundamental-rights/files/missing_children_study_2013_en.pdf

¹¹⁹ http://www.coe.int/t/dg4/youth/Source/Resources/Documents/2014_UNHCR_and_Council_of_Europe_Report_Transition_Adulthood.pdf

¹²⁰ <http://www.ecre.org/component/content/article/63-projects/325-right-to-justice.html>

Annex 3: Definitions

'Absconding' refers to the action by which a person seeks to avoid legal proceedings by not surrendering to the custody of a court. (Source: EMN Glossary 2.0).

'Accelerated international protection procedure' refer to a significantly faster examination procedure of an application for international protection than an ordinary examination of an international protection procedure (Source: based on Recast of Asylum Procedures Directive 2013/32/EU, Preamble (20)). (Source: EMN Glossary 2.0).

'Accommodation centre' refers to any place used for the collective housing of asylum seekers. (Source: EMN Glossary 2.0).

'Age assessment' refers to any formal or systematic procedures used to assess the chronological age (or the claim to be a minor if age assessment does not result in the determination of a specific age) of an individual claiming to be a minor, when the relevant authorities find that there is reason to doubt the correctness of that claim or of the stated date of birth (or age) given. These procedures may involve both medical and socio-psychological examinations or evaluations. (Source: Adapted on the basis of EASO's definition in Annex 1 of Age Assessment Practice in the EU).

'Asylum' is a form of protection given by a State on its territory based on the principle of non-refoulement and internationally or nationally recognised refugee rights. It is granted to a person who is unable to seek protection in his/ her country of citizenship and/ or residence in particular for fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion. (Source: EMN Glossary 2.0).

'Asylum seeker' refers to a third-country national or a stateless person who has made an application for asylum in respect of which a final decision has not yet been taken. (Source: EMN Glossary 2.0).

'Common European Asylum System (CEAS)' refers to the establishment of a common asylum procedure and a uniform status for those who are granted asylum or subsidiary protection in the EU, as well as strengthening practical cooperation between national asylum administrations and the external dimension of asylum. (Source: EMN Glossary 2.0).

'Country of origin' refers to the country (or countries) which are a source of migratory flows and of which a migrant may have citizenship. In refugee context, this means the country (or countries) of nationality or, for stateless persons, of former habitual residence. *Note that in this context 'country of origin' may also refer to the country where the person claiming to be a UAM was born or has resided with parents who have fled from the country of their nationality.* (Source: EMN Glossary 2.0).

'Country of return' refers to a third country to which a third-country national returns. (Source: EMN Glossary 2.0).

'Detention' is defined as "restriction on freedom of movement through confinement that is ordered by an administrative or judicial authority(ies) in order that another procedure may be implemented." (Source: EMN Glossary 2.0).

'Detention facility' is defined as a "specialised facility used for the detention of a third-country national in accordance with national law. In context of the EU's Return Directive (2008/115/EC), a facility to keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process, in particular when: (a) there is a risk of absconding; or (b) the third-country national concerned avoids or hampers the preparation of return or the removal process." (Source: EMN Glossary 2.0).

'Determining Asylum Authority' in the asylum context is any quasi-judicial or administrative body in a Member State responsible for examining applications for asylum and competent to take decisions at first instance in such cases, subject to Annex I of Council Directive 2005/85/EC. (Source: EMN Glossary 2.0).

'Diaspora' refers to individuals and members or networks, associations and communities, who have left their country of origin, but maintain links with their homelands. (Source: EMN Glossary 2.0).

'Dublin Regulation' is the Regulation (No. 604/2013) which lays down the criteria and mechanisms for determining the Member State responsible for examining an application for asylum lodged in one of the Member States by a third-country national. (Source: EMN Glossary 2.0).

'Durable solution' refers to the voluntary repatriation, local integration, or resettlement to a third country in situations where it is impossible for a person to go back home or remain in the host country. In the context of unaccompanied minors, a durable solution assessment is undertaken to determine not only if a child should return to their country of origin, but also whether it is in the best interest of the child to apply for international protection, trafficking protection or to make an application to stay in the country of arrival on immigration or human rights and children's rights grounds. This process must include a determination of the child's best interest in line with international and EU legislation (UN CRC, UNCRC Comment No. 6 and Directives within the context of the European asylum *acquis*). (Source: Adapted on the basis of the UNHCR definition and the Durable Solutions for Separated Children in Europe project).

'Forced return' is defined as "the compulsory return of an individual to the country of origin, transit or third country [i.e. country of return], on the basis of an administrative or judicial act". Synonym: Removal (UK) (Source: EMN Glossary 2.0)

'International protection' is defined, "in the EU context, as encompassing the refugee and subsidiary protection status as defined in Article 2 (d) and (f) of Council Directive 2004/83/EC: Article 2d) "refugee status" means the recognition by a Member State of a third country national or a stateless person as a refugee; and Article 2f) "subsidiary protection status" means the recognition by a Member State of a third country national or a stateless person as a person eligible for subsidiary protection". (Source: EMN Glossary 2.0)

'Reception centre' refers to an open centre with facilities for receiving, processing and attending to the immediate needs of refugees or applicants for international protection as they arrive in the Member State where they have received / are applying for protection. (Source: adapted from the definition of 'reception centre' in EMN Glossary 2.0)

'Residence permit' is any authorisation issued by the authorities of a Member State allowing a third-country national to stay legally in its territory, in accordance with the provisions of Article 1(2)(a) of Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals. (Source: EMN Glossary 2.0).

'Trafficking in human beings' is the recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. (Source: EMN Glossary 2.0).

'Unaccompanied minor' refers to a third-country national or stateless person below the age of eighteen, who arrives on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person, or minors who are left unaccompanied after they have entered the territory of the Member States. *Note that not all those who claim to be a UAM will be confirmed as such by the relevant authorities.* (Source: EMN Glossary 2.0).

'Voluntary return' refers to the assisted (in which case it would be Assisted Voluntary Return) or independent return to the country of origin, transit or third country, based on the free will of the returnee. (Source: EMN Glossary 2.0).