

## UNACCOMPANIED AND SEPARATED ASYLUM-SEEKING AND REFUGEE CHILDREN TURNING EIGHTEEN: WHAT TO CELEBRATE?

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**UNHCR / Council of Europe field research on  
European State practice regarding transition to adulthood of  
unaccompanied and separated asylum-seeking and refugee children**



**March 2014  
Strasbourg, France**

The present study was conducted by a consultant under the joint supervision and funding of the UNHCR Representation to the European Institutions in Strasbourg and the Council of Europe's Youth Department. While the study draws on various sources, including UNHCR and Council of Europe documents, it does not necessarily represent the official views of these organisations.

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**“Picture of part of a wall painted by young unaccompanied refugees in the "Maison du jeune réfugié" in Paris on the topic of what they need in order to be happy”, © photo: Nadine Lyamouri-Bajja**



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# Acknowledgments

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The field research and the report were prepared by Nadine Lyamouri-Bajja, international consultant on human rights and intercultural dialogue issues. The UNHCR Representation to the European Institutions in Strasbourg and the Youth Department of the Council of Europe are sincerely grateful for her work.

Appreciation is extended to the authorities of Austria, France, Hungary and Sweden, as well as other interlocutors in these countries, for their co-operation in the course of the research.

A special mention goes to unaccompanied and separated asylum-seeking and refugee children and young adults who had the courage and the energy to take part in interviews and contributed greatly to this project.

Special thanks also go to staff at the UNHCR Offices in Austria, France, Hungary and Sweden for facilitating the country visits of the consultant and providing relevant background information and briefings. Thanks also go to staff in other UNHCR country / regional offices in Europe for their contribution to the research.

The consultant, the UNHCR Representation to the European Institutions in Strasbourg and the Youth Department of the Council of Europe are also particularly grateful to the following people in the four CoE Member States visited:

## For Sweden

- Amir Hashemi-Nik
- The Municipality of Huddinge
- Margareta Welin from KBC Stöd-Och
- Laila, Milen, Amir, Nizar and N, H

## For Austria

- Heinz Fronck
- Annika Bergunde
- Moe
- Beatrix Peichl from Don Bosco care facility
- Elina Smolinski from Caritas

## For Hungary

- Emőke Takács from Menedek
- Dóra Kanizsai-Nagy from the Refugee Mission of the Reformed Mission Centre
- Julia Iván from the Hungarian Helsinki Committee

- The Director of the facility in Fót, István Kádas, the Deputy-director, Ilona Gazdagné Bozsó and the Head of the Home for unaccompanied minors, Fatana Jananné Raoufi

For France

- Pauline Ferrais from the Maison du Jeune Réfugié, France Terre d'Asile
- Lisa Vitturi
- Nathalie Lequeux from the Office of the Children's Ombudsman
- Théodora Kristofori
- Cihan Gunes from Paroles Sans Frontières
- Sophie Laurant from InfoMIE
- Thierno Diallo for his input on transition to adulthood at the PACE AS/Mig meeting

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# List of Abbreviations

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**AS/Mig:** Committee of Migration, Refugees and Displaced Persons of the Parliamentary Assembly of the Council of Europe

**CJM:** Contrat Jeunes Majeurs (contract for young adults)

**EMN:** European Migration Network

**EU:** European Union

**FRA:** Fundamental Rights Agency of the European Union

**NGO:** Non-Governmental Organisation

**OFPRA:** Office Français de Protection des Réfugiés et Apatrides (French Office for the Protection of Refugees and Stateless People)

**PACE:** Parliamentary Assembly of the Council of Europe

**UAM:** Unaccompanied Minor

**UASC:** Unaccompanied and Separated Children

**UASASC:** Unaccompanied and Separated Asylum-Seeking Children

**UASASRC:** Unaccompanied and Separated Asylum-Seeking and Refugee Children

**UNHCR:** United Nations High Commissioner for refugees

**VYRE:** Voices of Young Refugees in Europe



# Executive Summary

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## I. Main considerations

The present study first and foremost aims at collecting data and examples about practices in Council of Europe Member States concerning the situation of unaccompanied and separated<sup>1</sup> asylum seeking children (UASASC) when they reach the age of majority, and more specifically how four of these States (namely Austria, France, Hungary and Sweden)<sup>2</sup> address the challenges faced by this category as a result of this critical change of legal regime. The research focused in particular on the difficulties faced by young unaccompanied and separated asylum seekers in the asylum procedure and the reception system after losing the specific guarantees they enjoyed as Unaccompanied and Separated Children (UASC). However, the field research also gathered some data and testimonies about young unaccompanied and separated refugees and subsidiary protection beneficiaries turning 18. Their situation is therefore also addressed in some respects.

Importantly, while the change of legal regime and the loss of the specific guarantees enjoyed by Unaccompanied and Separated Asylum Seeking and refugee children (UASASRC)<sup>3</sup> happen at a cut-off date, when they reach the age of majority, the study

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<sup>1</sup> "Separated children are under 18 years of age, outside their country of origin and separated from both parents, or their previous legal, or customary primary caregiver. Some children are totally alone while others, may be living with extended family members who are not necessarily their customary or primary caregivers. All such children are separated children and entitled to international protection under a broad range of international and regional instruments. While some separated children are 'accompanied' when they arrive in Europe, the accompanying adult(s) may not necessarily be able, or suitable, to assume responsibility for their care."

Separated Children in Europe Programme, *Statement of Good practice*, 4th revised edition, 2009.

<sup>2</sup> For further details on the selection process of these countries, please see the Introduction below.

<sup>3</sup> For the purpose of the present study, this expression is used to refer to unaccompanied and separated asylum seeking children as well as unaccompanied and separated children who were granted refugee status under the 1951 Convention relating the Status of Refugees or subsidiary protection under the Directive 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted. These forms of **international protection** are defined as follows:

A **refugee** is someone who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country."

A **subsidiary protection** beneficiary is "a third- country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual

also took into account their situation before and after that date. This is critical to appreciate the magnitude of this change and its long lasting and multifaceted implications. In this connection, the study recommends to approach that turning point as a transition phase in order to address its consequences in the most comprehensive and appropriate way. The expression “transition to adulthood” and the related recommendations in the present study should be understood accordingly.

The study should serve as a basis for encouraging the exchange of good practices among concerned stakeholders in order to facilitate this transition phase.

## **II. Main findings and recommendations**

The general and specific recommendations of the report listed below reflect broadly the priorities, issues and understandings emerging from the desk research and discussions with various stakeholders during the study. In addition, the report includes in certain sections concrete suggestions from young unaccompanied and separated asylum seekers and international protection beneficiaries<sup>4</sup> about the way their transition to adulthood could be facilitated. Accordingly, they also constitute a precious source of inspiration for decision makers on this topic as they reflect the views of some of those who are primarily affected by the issues covered in this report.

### **General findings and recommendations**

The legal framework and practices relevant to the transition to adulthood of this particularly vulnerable group of children differ considerably between, and even within, Council of Europe Member States. **Existing legal frameworks and practices should be further harmonised in the light of the good practices identified in the present study.**

- While a number of provisions of general instruments may be relevant in dealing with the transition to adulthood of UASASRC, there are very few specific standards or good practice guidance on this issue, in particular at the international and European levels. **Concerned stakeholders should therefore elaborate comprehensive guidelines to assist the Council of Europe Member States in facilitating the transition to adulthood for this group of young people in line with their obligations under international and European law.**
- Age assessment is resorted to by Council of Europe Member States and techniques vary greatly across Europe. The reliability of such techniques has

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residence, would face a real risk of suffering serious harm (...) and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country”.

<sup>4</sup> See footnote 3 above.

been questioned while erroneous age assessment may exacerbate the difficulties faced by UASASRC in their transition to adulthood. **Age assessment should be improved and the benefit of the doubt should be given to the UASASRC in order to facilitate transition to adulthood.**

### **Specific thematic findings and recommendations**

The study focused on a number of areas where transition to adulthood has a particular significance for young unaccompanied and separated asylum-seekers and/or beneficiaries of the international protection including:

- **Psychological impact**

Reaching the age of majority has a strong impact on the psychological well-being of unaccompanied and separated children in general, but it proves to be all the more acute for those seeking asylum or being granted international protection, given their particular vulnerability and needs. **Adequate psychological support should be provided to UASASRC and should include specific counseling on the transition to adulthood in order to detect and treat their anxiety. Such counseling should be provided sufficiently early and extended after the age of majority.**

- **Specific guarantees in the asylum procedure**

The study reveals that UASC who reach the age of majority before the final determination of their asylum claim lose a series of specific guarantees which may affect their ability to argue their case and therefore the outcome of the procedure. **Certain key safeguards that UASASC are entitled to should be extended, when deemed appropriate, after the age of majority so as not to undermine the submission and the examination of the asylum claim.**

- **Family reunification**

Upon reaching the age of majority, unaccompanied and separated children recognised in need of international protection lose their right to family reunification. Accordingly, if the procedure is not completed before that age, it may be terminated. **Given the importance of family reunification in facilitating transition to adulthood and the resources it involves for the receiving State, the process should be completed even after reaching the age of majority. Family reunification procedures should be accelerated and simplified.**

- **Access to education**

The study shows that access to education for UASASRC may be seriously undermined when they reach the age majority, and even beforehand, whereas testimonies demonstrate that continuing education would greatly facilitate the transition to adulthood as a whole. **Access to education should be better supported, including, where necessary, after young unaccompanied and separated asylum seekers and beneficiaries of international**

protection have reached the age of majority, as it plays a critical role in their transition.

- **Access to appropriate accommodation**

The arrangements vary greatly between the Council of Europe Member States covered by the study but with relatively good practices in most of these countries. The study documents the **need to ensure that UASASRC stay in accommodation with appropriate support and counseling at least during a transitory period after they reach the age of majority.**

- **Employment**

As for education, access to employment appears to be a fundamental issue of concern to the persons covered by the study, not only in itself but also as a facilitating factor in the transition to adulthood as a whole. However, the study reveals acute difficulties, even for refugees and subsidiary protection beneficiaries where the right to work is a recognised entitlement. **Appropriate counseling and support should be provided in order to facilitate their access to the job market.**

- **Information**

The study reveals, notably through individual testimonies, the lack or the insufficiency of information provided, in advance, to the UASASRC regarding the implications of the transition to adulthood. **Clear and transparent information about the consequences of reaching the age of majority should be provided, in particular regarding the rights and responsibilities they will have after that age.**

- **Health**

In all the Member States visited during the study, UASASRC have access to basic health care, free of charge, after reaching the age of majority. **This good practice should be encouraged and, where necessary, extended to specialised care, at least during a transitory period.**

# Introduction

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## I. Background

The Council of Europe Youth sector has over 40 years of experience in working with young people from all over Europe on Human Rights Education, conflict transformation, intercultural dialogue and youth participation. Throughout these years, the two European youth centres have trained thousands of young people and helped them develop their knowledge, skills and attitudes to contribute to developing more democratic societies. In this context, the Council of Europe also has long experience in working with young refugees and asylum seekers.

The UNHCR Representation to the European Institutions in Strasbourg has been co-operating with the Youth Department since 2006 on various projects in relation to young refugees and asylum seekers. In 2006, the two institutions organised the seminar, *Being a Young Refugee in Europe Today*, which brought together 30 young asylum seekers and refugees living in the Member States of the Council of Europe. This seminar resulted in the creation of the European Network VYRE, Voices of Young Refugees in Europe, which aims at facilitating young refugees' involvement in European societies and contributing to their integration. Since 2012, VYRE has been a European registered network and is still being supported by the Council of Europe and the UNHCR.

Various hearings and seminars on the topic of young refugees and asylum seekers followed this first joint initiative: in 2007, the Youth Department organised a hearing on young refugees' access to work; in 2010, the two organisations held a seminar on working with young refugees and the ways forward, which aimed at developing a common approach for promoting young refugees within the agenda of the Council of Europe's Youth sector. That meeting underlined, amongst other things, the need to "recognise young refugees, asylum seekers and other youths in need of humanitarian protection aged 18-30 years old as a group with specific needs within European society".<sup>5</sup>

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<sup>5</sup> UNHCR, Council of Europe, *Consultative meeting: What Future for the Work with Young Refugees, IDPs and Asylum Seekers*, DJS/Refugee (2010), 26 September 2011, Strasbourg, available at [http://www.coe.int/t/dg4/youth/Source/Resources/Documents/2010\\_Consultative\\_mtg\\_Young\\_Refugees.pdf](http://www.coe.int/t/dg4/youth/Source/Resources/Documents/2010_Consultative_mtg_Young_Refugees.pdf)

In 2011, the UNHCR and the Council of Europe organised a consultative meeting on the topic of "challenges faced by young refugees and asylum seekers in accessing their social rights and their integration, while in transition to adulthood". This meeting recommended specifically that the period of transition in policies, law and practice be addressed.<sup>6</sup>

As a result of these meetings and further advocacy, the Committee on Migration, Refugees and Displaced Persons (AS/Mig) of the Parliamentary Assembly of the Council of Europe (PACE) initiated the preparation of a report on "Unaccompanied migrant children: what rights at 18?". The report and the recommendations contained therein will be adopted respectively by the AS/Mig and the PACE in the course of 2014. In that context, a hearing on the challenges faced by young refugees and asylum seekers in Europe in accessing their social rights and their integration while in transition to adulthood was co-organised by the Youth Directorate and the AS/Mig in January 2013 in Budapest. The meeting underlined the lack of data and standards on this critical issue and strongly encouraged relevant stakeholders, amongst others issues, to carry out a comparative study on practices of Council of Europe Member States regarding transition to adulthood of unaccompanied and separated migrant children.

Against this background, the UNHCR Representation to the European Institutions in Strasbourg and the Council of Europe Youth Department undertook to commission the present study in order to gather further information about young asylum seekers and beneficiaries of international protection, their particular difficulties and needs when reaching the age of majority, and any related good State practice which would facilitate their transition to adulthood.

In the past decade, more and more UASC have left their countries to find refuge in European States. They have left for many various reasons, including the fear of persecution or serious harm. While reliable and comparable data regarding the exact number and profile of these children is still lacking in Europe, the specific protection and standards they are entitled to under international human rights (notably the 1989 UN Convention on the Rights of the Child) and refugee law, as well as specific EU and Council of Europe instruments are widely acknowledged.<sup>7</sup> By contrast, the specific

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<sup>6</sup> European Youth Centre Strasbourg, Council of Europe, UNHCR *Report of the Consultative meeting on Challenges Faced by Young Refugees and Asylum Seekers in Accessing their Social Rights and their Integration, while in Transition to Adulthood*, DJS/CM Refugees (2011) 7, 17-18 November 2011, available at [http://www.coe.int/t/dg4/youth/Source/Resources/Documents/2011\\_Report\\_CM\\_Young\\_Refugees\\_Asylum\\_Seeker\\_s\\_en.pdf](http://www.coe.int/t/dg4/youth/Source/Resources/Documents/2011_Report_CM_Young_Refugees_Asylum_Seeker_s_en.pdf)

<sup>7</sup> For further details on these relevant standards see Annex 6.

difficulties and challenges these children, in particular those seeking asylum, are facing when they reach the age of majority have been largely neglected. Their plight is, nonetheless, real, as in many European countries they lose virtually all the particular safeguards they were entitled to on account of their particular vulnerability as UASC. In fact, even if they are not anymore children<sup>8</sup>, they still need support and guidance during this critical transitional phase. To date, there is no specific legal regime or safeguard for this category of young unaccompanied and separated asylum-seekers and international protection beneficiaries who have just reached majority. Unlike many other teenagers who eagerly wait to turn 18, there is little to celebrate for these people. As Thierno Diallo, a young UASC in transition in France, stated:

"My French friends can't wait to turn 18 to go clubbing or get a tattoo ... for me, turning 18 means that I'll lose the protection for minors. And I might lose everything."

*(Thierno Diallo, a young refugee in France)*

In identifying existing challenges and practices regarding the transition to adulthood of UASASRC, the present study will hopefully provide useful guidance to Member States' authorities and other stakeholders to address such challenges in the future better.

## **2. Scope of the study**

The present study focused primarily on young unaccompanied and separated asylum seekers, but also include certain remarks about young unaccompanied and separated beneficiaries of international protection (either refugees or subsidiary protection beneficiaries) as some of them were interviewed during the field research. Two main considerations have led to this delimitation of the personal scope of the study: firstly, the particular vulnerability and special needs of this category of unaccompanied and separated children, notably due to the trauma they endured in their country of origin and during their journey; secondly, the fact that they fall within the UNHCR mandate. Other UASC in transition to adulthood are therefore not considered in this report. Furthermore, all young people interviewed by the consultant in the course of the study were in a transition period, namely, either shortly before turning 18 or shortly after. In the case of Sweden, where majority is fixed at 21 years old, the scope was extended up to the age of 22.

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<sup>8</sup> Some of them may actually still be children if their age has been wrongly assessed by the authorities of the host country.

Furthermore, the study looks into the situation of this group of people when they reach the age of majority as they lose a significant number and level of benefits and entitlements. In this regard, the study focused on the implications of this critical change in the asylum procedure and in the area of access to reception conditions and economic and social rights.

Last but not least, for a better understanding of the impact of the age of majority on UASASRC, and the challenges they face, it was of paramount importance that the study identifies the specific safeguards that this category of vulnerable people are entitled to in these fields. This was essential for measuring the magnitude of the change they are subject to, quantifying exactly what they lose and, in fact, better understanding their fears.<sup>9</sup> In this regard, as for the transition to adulthood as a whole, the psychological impact of reaching majority on UASASRC has not been researched thoroughly in CoE Member States. However, psychologists interviewed in the context of the present study identify and document clear psychological symptoms and syndromes linked to the transition to adulthood. Therefore, this dimension of the problem is also taken into account in this report. However, the impact of reaching the age of majority may also be aggravated by other decisive steps including, for asylum seekers, the decision on their asylum claim.

The main findings and recommendations of this research<sup>10</sup> are addressed to relevant stakeholders and decision makers including, in particular, the Council of Europe institutions, intergovernmental and non-governmental organisations, as well as to Council of Europe Member States. They highlight the main areas in which UASASRC in transition to adulthood face particular difficulties, and include some good practices identified in the Member States covered by this research. However it should be underlined that the findings and recommendations are not exhaustive and do not necessarily represent the diversity of national practices. The fact that practices also vary within each country, as the responsibility for young refugees and asylum seekers lies with regional and local authorities, is an important constraint, and implies that some practices will be rather representative of a specific context than of a Member State as a whole. Furthermore, the ever-changing character of the legislation, practices and approaches regarding unaccompanied and separated children constituted an additional level of difficulty.

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<sup>9</sup> A detailed list of relevant standards is included in Annex 6.

<sup>10</sup> Listed in the Executive Summary.



Nevertheless, the present research reveals interesting challenges and examples that constitute a useful source of inspiration and in some respect even guidance in order to deal with the transition to adulthood of the persons concerned.

### **3. Purpose**

The present study aimed at collecting data and examples about practices in Council of Europe Member States concerning the situation UASASRC when they reach the age of majority, and more specifically how four of these States (namely Austria, France, Hungary and Sweden) address the challenges faced by this category as a result of this critical change of legal regime.

Furthermore, the good practices identified in the context of this study should serve as a source of inspiration and guidance to facilitate the transition to adulthood of this category of vulnerable young asylum seekers and international protection beneficiaries.

Furthermore, the outcomes of this field research are intended to assist the Council of Europe, UNHCR, Council of Europe Member States as well as other stakeholders to take targeted actions to address specific difficulties of young unaccompanied and separated asylum seekers and international protection beneficiaries when reaching the age of majority in the host country.

### **4. Methodology of the research**

The research took place between August and November 2013. It included desk work as well as field visits to the four Member States, involving interviews with key stakeholders, institutions, NGOs and unaccompanied and separated children in transition, or young adults.

In the first phase of the project, consisting of desk research, relevant legal as well as international and European standards on UASASRC in transition to adulthood were collected and analysed. Both qualitative and quantitative data were available for most Member States of the European Union. However, data from Council of Europe Member States outside the EU were very scarce.

The second phase of the study involved field visits (including interviews of relevant stakeholders) to examine the relevant practices and standards in four specific Member States. In order to identify them, UNHCR country / regional offices in Europe were consulted. Finally, Austria, France, Hungary and Sweden were selected for inclusion in the study, based on a number of factors, as follows:

- Achieving a geographical spread throughout different regions;
- Addressing Member States with varying situations in terms treating UASASRC;
- Co-operation of the UNHCR offices in the collection of information during the desk research and experience of these offices with the topic of the study;
- Availability of existing contacts with networks, NGOs and institutions in those Member States in order to facilitate the field research.

This selection is necessarily limited in scope. Therefore, it is acknowledged that the present report does not intend to represent exhaustively the diversity in European practices regarding transition to adulthood of UASASRC. Furthermore, in light of the objective selection criteria highlighted above, the choice of these four countries should not be interpreted as a negative or positive pronouncement on the practices of the countries concerned or other countries which have not been selected. Finally, it is also acknowledged that, even concerning these four countries, the present report does not claim to provide an exhaustive account and analysis of the relevant practices and standards. In fact, as outlined above, the visits in these countries revealed the significant discrepancies and differences concerning the treatment of UASASRC in transition to adulthood.

A common methodology for this research was applied across the four Member States in order to facilitate the gathering of comparative data. However, within these common terms of reference, some adjustments were made in order to take into account national specificities. In order to ensure the maximum transparency of the scope and aim of the study, all interview documents were made available in English, German and French. This concerns the youth-friendly introduction to the study, the consent form to be signed by interviewees and the semi-structured interview questionnaire which are annexed to this report.

The methods used to gather information were as follows:

1. The desk based documentary research and analysis of legislation, NGO country reports, international reports and relevant standards
2. The selection of four Member States for the field research
3. The personal interviews with representatives of institutions, NGOs, international organisations, local and national authorities as well as UASASRC and young adults in transition in the four Member States.

The approach taken on each of these methods is summarised below. Comprehensive details and tools can be found in the annexes. For reasons of confidentiality, the transcripts of the interviews are not annexed to this report, but may be consulted on request.

### Desk-based research

Relevant resources in Council of Europe Member States were reviewed including:

- Relevant national legislation on reception and integration of UASASRC in transition
- Manuals and guidelines on transition to adulthood made available by authorities or publicly available, for example, child-friendly introductory documents for UASC
- Official statistics on UASC in Member States
- Annual reports by authorities or NGOs in various Member States
- Relevant instruments, reports, recommendations by the Council of Europe, European Union and UNHCR
- Comparative reports on UASASRC in Europe (FRA, EMN, France Terre d'Asile, etc.)
- UNHCR materials provided by the country / regional offices and the Representation in Strasbourg.

### Personal interviews

Following the identification of four Member States, contacts were made with the help of UNHCR offices, NGOs and the international youth network Voices of Young Refugees in Europe, which has members in all Council of Europe Member States.

Across the four Member States, 36 interviews were conducted. Almost all the interviews were audio-recorded, with some exceptions if concerned persons refused. All the interviews were transcribed and sent back to the interviewees for transparency and clarifications. Due to the short amount of time available in the Member States (two days), only a limited number of interviews could be conducted. Some last-minute cancellations also took place. While the number of these testimonies is not a representative sample to assess the magnitude of the problem, they, in themselves, illustrate the nature of the issues these people are confronted with individually.

All the young people who were interviewed were UASASRC or young adults.

Although the interviews with young people focused exclusively on the transition to adulthood of UASASRC, a significant amount of additional relevant information about the situation of these young people was shared. Although this information is systematically reflected on in the report, it seems important to mention that in all Member States where interviews were conducted, the UASASRC raised serious

concerns in relation to age assessment, integration into the host society, links to the home country and reception conditions, highlighting further the need for a comprehensive approach of the transition to adulthood for this category of asylum-seeking and refugee children and young adults.

Research in figures:

Country	NGOs	State / institutions	UASASRC	Young adults	Total number of interviewees
Sweden	1	2	7 <sup>11</sup>	1	11
Hungary	3	2	4	3	12
Austria	2	2	-	1	5
France	5	2	-	1	8
Total	11	8	11	6	36

Ethical considerations

The UASASRC were reassured that the confidentiality and anonymity of their responses would be respected. Both the interviewer and interviewee signed a consent form at the beginning of each interview (see Appendix 2). The language and concepts used in the interviews were adapted to suit their age and background. Interviews were constructed in such a way so as to prevent young people from sharing embarrassing situations, having to feel uncomfortable or possibly having to relive traumatic past situations. Young people were also reminded that they could stop the interview at any time.

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<sup>11</sup> According to Swedish law, children are adults at the age of 18, but the actual change in terms of reception and access to rights for unaccompanied children in Sweden happens at the age of 21. All young people interviewed here are over 18 but under 21.

# Preliminary remarks

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The situation of young unaccompanied and separated asylum seekers and international protection beneficiaries is not uniform, either at the European level, or within one country or even one city. Individual profiles and life stories vary, opportunities and key encounters are not the same for everyone, and personal strength and past trauma differ from one person to another.

However, in all countries visited and throughout the interviews, it became apparent that UASASC in transition to adulthood have their own needs as a specific age category, and should be given proper support in order to facilitate that phase in order to achieve greater autonomy and integration<sup>12</sup> in the host society. The study also reveals that UASASRC may also be an asset for the host society and that the support they receive should allow them to contribute to the development of the local community.

Importantly, the psychological impact of the transition to adulthood on UASASRC is particularly compelling, as disclosed during the interviews conducted by the consultant in the context of the visits to the four countries. In this respect, the report shows that this is an overriding consideration and that psychological support is key in facilitating the transition as a whole.

Given its limited scope, the study did not address a number of underlying issues closely connected to the transition to adulthood. In this respect, age assessment is particularly important as an erroneous assessment may undermine the transition to adulthood in at least two distinct ways: firstly, in wrongly determining that a minor is an adult or, secondly, in determining that a child is older than his/her actual age, therefore also leading to premature transition to adulthood. Erroneous age determination also jeopardises access to several specific rights or reception conditions, in particular access to education. The diversity and the lack of reliability of age assessment techniques have been extensively documented and the testimonies collected during the study confirmed

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<sup>12</sup> For the purpose of the present study the term integration is understood in a broad sense and covers also the integration of asylum-seekers in the host country during the asylum procedure, which may, in some Council of Europe Member States, last several years. This does not prejudice of the outcome of such procedure and the possible return of the person concerned in his/her country of origin if, ultimately, he/she is found not in need of international protection through a fair and efficient asylum procedure.

this. The people concerned who were interviewed during the visits also emphasized the stressful, destabilising and sometimes humiliating effects of this process.<sup>13</sup>

Furthermore, while family reunification could not be explored in detail in the study, it is included in the list of main findings and recommendations, given its significance for the young asylum seekers, refugees and subsidiary protection beneficiaries met during the country visits, and its critical role in the successful transition to adulthood. In this connection, in Sweden or Austria, it is noteworthy that the family reunification procedure is interrupted if it is not completed before the young refugee or subsidiary protection beneficiary reaches majority.

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<sup>13</sup> Young people interviewed mentioned the stress these age determination tests provoke, not just because of the potential results, but also because of the way they are conducted.

# Statistical data on UASASRC in the four countries

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The statistical data regarding UASASRC in transition to adulthood is particularly difficult to gather, notably as this age category is usually not recognised per se.

In **Austria**, in 2012, 1,781 asylum requests from unaccompanied and separated children were received, out of which 84 were from children under 14 and 207 were assessed as being over 18 during the procedure. The majority of the remaining 1,490 asylum seekers were aged between 14 and 18.<sup>14</sup> Out of this number, about 1,000 unaccompanied children came from Afghanistan, and about 200 from Pakistan. By September 2013, the Ministry of Interior had so far registered 691 asylum claims from unaccompanied and separated children, so far less than the previous year. This decrease has a direct impact on reception conditions both before and after 18, and there are more places available and therefore more flexibility.

No accurate statistics about the current number of unaccompanied children is available for **France**. The latest numbers that can be found are from 2012<sup>15</sup>: 492 UASC claimed asylum, compared with 610 in 2010, out of which 149 obtained refugee status and 39 were given subsidiary protection. NGOs estimate that approximately 6,000 – 9,000 UASC are currently on the French territory, but only about 10% do claim asylum.

In 2012, 183 UASC applied for asylum in **Hungary** out of the 875 of those who had been apprehended and registered by the National Police; in 2013 (as at 31 October 2013) the number of asylum-seeking UASC reached 314 (out of 372 apprehended by the Police), mainly from Afghanistan, Syria, Pakistan and Somalia.<sup>16</sup> Unlike in previous years, where up to 90% of UASC arriving in Hungary would not apply for asylum and disappear within four to five days, they now tend to stay in Hungary. The average age of unaccompanied and separated children arriving in Hungary is 16.

In 2013 in **Sweden** 2,736 asylum requests by UASC were lodged, out of which 1,814 were granted at first instance (no statistics are available about second and third

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<sup>14</sup> Statistics from the Bundesministerium für Inneres, Asylstatistik

<sup>15</sup> Report, OFPRA, 2012, p. 65

<sup>16</sup> Statistics provided by the UNHCR Representation in Budapest.

instances). The majority of UASC came from Afghanistan, Eritrea, Somalia and Syria. Out of the 1,814 decisions, 346 UASC were granted refugee status, 1,009 obtained subsidiary protection, 446 received a residence permit based on their particular distressing circumstances, and 13 were given other residence permits. These numbers remain amongst the highest on the European continent. There are no statistics available about the number of unaccompanied and separated young adults whose asylum claims were assessed at this stage, following age-determination tests.



# Transition to adulthood in the asylum procedure

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The study identified a number of specific issues arising in the concerned Member States when the unaccompanied and separated asylum-seeking children reach majority during the time of the asylum procedure while their asylum claim has not yet been determined. This is noteworthy as in many European countries the regular asylum procedure may last several years. In connection with this, some of the young asylum seekers interviewed during the country visits expressed their perception and fear that the authorities intentionally prolong the duration of the examination of their asylum claims with a view to facilitating their deportation once they lose their child-specific protection in this respect.

Before examining the specific difficulties faced by the unaccompanied and separated asylum-seeking children when reaching majority during the course of the asylum procedure, and the related arrangements made by certain States to mitigate these difficulties, it is relevant to highlight briefly the set of specific safeguards that this category of asylum seekers are entitled to under international and European human rights and refugee law.

## **I. Specific procedural safeguards for unaccompanied and separated asylum seeking children**

Firstly, unaccompanied and separated asylum-seeking children are entitled to specific protection as children. Several international and European instruments recognise expressly the special needs and guarantees that children are entitled to, irrespective of their migration or residence status.<sup>17</sup>

Secondly, unaccompanied and separated asylum-seeking children are recognised as a vulnerable group with special needs in the asylum procedure. In this respect, the EU Asylum Procedures Directive (recast) (notably Article 25, Guarantees for Unaccompanied Minors) is relatively protective.

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<sup>17</sup> See Annex 6.

In principle, as the scope of application of these safeguards is limited to children, the people concerned virtually lose this special protection when they reach majority. Importantly, none of the relevant instruments provide for specific arrangements where children become adults, either in terms of prolonging the application of some of these child-specific or unaccompanied child-specific safeguards or in terms of providing for a special transitory regime. By contrast, some of these instruments even contain derogatory clauses allowing the States concerned not to apply some of these safeguards to children who are likely to become adults before the completion of the first-instance phase of the asylum procedure. This is notably the case in Article 25(2) of the Asylum Procedures Directive (recast), which reads as follows:

“Member States may refrain from appointing a representative where the unaccompanied minor will in all likelihood reach the age of 18 before a decision at first instance is taken.”

In any case, in the light of the relevant legal framework, UASASC becoming adults in the course of the asylum procedure lose a significant number and level of specific guarantees and reception conditions. This is confirmed in the practice of the Member States covered by the present study.

## **2. Main findings in relation to the transition to adulthood in the asylum procedure**

The study identified a number of specific issues affecting UASASC when they reach majority before a final decision on their asylum claim has been taken.

Firstly, **the lack of information** about the exact consequences of them reaching the majority age is really problematic and many of the unaccompanied and separated children interviewed during the visits, notably in **Hungary**, highlighted how stressful this was.

Secondly, the consequences are particularly acute in terms of **loss of specific procedural safeguards**. For instance, in **Sweden**, when unaccompanied and separated children reach the age of majority during the asylum procedure, they lose their guardian and their case is transmitted to the Migration Board, where the young adults themselves are in charge of following up with a contact person assigned to them. This is irrespective of whether the asylum claim was lodged while the person was still a child. The responsibility of that contact person at the Migration Board is limited to following up on

the case administratively, which excludes advising or counselling the young adults on their asylum claims.

Thirdly, in several Member States, including **Sweden**, UASASC benefit from **more favourable evidentiary standards**, notably in terms of burden of proof, compared to those applied to adult asylum seekers. The transition to adulthood in the asylum procedure therefore also entails a stricter assessment of the elements of proof and credibility of the people concerned.

# Transition to adulthood and access to reception conditions / economic and social rights

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The study examined the implications of the transition to adulthood on the reception conditions of UASASC and on certain economic and social rights of those recognized in need of international protection. In connection with this, it is necessary to clarify a few points. Firstly, it is acknowledged that the level and the number of these entitlements differ between, on the one hand, unaccompanied and separated children seeking asylum and, on the other hand, unaccompanied and separated children enjoying refugee status or subsidiary protection.<sup>18</sup> Secondly, economic and social benefits vary once these two groups reach the age of majority. For instance, in the EU, access to the labour market is only permitted to asylum seekers if a first instance decision is not taken on their asylum claims within nine months, while refugee and subsidiary protection beneficiaries have a right to work immediately after they have been recognised as in need of international protection. Notwithstanding these differences, certain difficulties affect equally these two groups in the context of the transition to adulthood, for instance, regarding access to higher education. They are therefore dealt with together in the current chapter, unless specified otherwise.

## **I. Access to accommodation<sup>19</sup>**

Insufficient or inappropriate reception conditions may affect not only the well-being of asylum seekers but also their access to a fair and efficient asylum procedure and their ability to submit and argue their asylum claims. This is all the more important for vulnerable asylum seekers such as unaccompanied and separated children, in particular during their transition to adulthood. In this regard, the study identified a number of issues of concern in the practice of the four member states in question, but also revealed a number of interesting efforts to address those issues.

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<sup>18</sup> See Annex 6.

<sup>19</sup> This part deals primarily with access to accommodation for young unaccompanied and separated asylum seekers, as the main findings of the study concern this group, and the beneficiaries of international protection do not seem to be affected in the same way and to the same extent regarding access to accommodation.

In **Austria**, UASASC are accommodated in reception centres and, later on, are placed into homes through a centralised system that assigns them a place according to availability in the federal provinces. The homes are led by various welfare institutions (e.g. Caritas, Diakonie, SOS Children's Village), but also by private institutions. When turning 18, young adults either move to reception facilities for adults, with no further support, or they can, in some cases, benefit from after-care accommodation in apartments that are usually run by the same NGOs as the homes for UASASC. One difficulty is that such accommodation can be in very remote parts of the country, thus forcing sometimes the young adults to interrupt their apprenticeship or give up their social networks.

Some organisations, such as Caravan, provide detailed information and support with regard to the transition to adulthood, notably for finding alternative accommodation and maintaining contacts after the young people have moved out. Interviews with social workers during the visit revealed that the potential for young adults to be prepared to live independently at the age of 18 depends strongly on the duration of their stay in the reception facilities and more generally in the host country, notably to learn the language. Another essential element in relation to turning 18 and moving out of care facilities is the loss of contact with the social workers of these facilities, who have often become important contact people. Adult reception centres do have social workers, but without the same level of support and counselling.

Insufficient and inappropriate accommodation for UASASC is an issue in **France**. While the overall reception system for asylum seekers is currently being revised, UASASC, to date, often have to stay in hotel rooms, as the child specific facilities are overcrowded. In Strasbourg, at the time of the visit (November 2013), 132 UASASC were staying in hotels; some of them had been there for over 18 months. This situation is aggravated when these children turn 18 since they have to leave their hotel rooms or reception centres,<sup>20</sup> unless they have a temporary "Contrat Jeunes Majeurs"<sup>21</sup>, leading to situations of material destitution and homelessness.

"I'm afraid in my room by myself. It's noisy and I'm not used to sleeping alone. So we all gather in one room at night to not be scared."  
*An unaccompanied asylum-seeking teenager in France (anonymous)*

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<sup>20</sup> For instance, some unaccompanied and separated asylum-seeking children in Paris are accommodated in the CAOMIDA (Centre d'accueil et d'orientation pour mineurs étrangers demandeurs d'asile), which has 38 places. On average, young people stay there for 6-12 months.

<sup>21</sup> Contract for young adults. See below for further details on this arrangement.

By contrast, unaccompanied and separated beneficiaries of international protection are placed into special facilities, where they have access to educational, social and psychological support and preparation for adulthood.

In **Hungary**, the reception centre in Fót has the capacity to host 32 unaccompanied and separated children and 50 young adults in transition, including those seeking asylum. In theory, the centre could host even more people, but human resources to do so are lacking. Interestingly, the facility for unaccompanied and separated children is close to the after-care home for young adults in transition. Therefore, once they turn 18, young people can easily move from one on to the other. However, the conditions do not vary much and several young adults interviewed during the visit complained about that.

"This is not a home; this is a camp. We would like to live in Budapest, to share a flat [...]. We have to share rooms with four other people; we have no autonomy at all."

*(Ali, young beneficiary of subsidiary protection in Hungary)*

There are two other post-care homes for young adults in Budapest and Mogyoród. As the Director of the Fót Centre explained, these other places provide higher opportunities for integration as those facilities also accommodate Hungarian citizens. The possibility to stay in the post-care homes depends exclusively on the progress of their education. In theory, they could stay until the age of 24, providing they complete higher education. UASASC reaching the age of majority also move to the after-care home until a decision is made on their status.

When turning 18, in **Sweden**, young unaccompanied and separated asylum seekers<sup>22</sup> can move to an after-care home. In Sweden, legal majority is at 18, but young unaccompanied and separated asylum seekers (like other young foreigners) are still under the responsibility of the State until the age of 21 (instead of 20 for Swedish citizens in the welfare system). These homes are special accommodation facilities to facilitate the transition to adulthood up to the age of 21. They are giving lodging, have some social workers with them, and usually get to cook for themselves. The activities in these facilities further encourage self-empowerment and young adults receive detailed information about the implications for when they turn 21. While these accommodation arrangements do not prevent anxiety about the future among the young adults, they clearly constitute good practice that could be further replicated across Europe.

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<sup>22</sup> Young refugees and subsidiary protection beneficiaries are also accommodated in these centres.

"It's so stressful, I don't know what to do, I don't know where I'm going to live. Sometimes I think I'll have to drop out of school and find a job."  
(Laila, young refugee in Sweden)

The following **concrete actions regarding accommodation** have been suggested by UASASRC and young adults in transition in the course of the interviews during the field visits:

- Appropriate follow-up by the former social workers of the UASASRC should be provided even after reaching the age of majority in order to ensure continuity in counseling;
- The departure from the special UASC facilities at the age of majority should be carefully prepared and decided on a case by case basis in close consultation with the persons concerned including the young unaccompanied and separated adults and their social worker;
- Suitable accommodation with specific facilities for facilitating transition to adulthood should be provided to UASASRC once they reach the age of majority.

## 2. Access to education

Access to education was the strongest request made by the UASASRC and young adults in the four countries visited. Education is clearly a key issue in the context of transition to adulthood. However, while asylum-seeking children (whether accompanied or not) are entitled under EU law to access primary and secondary education (Article 14 of the EU Reception Conditions Directive (recats)), they often face difficulties in practice, especially those who are already nearing the majority age when they arrive in the host country. These difficulties concern effective access to mainstream education system and their ability to pursue education in the transition to adulthood. This is despite the EU requirement that “Member States shall not withdraw secondary education for the sole reason that the minor has reached the age of majority”.<sup>23</sup> A number of constraints hinder access to the schooling system, including the age limit for compulsory schooling (between 15 and 18, depending on Member States) and the education level upon arrival in the host country. Young people who have not entered the regular schooling system at the age of compulsory schooling therefore have to register in adult evening classes, or do not have access to education at all. In practice, apprenticeships seem to be a potential alternative for unaccompanied and separated asylum-seeking children and young adults.

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<sup>23</sup> Article 14(1) of the EU Reception Conditions Directive (recast).

In three out of the four Member States covered by the study, all type of support ends at the latest when the person turns 21, regardless of the situation of the young adult and of their study path. This leads to some young people having to abandon their studies or apprenticeships only a few months before they finish, because they cannot afford it financially.

School is compulsory only until the age of 15 in **Austria**. Children under 16 are usually enrolled in school once they are placed in their care facility after leaving the reception centres, but depending on the procedure and places available, this can last up to six months. For unaccompanied and separated children arriving after the age of 15, which is the vast majority, school is not obligatory. Access to schooling is therefore more difficult, undermining further access to education after they reach the age of majority.

Since 2013, and upon decision of the Ministry for employment, Social Affairs and Protection of the Consumers, young asylum seekers can pursue an apprenticeship in a field where candidates are lacking in a specific region. However, any young person loses the support of the State at the age of 21. If the young adults have not finished their apprenticeship by that time, they have to be self-sufficient and will not receive any further support. In order to further support the education of young adults, the Fonds Soziales Wien makes their own funding available to cover for school fees and transportation costs for young adults up to the age of 26 if they are following adult education (apprenticeship, alphabetisation courses, basic training).

In **France**, education is compulsory until the age of 16. Unaccompanied and separated children arriving after the age of 16 are only given access to education if places are available. Some of them arrive without ever having been to school, so they often cannot read or write. In this case it is extremely difficult to integrate them into the mainstream education system. There is no access to free language classes, as in some other countries, either. Sometimes, social workers in the facilities manage to make appropriate arrangements on an *ad hoc* basis.

In the "**Maison du jeune réfugié**" in Paris, all UASASRC arriving have classes to learn French and maths, as a minimum. Depending on their level of French and literacy, they are placed into one of four different groups. In that way, they immediately start an integration process, with access to basic education, while preparing their future projects.

Very often, they join vocational training schools, if the Social Welfare System is ready to support them, as stated in this interview:



"When I was given access to education, they gave me three options: cooking, carpentry or hotel business studies. I told them I wanted to study sewing. They checked if it was a profession with employment opportunities, and then they informed me I could start."  
*(Manu, young refugee in France)*

The Contrat Jeunes Majeurs (CJM) is as essential for education as it is for housing or any other social rights. The difficulty is that, to date, there are no clearly defined criteria to obtain such a contract. Furthermore, over the past few years, the authorities have provided fewer and fewer CJMs, and mostly only yearly renewable ones. In general, successful education is a prerequisite for renewal of the contract, which places significant pressure on those concerned. However, even for young refugees it is not guaranteed that they will obtain a CJM, which therefore precludes them from pursuing their education after turning 18.

**France Terre D'Asile** in Créteil opened a facility which works exclusively on access to apprenticeship to UASASRC. 20 young people are living there with the support of child social welfare, with the aim of accessing apprenticeships. They have easier access to work permits with the support of the Municipality.

However, just like in Sweden for example, 21 is the highest age at which young people receive support. Thus, if they have chosen a longer education path, all support will stop at this age, regardless of their situation.

Although education is compulsory in **Hungary** until the age of 16, even for unaccompanied and separated children, they face many difficulties in accessing the education system. However, In Hungary, turning 18 does not have any impact on young people's access to education. If enrolled before their majority, they can pursue education and receive support even until the age of 24 (provided they have a refugee status or subsidiary protection). Asylum seeking UASC turning 18 are allowed to pursue their education until a decision is made on their asylum request.

"We get no books from school. When we only have 2 days a week, this is not enough. We need to be able to study more."  
*(Khan, young asylum seeker in Hungary)*

The NGO **Refugee Mission of Reformed Mission Centre** has been running a European Refugee Fund (ERF) project on the education of UASC in transition since 2006. They offer to bring extra trained staff to Budapest schools in order to support

teachers and directors in receiving unaccompanied children. By bringing their own educators and teachers of Hungarian as a foreign language into schools, they take away some of the school staff's fears of having to deal with those children they have no experience with. In that way, unaccompanied minors can be put into their age groups together with Hungarian children, and are taught both individually and in class with the help of the NGO's appointed extra teachers.

In **Sweden**, newly arrived unaccompanied and separated asylum-seeking children, regardless of their age, are first put into integration classes for a duration of one to three years, depending on their progress and needs. These classes are most of the time in mainstream schools, but exclusively designed for migrant children. Once the young people are considered to have learnt the Swedish language well enough, they have an opportunity to integrate into "Gymnasium (secondary school)". Young people in education are supported fully until the age of 21. This is the case irrespective of their educational situation and their legal status. For those wishing to continue education after the age of 21, loans can be provided by the State in the same way as for Swedish students. Young people in the asylum procedure can continue their education until a decision is made on their status.

The following **concrete actions regarding education** have been suggested by UASASRC and young adults in transition in the course of the interviews during the field visits:

- All UASASRC should be given access to education, independently of their age;
- Access to apprenticeships should be facilitated and encouraged as a transition tool to adulthood, combining practical work experience and theoretical studies;
- The choice of reception facilities for UASASRC should be done in accordance with their educational situation in order to enable a continuity.

### **3. Access to employment**

Access to employment, notably under EU asylum law, is not guaranteed in the same way to young asylum seekers and to beneficiaries of international protection. While the latter have the right to access employment immediately after the refugee status or the subsidiary protection has been granted, the former are authorised to work no longer than nine months from the date when the asylum claim was lodged if a first instance

decision by then has not been taken (Article 15 of the Reception Conditions Directive (recast)).

The difficulties in accessing the labour market in practice, even for refugees, have been documented, notably during a Colloquium on the Right to Work for Refugees in Strasbourg in September 2012.<sup>24</sup> Information gathered during the study shows that many young asylum seekers or international protection beneficiaries are distressed about having to move out of the reception facilities when they reach the age of majority and not finding job to become self-reliant.

In **France** the Department for the Protection of Children's Rights of the French Ombudsman's Office emphasised the interest of apprenticeship stating that:

“Apprenticeship is the royal path for these young people. Many of them have come with an idea to work, a willingness to work immediately. Apprenticeship is the ideal way to access employment. The second year you already earn 80% of the minimum salary, you can pay for a room in a facility and access autonomy in an easier way [...]”

In **Sweden**, access to employment is also critical for young unaccompanied and separated asylum-seekers and international protection beneficiaries turning 21, as they lose all state support at this age. Although some of them can still benefit from a loan like any Swedish student, most of them do try to find part-time jobs. Social workers in after-care facilities try to facilitate access to work through networks, job shadowing or internships.

In **Hungary**, the reception centre in Fót provides employment opportunities in gardening for young unaccompanied and separated asylum seekers and international protection beneficiaries within its facilities. This project is funded by the European Refugee Fund and enables seven or eight young people to work there on a monthly basis. In this way, young people can focus on their studies and access easy and legal employment.

#### **4. Integration**

As outlined above, the term integration is understood in a broad sense for the purpose of this study. Its scope therefore goes far beyond the strictly defined integration

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<sup>24</sup> Proceedings of this Colloquium are available on request.

programmes referred to in the EU Qualification Directive (recast), which mostly consist of language training and information programmes on the rights and obligations of the refugees and the knowledge of the host society.

Integration is supposed to be an ongoing process through educational or professional participation in a society, but also through engagement and support. Accordingly, a successful integration process significantly facilitates the transition to adulthood. As the interviews clearly showed during the study, well-integrated UASASRC were able to deal with the transition phase better than those who had arrived at a later stage and had to combine the integration process with the transition to adulthood.

“It's important to involve refugees as actors in society when it comes to integration. They can help because they've been through the process before and can help others. They know what happens, they can base their exchange on their own experiences and have more expertise than other actors.”

*(Moe, one of the founding members of the NGO Neuer Staat , Austria)*

In **Austria**, the project Connecting People offers to bring together Austrian families who wish to support UASASRC. These families play the role of godfathers / godmothers, help the UASASRC to discover the culture and traditions, take them out on weekends, and support them in education and administrative procedures. One strength of this project is that it is not limited in time, and thus ensures that UASASRC will retain some kind of support when they reach the age of majority.<sup>25</sup>

One of the young adults interviewed within this study was able to benefit from the Connecting People project. Here is what he thinks of it:

“It helped me a lot, I really felt in a family and this gave me a feeling of security. They helped me with all difficulties, for example at school. They helped me to get to know the Austrian culture and showed me how everything functions [...] this was the nicest time for me. And those young people who did not have a host family really felt different at school than those who did. Every time we had parents' days at school, unaccompanied children do not have their parents coming and everyone asks why. I had my foster family coming. [...] When turning 18, you are usually left alone. And if on top of the new responsibilities you lose your emotional contact person, then that is a big, big change. I did not lose my host

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<sup>25</sup> More details about this project are available at: [www.connectingpeople.at/htms/kap\\_2.htm](http://www.connectingpeople.at/htms/kap_2.htm)

family, they continued supporting me after turning 18. That's the good thing about Connecting People: it does not stop at 18.”<sup>26</sup>

Additionally, as a professional social worker said:

“We are unable to do what Connecting People does, simply because when unaccompanied children turn 18 we have to make them leave the care homes, and therefore we do not have the capacity to properly support them afterwards. But with our own children we don't act this way either! So Connecting People is really an important project.”<sup>27</sup>

In **France**, integration depends significantly on the situation of the UASASRC, on the age at which they arrive, on their administrative situation and mostly on their housing and education situation.

For instance, UASASC who stay in hotel rooms and arrive after the age of 16 have the least chances of integrating, as their access to education is also more difficult.

Reversely, young unaccompanied and separated refugees who are accommodated in suitable facilities and mixed with French young people in the education system have greater chances.

As Manu stated in his interview:

“I started feeling home here once I moved to the apartment. You meet real people, real neighbours; it's great. You miss your family of course, but it helps you forget your problems. [...] I started feeling like other French youth, integrated. In the facility I did not feel like everyone else, we are different. Now I take my shopping trolley like everyone else, I buy my own food like anyone else. It changes from the facility where you do nothing, you spend your time thinking, you're anxious, you don't know if the Children Welfare Service will take care of you. I even almost committed suicide before. But since I've been here, all is super good.”

In **Hungary**, many young people interviewed complained about the lack of integration opportunities. Whether they are unaccompanied and separated children or young adults, they are accommodated in Fót (40 kilometers from Budapest), without any opportunities to mix with Hungarian youth.

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<sup>26</sup> Translated from German from the interview with Moe, Vienna, October 2013

<sup>27</sup> Translated from German from the interview with H. Fronek and Annika Bergunde, Vienna

In **Sweden**, residencies for UASASRC and young adults are always situated in suburbs outside the city centre, in neighbourhoods with high rates of immigrants. This added to some young people feeling segregated and kept away from mainstream Swedish society.

The project **MIRA** (Migration, Integration, Reflection, Attitude), has been developing non-formal educational tools to be used in high schools in the Stockholm region for newly arrived migrant and refugee students, including unaccompanied minors in the early introduction phase. The methods aim to facilitate the reflection on migration- and integration-related processes for the young individuals. A pilot course was organised in one of four high schools in the municipality and a toolkit was developed to be disseminated and used in other schools, also aiming to spread this experience to other parts of Europe. It is believed that with these non-formal methods one can build capacity and empower young individuals so that they can participate in different aspects of life, such as their educational development, social life and the employment market. This initiative has proved important at an early stage of the integration process, to break social exclusion patterns in the long run. The methods contain various themes: group building, identity, the world/context around, etc.<sup>28</sup>

## **SEF**

After having participated in several international youth work activities with VYRE (Voices of Young Refugees in Europe) at the European youth centre of the Council of Europe in Strasbourg, Amir M., a recognised refugee, together with some of his friends, decided to create an association for unaccompanied children in Sweden.

"We started it in 2012 and our goals were to help other UAMs with starting to find a job, have a network, be in contact with each other, talk about society, racism and everything else; to improve our access to information about the country, culture etc., and also have some leisure activities to have fun. Because when we lived in the refugee camps, we had no contact with Swedish guys, Swedish culture. Our camp was like a prison, it was in a district where Swedish people don't live. We have about 150 Members in Stockholm, but now we also have this organisation in Gothenburg, Malmö and Northern Sweden, so almost 500 Members."<sup>29</sup>

To the question whether young people felt at home in Sweden, the majority of answers was, "No, home is where my family is".

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<sup>28</sup> More details about the MIRA project available at: <http://grundskolor.huddinge.se/sv/MIRA-i-skolan>

<sup>29</sup> More details about this project available at <http://www.hejsverige.nu/en>

As Laila, a young refugee from Somalia said: "I can't say I feel at home; home is where you have your family. That's the place you can call home. But when you don't have anyone, you can't sleep and you're thinking about them all the time, I don't know. It's not home for me."

## **5. Access to health and psychological impact of the transition to adulthood**

In all Member States visited, UASASRC have access to the basic health systems and this continues after reaching majority, irrespective of whether they are asylum seekers or beneficiaries of the refugee status or subsidiary protection.

However, access to specialised care, such as psychologists, comes at their own expense when they reach majority. Several young asylum seekers and refugees interviewed during the study explained that they had to break off their psychology therapy, as they could not afford it on their own. In contrast, beside the various traumas that this particularly vulnerable category of young adults may have suffered in their country of origin and during their flight, the transition to adulthood itself has a real psychological impact on their well-being and often warrants specific support.

Psychologists interviewed in the context of the study explained that the fear and uncertainty related to reaching majority prevents young people from settling, integrating and starting a mourning process about the past. This results in additional traumatisation on top of the initial trauma they have gone through previously, either in their country of origin or during their forced displacement. While sleeplessness and insomnia or violent nightmares are common to almost all unaccompanied and separated children and young adults, they seem to increase significantly at the time of the transition to adulthood, with some young people developing suicidal thoughts. Another important element in relation to the psychological impact of turning 18 is the loss of the guardian or the caretaker. Often, an emotional bond is created with the guardian or the social worker in the reception facilities. This person usually plays an important role in enabling the children to gain trust and to engage in human relationships. By turning 18 and moving out of care facilities, young people also lose that important link.

**In France**, the association Paroles Sans Frontière offers psychological support and counseling to migrants and refugees. They specialise in the psychological support of unaccompanied minors who are usually sent to them by NGOs. The psychologist interviewed explained that the approach to working with UASASRC has radically changed over the past few years. Whereas before, the psychologist could focus on the

past trauma resulting from the exile and the consequences of the travel, greater support is now needed to deal with the present trauma due to the uncertainty regarding the transition to adulthood. This is obviously aggravated by other sources of uncertainty concerning the accommodation, access to integration facilities (e.g. the granting or renewal of a young adult contract in France) or the outcome of the asylum procedure.

"You hear this type of discourse more and more from young asylum seekers who are about to turn 18 soon. With, on top of it, something that works like a lottery, and this is very disturbing. With the asylum procedure, nobody really understands how decisions are made or what young unaccompanied asylum seekers need to do in order to be accepted."

*(French psychologist)*

Turning 18 as such does not seem to have a direct psychological impact on transition in **Hungary**, at least for those who enjoy refugee status or subsidiary protection, as, overall, most services provided before reaching adulthood simply continue at the age of 18. For unaccompanied and separated asylum-seeking children turning 18 it is more problematic, but anxiety relates rather to the uncertain outcome of their asylum procedure.

In **Sweden**, as explained above, the age of 21 is more critical as it corresponds to the loss of most of the specific safeguards and benefits. As Milen, one of the young people interviewed, said:

"I'll be turning 21 in January 2014. Not knowing where you're gonna go after is a lot of pressure. It really influenced me in many areas: my studies, my work. I really wanted to study, that's what I want to do, but now I will study part-time and work part-time. Education is my number one priority. And they tried to put a lot of barriers to try and stop you [...] It's not even a transition, you're an adult all of a sudden."



# Conclusion: Towards an informed and mutually beneficial transition to adulthood

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Beyond the specific challenges affecting the transition to adulthood of young unaccompanied and separated asylum seekers and refugees, two overriding recommendations arose in the course of the study: one emanating from the young asylum seekers and refugees themselves about the need to ensure a more transparent and better informed transition to adulthood; and the other by a parliamentarian of a host country highlighting that a successful transition to adulthood was in the interest of all, including the State authorities.

Firstly, most of the young asylum seekers and refugees interviewed during the study expressed a recurrent concern about the lack of adequate information and preparation about the transition to adulthood. The majority emphasised how unaware they were about the consequences of that critical change, notably with respect to their rights and responsibilities, while the few who seemed better informed confessed that they heard it from friends who had been through this transition before. Interestingly, this lack of information proved to be an incentive for a successful self-empowerment initiative by a group of young unaccompanied refugees from Afghanistan residing in Austria, who created their own NGO to help and support newly arrived UASASRC.

## **Neuer Staat**

This youth NGO was created by a group of young Afghan refugees in Austria. They developed the idea when one of their friends turned 18 and was forced to move to a home for adult asylum seekers. There, he got very little financial support and there were no language courses in his region. He had to come to Vienna for free courses, but had to pay the transportation costs. So the group of friends decided to collect money for his monthly transportation ticket. Following this first initiative, they decided to support other young refugees, not just financially, but also with information, support and resources. They started to look for free language course opportunities, offered their services as interpreters for administrative appointments and welcomed newly-arrived USASRC or young adults from Afghanistan. They are now a registered NGO based on the membership of former unaccompanied minors and refugees. The association is a response to the lack of support provided by the State, and aims at giving back what they

were able to get. They share experiences with newcomers, council them, accompany them in procedures and try to give access to legal and administrative information. At the moment they finance the organisation through membership fees only.

However, despite this positive initiative, the lack of comprehensive and transversal information programmes about the implication of reaching the age of majority for UASASRC remains a source of great concern.

Secondly, a successful transition to adulthood not only favours the young asylum seekers and refugees themselves, but it is also in the interests of the State authorities. In connection with this, a French parliamentarian reporting on the situation of unaccompanied and separated foreign children in 2010 emphasised that:

“From our point of view, it is neither logical, nor "profitable" to welcome these young people, to train them and to then take away any future perspective the day of their majority. The notion of "life project" implies supporting the children, including after they reached the age of majority, until the accomplishment of their project. Besides, a young adult who returns to his country of origin with a qualification or training, will be more able to participate in its development.”<sup>30</sup>

The main findings and recommendations of the present study listed in the executive summary are precisely intended to provide a useful source of guidance to relevant stakeholders in order to ensure that the transition to adulthood of unaccompanied and separated asylum-seeking and refugee children be successful.

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<sup>30</sup> Quote translated from French from Isabelle DEBRÉ, “Les Mineurs isolés en France”, May 2010, Sénat, available at: [http://www.justice.gouv.fr/\\_telechargement/rapport\\_mineur\\_20100510.pdf](http://www.justice.gouv.fr/_telechargement/rapport_mineur_20100510.pdf)

« A notre sens, il n'est ni logique, ni « rentable » d'accueillir ces jeunes, de les former et de leur ôter toute perspective d'avenir au jour même de leur majorité. La notion de « projet de vie » implique l'accompagnement du mineur, y compris après sa majorité, jusqu'à l'accomplissement de son projet. D'ailleurs, un jeune adulte qui retourne dans son pays d'origine avec une qualification et (ou) une formation, pourra mieux participer à son développement. »

# Annexes

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## Annex I: Bibliography

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United Nations High Commissioner for Refugees, *UNHCR's Engagement with Displaced Youth, a global review*, R. EVANS, C. LO FORTE, E. MCASLAN FRASER, 2013

## Annex 2: List of interlocutors interviewed by country

### Austria

- Annika Bergunde, UNHCR Vienna
- Heinz Fronck, Asylkoordination Österreich,
- "Moe" (pseudonym), young adult refugee from Afghanistan and representative of the NGO "Neuer Staat"
- Beatrix Peichl, Don Bosco care facility
- Elina Smolinski, Caritas

### France

- Pauline Ferrais, France Terre d'Asile, Maison du jeune réfugié, Head of Education Department
- Cihan Gunes, Paroles sans frontières, psychologist
- Theodora Kristofori, Social worker
- Sophie Laurant, Coordinator InfoMIE (phone interview)
- Manu, young refugee from Ghana,
- Nathalie Lequeux, Coordinator, Department for the Protection of Children's Rights, Office of the French Ombudsman
- Marie Noëlle Thirode, UNHCR Paris
- Lisa Vitturi, Former (retired) Head of the unaccompanied minors department, France Terre d'Asile

### Hungary

- F.S (21, under subsidiary protection)
- Julia Ivan, Hungarian Helsinki Committee
- Dora Kanizsai, Reformed Mission Centre, Refugee Mission
- Zsuzsanna Puskas, UNHCR Budapest
- Fòt Management Board:
  - István Kádas, Director of the overall facility
  - Ilona Gazdagné Bozsó, Deputy-director
  - Fatana Jananné Raoufi, Head of the Home for unaccompanied children
- Emöke Takács, Menedek Association
- Young people in Fòt: Khan (17, asylum seeker), Ali (20, under subsidiary protection), Ziya (19, under subsidiary protection), Jersey (16, asylum seeker), Musa (18, under subsidiary protection), Asefran (17, soon 18, asylum seeker)

### Sweden

- Amir Hashemi-Nik, Municipality of Huddinge, project manager of MIRA
- Amir M. (22, refugee and Coordinator of the NGO SEF)
- Milen (20, refugee)
- Laila (20, refugee)
- N. (18, asylum seeker)
- H. (18, refugee)

- B (19, under subsidiary protection)
- H (18, under subsidiary protection)
- Samarie Wijekoon Löfvendahl, UNHCR Stockholm
- Margareta Welin, Director of an aftercare facility for unaccompanied asylum seeking and refugee children in transition, trainingsboende, KBC Stöd-Och

### **Annex 3: Interview consent form**

#### CONSENT FORM

Study on the transition of unaccompanied minor refugees and asylum seekers to adulthood

Field visit and interviews on Sweden, 22-23 October 2013

I agree to participate in this study, whose conditions are as follows:

- The aim of this study is to identify practices regarding the transition to adulthood of unaccompanied minors in Council of Europe Member States. For this purpose, semi-structured interviews will be conducted with key informants.
- Each interview will last for about 60 minutes and questions will deal with practices encountered in the study area and with the assessment of available services supporting unaccompanied minors as well as with experiences of unaccompanied minors themselves.
- The interview I give and the information it contains will be used solely for the purposes defined by the study.
- At any time, I can refuse to answer certain questions, discuss certain topics or cease to participate in the interview without prejudice to myself.
- The interview will be recorded to make the interviewer's job easier. However, the recording will be destroyed as soon as it has been transcribed.
- All interview data will be handled so as to protect the confidentiality of sources. Therefore, no names will be mentioned and the information will be coded.
- All data will be kept under lock and key and will be destroyed at the end of the project.
- For information on the study, I can contact Nadine Lyamouri-Bajja (nlyamouri@gmail.com), Samuel Boutruche (boutruch@unhcr.org) or Menno Ettema (menno.ettema@coe.int)

Respondent's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Interviewer's signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Annex 4: Semi-structured interview plan

### SEMI-STRUCTURED INTERVIEW PLAN

This interview plan should serve as guidelines both for the interviewer and for the persons to be interviewed. It does not mean that each of these questions will be asked in that particular order. Depending on the discussion and the topics brought up during the interview, new questions could emerge.

Parts of the interview	To stakeholders	To unaccompanied minors
Part 1: Introduction and purpose of study + regulations interview	Who am I CoE and UNHCR Purpose of study Confidentiality and interview regulations Signing of agreement	Who am I CoE and UNHCR Purpose of study Confidentiality and interview regulations Signing of agreement Creating a safe atmosphere
Part 2: General information about the interviewee in relation to topic	How did you start working with UASASRC? What is your exact current function/ mandate Can you tell me a bit about your everyday work with UASASRC? What is your relation to the topic of transition to adulthood of UASASRC? Any experience on that topic?	Tell me a bit about yourself How did you arrive in this country? When? Context? What is your current legal status? How would you describe your current situation? How do you feel about reaching the age of 18?
Part 3: The situation of UASASRC before 18 in your country	Main challenges faced Access to social rights Legal framework	Main challenges Access to social rights (housing, education, leisure, information, non



	<p>Integration in society</p> <p>Age assessment</p> <p>Support given</p>	<p>discrimination...)</p> <p>Support (guardianship, information etc...)</p> <p>Age assessment</p> <p>Feeling of integration (friends, hobbies)</p> <p>Feeling of home/ towards home?</p>
Part 4: Preparation towards adulthood	<p>How are UASASRC accompanied and prepared to reach adulthood?</p> <p>Who can they address?</p> <p>How informed are they about consequences?</p>	<p>How are UASASRC accompanied and prepared to reach adulthood?</p> <p>Who can they be referred to?</p> <p>How informed are they about consequences?</p> <p>Main fears?</p> <p>Psychological impact of transition</p>
Part 5: Turning 18	<p>Consequences for the 2 categories (asylum seekers/ refugees)</p> <p>Psychological impact</p> <p>possible alternatives</p> <p>Support and accompanying?</p> <p>Good practices and special transition programmes</p>	<p>Consequences for the 2 categories (asylum seekers/ refugees)</p> <p>Psychological impact</p> <p>possible alternatives</p> <p>Support and accompanying (who can they contact, where do they speak about it? Psychological care?)</p> <p>What can they do? Plans?</p> <p>How can they describe their main emotions regarding this topic (anger, fear, sadness, hope...)</p>
Part 6: Recommendations	<p>What would you like to see changing?</p>	<p>What would you like to see changing?</p>

	<p>Where should the focus of European policies lie?</p> <p>Are there any good practices you would recommend to transpose?</p> <p>Any further messages/ recommendations?</p>	<p>Where should the focus of European policies lie?</p> <p>Are there any good practices you would recommend to transpose?</p> <p>Any further messages/ recommendations?</p>
Part 7: other issues		<p>Are there any other things concerning the topic which you would like to discuss?</p> <p>How do you feel right now?</p> <p>What is your biggest dream (projection into future)</p>
Part 8: Closing and future steps	<p>Thank you</p> <p>Explanation about what will be done with the study/ procedures etc.</p> <p>Launching event?</p>	<p>Thank you</p> <p>Explanation about what will be done with the study/ procedures etc.</p> <p>Launching event</p>

Each interview should last between 60 and 90 minutes.

## **Annex 5: Youth friendly presentation of the study**

### STUDY ON THE TRANSITION TO ADULTHOOD OF UNACCOMPANIED AND SEPARATED ASYLUM-SEEKING AND REFUGEE CHILDREN

Dear you,



My name is Nadine Lyamouri-Bajja, I am an international consultant on human rights and intercultural dialogue issues, specialised in youth work. In the last 10 years, I have worked a lot with young refugees, asylum seekers and unaccompanied minors from all over Europe and beyond, and together with them we have created a European Network called "Voices of young refugees in Europe" which aims at making sure that young refugees can participate equally in societies and have their human rights respected.

#### **What is the Council of Europe?**

The Council of Europe is an international human rights organisation based in Strasbourg, France. Its aim is to make sure that the 47 European Member States respect human rights and to ensure peace on the European continent.

The Council of Europe has worked a lot for the respect of refugees' rights in Europe through many actions.

The Council of Europe also has a youth department, which works with young people from all over Europe on human rights issues, and also with minorities. Since 2006, the Council of Europe actively works with young refugees and asylum seekers who come to Strasbourg and participate in various activities.

#### **Who is the UNHCR?**

You probably all know the United Nations High Commissioner for Refugees. The agency is mandated to lead and co-ordinate international action to protect refugees and resolve refugee problems worldwide. Its primary purpose is to safeguard the rights and well-being of refugees. It strives to ensure that everyone can exercise the right to seek asylum and find safe refuge in another State, with the option to return home voluntarily, integrate locally or to resettle in a third country.

#### **What is this study about?**

I was commissioned by the Council of Europe and the UNHCR to conduct a study on how European Member States deal with unaccompanied minors when they turn 18, so that I can then come back with results and make recommendations on what should be changed, done differently, in order to improve your situations. Nowadays, there is no common legal frame to

this issue, and practices towards turning 18 vary very much from one country to another. Therefore, we would like to identify good practices and also look into what does not work so well, so that we can call upon Member States to regulate their practices in the best interest of the child.

We looked into the practices of all European countries, and decided to have a closer look at 4 of them, which I will now be visiting.

These countries are:

- Austria
- France
- Hungary
- Sweden

### **Why my visit?**

While I can find a lot of information about unaccompanied minors turning 18 in European Member States through documents, reports and legal texts, theory very often differs from practice.

Therefore, the best source of information to find out how this transition period is really dealt with is to talk directly to people in the situation.

I will thus meet NGO representatives, UNHCR offices, municipalities and people working with unaccompanied minors, but most importantly, I would like to meet you: Young people who are unaccompanied minor refugees or asylum seekers, either shortly before turning 18, or who have just turned 18 and are in this transition period.

I believe that you have the strongest expertise when it comes to this particular situation. You are the ones who know about your own experiences, feelings in regards to turning 18, the consequences of adulthood and what it concretely will mean for your everyday life.

So if you agree, I would like to make your voices heard by interviewing some of you about your personal experience.

### **What will the interview be about?**

My interviews would focus on:

I. Before turning 18:

- ✓ A short introduction to when/ how you arrived in this country and about your legal status;
- ✓ Some exchange about your integration (education, friends, language, guardianship) and how you feel here;

- ✓ A discussion about your access to social rights (what is your current situation in regards to housing, employment, health care, education, non discrimination etc.);
- ✓ How are you being prepared to turning 18 and who is supporting you;
- ✓ Your feelings about it, how do you cope, what scares you.

## 2. After turning 18

- ✓ What are/ will be the legal consequences of turning 18;
- ✓ Psychological consequences;
- ✓ Possibilities you have after 18;
- ✓ Access to social rights (housing, employment, health care, education, non-discrimination);
- ✓ Future plans.

And then I will ask you which message you would like to pass on to European governments in regards to the transition of unaccompanied minors to adulthood.

I would be very very thankful if you accept to help me with this study by meeting me and answering my questions.

And I will make sure that what you have to say is transported in the right way through the results of this study.

I am happy to answer any questions you might have beforehand. You can contact me on my mailbox: [nlyamouri@gmail.com](mailto:nlyamouri@gmail.com), or simply ask me when we meet.

Looking forward to our cooperation on this important project!

Best wishes

Nadine Lyamouri-Bajja

## **Annex 6: Excerpts of relevant international and European instruments concerning unaccompanied and separated asylum seeking and refugee children and their transition to adulthood**

### Treaties and Observations of related monitoring bodies:

- Convention on the Rights of the Child, 1989 [link](#)
- Committee on the rights of the child, Forty-ninth session, *Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: United Kingdom of Great Britain and Northern Ireland*, 20 October 2008 [lien](#)
- International Covenant on Civil and Political Rights, 1966 [link](#)
- International Covenant on Economic, Social and Cultural Rights, 1966 [link](#)

### European Union Instruments:

- Charter of Fundamental Rights of the European Union, 2000 [link](#)
- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification [link](#)
- Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on the standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) [link](#)
- Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection [link](#)
- Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection [link](#)
- Communication from the Commission to the European Parliament and the Council, *Action Plan on Unaccompanied Minors (2010 – 2014)*, SEC(2010)534, COM(2010)213 final, 06/05/2010 [link](#)
- Report from the Commission to the Council and the European Parliament, *Mid-term report on the implementation of the Action Plan on Unaccompanied Minors*, SWD(2012) 281 final, COM(2012) 554 final, 28/09/2012 [link](#)

### Council of Europe instruments:

- Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors, 12 July 2007 [lien](#)
- Parliamentary Assembly, recommendation n°1596 (2003), *Situation of young migrant in Europe*, Assembly debate on 31 January 2003 [lien](#)
- Parliamentary Assembly, recommendation n°1703 (2005), *Protection and assistance for separated children seeking asylum*, Assembly debate on 28 April 2005 [lien](#)
- Parliamentary Assembly, recommendation n°1985 (2011), *Undocumented migrant children in an irregular situation: a real cause of concern*, Assembly debate on 7 October 2011 [lien](#)
- Parliamentary Assembly, resolution n°1810 (2011), *Unaccompanied children in Europe: issues of arrival, stay and return*, Assembly debate on 15 April 2011 [lien](#)

### UNHCR Guidelines:

- UNHCR, *Refugee Children: Guidelines on Protection and Care*, 1994 [lien](#)
- UNHCR, *Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum*, February 1997 [lien](#)

Other document:

•UNHCR, European Youth Centre Strasbourg, CoE, Report of the Consultative meeting on *Challenges faced by young refugees and asylum seekers in accessing their social rights and their integration, while transition to adulthood*, DJS/CM Refugees (2011) 7, 17-18 November 2011 [lien](#)

## UN Convention on the Rights of the Child

### Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to **each child** within their jurisdiction **without discrimination of any kind**, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

### Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, **the best interests of the child shall be a primary consideration**.

2. States Parties **undertake to ensure the child such protection and care as is necessary for his or her well-being**, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

[...]

### Article 6

1. States Parties recognize that every child has the **inherent right to life**.

2. States Parties shall ensure to the maximum extent possible the **survival and development of the child**.

### Article 8

1. States Parties undertake to respect the right of the child **to preserve his or her identity**, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

### Article 9

1. States Parties shall **ensure that a child shall not be separated from his or her parents** against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for **the best interests of the child**. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

#### Article 10

1. **In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner.** States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

#### Article 11

1. States Parties shall take measures **to combat the illicit transfer and non-return of children abroad.**

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

#### Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures **to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse,** while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.



#### Article 20

1. **A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.**

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

#### Article 22

1. States Parties shall take **appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.**

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and **to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason , as set forth in the present Convention.**

#### Article 24

1. States Parties recognize **the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.** States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

[...]

#### Article 26

1. States Parties shall recognize for every child **the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.**

[...]

#### Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, **to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.**

#### Article 34

States Parties undertake **to protect the child from all forms of sexual exploitation and sexual abuse**. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

#### Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures **to prevent the abduction of, the sale of or traffic in children** for any purpose or in any form.

#### Article 36

States Parties shall **protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare**.

#### Article 39

States Parties shall take all appropriate **measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts**. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

### **Committee on the Rights of the Child Consideration of reports submitted by States parties**

§45 h:

The Committee recommends that the State party:

[...]

(h) Provide training and education programmes **to prepare children for adult life**; [...]

### **International Covenant on Civil and Political Rights**

#### Article 24

1. **Every child shall have, without any discrimination** as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

[...]

3. Every child has the **right to acquire a nationality**.

### **International Covenant on Economic, Social and Cultural Rights**

#### Article 10

The States Parties to the present Covenant recognize that:

[...]

**3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination** for reasons of parentage or other conditions. **Children and young persons should be protected from economic and social exploitation.** Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

## **Charter of Fundamental Rights of the European Union**

### Article 24

*The rights of the child*

**1. Children shall have the right to such protection and care as is necessary for their well-being.** They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.

**2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests** must be a primary consideration.

**3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents,** unless that is contrary to his or her interests.

## **EU Directive on the right to family reunification**

### Recital (9)

**Family reunification should apply** in any case to members of the nuclear family, that is to say the spouse and **the minor children.**

### Recital (10)

**It is for the Member States to decide whether they wish to authorise family reunification for relatives in the direct ascending line, adult unmarried children [...].**

### Recital (12)

The possibility of limiting the right to family reunification of **children over the age of 12,** whose primary residence is not with the sponsor, is intended to reflect the children's capacity for integration at early ages and shall ensure that they acquire the necessary education and language skills in school.

### Recital (15)

**The integration of family members should be promoted.** For that purpose, they should be granted a status independent of that of the sponsor, in particular in cases of breakup of marriages and partnerships, **and access to education, employment and vocational training** on the same terms as the person with whom they are reunited, under the relevant conditions.

## Chapter II: Family members

### Article 4

**1. The Member States shall authorise the entry and residence, pursuant to this Directive and subject to compliance with the conditions laid down in Chapter IV, as well as in Article 16, of the following family members:**

[...]

(b) the **minor children** of the sponsor and of his/her spouse, including children adopted in accordance with a decision taken by the competent authority in the Member State concerned or a decision which is automatically enforceable due to international obligations of that Member State or must be recognised in accordance with international obligations;

[...]

**The minor children referred to in this Article must be below the age of majority set by the law of the Member State concerned and must not be married.**

**By way of derogation, where a child is aged over 12 years and arrives independently from the rest of his/her family, the Member State may, before authorising entry and residence under this Directive, verify whether he or she meets a condition for integration provided for by its existing legislation on the date of implementation of this Directive.**

2. **The Member States may**, by law or regulation, authorise the entry and residence, pursuant to this Directive and subject to compliance with the conditions laid down in Chapter IV, of the following family members:

(a) first-degree relatives in the direct ascending line of the sponsor or his or her spouse, **where they are dependent** on them and do not enjoy proper family support in the country of origin;

(b) the adult unmarried children of the sponsor or his or her spouse, where they are objectively unable to provide for their own needs on account of their **state of health**.

3. The Member States may, by law or regulation, authorise the entry and residence, pursuant to this Directive and subject to compliance with the conditions laid down in Chapter IV, of the unmarried partner, being a third country national, with whom the sponsor is in a duly attested stable long-term relationship, or of a third country national who is bound to the sponsor by a registered partnership in accordance with Article 5(2), and of the unmarried minor children, **including adopted children, as well as the adult unmarried children who are objectively unable to provide for their own needs on account of their state of health**, of such persons.

## **Chapter V: Family reunification of refugees**

Article 10 § 3:

**If the refugee is an unaccompanied minor**, the Member States:

(a) shall authorise the entry and residence for the purposes of family reunification of his/her first-degree relatives in the direct ascending line without applying the conditions laid down in Article 4(2)(a);

(b) may authorise the entry and residence for the purposes of family reunification of his/her legal guardian or any other member of the family, where the refugee has no relatives in the direct ascending line or such relatives cannot be traced.

## **EU Directive on the standards for the qualification as beneficiaries of international protection**

Recital 18

**The ‘best interests of the child’** should be a primary consideration of Member States when implementing this Directive, in line with the 1989 United Nations Convention on the Rights of the Child. In assessing the best interests of the child, Member States should in particular take due account of **the principle of family unity, the minor’s well-being and social development, safety and**

**security considerations and the views of the minor in accordance with his or her age and maturity.**

Recital 19

It is **necessary to broaden the notion of family members**, taking into account the different particular circumstances of dependency and the special attention to be paid to the best interests of the child.

Recital 27

Internal protection against persecution or serious harm should be effectively available to the applicant in a part of the country of origin where he or she can safely and legally travel to, gain admittance to and can reasonably be expected to settle. Where the State or agents of the State are the actors of persecution or serious harm, there should be a presumption that effective protection is not available to the applicant. When the applicant is an unaccompanied minor, **the availability of appropriate care and custodial arrangements, which are in the best interest of the unaccompanied minor, should form part of the assessment as to whether that protection is effectively available.**

Recital 28

It is necessary, when assessing applications from minors for international protection, that **Member States should have regard to child-specific forms of persecution.**

Recital 38

When deciding on **entitlements to the benefits** included in this Directive, Member States should take due account of the best interests of the child, as well as of the particular circumstances of the dependency on the beneficiary of international protection of close relatives who are already present in the Member State and who are not family members of that beneficiary. In exceptional circumstances, where the close relative of the beneficiary of international protection is a married minor but not accompanied by his or her spouse, the best interests of the minor may be seen to lie with his or her original family.

Article 2

### **Definitions**

For the purposes of this Directive the following definitions shall apply:

[...]

(j) 'family members' means, in so far as the family already existed in the country of origin, the following members of the family of the beneficiary of international protection who are present in the same Member State in relation to the application for international protection:

[...]

— the **minor children** of the couples referred to in the first indent or of the beneficiary of international protection, on condition that they are unmarried and regardless of whether they were born in or out of wedlock or adopted as defined under national law,

— **the father, mother or another adult responsible for the beneficiary of international protection** whether by law or by the practice of the Member State concerned, **when that beneficiary is a minor and unmarried;**

(k) '**minor**' means a third-country national or stateless person **below the age of 18 years;**

(l) **'unaccompanied minor'** means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person; it includes a minor who is left unaccompanied after he or she has entered the territory of the Member States[...].

## Article 9

### **Acts of persecution**

1. In order to be regarded as an act of persecution within the meaning of Article 1(A) of the Geneva Convention, an act must:

[...]

(f) acts of a gender-specific or **child-specific nature**.

## Article 20

### **General rules**

[...]

3. When implementing this Chapter, **Member States shall take into account the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.**

[...]

5. **The best interests of the child shall be a primary consideration** for Member States when implementing the provisions of this Chapter that involve minors.

## Article 27

### **Access to education**

1. Member States shall **grant full access to the education system to all minors granted international protection, under the same conditions as nationals.**

2. Member States shall allow **adults** granted international protection **access to the general education system, further training or retraining, under the same conditions as third-country nationals legally resident.**

## Article 30

### **Healthcare**

1. Member States shall ensure that beneficiaries of international protection have access to healthcare under the **same eligibility conditions as nationals of the Member State that has granted such protection.**

2. Member States shall provide, **under the same eligibility conditions as nationals of the Member State that has granted protection, adequate healthcare, including treatment of mental disorders when needed, to beneficiaries of international protection who have special needs, such as pregnant women, disabled people, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence or minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or who have suffered from armed conflict.**

## Article 31

### **Unaccompanied minors**

1. As soon as possible after the granting of international protection Member States shall take the **necessary measures to ensure the representation of unaccompanied minors by a legal guardian** or, where necessary, by an organisation responsible for the care and well-being of minors, or by any other appropriate representation including that based on legislation or court order.

2. Member States shall ensure that the minor's needs are duly met in the implementation of this Directive by the appointed guardian or representative. The appropriate authorities shall make regular assessments.

3. Member States shall ensure that unaccompanied minors are placed either:

- (a) with adult relatives; or
- (b) with a foster family; or
- (c) in centres specialised in accommodation for minors; or
- (d) in other accommodation suitable for minors.

In this context, the views of the child shall be taken into account in accordance with his or her age and degree of maturity.

4. As far as possible, **siblings shall be kept together, taking into account the best interests of the minor concerned** and, in particular, his or her age and degree of maturity. **Changes of residence of unaccompanied minors shall be limited to a minimum.**

5. **If an unaccompanied minor is granted international protection and the tracing of his or her family members has not already started, Member States shall start tracing them as soon as possible** after the granting of international protection, whilst protecting the minor's best interests. If the tracing has already started, Member States shall continue the tracing process where appropriate. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis.

6. **Those working with unaccompanied minors shall have had and continue to receive appropriate training** concerning their needs.

## **EU Directive on common procedures for granting and withdrawing international protection**

### Recital 33

**The best interests of the child** should be a primary consideration of Member States when applying this Directive, in accordance with the Charter of Fundamental Rights of the European Union (the Charter) and the 1989 United Nations Convention on the Rights of the Child. In assessing the best interest of the child, Member States should in particular take due account of the minor's well-being and social development, including his or her background.

## Article 2

### **Definitions**

For the purposes of this Directive:

[...]

(l) "**minor**" means a third-country national or a stateless person below the age of 18 years;

(m) "**unaccompanied minor**" means an unaccompanied minor as defined in Article 2(l) of Directive 2011/95/EU;

(n) "**representative**" means a person or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied minor in procedures provided for in this Directive with a view to ensuring the best interests of the child and exercising legal capacity for the minor where necessary. Where an organisation is appointed as a representative, it shall designate a person responsible for carrying out the duties of representative in respect of the unaccompanied minor, in accordance with this Directive;[...]

## Article 7

### **Applications made on behalf of dependants or minors**

1. Member States shall ensure that **each adult with legal capacity has the right to make an application for international protection on his or her own behalf.**[...]

## Article 10

### **Requirements for the examination of applications**

[...]

3. Member States shall ensure that decisions by the determining authority on applications for international protection are taken after an appropriate examination. To that end, Member States shall ensure that:

[...]

(d) the personnel examining applications and taking decisions have the possibility to seek advice, whenever necessary, from experts on particular issues, such as medical, cultural, religious, child-related or gender issues.[...]

## Article 15

### **Requirements for a personal interview**

[...]

3. Member States shall take appropriate steps to ensure that personal interviews are conducted under conditions which allow applicants to present the grounds for their applications in a comprehensive manner. To that end, Member States shall:

[...]

(e) ensure that **interviews with minors are conducted in a child-appropriate manner.**[...]

## Article 25

### **Guarantees for unaccompanied minors**

1. With respect to all procedures provided for in this Directive and without prejudice to the provisions of Articles 14 to 17, Member States shall:

(a) take measures as soon as possible to ensure **that a representative represents and assists the unaccompanied minor to enable him or her to benefit from the rights and comply with the obligations provided for in this Directive.** The unaccompanied minor shall be informed immediately of the appointment of a representative. The representative shall perform his or her duties in accordance with the principle of the best interests of the child and shall have the necessary expertise to that end. The person acting as representative shall be changed only when necessary. Organisations or individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor



shall not be eligible to become representatives. The representative may also be the representative referred to in Directive 2013/33/EU;

(b) ensure that the representative is given the opportunity to inform the unaccompanied minor about the meaning and possible consequences of the personal interview and, where appropriate, how to prepare himself or herself for the personal interview. Member States shall ensure that a representative and/or a legal adviser or other counsellor admitted or permitted as such under national law are present at that interview and have an opportunity to ask questions or make comments, within the framework set by the person who conducts the interview.

Member States may require the presence of the unaccompanied minor at the personal interview, even if the representative is present.

**2. Member States may refrain from appointing a representative where the unaccompanied minor will in all likelihood reach the age of 18 before a decision at first instance is taken.**

3. Member States shall ensure that:

(a) if an unaccompanied minor has a personal interview on his or her application for international protection as referred to in Articles 14 to 17 and 34, that interview is conducted by a person who has the necessary knowledge of the special needs of minors;

(b) an official with the necessary knowledge of the special needs of minors prepares the decision by the determining authority on the application of an unaccompanied minor.

4. Unaccompanied minors and their representatives shall be provided, free of charge, with legal and procedural information as referred to in Article 19 also in the procedures for the withdrawal of international protection provided for in Chapter IV.

[...]

6. The best interests of the child shall be a primary consideration for Member States when implementing this Directive.

**Where Member States, in the course of the asylum procedure, identify a person as an unaccompanied minor, they may:**

**(a) apply or continue to apply Article 31(8) only if:**

(i) the applicant comes from a country which satisfies the criteria to be considered a safe country of origin within the meaning of this Directive; or

(ii) the applicant has introduced a subsequent application for international protection that is not inadmissible in accordance with Article 40(5); or

(iii) the applicant may for serious reasons be considered a danger to the national security or public order of the Member State, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law;

**(b) apply or continue to apply Article 43, in accordance with Articles 8 to 11 of Directive 2013/33/EU, only if:**

(i) the applicant comes from a country which satisfies the criteria to be considered a safe country of origin within the meaning of this Directive; or

(ii) the applicant has introduced a subsequent application; or

(iii) the applicant may for serious reasons be considered a danger to the national security or public order of the Member State, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law; or

(iv) there are reasonable grounds to consider that a country which is not a Member State is a safe third country for the applicant, pursuant to Article 38; or

(v) the applicant has misled the authorities by presenting false documents; or

(vi) in bad faith, the applicant has destroyed or disposed of an identity or travel document that would have helped establish his or her identity or nationality.

Member States may apply points (v) and (vi) only in individual cases where there are serious grounds for considering that the applicant is attempting to conceal relevant elements which would likely lead to a negative decision and provided that the applicant has been given full opportunity, taking into account the special procedural needs of unaccompanied minors, to show good cause for the actions referred to in points (v) and (vi), including by consulting with his or her representative;

(c) consider the application to be inadmissible in accordance with Article 33(2)(c) if a country which is not a Member State is considered as a safe third country for the applicant pursuant to Article 38, provided that to do so is in the minor's best interests;

(d) apply the procedure referred to in Article 20(3) where the minor's representative has legal qualifications in accordance with national law.

Without prejudice to Article 41, in applying Article 46(6) to unaccompanied minors, Member States shall provide at least the guarantees provided for in Article 46(7) in all cases.

## Article 31

### **Examination procedure**

[...]

7. Member States may **prioritise an examination of an application for international protection** in accordance with the basic principles and guarantees of Chapter II in particular:

[...]

(b) where the applicant is vulnerable, within the meaning of Article 22 of Directive 2013/33/EU, or is in need of special procedural guarantees, in particular **unaccompanied minors**.

## Article 40

### **Subsequent application**

[...]

6. The procedure referred to in this Article may also be applicable in the case of:

[...]

(b) an unmarried minor who lodges an application after an application has been lodged on his or her behalf pursuant to Article 7(5)(c).

In those cases, the preliminary examination referred to in paragraph 2 will consist of examining whether there are facts relating to the dependant's or the unmarried minor's situation which justify a separate application.

[...]

## **EU Directive laying down standards for the reception of applicants for international protection**

## Recital 9

In applying this Directive, Member States should seek to ensure full compliance with the principles of **the best interests of the child and of family unity**, in accordance with the Charter of Fundamental Rights of the European Union, the 1989 United Nations Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms respectively.

## Recital 18

Applicants who are in **detention** should be treated with full respect for human dignity and their reception should be specifically designed to meet their needs in that situation. In particular, Member States should ensure that **Article 37 of the 1989 United Nations Convention on the Rights of the Child** is applied.

#### Recital 22

When deciding on **housing arrangements**, Member States should take due account of the **best interests of the child**, as well as of the particular circumstances of any applicant who is dependent on family members or other close relatives such as unmarried minor siblings already present in the Member State.

#### Article 2

##### **Definitions**

For the purposes of this Directive:

[...]

(c) "family members" :

means, in so far as the family already existed in the country of origin, the following members of the applicant's family who are present in the same Member State in relation to the application for international protection:

[...]

- the **minor children** of couples referred to in the first indent or of the applicant, on condition that they are unmarried and regardless of whether they were born in or out of wedlock or adopted as defined under national law;

- **the father, mother or another adult responsible for the applicant** whether by law or by the practice of the Member State concerned, **when that applicant is a minor** and unmarried;

(d) "**minor**" : means a third-country national or stateless person **below the age of 18 years**;

(e) "**unaccompanied minor**" : means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person; it includes a minor who is left unaccompanied after he or she has entered the territory of the Member States;

[...]

(j) "**representative**" : means a person or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied minor in procedures provided for in this Directive with a view to ensuring the best interests of the child and exercising legal capacity for the minor where necessary. Where an organisation is appointed as a representative, it shall designate a person responsible for carrying out the duties of representative in respect of the unaccompanied minor, in accordance with this Directive;

[...]

#### Article 11

##### **Detention of vulnerable persons and of applicants with special reception needs**

[...]

2. **Minors shall be detained only as a measure of last resort and after it having been established that other less coercive alternative measures cannot be applied effectively.**

Such detention shall be for the shortest period of time and all efforts shall be made to release the detained minors and **place them in accommodation suitable for minors.**

**The minor's best interests**, as prescribed in Article 23(2), shall be a primary consideration for Member States.

Where minors are detained, they shall have the possibility to engage **in leisure activities, including play and recreational activities appropriate to their age.**

3. Unaccompanied minors shall be detained only in exceptional circumstances. All efforts shall be made to release the detained unaccompanied minor as soon as possible.

**Unaccompanied minors shall never be detained in prison accommodation.**

As far as possible, unaccompanied minors shall be provided with accommodation in institutions provided with personnel and facilities which take into account the needs of persons of their age.

**Where unaccompanied minors are detained, Member States shall ensure that they are accommodated separately from adults.**

[...]

#### Article 14

##### **Schooling and education of minors**

1. Member States shall **grant to minor children of applicants and to applicants who are minors access to the education system under similar conditions as their own nationals for so long as an expulsion measure against them or their parents is not actually enforced. Such education may be provided in accommodation centres.**

The Member State concerned may stipulate that such access must be confined to the State education system.

**Member States shall not withdraw secondary education for the sole reason that the minor has reached the age of majority.**

2. **Access to the education system shall not be postponed for more than three months from the date on which the application for international protection was lodged by or on behalf of the minor.**

Preparatory classes, including **language classes**, shall be provided **to minors** where it is necessary to facilitate their access to and participation in the education system as set out in paragraph 1.

3. Where access to the education system as set out in paragraph 1 is not possible due to the specific situation of the minor, the Member State concerned shall offer other education arrangements in accordance with its national law and practice.

#### Article 21

##### *General principle*

**Member States shall take into account the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation, in the national law implementing this Directive.**

#### Article 23

##### **Minors**

1. **The best interests of the child shall be a primary consideration for Member States** when implementing the provisions of this Directive that involve minors. Member States shall ensure a standard of living adequate for the minor's physical, mental, spiritual, moral and social development.

2. In assessing the best interests of the child, Member States shall in particular take due account of the following factors:

(a) family reunification possibilities;

(b) the minor's well-being and social development, taking into particular consideration the minor's background;

(c) safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking;

(d) the views of the minor in accordance with his or her age and maturity.

3. Member States shall ensure that **minors have access to leisure activities, including play and recreational activities appropriate to their age within the premises and accommodation centres** referred to in Article 18(1)(a) and (b) and to open-air activities.

4. Member States shall ensure access to **rehabilitation services** for minors who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment, or who have suffered from armed conflicts, and ensure that appropriate **mental health care** is developed and **qualified counselling** is provided when needed.

5. Member States shall ensure that minor children of applicants or **applicants who are minors are lodged** with their parents, **their unmarried minor siblings or with the adult responsible for them** whether by law or by the practice of the Member State concerned, provided it is in the best interests of the minors concerned.

## Article 24

### **Unaccompanied minors**

1. **Member States shall as soon as possible take measures to ensure that a representative represents and assists the unaccompanied minor to enable him or her to benefit from the rights** and comply with the obligations provided for in this Directive. The unaccompanied minor shall be informed immediately of the appointment of the representative. The representative shall perform his or her duties in accordance with the principle of the best interests of the child, as prescribed in Article 23(2), and shall have the necessary expertise to that end. In order to ensure the minor's well-being and social development referred to in Article 23(2)(b), the person acting as representative shall be changed only when necessary. Organisations or individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be eligible to become representatives.

Regular assessments shall be made by the appropriate authorities, including as regards the availability of the necessary means for representing the unaccompanied minor.

2. Unaccompanied minors who make an application for international protection shall, from the moment they are admitted to the territory until the moment when they are obliged to leave the Member State in which the application for international protection was made or is being examined, be placed:

(a) with adult relatives;

(b) with a foster family;

(c) in accommodation centres with special provisions for minors;

(d) in other accommodation suitable for minors.

**Member States may place unaccompanied minors aged 16 or over in accommodation centres for adult applicants, if it is in their best interests, as prescribed in Article 23(2).**

**As far as possible, siblings shall be kept together, taking into account the best interests of the minor concerned and, in particular, his or her age and degree of maturity. Changes of residence of unaccompanied minors shall be limited to a minimum.**

**3. Member States shall start tracing the members of the unaccompanied minor's family, where necessary with the assistance of international or other relevant organisations, as soon as possible after an application for international protection is made, whilst protecting his or her best interests. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis, so as to avoid jeopardising their safety.**

**4. Those working with unaccompanied minors shall have had and shall continue to receive appropriate training concerning their needs, and shall be bound by the confidentiality rules provided for in national law, in relation to any information they obtain in the course of their work.**

### **European Commission's Action Plan on Unaccompanied Minors (2010 – 2014)**

#### **4. RECEPTION AND PROCEDURAL GUARANTEES IN THE EU**

Reception measures and access to relevant procedural guarantees should apply from the moment an unaccompanied minor is detected at external borders or on EU territory, until a durable solution is found. Specialised civil society organisations should be invited to play a more active role throughout the entire process. **Appropriate measures need to be taken to ensure a smooth transition period for those children who – due to turning 18 and becoming adults – may be in the danger of losing protection and support.**

### **Mid-term report on the implementation of the Action Plan on Unaccompanied Minors**

page 9:

The Commission will continue to make financial resources available for projects concerning unaccompanied children. However, efforts to use the funds need to be strengthened. Member States and civil society organisations are invited to submit targeted proposals to further the implementation of the common EU approach on unaccompanied minors. An important contribution could be made by **new projects focused on best practice** in preventing the disappearance of children from care, improving standards of accommodation and **dealing with situations when they reach 18 years of age**. Lastly, it is necessary to ensure the availability of financial resources beyond 2013. The future Asylum and Migration Fund should facilitate the funding of projects on unaccompanied minors.

### **Committee of Ministers' recommendation Life projects for unaccompanied migrant minors**

**1. Life projects aim to develop the capacities of minors allowing them to acquire and strengthen the skills necessary to become independent, responsible and active in society. In order to achieve this, life projects, fully in accord with the best interests of the child, as defined in the Convention on the Rights of the Child, pursue objectives relating to the social integration of minors, personal development, cultural development, housing, health, education and vocational training, and employment.**

**26. Where a minor involved in the implementation of his or her life project attains the age of majority and where he or she shows a serious commitment to their educational or vocational career and a determination to integrate in the host country, he or she should be issued with a temporary residence permit in order to complete the life project and for the time necessary to do so.**

### **Parliamentary Assembly's Recommendation on Situation of young migrants in Europe**

Document's target:

§1: **Young migrants represent a varied and heterogeneous group. They include children, young women and young men who have fallen prey to human traffickers or who have been smuggled into a country in the hope of escaping poverty, persecution or a situation of generalised violence;** young people who have entered European countries through legal channels for study, work or family reunion; and second-generation migrants who are born in the host country. Many of them come from non-European countries; but many others are Europeans who move, legally or illegally, from one member state to another. They are immigrants for some states and emigrants, or returning emigrants, for others.

[...]ii. **include in the work programme** of the General Directorate on Education, Culture and Heritage, Youth and Sport regular meetings – in the form of seminars, hearings, conferences and others – **on the topic of young migrants, with the participation of young migrants;**

iii. encourage member states to submit projects to the Council of Europe Development Bank, with a view to **funding or co-funding integration projects for young migrants** in host countries, as well as reintegration projects for young migrants returning to their countries of origin, in particular young victims of trafficking;

iv. initiate a study to **review the implementation** of Committee of Ministers Recommendation Rec(2000)15 of the concerning the security of residence of long-term migrants and **Recommendation Rec(2002)4 on the legal status of persons admitted for family reunification, with special regard to protection against expulsion of migrants who were born or raised in Council of Europe member states or who are minors;**

[...]

vi. initiate a feasibility study on **the harmonisation of national laws on legal guardianship of separated children**, as defined in sub-paragraph 7.iv of the present recommendation, with a view to the elaboration of an international binding instrument including the following guidelines:

a. all Council of Europe member states should adopt a legal framework for the appointment of a legal guardian for separated children who are under their jurisdiction, irrespective of whether they apply for asylum or not;

b. the legal guardian should look after the child individually, and be chosen among people or institutions of proven reliability, and have an understanding of the special and cultural needs of separated children as well as of the institutions of the host country;

c. the appointment of the legal guardian should take place as a matter of urgency, and in any case within two weeks of the presence of the child on national territory coming to the knowledge of the authorities;

d. the legal guardian should ensure that all decisions affecting the child are taken in his or her best interests, that the child has suitable legal representation to deal with his or her legal status and that she or he receives suitable care, accommodation, education, language support and health care;

e. the legal guardian should also act as a link between the child and various service providers and advocate on behalf of the child where necessary.

5. Furthermore, with a view to fostering participation and social cohesion, the Assembly recommends that the Committee of Ministers elaborate measures aiming to assist member states to:

i. grant the **right to vote** and stand in local elections to migrants having settled legally on their territories and having resided there for at least three years;

ii. adopt appropriate legislation to facilitate the **acquisition of nationality** for migrants having resided legally in the country on a long-term basis;

[...]

iv. establish, or promote the establishment of, **integration programmes** according to, the following guidelines:

a. states should use all the available instruments at their disposal to fund, or support the funding of, integration programmes, and in particular the loans of the Council of Europe Development Bank and other international agencies;

b. states and local authorities should:

– mobilise resources to employ sufficient staff for the implementation of integration programmes and provide them with adequate training;

– monitor the implementation of integration programmes and conduct periodical evaluation studies;

– ensure the participation of migrants in the elaboration, implementation and evaluation of integration programmes;

– establish special integration programmes addressed to young migrants, not only those who have newly arrived;

c. participation in integration programmes should be voluntary, but states and local authorities could provide financial inducements to ensure wider attendance;

d. integration programmes should include language tuition and vocational guidance and/or training;

e. integration programmes should be based on an assessment of the integration needs of each beneficiary;

f. in the absence of specific integration programmes devoted to them, young migrants with dependants, especially women, should have priority of access to ordinary integration programmes;

g. integration programmes should aim at the personal development of beneficiaries, providing them with instruments to participate in all aspects of society, while preserving their language, culture and national identity, in accordance with the European Convention on Human Rights.

6. With a view to using **education** effectively as an instrument to foster equality, multiculturalism and mutual understanding, the Assembly also recommends that the Committee of Ministers elaborate measures addressed to member states, and aiming at:

i. **ensuring unimpeded access to compulsory education for migrant children**, irrespective of their own or their parents' legal status;

ii. **ensuring access to compulsory education for migrants aged under 18** and who have not completed compulsory education in other countries, irrespective of their legal status or the legal status of their parents;

iii. responding to the special needs of migrant students integrating the ordinary curriculum with additional classes, focusing on tuition in the language of the host country and the study of its society and culture;



[...]

7. The Assembly further recommends that the Committee of Ministers include in its working programme activities aimed at assisting member states to:

i. **introduce in all domestic laws or policy measures affecting children a specific mention of the situation of migrant children;**

ii. **give primacy and binding character to the principle of the best interests of the child,** making this explicit in all laws, regulations or administrative guidelines concerning migration and/or asylum;

iii. **refrain from detaining minors exclusively on immigration grounds, and consequently provide for alternative and adequate accommodation;**

iv. introduce in domestic law and policy the definition of “**separated children**” as “**children under 18 years of age who are outside their country of origin and separated from both parents or their legal/customary primary caregivers**”, and afford them **an effective system of care and protection**, consistent with the present recommendation as well as the recommendations of the Separated Children in Europe Programme established by the UNHCR and members of the International Save the Children Alliance;

v. ensure that the definition of separated children, and the special care and protection to which they are entitled, are interpreted and applied in a uniform manner throughout their territories, even when the competence in this matter falls within the remit of federate, regional or local authorities;

vi. **introduce legal provisions to allow the placement of separated children**, including those who do not apply for asylum, **in reception centres or care institutions appropriate to their needs, invest in the creation of such centres and institutions where necessary and ensure that separated children benefit from the same level of assistance and protection as is available for children with the nationality of the host country;**

vii. **facilitate the family reunification of separated children with their parents in other member states, even when parents do not have permanent residence status or are asylum seekers, in compliance with the principle of the best interests of the child;**

viii. consider favourably requests **for family reunification** between **separated children** and family members other than parents who have a legal title to reside in a member state, are over 18 years of age and are willing and able to support them;

ix. facilitate the **family reunification of separated young people with mental or physical disabilities, including those who are over 18 years of age**, with their parents or other adult family members upon whom they were dependant in the country of origin or the country of habitual residence and who are legally residing in another member state;

x. in any ordinary or accelerated procedure implying the return of separated children to their countries of origin or any other country, including procedures of non-admission at the border, comply with the following guidelines:

a. states should make sure that return is not in breach of their international obligations under the 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol, or the European Convention on Human Rights and other relevant instruments;

b. **return should not be possible before a legal guardian for the child has been appointed;**

c. before taking the decision to return a separated child, states should demand and take into consideration **the opinion of the child’s legal guardian** as to whether return would be in the **best interests of the child;**

d. **return should be conditional upon the findings of a careful assessment of the family situation that the child would find upon return, and of whether the child’s family would**

**be able to provide appropriate care. In the absence of parents or other family members, the suitability of childcare agencies in the country of return should be investigated.** The assessment should be conducted by a professional and independent organisation or person and should be objective, non-political and aimed at ensuring the respect of the principle of the best interests of the child;

e. prior to return, states should obtain an **explicit and formal undertaking** from the child's parents, relatives, other adult carer or any existing childcare agency in the country of return that they will provide immediate and long-term care upon the child's arrival;

f. the decision to return a separated child should be reasoned and notified to the child and his/her legal guardian in writing, together with information on how to appeal against it;

g. the child and/or his or her legal guardian should have the right to lodge an appeal before a court against the decision to return. Such an appeal should have suspensive effect and be extended to the lawfulness and the merits of the decision;

h. **during return, the child should be accompanied** and treated in a manner in keeping with his or her age;

i. the well-being of the child following return should be monitored by appropriate authorities or agencies on the spot, who should liaise with, and report to, the authorities of the country from which the child has been returned;

**j. migrants who arrived in a host country as separated children but who have reached the age of 18 at the time of return should be treated as vulnerable cases and consulted on the conditions required for successful reintegration into their country of origin.**

8. As regards the issue of trafficking in children and young people, the Assembly recommends that the Committee of Ministers include in its working programme activities aimed at assisting member states:

[...]

ii. to establish **effective protection regimes for children and young people who are victims of trafficking, and ensure the availability of psychological counselling and assistance upon demand of the victims, their legal guardians or care institutions;**

iii. to devise and implement appropriate **programmes to meet the care and assistance needs of traumatised children and young people who are victims of trafficking** in host countries;

iv. to devise and implement appropriate **reintegration programmes for young victims of trafficking returning to their countries of origin;**

v. to allocate additional financial resources to the **prevention of trafficking in children and young people** in the countries of origin and support or conduct information campaigns in schools and other places of socialisation or care, including orphanages, especially in areas at risk; [...]

### **Parliamentary Assembly's Recommendation on Protection and assistance for separated children seeking asylum**

The Assembly therefore recommends that the Committee of Ministers:

i. instruct one or more of the specialised committees to conduct **in-depth studies on access to the territory and to the asylum procedure for separated children seeking asylum** in Council of Europe member states, as well as **on the availability of a system of legal guardianship;**

ii. instruct one or more of the specialised committees to conduct a study to review the practice of member states as regards child-specific forms of persecution;

iii. draw up, in co-operation and co-ordination with the UNHCR, the Save the Children Alliance and the Separated Children in Europe Programme, a recommendation urging member states to:

- a. **recognise the primacy of the principle of the best interests of the child in all asylum or immigration decisions, procedures, practices or legislative measures affecting minors;**
- b. **recognise and fully implement in practice the principle of non-discrimination, ensuring that all rights apply to all children on their territory or within their jurisdiction without exception;**
- c. **refrain from refusing entry to their territories to separated children, on any grounds;**
- d. **amend their legislation and remove any administrative obstacle so as to ensure that separated children can have a legal guardian and a legal representative appointed as a matter of urgency and not later than two weeks of their presence coming to the knowledge of the authorities;**
- e. **ensure that separated children are heard in the context of the asylum procedure, either directly or through their legal guardian, and that they are questioned in a manner in keeping with their age, maturity and psychological situation;**
- f. **amend their legislation so as to exempt separated children from accelerated or admissibility asylum procedures;**
- g. **recognise child-specific forms of persecution as persecution within the meaning of the 1951 Geneva Convention relating to the Status of Refugees;**
- h. **grant special or humanitarian residence permits to children who have been subjected to child-specific forms of persecution and who are not recognised as refugees;**
- i. **facilitate family reunification on behalf of separated children, as indicated in Assembly Recommendation 1596 (2003) on the situation of young migrants in Europe;**
- j. **allow the detention of separated children only as a last resort and for the shortest possible time, as indicated in Recommendation Rec(2003)5 of the Committee of Ministers to member states on measures of detention of asylum seekers;**
- k. **ensure that the return of separated children to their country of origin is implemented only if this is in the best interest of the child and in compliance with the safeguards set out in Assembly Recommendations 1547 (2002) on expulsion procedures in conformity with human rights and enforced with respect for safety and dignity and Recommendation 1596 (2003) as mentioned above;**
  - iv. **encourage the organisation and provision of specific training for lawyers as well as officials and other professionals dealing with separated children during the asylum procedure and in the context of anti-trafficking policy and law;**
  - v. **urge member states to comply with the guidelines adopted by the UNHCR, the Save the Children Alliance and the Separated Children in Europe Programme, in particular the revised Statement of Good Practice on Separated Children Seeking Asylum;**

**Parliamentary Assembly's Recommendation on  
Undocumented migrant children in an irregular situation:  
a real cause of concern**

§7:

**Undocumented children who are separated from their parents (either because the parents do not accompany them or cannot take care of them) need particular protection and should be provided with a legal guardian. They should also receive continuous and reliable support beyond the age of majority thus avoiding unnecessary psychological pressure caused by uncertainty about their future, which may otherwise affect their development at an early age and deprive them of their right to development as protected by Article 6 of the United Nations Convention on the Rights of the Child.**

§9:

[...]the Assembly recommends that member states: guarantee **the right to education** [...]guarantee **the right to health care** [...]guarantee **access to housing**[...]refrain from **detaining undocumented migrant children, and protect their liberty** [...]tackling **exploitation** in the area of work by carrying out further research on the problem, the persons primarily at risk and the persons or groups responsible for the exploitation. In this respect, the issues of sexual exploitation, the use of children for begging and crime, exploitation of children as domestic workers and in sweatshops, as well as other forms of exploitation through labour, all require greater examination.

### **Parliamentary Assembly's Resolution Unaccompanied children in Europe: issues of arrival, stay and return**

**5.1. unaccompanied children must be treated first and foremost as children, not as migrants;**

**5.2. the child's best interests** must be a primary consideration in all actions regarding the child, regardless of the child's migration or residence status;

[...]

**5.5.** every unaccompanied child should be provided immediately with a **guardian mandated to safeguard his or her best interest**. The legal guardian should be independent and should have the necessary expertise in the field of childcare. Every guardian should receive regular training and undergo regular and independent check-ups/monitoring;

[...]

**5.12.** finding a durable solution should be the ultimate goal from the first contact with the unaccompanied child. It should include **family tracing if requested by the child or his or her guardian** – where it is safe to do so and will not put family members in danger – and an individualised best-interest assessment that examines all options for durable solutions on an equal basis. A durable solution may be the child's integration into the host country, family reunification in a third country, or return and reintegration in the country of origin. An individual life project should be identified jointly by the authorities, the legal guardian and the child concerned, and monitored throughout the accomplishment of the project in line with Committee of Ministers Recommendation CM/Rec(2007)9 on life projects for unaccompanied migrant minors. Pending identification of a durable solution, the child should benefit from legal residence status in the host country. **This should be valid throughout the duration of the child's personal life project conducted in the host country, even if the project extends to the age of adulthood;**

**5.13.** access to **adequate accommodation, education, vocational training and health care must be guaranteed to all unaccompanied children**, regardless of their migration status and under the same conditions as to child nationals. Moreover, unaccompanied children should be able to benefit from **comprehensive child welfare programmes**. These should, where necessary, take into consideration their emotional needs following traumatic experiences and should, beyond the immediate psychological assistance to be provided (see paragraph 5.6), comprise measures such as targeted educational assistance, placement in foster families or specialised residential care, or integration assistance for children with disabilities;

**5.14. family reunification** possibilities should be extended beyond the country of origin and approached from a humanitarian perspective exploring wider family links in the host country and third

countries, guided by the principle of the child's best interest. **The Dublin II Regulation should only be applied to unaccompanied children if transfer to a third country is in the child's best interests;**[...]

## UNHCR

### **Refugee Children: Guidelines on Protection and Care**

Chapter 2: Refugee Children and the Rights of the Child

III Adolescents are included in the CRC:

[...]

**One reason why 18 is the dividing line is because that is the widely accepted age of legal majority, that is, the age a person assumes the legal rights of adults. But there is a more practical reason why adolescents are included under the CRC. Although adolescents may have adult bodies and perform many adult roles, generally speaking they have not fully developed the emotional maturity and judgment, nor achieved the social status, of adults that come with life experience. In refugee situations, adolescents do need the "special care and assistance" given them by the CRC: they are still developing their identities and learning essential skills. When the refugee situation takes away the structure they need, it can be more difficult for them to adjust than for adults. Their physical maturity but lack of full adult capabilities and status also make them possible targets of exploitation, such as in sexual abuse and military recruitment.**

**In advocating for adolescents it may at times be more useful to focus on their needs in a given situation, rather than the CRC's legal language of "rights of the child," which might be misunderstood unless carefully explained.**

[...]

**11 to 17 years** : Group activities should emphasize peer leadership. Sports, group discussions and community projects are examples. **Support adolescents in making the transition to adulthood** by discussions on issues such as sexuality and adjusting to the host country culture and help with finding employment.

Chapitre 7 : Personal Liberty and Security

I Personal security

#### **Special accommodation**

Where necessary, organize special accommodation for individuals at particular risk, such as **unaccompanied young women**, families headed by women, or abused children. Creative solutions include protected housing, whistles, camp guards and crisis rooms.

## UNHCR

### **Guidelines on Policies and procedures in dealing with unaccompanied children seeking asylum**

**Care, accommodation and long-term placement**

[...]

***10.9 Young adults who have left their “care” environment should be given access to “after care”. They should be assigned a contact person and should have access to information and advice on issues like welfare rights, housing, education etc. Such services should be available to the young adult as long as considered necessary.***

Refugee status determination for unaccompanied children

***8.3 Not being legally independent, an asylum-seeking child should be represented by an adult who is familiar with the child’s background and who would protect his/her interests. Access should also be given to a qualified legal representative. This principle should apply to all children, including those between sixteen and eighteen, even where application for refugee status is processed under the normal procedures for adults.***

**Report published in March 2014 jointly by**

**United Nations  
High Commissioner for Refugees**

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