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on the implementation of the Action Plan on Unaccompanied Minors

Accompanying the document

Report from the Commission to the Council and the European Parliament

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

{COM(2012) 554 final}

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I. INTRODUCTION

This Commission Staff Working Document accompanies the Report from the Commission¹. It provides a description of actions carried out at the EU and national levels in view of the implementation of the Action Plan on Unaccompanied Minors (2010-2014)² and the Council Conclusions on unaccompanied minors³ between May 2010 and June 2012. The Document is based on information provided by the European Commission, European External Actions Service (EEAS), the EU Agencies – European Asylum Support Office (EASO), Fundamental Rights Agency (FRA) and Frontex – and 24 Member States⁴.

The structure of the document follows the structure of the Action Plan on Unaccompanied Minors and, where relevant, adds additional actions listed in the Council Conclusions. Each section starts with the description of the developments at the EU level, followed by an account of the developments which have taken place in EU Member States.

II. . DATA COLLECTION

II.1. Actions at the EU level

The Commission will propose that Member States use the full potential of current and additional disaggregation's of the Statistics Regulation to gather comprehensive data on unaccompanied minors. If this does not reach its objectives, the required information should be collected directly from the administrations in the Member States.

The shortcomings concerning the limited statistical data on unaccompanied minors were addressed in the context of the revision of the Guidelines for data collection under Article 6 of the Migration Statistics Regulation 862/2007. The revised Guidelines, finalised on 11 January 2011, will enable Eurostat to collect data on an additional category of permits, namely residence permits issued to unaccompanied minors others than these applying for asylum⁵.

¹ COM(2012) 554 final.

² COM(2010) 213 final.

³ Council Conclusions on unaccompanied minors, 3018th Justice and Home Affairs Council meeting, Luxembourg, 3 June 2010.

⁴ AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HU, IE, IT, LT, MT, NL, PL, PT, RO, SE, SI, SK UK

⁵ This category shall not include unaccompanied minors granted residence permit who are a subject of an asylum application or received refugee/subsidiary protection or who were granted residence permit for victims in trafficking in human beings.

The data collected are used to build up comprehensive statistics on unaccompanied minors arriving to EU. These statistics are further used to create risk analyses and indicators. The suggested actions do not aim at collecting personal data in order to follow individual cases. Furthermore, it has to be clarified that all personal data has to be rendered anonymous before processing it for statistical purposes.

The category 'unaccompanied minors (non-asylum related)' concerns first residence permits issued to minors considered to be unaccompanied as defined in Article 2(i) of Directive 2004/83/EC.⁶ This category does not include unaccompanied minors granted residence permits who are the subject of an asylum application, received refugee/subsidiary protection or who were granted a residence permit for victims of trafficking in human beings. Information on such unaccompanied minors will continue to be collected under the respective categories, that is, 'refugee status and subsidiary protection', or 'victims of trafficking in human beings' (although data on unaccompanied minors are aggregated with data on other persons granted such permit i.e. accompanied minors and adults). Data will be collected annually and will be released by September each year. The first reference period was 2010 and the data for this reference year are available since September 2011.

In autumn 2011, the Commission has begun to collect data from all MS on trafficking in human beings on the basis of a list of indicators devised by the Commission.

The 2012-13 data collection exercise on children's involvement in administrative, civil and criminal judicial proceedings will also include data on unaccompanied minors. Results for criminal judicial proceedings should be available around mid-2013 with results for civil and administrative justice due in 2014. The study will also provide a contextual narrative overview for each Member State. Within an implementation of a pilot project supported by the European Parliament, the Commission will carry out a study to collect EU-wide data on children's involvement in criminal, civil and administrative judicial proceedings. In this context, the Commission will also gather statistics based on relevant indicators and provide a narrative overview on unaccompanied minors' involvement in administrative judicial proceedings in the EU based on the provisions of the Council of Europe Guidelines on child-friendly justice.

The EU and its Member States should use existing agencies and networks to improve data collection and the exchange of information on unaccompanied minors, by significantly improving the exchange of information between Member States in the framework of European Migration Network and European Asylum Support Office.

⁶ In accordance with Article 2(i), 'Unaccompanied minors' means third-country nationals or stateless persons below the age of 18, who arrive on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person; it includes minors who are left unaccompanied after they have entered the territory of the Member States'.

- European Migration Network Work Programme 2011 and 2012⁷

The European Migration Network (EMN) should continue to have a role in the implementation of the Action Plan on Unaccompanied Minors, principally in contributing to improving the analysis and exchange of relevant information on unaccompanied minors arriving on EU territory.

The EMN work programme mentioned that the EMN may undertake relevant activities, such as contributing to improving the comprehensiveness of data concerning unaccompanied minors on age assessment, on unaccompanied minors in care and on exchange of best practices. This may involve collating available studies on these topics. These activities shall be limited to "desk research" and/or ad-hoc queries.

In the first quarter of 2012, at the request of the Swedish National Contact Point of the EMN, an Ad-Hoc Query was launched on UAMs applying for asylum.⁸

- EASO: Work Programme 2012

The 2012 Work Programme includes a section on the activities EASO is expected to carry out in the context of the implementation of the Action Plan for Unaccompanied Minors and lists among its objectives for 2012 setting up EASO information sharing and monitoring on unaccompanied minors.

The EU and its Member States should use existing agencies and networks to improve data collection and the exchange of information on unaccompanied minors, by reinforcing the roles of Frontex and Europol in data collection and analysis using all available sources, including information collected by the Immigration Liaison Officers' networks.

A targeted Risk Assessment on UAM was published by Frontex in September 2010. Europol carries out incidental collection of data, that is, depending on the operations carried out.

Frontex is invited to develop annual assessment based on Frontex Risk Analysis Network data collection in order to provide Member States with risk analysis on unaccompanied minors crossing the external borders of EU Member States.

Frontex' regular risk analysis products and the Member States' reporting to Frontex from dedicated Joint Operations (such as Agelaus or Hammer) pay particular attention to emerging phenomena such as the ones involving UAMs. In addition, with the roll-out of

⁷ Adopted, for 2011, as Commission Decision C(2011)1753 on 22 March 2011 (Point 3.2.4) and, for 2012, as Commission Decision C(2012)1771 on 22 March 2012 (Point 3.2.2).

⁸ available on the EMN website at <http://www.emn.europa.eu> under "EMN Ad-Hoc Queries/Protection" (no. 367)

the new Common Integrated Risk Analysis Model, humanitarian aspects of threats and risks at the external borders, also involving vulnerable groups such as UAMs, will be highlighted structurally in Frontex risk analysis products.

Frontex is invited to develop indicators on vulnerable groups such as unaccompanied minors in joint operation reports.

In 2010, Frontex carried out a joint operation Agelaus at air borders, which focused on procedures relating to irregular migration involving children, including unaccompanied minors, and other vulnerable groups. The operation was carried out with the involvement of the International Organisation for Migration (IOM) and the Office of the United Nations High Commissioner for Refugees (UNHCR).

In 2011, Frontex conducted the joint operation Hammer at air borders, which focused on trafficking and irregular migration involving children. IOM, UNHCR, FRA, and EASO were involved in the development of operational guidelines on how to deal with children at the external borders in order to present best practice and possible indicators of irregular migration involving children. The organisations participated in most operational briefings making presentations, together with Frontex staff, on the guidelines recommending how to deal with children.

During the Operational Heads of Airports Conference which took place in March 2012 in Rome, a dedicated workshop on UAM was held to exchange views and experiences amongst officers familiar with the matter. EASO, FRA, and UNHCR actively contributed to the workshop. The conference was also attended by the IOM.

Frontex is invited to develop tailored risk analysis on the nature of the threats faced by unaccompanied minors.

At the end of 2010, Frontex completed and presented the requested tailored risk analysis on “UAM in the migration process”.⁹ A tailored risk analysis in Frontex terminology is a document that is prepared in order to better understand a specific phenomenon. Its results are used to refine data collection mechanisms, reporting mechanisms for Joint Operations, operational planning and to fine-tune Frontex regular risk analysis products.

European Asylum Support Office is invited to collect data and develop country of origin information and analysis relevant for assessing the protection needs of unaccompanied minors with a view to better supporting quality decisions.

The 2012 Work Programme reiterates that among the tasks of the EASO as provided by the Action Plan for Unaccompanied Minors are the collection of data and the

⁹ See <http://www.frontex.europa.eu/news/unaccompanied-minors-in-the-migration-process-BakE15>

development country of origin information (COI) and it stipulates that during 2012 EASO will further develop its COI capacity (section 4.2.3).

In February 2012, EASO commissioned a questionnaire on age assessment practices. The results of this have led to a more comprehensive and complete picture on the methods and procedures currently in use, not only within the EU but also within wider Europe and the world.

As part of this research, EASO initiated data collection on asylum applicants and age assessment, which included request for data on numbers required to undergo assessment, those found to be under 18 following age assessment and following appeals. EASO will use these responses as a basis for further analysis and identification of needs.

Throughout 2012, in line with EC Regulation 439/2010, EASO has continued to develop COI methodology, which provides the technical tool kit for drafting COI Reports of the highest standards. By the end of 2012, EASO intends to produce the Afghanistan COI Report. The content will be determined by the needs of Member States. Specific issues related to vulnerable groups, including unaccompanied minors, will be incorporated within the reports where relevant.

European Asylum Support Office is invited to monitor the issue of unaccompanied minors who are asylum seekers, particularly in the most affected Member States.

The 2012 Work Programme includes a section on the activities EASO is going to carry out in the context of the implementation of the Action Plan for Unaccompanied Minors (section 4.2.5) and lists among objectives for 2012 setting up EASO information sharing and monitoring on unaccompanied minors.

Following evaluation of the responses to the age assessment questionnaire, EASO intends to share the findings and outcomes of the age assessment Questionnaire issued to Member States as well as the feedback and contributions following consultation with wider civil society.

In addition, EASO regularly monitors the issue of unaccompanied minors who are asylum seekers horizontally, through the mechanism of the Management Board meetings, during which Member States and UNHCR have the opportunity to contribute, and update on situations of relevance and concern to them.

EASO will facilitate further information exchange and sharing of knowledge through a variety of specific meetings on Unaccompanied Minors commencing in May 2012. The issue of UAMs who are asylum seekers will also be reflected horizontally within the EASO organisation.

Since 2011, EASO has provided strong support to the Greek administration through the Greek Operating Plan. On the issue of unaccompanied minors this has included working

through Asylum Support Teams (ASTs) who contribute to the development of policy concerning vulnerable groups, including minors.

The Commission will encourage Member States and relevant agencies and networks to improve the comprehensiveness of data concerning unaccompanied minors.

The Commission collaborated with Eurostat on the Guidelines and with EASO on the elaboration of its 2012 Work Programme.

The Commission will promote the inclusion of a section on unaccompanied minors in migration profiles of the main countries of origin and transit.

The Extended Migration Profile developed by the Republic of Moldova with support of the EU will include a number of indicators related to minors, including data on minor emigrants as well as children left behind by migrants. A project, 'The effects of migration in Moldova and Georgia on children and elderly left behind', financed by the Thematic Programme on Migration and Asylum, will allow to gather data on this group of population in Georgia and Moldova.

II.2. Actions in EU Member States

Data collection on unaccompanied minors still poses a problem for many Member States, mainly due to the fact that different level administrations are in charge of minors' reception and care. The largest figures on registered unaccompanied minors were found in Italy, France, Greece, Spain and Germany.

Some Member States reported a very limited number of UAMs (BG, CZ, EE, IE, LT and SI) while many MS (BG, CY, CZ, DE, EE, IE, LT, MT and SI) only provided data on UAMs who are asylum seekers.

The tables below list the official data communicated to Eurostat on the basis of Migration Statistics Regulation 862/2007 and its revised Guidelines.

	2008	2009	2010	2011
Belgium	485	730	1.080	2.040
Bulgaria	15	10	20	25
Czech Republic	35	10	5	10
Denmark	300	520	410	270
Germany	765	1.305	1.950	2.125
Estonia	0	0	0	0
Ireland	100	55	35	25
Greece	295	40	145	60
Spain	15	20	15	10
France	410	445	610	595
Italy	575	420	305	825
Cyprus	70	20	35	15
Latvia	5	0	5	0
Lithuania	0	5	10	10
Luxembourg	0	10	20	20
Hungary	175	270	150	60
Malta	20	45	5	25
Netherlands	725	1.040	700	485
Austria	695	1.040	600	1.005
Poland	375	360	230	405
Portugal	5	0	5	:
Romania	55	40	35	55
Slovenia	20	25	25	60
Slovakia	70	30	5	20
Finland	705	555	330	150
Sweden	1.510	2.250	2.395	2.655
United Kingdom	4.285	2.990	1.715	1.275

Table 1: Asylum applicants considered to be unaccompanied minors (Source: Eurostat)

	2010	2011
Belgium	43	:
Bulgaria	:	0
Czech Republic	:	0
Denmark	46	61
Germany	:	0
Estonia	0	0
Ireland	:	0
Greece	:	:
Spain	819	750
France	0	0
Italy	2.278	3.345
Cyprus	0	:
Latvia	0	0
Lithuania	:	0
Luxembourg	0	0
Hungary	10	10
Malta	:	0
Netherlands	20	17
Austria	:	:
Poland	:	:
Portugal	7	5
Romania	0	0
Slovenia	:	0
Slovakia	0	0
Finland	262	152
Sweden	54	66
United Kingdom	:	:

Table 2: First residence permits issued to unaccompanied minors (Source: Eurostat)

Several Member States did not make use of the new statistical category introduced by the revised Guidelines (see above – II.1) and hence reported zero residence permits issued to unaccompanied minors (BG, CZ, DE, EE, IE, FR, LV, LU, RO, SI, SK). It therefore remains difficult to assess the full extent of the phenomenon of unaccompanied minors in these Member States.

Most data provided was broken down by age and gender and this showed that the highest proportion of UAMs was males aged 14-18. Figures on return were also provided and numbers were very low in all Member States.

Countries of origin varied substantially among Member States. Morocco, Algeria, Tunisia, Sub-Saharan Africa, Albania, Somalia, Iran, Iraq and Afghanistan were the most commonly identified countries of origin of UAMs.

Further detailed information from Member States reports

Belgium reported that although the Alien Office produces statistic tables on UAM, the data collected by each administration is not always comparable and that therefore there is no clear and reliable picture of UAMs in Belgium at present. A project developing a common database is currently under consideration. However, Belgium estimates the number of UAM at 4 000.

Bulgaria stated that the number of unaccompanied minor asylum seekers from third countries is limited, with only 17 reported in 2010. The State Agency for Child Protection maintains a National Information System containing data on all children at risk and reported no significant increase of identified UAMs, amounting to 20 in 2011.

Cyprus's Social Welfare Services report on UAMs reported 16 asylum seekers and no victims of trafficking in 2011. Ages of UAMs ranged from 11 to 18.

The Czech Republic is currently reforming its childcare system in general. The institution system will turn into a foster family system in 2018, which will also have an impact on the situation of UAMs, including the asylum seekers. The number of UAMs asylum seekers in the Czech Republic in the last 5 years has been at a very low level and is still decreasing, with 12 cases in 2009, 4 cases in 2010 and only 9 cases recorded in 2011.

Denmark received 432 unaccompanied minors in 2010 who applied for asylum. In 2011, the number decreased to 282. The majority of these (60%) were from Afghanistan, and 82% of all unaccompanied minors seeking asylum in 2011 stated to be over the age of 15.

Estonia reported data only on UAM asylum seekers. There were none in 2010 and only one in 2011.

Finland provided data only for unaccompanied minor who request asylum. In 2010, there were 329 UAMs who originated mainly from Somalia, Iraq and Afghanistan. In 2011, the total number of unaccompanied minor asylum seekers in that year was 150, of which Somalia, Iraq and Afghanistan were the top countries of origin.

France only provided an estimate of 6 000 UAMs in its territory with countries/regions of origin being the Democratic Republic of Congo and other sub-Saharan territories, Central Asia, India, the Balkans and the Maghreb. The number of unaccompanied minors requesting asylum was 595 in 2011 and 610 in 2010.

Germany sent data on UAM asylum seekers. Between January and December 2011, 1 412 minors aged between 16 and 17 lodged applications for asylum. 461 were rejected; six were granted asylum; 88 subsidiary protection; and 182 received a ban expulsion. No

figures were provided on implemented returns. In 2010, there were 1 413 applications made by asylum seekers aged between 16 and 17; 570 rejected; 5 granted asylum; 97 subsidiary protection; 172 received a ban expulsion. No figures were provided on implemented return. Asylum seekers under this age amounted to 538.

Greece reported that 4 636 minors, including unaccompanied minors, were apprehended in 2010 and 6 422 in 2011, coming from countries such as Afghanistan, Albania, Pakistan, Somalia, Iraq, Iran and the Palestinian Authority. 1,234 minors were repatriated in 2010 and 265 in 2011.

In **Ireland**, asylum applications from unaccompanied minors fell consistently from 131 in 2005 to 27 in 2011. The top five countries of origin were Nigeria, Somalia, Afghanistan, Democratic Republic of Congo and Guinea.

Italy provided data, which indicated that there were 5959 unaccompanied minors on Italian territory on 31 December 2011. Most of them came from Afghanistan, Bangladesh, Tunisia, Egypt, Mali, Ivory Coast or Ghana. Most of the minors were males aged 16-17. Countries of origin were found to have changed over the last few years. Flows from traditional countries of origin such as Albania, or Morocco decreased considerably while flows from socio-political unstable countries in Africa and the Middle East increased.

Hungary reported that between 2009 and 2011 the number of unaccompanied minors apprehended by the Police and the Office of Immigration and Nationality was 1000 (this number might include some of the unaccompanied minor asylum seekers as well). In 2009, the number of unaccompanied minor asylum seekers was 270 (5.7% of all asylum seekers); in 2010 the number of unaccompanied minor asylum seekers was 150 (7.1% of all asylum seekers); while in 2011 the number was 61 (3.6% of all asylum seekers). In 2011, international protection was granted to seven unaccompanied minors. From April 2011 onwards, Hungary collected separate statistical data on the number of residence permits issued for non-asylum-seeker unaccompanied minors. 13 such residence permits were issued from 1 January 2011 until 30 November 2011 by the Office of Immigration and Nationality.

Lithuania stated that it had not experienced a significant problem with unaccompanied minors arriving from third countries. It provided data for unaccompanied minor asylum applicants. There were 9 UAMs in 2003, 3 in 2004 and 11 in 2011.

Malta issued 15 care orders in 2010, mostly to UAMs from Eritrea, Somalia and Côte d'Ivoire; and 25 in 2011, mostly from Eritrea, Somalia, Côte d'Ivoire and Mali.

The Netherlands reported only on UAMs who are asylum applicants. There were 725 UAMs in 2008; 1,040 in 2009; 700 in 2010 and 485 in 2011. They came mostly from Somalia, Iraq and Afghanistan.

Poland reported 14 UAMs who were staying at reception centres of the Border Guard in 2010–2011. These UAMs came from Afghanistan, Vietnam, Tunisia and Haiti.

Unaccompanied minors applying for refugee status in Poland amounted to 31 in 2010 and 23 in 2011. Their countries of origins were the Russian Federation, Afghanistan and Georgia.

Portugal reported 48 unaccompanied foreign minors identified at border posts in 2010 and 34 in 2011. Seven unaccompanied minors filed an asylum request in 2010 and five in 2011.

In **Romania**, the majority of UAMs was discovered at border crossing with forged or falsified documents or attempting to illegally cross the border to seek asylum or another form of protection in the country.

In 2010, 39 unaccompanied asylum seekers were registered and 9 of them (mainly Afghans) have obtained protection in Romania. Five unaccompanied minors were reunited with their families in their countries of origin.

In 2011, 33 asylum applicants considered to be unaccompanied minors were registered and 11 of them (mainly Afghans) obtained protection in Romania. Two unaccompanied minors were reunited with their families in their countries of origin.

In the **Slovak Republic** there were 264 unaccompanied minors in 2010 and 169 in 2011. Among them, 7 were registered as asylum seekers in 2010 (Afghanistan, Bangladesh, Iraq, Moldova, Pakistan and stateless). In 2011, 18 were registered as asylum seekers from Afghanistan, Moldova and Somalia. A special register was created for UAMs.

Slovenia reported 63 minors as asylum seekers in 2010 (38 unaccompanied minors), six of whom was granted international protection (one of them was unaccompanied minor) and 103 in 2011 (58 unaccompanied minors), ten of whom were granted international protection status (two of them where unaccompanied minors).

In **Spain**, 201 UAMs reached Spain by boat in 2010 and the number increased to 357 in 2011. Four minors were returned in 2010: two to Brazil, and one to Algeria and one to Paraguay. In 2011, only four minors were returned, all of them went back to Venezuela. The aggregated figure for the period 2008-2011 was over 5 500 and for 2011 alone, around 3 700.

In **Sweden** most unaccompanied minors apply for asylum. In 2010, there were 2 393 cases and 2 657 in 2011. Top countries of origin were Afghanistan, Somalia and Iraq.

In the **United Kingdom**, the recorded number of unaccompanied children seeking asylum in the UK was 1277 in 2011.

III. PREVENTION OF UNSAFE MIGRATION AND TRAFFICKING

III.1. Prevention

EU and national external cooperation instruments should be fully used in a well-coordinated manner to fund projects in third-countries to prevent unsafe migration and trafficking in human beings of children, particularly by providing alternatives in the country/region of origin that aim to benefit children.

- Specific projects:

Project: "Promoting the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and the Protocol against Smuggling of Migrants by Land, Sea and Air, both supplementing the United Nations Convention against Transnational Organized Crime" (Thematic Programme Migration, 2009-2012, €3M)

Project: "Preventing illegal migration of minors and support their social and professional integration in Algeria and Morocco" (TP Migration, 2010-2012, € 0.6M)

Project: "Prévention de la migration illégale d'enfants de moins de 18 ans non accompagnés du Sénégal vers l'Union Européenne" (TP Migration, 2009-2012, € 1.2M)

Project: "Providing Alternatives to Irregular Migration for Unaccompanied Children in Egypt" (TP Migration, 2011-2013 / € 1M)

Project: "Enfants en voyage: Pour une approche responsable des migrations des mineurs"; Morocco (TP Migration and Asylum, 2011-2013/ €1,5M)

Project: "The effects of migration in Moldova and Georgia on children and elderly left behind" (TP Migration & Asylum, 2010-2012 / € 580.000)

Project: "Addressing the Negative Effects of Migration on Minors and Families Left Behind" in Moldova (TP Migration and Asylum, 2011-2013/ €1,5M)

Project: "Prevention of the Illegal Migration of Unaccompanied Senegalese Minors to the European Union" (TP Migration and Asylum, 2010-2012/ €1 213 380) co-financed at 20% (303 345 Euros) and implemented by the Spanish Ministry of Employment and Social Security. The objective of the project was to contribute to the strengthening of the Senegalese national system for the protection of the rights of minors, in order to reduce the vulnerability of young Senegalese who, due to lack of opportunities, decide to migrate irregularly to Europe.

EU and national external cooperation instruments should fund in partnership with central and local authorities from countries of origin, civil society organisations and international organisations targeted awareness-raising programmes for children at

risk, as well as other types of preventive actions at local level, in schools, communities and families; training of specialised personnel in main areas of origin to detect situations at risk and intervene with families and communities; and studies in the main countries of origin to better understand the causes leading children to undertake dependent and independent migration.

Project: "Armed Conflicts and Trafficking, Child Prevention programme, Awareness-raising programme in Yemen" (EIDHR, 2009-2011, €150,000)

Project: "Building the dream: Saving the African Child from Trafficking (TP Investing in People, 2009-2013/ €5,24M; Kenya)"

Project: "Empowering social networks and Tribunals for children and youth about the Law Against Sexual Violence, Exploitation and Trafficking of persons in Guatemala" (EIDHR, 2010-2012, €100,000)

Project: "Prevention and protection against human trafficking by promoting the human rights of the victims, particularly of vulnerable groups of them, in Guatemala" (EIDHR, 2010-2012, €80,000)

Project: "School for the Defence of the Rights of Street Children and Adolescents in Bolivia" (EIDHR, 2009-2013, €173,000)

Project: "Media and Civil Society for the Rights of the Child in Vietnam" (EIDHR, 2009-2012, €132,000)

Project: "Stop early marriage and exchange marriage in Yemen" (EIDHR, 2009-2012, €246,000)

Project: "Addressing the Negative Effects of Migration on Minors and Families Left Behind' in Moldova" (TP Migration and Asylum, 2011-2013/ €1,5M)

A study on the follow up to the 2008 Council Conclusions on the rights of the child in development and humanitarian settings should be finalised by the end of 2012.

EU and national external cooperation instruments should support activities aiming to protect children from any form of violence or exploitation, in particular development of child protection and birth registration systems.

- Projects funded

Project: Protection of vulnerable children in Myanmar from trafficking and other forms of harm (TP Investing in People, 2009-2012/ €663,293M; Myanmar)"

Project: "Reducing Violence Against Children in Armenia" (EIDHR, 2009-2012, €750,000)

Project: "National Campaign for Prevention of Violence Against Children in Conflict with the Law in India" (EIDHR, 2010-2013, €382,000)

Project: "Preventing and combating all forms of violence against children in justice institutions or in conflict with the law in Ghana" (EIDHR, 2010-2013, €716,000)

Project: "Network for Children Rights Protection in Ukraine" (EIDHR, 2009-2011, €177,000)

Project: "Living without violence in the state of Mexico: eradicating domestic violence against women and children" (EIDHR, 2009-2011, €81,000)

- Call for proposals

Call for proposals for projects on preventing and combating all forms of violence against children is planned under the Thematic Programme Investing in People for 2012.

- EU Guidelines

The EU has been implementing the EU Guidelines on the protection and the promotion of the rights of the child, which focus largely on violence against children. It is expected that the 2012 Guidelines Review will retain a focus on the most vulnerable children such as unaccompanied minors. A number of EU Heads of Missions decided to prioritize local child protection issues, such as trafficking or situation of child migrants, in their action. A guidance note for EU delegations on child protection will be developed.

At the end of 2012, the Commission will issue guidelines for consular services and border guards for identification of victims of trafficking, including special indicators for child victims of trafficking.

- Thematic Programme Investing in People

Thematic Programme Investing in People – Thematic Programme for Human and Social Development 2007 – 2013. The mid-term review of the Strategy Paper for Thematic Programme introduced a specific mention of the need to improve birth registration as an essential tool to support national authorities and/or NGOs when trying to trace the families of separated children.

The EU and Member States should regularly address child protection issues in human rights and migration dialogues between the EU and third countries.

Continuous dialogue and close cooperation with the countries of origin and transit is one important element of the common EU approach to unaccompanied minors. Therefore, the issue was discussed in the migration subgroup of the G8, in the context of the EU-Africa Partnership on Migration, Mobility and Employment and of the Rabat Process on Migration and Development (expert meeting on vulnerable groups) as well as on the occasion of the JHA Subcommittee meeting with Algeria and of the Working Group on Social and Migration Affairs with Morocco, Egypt and Tunisia.

Further, the collaboration and particularly the exchange of good practice with countries facing similar challenges is of great importance for ensuring a proper response on the part of the European Union and its Member States. To this end, the issue of unaccompanied minors is also being discussed in the framework of the EU-US Platform for Cooperation on Migration and Refugee issues. In May 2011 Spain organised a seminar on unaccompanied minors.

Human Rights Dialogues with: African Union, Bangladesh, Belarus, Cambodia, Canada, Candidate countries (Croatia, Former Yugoslav Republic of Macedonia, Turkey), China, Egypt, Georgia, India, Israel, Japan, Jordan, Kazakhstan, Kyrgyzstan, Laos, Lebanon, Morocco, New Zealand, Pakistan, Palestinian Authority, Russia, Sri Lanka, Tajikistan, Tunisia, Turkmenistan, United States, Uzbekistan, and Vietnam.

The EU and Member States should systematically examine the possibility of introducing, in agreements with third countries, specific provisions addressing the migration of unaccompanied minors and enabling cooperation on issues such prevention, family tracing, return or reintegration.

See below.

The EU and Member States should reinforce actions regarding child victims of trafficking in human beings by assisting and protecting these children at the very earliest stage, by referring them to specific services in the country where they are found. Such assistance should at least include the measures provided for by the Directive on victims of trafficking in human beings.

The Action-Oriented Paper on strengthening the EU external dimension on action against trafficking in human beings – first implementation report/update of information on Member States' external action was adopted by the JHA Council in June 2011 (12401/11 of 4 July 2011). It gives an overview of all projects funded by the Member States, the Commission and EU agencies in third countries on trafficking in human beings. It shows a good overview of the many projects on assistance, support and protection of child victims of human trafficking and the prevention of child trafficking and the prosecution of the traffickers.

The EU and Member States should reinforce the capacities of third countries to combat trafficking in human beings, as well as to protect and assist unaccompanied minors in accordance with the best interests of the child and international standards and conventions, regardless of their nationality.

Project: "Addressing human trafficking of women and children in Viet Nam through capacity building and technical assistance" (DCI, 2009-2012, € 0.4M)

Project: "Prevention of unsafe migration and trafficking in children and adolescents from India and Bangladesh" (TP Migration, 2009-2012, € 1.8M)

Project: "Enhancing capacity to address trafficking in especially children from a human rights perspective in nine provinces and Phnom Penh municipality of Cambodia" (EIDHR, 2010-2012, € 188,000)

Project: "Enfants en voyage au Maroc: Strengthening public UAM management policies in Morocco" (TP Migration, 2011-2013 / € 1.2M)

Project: "Programme Petit Fènix": support development of Morocco's national service for prevention of emigration of UAM and strengthen co-operation between EU and Morocco in this area (TP Migration, 2011-2013 / € 1.3M)

Project: "Strengthening the capacity of the Central Asian Republics to protect and assist victims of trafficking in persons and smuggled migrants, especially women and children" (TP migration, 2011-2013, € 0.7M)

Project: Additional measures to fight child trafficking in Moldova (TP Investing in People, 2009-2012, €363,000)

Project: Against Child Trafficking in Lebanon (TP Investing in People, 2009-2011, €304,000)

Project: Tackling exploitation and trafficking of under-18 girls in Tajikistan (TP Investing in People, 2009-2012, €458,000)

Project: "Erradicación progresiva de la explotación sexual y la trata con fines sexuales de niñas/os y adolescentes en la Ciudad de Encarnación, Paraguay" (TP Investing in People, 2009-, €510,000)

Project: Combat child trafficking in Uganda, TP Investing in People, 2009-, €540,000

The EU and Member States should implement the prevention measures of the Action oriented paper on trafficking in human beings and support regional instruments against trafficking in human beings.

In June 2011, the Council adopted the first implementation report of the Action-Oriented Paper (see also above) which — apart from a list of projects on THB implemented by the Member States, agencies and the European Commission — lists a number of recommendations. It recommends that EEAS and the EU ATC work together towards the establishment of a list of priority regions and countries. The EU ATC has established good links with EEAS to tackle these recommendations. The next implementation report of the AOP is due in December 2012.

Member States' consular services should thoroughly assess visa applications submitted on behalf of children.

Consular cooperation, visa and document checking in countries of origin are carried out by BG, FR, DE, ES, IE, IT, HU and UK. DE and ES mention the use of the rolling out of the Visa Information System. ES, DE, HU, NL, PL, PT, PL and RO also refer to entry and exit checks in the Schengen Information System (SIS) and the compliance of their actions with the provisions of the Schengen Borders Code.¹⁰

The Commission will include specific reference to unaccompanied minors in the Immigration Portal, in order to improve information to potential migrants.

The EU Immigration Portal¹¹ was launched on 18 November 2011. It provides practical information for migrants and potential migrants. It includes a section dedicated to information on unaccompanied minors, which can be found under the heading 'Children travelling alone' within the section 'Avoiding the risks'.¹²

To encourage Member States to make use of the network of national contact points in relation to border control on minors, as set out in Annex 37 of the Practical Handbook for Border Guards.

The proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) and the Convention implementing the Schengen Agreement (COM(2011) 118 final) adopted by the Commission in March 2011 proposes that a list of national contact points for consultation purposes on minors – currently established on a voluntary basis under section 3.7 and Annex 37 of the Schengen Handbook – will be formally established and its use will be made obligatory. Point 6.4 of Annex VII provides: "Member States shall nominate national contact points for consultation on minors and inform the Commission thereof. A list of these national contact points shall be made available to Member States by the Commission".

¹⁰ See also section III.3.1

¹¹ <http://ec.europa.eu/immigration>

¹² [http://ec.europa.eu/immigration/tab3.do?subSec=17&language=7\\$en#anchor3](http://ec.europa.eu/immigration/tab3.do?subSec=17&language=7$en#anchor3)

To encourage Frontex and other European agencies to set up actions aimed at supporting the training of border authorities in third countries on how to detect counterfeited passports and visas, at targeted joint operations.

As recommended in the Action Plan Implementing the Stockholm Programme to establish guidelines and specific trainings for consular services and border guards Frontex Training Unit has developed a specific training curriculum on trafficking in human beings (THB) entitled Anti-Trafficking Trainer's Manual for Border Guards. The objective of this THB training curriculum for border control authorities is to strengthen the capacities of first and second line law enforcement officers within the EU and Schengen-Associated Countries to prevent and combat THB and to handle the victims with serious respect for their fundamental human rights. To accomplish this, 3 modules were developed, namely awareness raising, identification and an interviewing module. Every module has dedicated chapters dealing with child victims of trafficking.

III. 2. Protection Programmes in third countries

The EU and Member States should continue to fund activities aiming to provide protection and assistance to minor asylum seekers and refugees, including activities against exploitation and forced recruitment, for example by criminal groups.

The EU and Member States should continue to support third countries in improving their legislative and administrative capacity to identify minor asylum seekers and victims of trafficking in human beings and set up specific assistance programmes.

- Projects funded

Project: "Legal and Social Protection of Asylum Seeking and Refugee Children in Ukraine" (TP Migration & Asylum, 2009 -2012, € 1M)

Project: "Strengthening National Mechanisms and Capacities for Elimination of Trafficking in Children in Ukraine" (TP Investing in People, 2009-2011, €596,000)

Project: "Promotion and Protection of the Rights of the Child in Armenia through support to the functionality of central and local government and community based structures to prevent, identify and adequately address child protection concerns in institutions" (EIDHR, 2009-2012, €633,800)

Project: "Towards a national policy to fight human trafficking of women, teenagers and children for sexual exploitation purposes in Uruguay" (EIDHR, 2010-2012, €150,000)

Project: "Partnership for Protection of the Child's Rights in FYROM through Support the implementation of the Government's policy for protection of children's rights on regional and local levels" (EIDHR, 2009-2011, €80,000)

Project: "Strengthening Civil Society Actors to Work in Greater Cohesion with Government in Implementing the Child Rights Act" (EIDHR, 2009-2011, €236,000)

Project: "Strengthening Capacities and Coordination among Actors Working with Street Children in Nepal" (EIDHR, 2009-2012, €86,000)

Project: "Child Protection Systems for Iraqi refugee children in Lebanon, Syria and Jordan" (TP Migration, 2011-2013/ €0,7M)

Project: "Legal and Social Protection of Asylum Seeking and Refugee Children in Ukraine, Belarus, and Moldova" (TP Migration, 2011 -2013, € 791.000)

Project: "Strengthening the capacity of the Central Asian Republics to protect and assist victims of trafficking in persons and smuggled migrants, especially women and children, in partnership with NGOs and other civil society actors" (TP Migration, 2011 -2013, € 700.000)

- The issues mentioned appear at the annual UNGA and HRC resolution on the rights of the child (sponsored by the EU) and the EU draws attention to them also during the interactive dialogue with the UNSR on trafficking or during the general debate on children.

The EU and Member States should continue to include activities to assist and protect children in the framework of Regional Protection Programmes, which should be expanded to cover other key regions in terms of migratory flows to the EU and protection needs.

Regional Protection Programmes (RPPs) have been designed to build up and enhance the protection and asylum capacity of targeted regions and countries and improve refugee protection through durable solutions. In the preparation of each RPP (done in close cooperation with the UNHCR) the unaccompanied minors are always taken into consideration while designing concrete objectives and activities of the action. For instance, the RPP in the Horn of Africa aims to provide enhanced educational opportunities for refugee children in the camps in Kenya and Djibouti including those with special needs as well as strengthen child protection activities in camps in Kenya. In addition, the resettlement component of Regional Protection Programmes addresses the needs of the most vulnerable refugees, among them unaccompanied minors.

III. 3. Actions in EU Member States

Most Member States have adopted — or are in the process of adopting — legislative Acts specifically aimed at protecting minors from human trafficking, violence, sexual abuse, exploitation and disappearance. Specific units have been set up within Member States' administrations and specific training for Border Guards is being provided.

Preventive measures such as bilateral agreements with third countries and protection programmes were also set up. France signed an agreement with an EU country, Romania, which includes cooperation among liaison officers to prevent irregular exit and facilitate return.

Spain signed a management flow agreement for children with Morocco and Senegal, which covers prevention, reception, family tracing and secure return and reintegration. Italy signed a similar agreement with Egypt and Albania.

The Spanish Ministry of Foreign Affairs and Cooperation's Agency for International Development Cooperation has built two centres for minors in Nador and Beni Mellal, in the framework of its support strategy for vulnerable minors in Morocco and its collaboration with *L'Entraide Nationale*. The centre in Beni Mellal opened its doors in 2011 and currently carries out activities with minors who have dropped out of school and other vulnerable minors aiming to discourage them from emigrating irregularly.

Many Member States – AT, BE, BG, CZ, DE, EL, ES, IE, IT, HU, NL, PT, SE and UK – run information campaigns and projects and finance the construction of educational and training centres for minors in order to offer them an alternative to irregular migration to the EU. Those activities are usually carried out in cooperation with International Organizations and NGOs working in the field, such as IOM, ILO, UNHCR, Organisation for Security and Co-operation in Europe (OSCE), Caritas, *L'Entraide Nationale*.

Detailed information on Member States developments

Austria is planning to build a child protection centre in Chisinau in Moldova in September 2012, after an increasing number of unaccompanied minors from Moldavia arrived in Austria. It is meant to prevent these unaccompanied minors from falling victim to human trafficking again and to ensure a better life for them in their country.

In **Belgium** legislation on human trafficking addresses the needs of UAMs. Belgium is participating in several projects with third countries on protecting their minors from being trafficked. The "Enhancing multi-stakeholders cooperation to fight human trafficking in countries of origin and destination" project is developing a partnership to tackle the sexual exploitation issue in West Africa. Belgium also runs a project with Brazil to prevent trafficking for labour exploitation and participates with other Member States on a project in Serbia on victim identification and protection.

Bulgaria has a strategic framework for the prevention of migration and trafficking of children, including a National Strategy for Child Protection 2008-2018. The main priorities of the Strategy are prevention, improving the efficiency of the measures to protect children from violence, abuse and exploitation, including protection of children who are victims of trafficking. Bulgaria cooperates closely with intergovernmental and nongovernmental organisations such as the International Organization for Migration, Caritas Bulgaria, the Bulgarian Helsinki Committee, the Bulgarian Red Cross and Assistance Centre for Torture Survivors. Bulgaria works in partnership with countries of origin of trafficking in human beings. Through the diplomatic missions of Bulgaria abroad, cooperation with the competent authorities of the countries of origin on issues such as transit of unaccompanied children and children-victims of trafficking is developed.

The Czech Republic action is carried out by NGOs working on humanitarian projects in third countries, for example Adra, People in Need and Katolická Charita. The Ministry of the Interior is responsible for coordination of preventive measures when it comes to the question of trafficking in human beings as such. In order to prevent trafficking in children (also UAMs) a handbook “Trafficking in Children – Recommendations for Procedures of the Public Administration” was created with the contribution of the public authorities together with the NGOs. The document is a reaction to the developing trends in the area of committing crime of trafficking in children. The aim of the handbook is to describe in detail the recommended procedures of state authorities in cases where a minor is the perpetrator of a crime (especially property crime) - the document stresses the fact that a minor may be a victim forced by the real perpetrator into committing such crimes. Therefore the handbook pays attention to the problematic aspects in the identification of a potential child victim of this crime.

Denmark is running the Danish Regions of Origin program in Africa, the Middle-East and Asia to enhance protection of refugees and displaced persons in the region, including unaccompanied minors.

Estonia is amending the Penal Code and other related Acts to change the wording regarding the elements of enslavement and will add further elements dealing with human trafficking to the Penal Code.

The Ministry of the Interior of **Finland** set up a project to draft a proposal on passing a special act on trafficking in human beings in January 2012. Proposals for a more detailed regulation of the assistance system for victims of human trafficking and identification of victims will form a key part of this legislative project. Currently, services and support measures for victims are coordinated by two government-run reception centres for asylum seekers, one of which cares for unaccompanied minors. The Finnish Immigration Service and the two reception centres responsible for victim assistance also regularly arrange training on human trafficking and identification of victims for their personnel and other reception centres.

France follows a double-track strategy, fighting against organised children trafficking networks, through identifying and confiscating financial flows and money laundering on the one hand and getting children out of these networks on the other.

Germany supports the initiative to step up action against criminal structures (especially people traffickers) at EU level in relation to unaccompanied minors. All national external cooperation instruments with a migration policy objective also contribute towards preventing the unsafe migration of unaccompanied minors. German diplomatic and consular missions check visa applications from minors thoroughly. Entry and exit checks comply with all provisions of the Schengen Borders Code. Decision-makers from the Federal Office for Migration and Refugees are currently being specially trained to identify those UAMs affected by trafficking in human beings.

Greece has set up the nine-member Central Scientific Council for the prevention and treatment of the victimisation and criminality of minors at the Greek Ministry of Justice, Transparency and Human Rights. To fulfil its mission, the Council cooperates with national and international bodies and services, higher education institutions, research and education centres, public or private social, scientific and producer bodies, and with NGOs dealing with the prevention and treatment of the victimisation and criminality of minors. During 2011, it created the ORESTES network to cooperate and improve the effectiveness of related projects (approximately 250 bodies and 100 municipalities are taking part); it put together initiatives aimed at mobilising local communities and raising awareness amongst the general population; it created the 24-hour National Child Protection Helpline (number 1107) and the network of social workers who deal with the relevant complaints; it submitted a draft Joint Ministerial Decision and Presidential Decree on foster care to the competent ministries; and it set up a special team to register problems faced by unaccompanied minors.

In **Ireland**, the Anti-Human Trafficking Unit of the Department of Justice and Equality and the national Police Force gave presentations to staff of the Department of Foreign Affairs and Trade being posted abroad in 2011 and distributed information packs on trafficking issues to Irish Embassies around the world. Non-governmental organisations, such as IOM are also used to deliver training as required.

In 2009, a “National Joint HSE/Garda Protocol on Missing Children” was published which includes agreed formal procedures for interagency notification and co-operation in relation to the recovery of children who go missing from care which may include potential/suspected victims of human trafficking was put in place.

Finally, through the Department of Foreign Affairs and Trade, the Irish Aid Stability Fund provided 100,000 euro towards an OSCE-lead project for the enhancement of anti-trafficking measures in Ukraine.

The **Italian** Ministry of Labour and Social Policies is implementing bilateral cooperation projects aimed at preventing irregular minor emigration. An intervention programme has been set up with the Egyptian Government in order to define shared

instruments and guidelines for the prevention of minor irregular migration, both through information campaigns on the risks of this phenomenon and through individual socio-economic reinsertion project in the country of origin. In Albania the project “Back to the future” (2008-2010) financed by the European Commission implemented an effective cooperation between Italian and Albanian administrations, which has led to an agreed management of the problem.

Hungary works at consulate level to assess visa applications submitted on behalf of minors, in accordance with the Community Visa Code and the Commission Decision establishing the Handbook for the processing of visa applications and the modification of issued visas. This assessment includes the verification that the minor has not been unlawfully removed from the care of the person legally exercising parental custody over him/her; that there is no ground for suspecting child trafficking or child abuse; and that the purpose of the journey is not illegal immigration into EU territory.

In compliance with the Schengen Borders Code, the Hungarian Police as the authority responsible for guarding the Hungarian borders pays special attention to all minors. If the minor is accompanied by an adult, the police officer check whether the person accompanying the minor is responsible for him/her, especially if the minor is accompanied by one adult only and there are serious reasons to consider that the minor was illegally taken away from the person(s) responsible for him/her. In case of unaccompanied minors, the police officers make sure (with the thorough examination of the travel document and the certifying documents) that the minor does not enter the territory of the Member State against the intention of the persons responsible for him/her.

Furthermore, the Hungarian Ministry of Foreign Affairs has funded and is currently funding several projects (both bilateral and multilateral) in developing countries aimed at ameliorating living conditions in these countries (mainly by developing education and healthcare), and thereby contributing to decreasing the migration potential in these countries and preventing the unsafe migration of unaccompanied minors.

Lithuania approved the Programme for the prevention and control of human trafficking for 2009–12, including measures for the prevention of human trafficking which also cover the prevention of trafficking of minors from third countries. In 2011, the Ministry of the Interior approved recommendations for early action to prevent unlawful removal of children to foreign countries outside the Schengen area for sale or other purposes.

In **Malta**, in cases where unaccompanied minors claim that they were victims of trafficking, or where there is a suspicion that they have been victims of trafficking, the Office of the Refugee Commissioner takes this matter into consideration when the case is being assessed. No protection programmes in third countries are run by Malta.

The Netherlands has experience with protecting unaccompanied minors who are or are probably in danger of becoming victims of child smuggling and trafficking. A form of protected accommodation is provided in order to prevent disappearances.

Unaccompanied minors also receive guidance throughout the process to enable them to free themselves from the control of the traffickers. Criminal networks are investigated.

The Netherlands also has various cooperation schemes and technical assistance projects in the area of preventing and combating human trafficking with Serbia, Nigeria and Angola. Together with ILO, the Netherlands is running a project in Bolivia, Indonesia, Mali and Uganda on countering child forced labour and plans to start a prevention project in Afghanistan.

In **Poland** the Border Guard carries out its official duties related to, *inter alia*, fighting against the practices of organised irregular crossing of the national border of the country and the practice of trafficking in human beings. The Border Guard also participates in pilot programmes organised in selected provinces, aimed at combating and preventing trafficking in minors. These initiatives include the preparation of working documents intended as guidelines regarding identification, principles and procedures for cases of the discovery of a victim who is a minor. Care institutions where minor victims could be placed have been appointed (the educational staff of these institutions is trained in cooperation with the Border Guard).

Portugal highlights the *Saferdicas* awareness campaign regarding the dangers of using the internet, and precautions to be taken when doing so, in particular in relation to the recruitment of victims of human trafficking. The launch of the film "I want to be a Star" about the triangular trafficking of minors between Portugal, Mozambique and South Africa was a part of the prevention campaign.

Under the 1999 Law on the Protection of Children and Young People at Risk, the Republican National Guard and Portuguese military police force are represented on the Commission for the Protection of Children and Young People. The Commission flags and follows cases of minors at risk of which they are aware, as part of its work. The Republican National Guard and Portuguese military police force undertake prevention activities in relation to the abuse of the children's rights.

The **Romanian** Border Police uses specific risk profiles for the purpose of early identification of children who are victims of THB. During 2011, the Schengen Multifunctional Training Center from Buzău organized an advanced course in Schengen acquis on countering trafficking in human beings, including minor victims of trafficking in human beings. Romania has not implemented any special programs for the prevention or increasing the protection capacity for unaccompanied minors in third countries.

The **Slovak Republic** has set up a working group on combating trafficking in human beings, in the framework of the 2011–2014 National Action Plan to Combat Human Trafficking. Guidelines have been issued for the border and aliens police forces on a detailed procedure for identifying potential victims of human trafficking, including victims of human trafficking who declare to be unaccompanied minors.

Slovenia's Migration and Integration Directorate concluded, on 17 November 2010, an agreement with the Slovenian Jesuit Association for Refugees on the implementation of

the programme entitled 'Introduction of mechanisms for recognising, assisting and protecting the victims of trafficking in human beings and/or sexual violence into the procedures for granting international protection in Slovenia' for a period of two years.

On 27 October 2011 the new Slovenian Aliens Act entered into force. As regards the prevention of trafficking of unaccompanied minors, the new Aliens Act contains a new provision introducing a special procedure for this group. The police and non-governmental organisations are duty-bound to inform the minor of the possibility of obtaining a residence permit and of the related conditions and to make every effort to establish contact with his or her family.

Spain's Ministry of Employment and Social Security has co-financed by 20% (303 345 €) a project in Senegal named "Preventing illegal UAMs migration to the EU". The project aims at capacity building in Senegal's institutions to protect minors and provide them with better life prospect, which is hoped will prevent them from irregular migrating to the EU. Prevention activities have been strengthened by the Spanish consulates in respect of minors' visa applications assessment by the implementation of the EU Visa Code and the VIS rolling-out.

In Spain, most UAMs come from Morocco. In partnership with L'Entraide Nationale, the Spanish International Cooperation for Development Agency has built two centres for minors in Morocco with activities starting in 2011, targeting school leavers and other vulnerable minors to prevent irregular emigration. Support to building minor centres is also provided by the Regions of Andalucía, Catalonia and Madrid.

Sweden is developing a considerable number of projects with third countries such as Mali, Kosovo, Kenya, Burkina Faso, and Bolivia, on prevention measures and children protection from violence, trafficking for labour and sexual exploitation and/or organ trafficking purposes.

The United Kingdom's Borders, Citizenship and Immigration Act 2009 places a duty on the UK Border Agency to safeguard and protect the welfare of children. The statutory duty does not apply in relation to children who are outside the United Kingdom, but staff working overseas must adhere to the spirit of the duty. UK Immigration Liaison Managers and Officers receive specific training to identify children who may be at risk when travelling, and they include this within their own training programmes for airline staff. Where possible they also work with host authorities and international organisations to raise awareness. For example, they have worked with the IOM in Southern Africa on a long term regional project to develop the capacity of the travel industry and border authorities to identify and address child trafficking.

The UK Government is strongly committed to protecting child trafficking victims including those who may go missing. Local approaches have proven to be effective. For example stronger processes and systems put in place by the London Borough of Hillingdon and Hertfordshire has reduced the number of under 18 year old unaccompanied children going missing. The UK government takes this issue very seriously and this is why the Human Trafficking Strategy contains specific commitment

to take action to tackle this issue working with key national partners including Child Exploitation and Online Protection Centre.

IV. RECEPTION AND PROCEDURAL GUARANTEES

IV.1 Procedures at first encounter and standards of protection

The EU should adopt higher standards of protection for unaccompanied minors by completing negotiations on the revision of the asylum acquis and by adopting more comprehensive legislation on trafficking in human beings and sexual exploitation of children.

IV. 1.1. Asylum

Recast proposals presented in June 2011 included a number of procedural safeguards enhancing the protection of minors, including unaccompanied minors.

- Proposed Asylum Procedures Directive:
 - The right of minors to apply for international protection is explicitly stipulated in the proposal;
 - Member States are required to grant applicants with special needs, including unaccompanied minors, time extensions to submit evidence or take other necessary steps in the asylum procedure;
 - Unaccompanied minors are entitled to free legal assistance in both first instance and appeal procedures;
 - Member States are required to appoint a guardian in order to assist and represent an unaccompanied minor with respect to the lodging and examination of the application. In accordance with the proposal, the guardian must be impartial and have the necessary expertise in the field of childcare; The proposal exempts unaccompanied minors from accelerated/manifestly unfounded border procedures, and from procedures based on the safe third country concept;
 - Member States are required to provide initial and follow up training to asylum personnel with regard to gender, trauma and age awareness, and to ensure that interviews with minors are conducted in a child-friendly manner.

- Proposed Reception Conditions Directive
 - specifies that minors shall not be detained unless it is in their best interests, while unaccompanied minors shall never be detained;
 - obliges Member States to establish specific reception conditions for minors such as the possibility to engage in leisure and recreational activities appropriate for their age;

- the best interests of the child principle is defined;
 - obliges Member States to identify applicants with special needs and to indicate the exact nature of those needs in order to ensure they are adequately addressed;
 - the obligation of Member States to trace the unaccompanied minors' family members is strengthened.
- Qualification Directive (Directive 2011/95/EU)

The Directive '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' was adopted on 13.12.2011 and constitutes the first element of the asylum package. The Directive strengthens the provision on tracing of family members. Moreover, recital 18 of the Directive for the first time contains an indicative list of what is to be taken into consideration to assess the best interest of the child, including the principle of family unity.

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 27 — 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.

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 specialising 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 children's 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.

IV.1.2.Trafficking

- Directive on preventing and combating trafficking in human beings and protecting its victims (2011/36/EU)

Directive 2011/36/EU of the European Parliament and of the Council 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, includes new provisions on particular assistance, support and protection to unaccompanied child victims of trafficking in human beings. The Directive is to be transposed into national law by 6 April 2013.

Recital 23 — Particular attention should be paid to unaccompanied child victims of trafficking in human beings, as they need specific assistance and support due to their situation of particular vulnerability. From the moment an unaccompanied child victim of trafficking in human beings is identified and until a durable solution is found, Member States should apply reception measures appropriate to the needs of the child and should ensure that relevant procedural safeguards apply. The necessary measures should be taken to ensure that, where appropriate, a guardian and/or a representative are appointed in order to safeguard the minor's best interests. A decision on the future of each unaccompanied child victim should be taken within the shortest possible period of time with a view to finding durable solutions based on an individual assessment of the best interests of the child, which should be a primary consideration. A durable solution could be return and reintegration into the country of origin or the country of return, integration into the host society, granting of international protection status or granting of other status in accordance with national law of the Member States.

Recital 24 — When, in accordance with this Directive, a guardian and/or a representative are to be appointed for a child, those roles may be performed by the same person or by a legal person, an institution or an authority.

Article 13 — General Provisions on assistance, support and protection measures for child victims of trafficking in human beings (including unaccompanied minors)

1. Child victims of trafficking in human beings shall be provided with assistance, support and protection. In the application of this Directive the child's best interests shall be a primary consideration.
2. Member States shall ensure that, where the age of a person subject to trafficking in human beings is uncertain and there are reasons to believe that the person is a child, that person is presumed to be a child in order to receive immediate access to assistance, support and protection in accordance with Articles 14 and 15.

Article 14 — Assistance and Support to child victims

1. Member States shall take the necessary measures to ensure that the specific actions to assist and support child victims of trafficking in human beings, in the short and long term, in their physical and psycho-social recovery, are undertaken following an individual assessment of the special circumstances of each particular child victim, taking due account of the child's views, needs and concerns with a view to finding a durable solution for the child. Within a reasonable time, Member States shall provide access to education for child victims and the children of victims who are given assistance and support in accordance with Article 11, in accordance with their national law.
2. Member States shall appoint a guardian or a representative for a child victim of trafficking in human beings from the moment the child is identified by the authorities where, by national law, the holders of parental responsibility are, as a result of a conflict of interest between them and the child victim, precluded from ensuring the child's best interest and/or from representing the child.
3. Member States shall take measures, where appropriate and possible, to provide assistance and support to the family of a child victim of trafficking in human beings when the family is in the territory of the Member States. In particular, Member States shall, where appropriate and possible, apply Article 4 of Framework Decision 2001/220/JHA to the family.
4. This Article shall apply without prejudice to Article 11.

Article 15 — Protection of child victims of trafficking in human beings in criminal investigations and proceedings

1. Member States shall take the necessary measures to ensure that in criminal investigations and proceedings, in accordance with the role of victims in the relevant justice system, competent authorities appoint a representative for a child victim of trafficking in human beings where, by national law, the holders

of parental responsibility are precluded from representing the child as a result of a conflict of interest between them and the child victim.

2. Member States shall, in accordance with the role of victims in the relevant justice system, ensure that child victims have access without delay to free legal counselling and to free legal representation, including for the purpose of claiming compensation, unless they have sufficient financial resources.
3. Without prejudice to the rights of the defence, Member States shall take the necessary measures to ensure that in criminal investigations and proceedings in respect of any of the offences referred to in Articles 2 and 3:
 - (a) interviews with the child victim take place without unjustified delay after the facts have been reported to the competent authorities;
 - (b) interviews with the child victim take place, where necessary, in premises designed or adapted for that purpose;
 - (c) interviews with the child victim are carried out, where necessary, by or through professionals trained for that purpose;
 - (d) the same persons, if possible and where appropriate, conduct all the interviews with the child victim;
 - (e) the number of interviews is as limited as possible and interviews are carried out only where strictly necessary for the purposes of criminal investigations and proceedings;
 - (f) the child victim may be accompanied by a representative or, where appropriate, an adult of the child's choice, unless a reasoned decision has been made to the contrary in respect of that person.
4. Member States shall take the necessary measures to ensure that in criminal investigations of any of the offences referred to in Articles 2 and 3 all interviews with a child victim or, where appropriate, with a child witness, may be video recorded and that such video recorded interviews may be used as evidence in criminal court proceedings, in accordance with the rules under their national law.
5. Member States shall take the necessary measures to ensure that in criminal court proceedings relating to any of the offences referred to in Articles 2 and 3, it may be ordered that:
 - (a) the hearing take place without the presence of the public; and
 - (b) the child victim be heard in the courtroom without being present, in particular, through the use of appropriate communication technologies.
6. This Article shall apply without prejudice to Article 12.

Article 16 — Assistance, support and protection for unaccompanied child victims of trafficking in human beings

1. Member States shall take the necessary measures to ensure that the specific actions to assist and support child victims of trafficking in human beings, as referred to in Article 14(1), take due account of the personal and special circumstances of the unaccompanied child victim.
2. Member States shall take the necessary measures with a view to finding a durable solution based on an individual assessment of the best interests of the child.

3. Member States shall take the necessary measures to ensure that, where appropriate, a guardian is appointed to unaccompanied child victims of trafficking in human beings.
 4. Member States shall take the necessary measures to ensure that, in criminal investigations and proceedings, in accordance with the role of victims in the relevant justice system, competent authorities appoint a representative where the child is unaccompanied or separated from its family.
 5. This Article shall apply without prejudice to Articles 14 and 15.
- The October 2010 Report on the application of Directive 2004/81/EC on the residence permits issued to third-country nationals who are victims of trafficking (COM(2010)493) proposes as one of the possible follow-ups an amendment aimed at strengthening the framework of treatment for minors, including unaccompanied minors. Furthermore, the Commission also plans to examine the possibility of granting residence permits based on the vulnerable situation of the victim regardless of their cooperation with investigating authorities. This category of victims may include unaccompanied minors.
 - A useful tool in addressing trafficking of human being, including unaccompanied minors, is a website dedicated to anti-trafficking (<http://ec.europa.eu/anti-trafficking>) which was launched in December 2010.
 - The EU Anti-Trafficking Day has been established on 18 October of every year since 2007 and a clear focus is placed on pertinent issues relating to trafficking in human beings. In 2011, the focus of the day was on cooperation between the seven EU agencies working in the field of Justice and Home Affairs (Frontex, Europol, Eurojust, EASO, FRA, EIGE and CEPOL). A Joint Statement was adopted on 18 October 2011 which calls for the commitment to address trafficking in human beings and better coordination and closer cooperation. It also stresses that particular attention and due care should be given to the rights and treatment of vulnerable groups, including unaccompanied minors. Contact points have been designed in each agency to follow up on the concrete measures to implement the political statement. A first meeting of the contact points is planned for early 2012.
 - In 2010, the Belgian Presidency organised a conference titled 'Towards a multi-disciplinary approach to prevention of trafficking in human beings, prosecution of traffickers and protection of victims' bringing together politicians, government practitioners and civil society from across EU.
 - The issue of unaccompanied minors was raised in the context of the integrated EU Strategy towards the Eradication of Trafficking in Human Beings (2012-2016), adopted in June 2012.

IV. 1.3. Sexual exploitation of children

Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA.¹³ The Directive is to be transposed into national law by 18 December 2013. It covers all children, including unaccompanied children coming from third-countries.

Article 20 — Protection of child victims in criminal investigations and proceedings

1. Member States shall take the necessary measures to ensure that in criminal investigations and proceedings, in accordance with the role of victims in the relevant justice system, competent authorities appoint a special representative for the child victim where, under national law, the holders of parental responsibility are precluded from representing the child as a result of a conflict of interest between them and the child victim, or where the child is unaccompanied or separated from the family.

2. Member States shall ensure that child victims have, without delay, access to legal counselling and, in accordance with the role of victims in the relevant justice system, to legal representation, including for the purpose of claiming compensation. Legal counselling and legal representation shall be free of charge where the victim does not have sufficient financial resources.

IV.1.4. Actions in other areas

The Commission will ensure that EU legislation is correctly implemented and, on the basis of an impact assessment, evaluate whether it is necessary to introduce targeted amendments or a specific instrument setting down common standards on reception and assistance for all unaccompanied minors regarding guardianship, legal representation, access to accommodation and care, initial interviews, education services and appropriate healthcare, etc.

The Commission has continued to check the correct implementation of EU legislation, in particular the Return Directive. In April 2011, the European Parliament and the Council adopted the Directive on Preventing and Combating Trafficking in Human Beings and protecting its victims (Directive on Trafficking in Human Beings). As mentioned above, the Directive includes new provisions providing assistance, support and protection to unaccompanied children who are victims of trafficking. In June 2011, the Commission made proposals for revising the asylum acquis, containing a number of procedural

¹³ Official Journal L 335 of 17.12.2011, pp. 1-14.

safeguards enhancing the protection of minors, including unaccompanied minors (see above). Negotiations on these proposals are on-going.

The Return Directive makes a difference between those who are already "in" the EU and those who are apprehended when trying to enter the EU ("border cases"). Even though Member States may decide not to apply the Directive to these so-called border cases, this does not lead to a legal vacuum for the migrants concerned: minimum safeguards will have to be respected. If Member States opt not to apply the Directive to this category of persons, they must ensure that the level of protection for affected persons is not less favourable than that set out in the articles of the Directive dealing with limitations on the use of coercive measures, postponement of removal under specific circumstances, emergency health care, taking into account the needs of vulnerable persons, detention conditions, special rules on detention of minors and families, and full respect for the principle of non-refoulement.

Moreover, in relation to asylum, a Comparative report of the FRA on Separated, Asylum-seeking children in European Union Member States, published in November 2010, examined the perspectives and experiences of 336 unaccompanied and separated children and 302 adults responsible for their care in 12 EU Member States. The study covered the children's living conditions, including: accommodation; the role of social workers; healthcare; education and training; religion, cultural norms and values; recreation and leisure; and social interaction and experiences of racism. It also included information on legal issues and procedures affecting the children, including: legal guardianship and legal representation; age assessment; family tracing and reunification; the asylum procedure; and detention. The questions of the children's maltreatment and abuse and 'turning 18' were also summarily considered in the report, as the research was not initially designed to address them.

The children interviewed were aged between 14 and 18 years, and every effort was made to interview girls and boys with difference ethnic, religious and cultural backgrounds. The adults interviewed included care workers, social workers, teachers, psychologists, health specialists, legal guardians, legal practitioners, government officials – including law enforcement officers – interpreters and researchers. The FRA research on children is particularly guided by Article 12 of the UN Convention on the Rights of the Child, which requires the participation of children in decisions which affect them. The report contains 'Considerations' regarding the adequate treatment of the children in the host State as well as references to relevant provisions of the UN Convention on the Rights of the Child and selected international instruments and EU legislation. The report concluded that children's rights, often not clearly reflected in EU legal provisions, are not always fulfilled.

At the Belgian Presidency seminar "Unaccompanied Minors: children crossing the external borders of the EU in search of protection", 9 – 10 December 2010, Brussels, the Fundamental Rights Agency presented a discussion paper on "Protecting from the first encounter unaccompanied and separated children". This discussion paper is based on the study carried out for the above-mentioned Comparative report of the FRA on "Separated,

Asylum-seeking children in European Union Member States", but focuses on children's situation 'at borders'.

The situation of UAMs at airports and transit zones was discussed during the Conference of Operational Heads of Airports which took place in March 2012 in Rome. The workshop yielded concrete recommendations on how to improve procedures for UAMs at airport borders and transit zones.

The EU should assess different experiences to counter disappearance and promote best practices.

The FRA project on the treatment of third-country nationals at borders has a set of questions to identify how children are dealt with a) during or after rescue/interception at sea and b) at border crossing points. The results will be published at the end of 2012 and in mid-2013 respectively. At the maritime borders, the research analysed the existing mechanism in the Mediterranean countries to identify Unaccompanied and Separated Children, age assessment procedures at borders, and the existence of adequate reception facilities upon arrival. As regards to the border crossing points, the research looks at how the Unaccompanied and Separated Children are dealt with during border checks.

Member States are invited to prioritise the use of missing person alerts in the Schengen Information System for cases of absconding or disappearance from care.

The new section "*Provision of descriptive detail on missing minors and other persons assessed as being at risk*" was inserted in Commission Implementing Decision 2011/406 of 1.7.2011 amending the SIRENE Manual.

Additionally, further detail on information exchange on the circumstances of a high risk missing person and the circumstances of their disappearance was incorporated in Council document 18161/10 of 5.1.2011 setting out a revised version of the updated catalogue of recommendations for the correct application of the Schengen acquis and best practices (Schengen Information System).

A study on missing children will be carried out by DG Justice in 2012/2013, aiming to collect official data on children going missing in the 27 Member States, including UAMs in institutional care to establish the scale of the issue, collect good practice from Member States and serve as evidence for policies in the field.

Member States are invited to consider introducing review mechanisms to monitor the quality of guardianship in order to ensure that the best interests of the child are represented throughout the decision making process and, in particular, to prevent abuse.

- Meeting of the Expert Group on Unaccompanied Minors on guardianship:
On 21 June 2011 the Commission organised the first meeting of the expert group on unaccompanied minors. The meeting was attended by the representatives of the Member States, international and non-governmental organisations and EU institutions. The outcome document of the meeting is expected to contribute to the implementation of the existing legislative instruments as well as developing future legislation and policies on unaccompanied children and guardianship (e.g. in the fields of asylum or trafficking).
- 2011 EU Agenda for the Rights of the Child reiterated the importance of appropriate representation of the child.
- Project financed by DAPHNE III Programme: ‘Closing a protection gap: Core Standards for guardians of separated children in Europe’ run by Defence for Children-the Netherlands was finalised in 2011.

The aim of the Core Standards is to harmonize the protection separated children receive from their guardian by focusing on the qualifications of a guardian. The Core Standards should inspire the guardians in their daily work and it offers a goal to work towards. Due to the current guardianship system in some countries there are a lot of hurdles to take to protect the best interest of separated children. The Standards should empower the guardians and should inspire State authorities to adjust the guardianship systems where necessary.

- The Comparative report of the FRA on Separated, Asylum-seeking children in European Union Member States, published in November 2010 (see above), has also examined the perspectives and experiences of guardianship of unaccompanied and separated children and adults responsible for their care.

European Asylum Support Office is invited to organise training activities and develop best practices regarding reception conditions, asylum procedures and integration of unaccompanied minors.

- The 2012 Work Programme recognises that one of the tasks of the EASO as provided for by the Action Plan for Unaccompanied Minors (2010-2014) is to develop best practice regarding reception conditions, asylum procedures and integration of unaccompanied minors. To this end, the Work Programme lists as one of the objectives for 2012 starting developing best practices concerning these issues (section 4.2.5).
- At the June 2012 management board meeting EASO presented their Training Strategy, comprising the principles and procedures that will guide EASO in the implementation of its training mandate. Key to this is the European Asylum

Curriculum (EAC), which is a common vocational training system for Asylum Officials in the European Union. Through commonly developed learning material the curriculum covers the whole EU asylum procedure, including specific modules addressing vulnerable groups and minors. Each module comprises on-line studies followed by a face to face session. As such it is an essential tool for Member States delivering initial and follow up training.

- During 2011 EASO updated the EAC ‘Interviewing Children’ module. This module addresses training needs of asylum officials so that they are equipped to consider complex issues of gender, trauma and age; it also ensures that interviews with minors are conducted in a child-friendly manner.
- In July 2012 an expert meeting on Interviewing techniques & methods was held. As part of the expert meeting, participants (including experts in the field of asylum) were invited to take part in and feedback on the EAC module, ‘interviewing children.’ The outcome will be used as a basis for identifying future development of the module as well as other training needs relating to Unaccompanied Minors.
- In September 2012, EASO held an expert meeting on the use of X-ray and other medical examinations for the purposes of age assessment,
- In October 2011 EASO worked alongside FRA, IOM & UNHCR in a Frontex-led joint operation focussed on assisting border officials in identifying potential victims of trafficking. Going forward, EASO in cooperation with Frontex, will consider additional possibilities for training activities on handling cases involving children at the external borders of the EU including age and evidence assessment procedures.
- Belgian Presidency seminar on 'Unaccompanied Minors: children crossing the external borders of the EU in search of protection', held on 9 – 10 December 2010 in Brussels. The conference was co-financed by the Commission (EBF) and was focussed on protection of children from the first encounter and resulted in a set of Recommendations. At this conference, the FRA presented a background discussion paper on ‘Protecting from the first encounter unaccompanied and separated children: establishing links between actors’, on the basis of a table of contents identified by the Belgian Presidency. This included the identification of key questions relating to: good practice in referral at the border to immediate assistance and reception; which services to provide to unaccompanied minors and which representation is needed for unaccompanied minors (information, reception facilities, tools to prevent disappearance or exploitation; which representation is needed for unaccompanied minors (legal assistance, guardians ...), what access to which procedures, how to best coordinate actions by the actors involved, and focal points for unaccompanied minors: which steps are needed next.

Frontex is invited to include a separate paragraph on vulnerable groups, including unaccompanied minors, in working arrangements to be concluded with third countries.

Frontex is including into its Working Arrangements the requirement that "... in the implementation of the intended cooperation, Frontex and the third country pay full respect to human rights."

Frontex is invited to provide technical assistance to border authorities in third countries on border related measures regarding unaccompanied minors.

With the amended Frontex Regulation entering into force at the end of 2011, Frontex acquired the mandate on technical assistance to border guard authorities in third countries. The Agency is currently evaluating on how it will implement such technical assistance projects in the future.

The Commission will use available funds effectively, to support European networks of guardians, to exchange best practices and develop guidelines, common curricula and training, etc.

- The Commission organised an Expert Group meeting on guardianship (21 June 2011) (see above).
- Project financed by DAPHNE III Programme: 'Closing a protection gap: Core Standards for guardians of separated children in Europe' run by Defence for Children-the Netherlands was finalised in 2011 (see above).

To call on the Commission and the Member States under the European Fund for the Integration of third country nationals and the European Refugee Fund, to strengthen UAM related actions, mainly in order to establish and improve reception facilities responding to the specific needs of minors, as well as measures for the development of appropriate integration actions.

Under shared management, a number of Member States have foreseen to address the specific situation of UAMs in their annual programmes for both the European Refugee Fund and of the European Fund for the Integration of third country nationals programmes.

- Examples of projects funded:

Project: "Accompagnement Damana-Refugies. MENA (2008-I/AC.13/01, Belgium, 2008, euro). The purpose of the project was to provide unaccompanied minor asylum

seekers and refugees with individualised psychosocial and multidisciplinary support facilitating the (re)building of their identity and integration into society; and, through interviews, individualised exchanges and participation in collective activities.

Project: "Professionnaliser l'accompagnement scolaire des MENA" (2008-I/Ac.13/26, Belgium, 2008-2009, € 36.904). The purpose of the project was to professionalize support given to minors with learning difficulties: learning disabilities linked to exile and trauma, illiteracy / lack of education, cultural adaptation, and foreign language. For this, the Training Centre of the CPAS Federation (UVCW) built a plan for collective supervision and for the development of a tool for the multidisciplinary educational team over three years, in close coordination with the CPAS Assesse UAMs Centre.

Under centralised management, the Commission has financed actions concerning unaccompanied minors in the framework of the European Refugee Fund Community Actions.

- Projects funded:

Project: "Best practices for a coordinated approach to assist unaccompanied minors, asylum seekers and former UAMs in EU Member States", implemented by the International Organisation for Migration, 2009, € 379.141,00: the project aims to carry out a comprehensive assessment to identify the most pressing needs among the target group, to identify assistance gaps, and to evaluate current assistance projects and practices as well as capacity and efforts taken to address such gaps; to draft and publish a report summarising findings and providing recommendations for a common approach; to develop informational leaflets targeting UAMs; and to conclude with an international conference to share the findings and the recommended common approach with a wide audience.

Project: "Access of minor asylum seekers (aged 15-18 years old) to the educational system in Europe – Meeting the challenges", implemented by the Hellenic Red Cross; 2009, € 206 964.00: the main objective of the project is to support, influence and improve the existing educational framework in favour of the minor asylum seekers at national and EU level, through a system of interrelated actions and methodological tools.

Project: "European Network of Guardianship Institutions: Guardianship in practice", implemented by the NIDOS Foundation; 2009, € 231.680,00: the objective is to exchange existing methodologies within the ENGI-network, to develop common principles and methodologies and to have these principles accepted within the relevant authorities in the participating Member States (NL, BE, FI, DE, SE, UK).

Project: "Unaccompanied and separated children “on the move” in need of international protection: Addressing protection needs through reception, counselling and referral, and enhancing co-operation between concerned European Union

Member States", implemented by the UNHCR; 2010, € 652.614,86: the project aims to develop and promote common measures to address reception, counselling and referral of Unaccompanied and Separated Children (UASC), providing assistance, child appropriate information, counselling and referral to asylum procedures or other protection mechanisms along one of the most frequently travelled routes of UASC through the EU. UASC will be 'followed' by the project partners along that route.

Project: "Improving the Quality of Unaccompanied Minor Asylum Seekers' Guardianship and Care in Central European Countries", implemented by the International Organisation for Migration, 2010, € 295.077,65: the overall objective of the project is to contribute towards the enhancement of the quality of guardianship and harmonization and standardization of the overall assistance and care provided to UAMs in Central European countries in line with the EU Action Plan on Unaccompanied Minors, the relevant EU Directives and the Convention on the Rights of Child by conducting a review in Member States (Hungary, Slovakia, Czech Republic, Poland, Slovenia, Romania and Bulgaria), developing a training manual and curriculum, organising training for trainers and implementing training for guardians.

Under the European Refugee Fund Community Actions 2011 call for proposals the following projects have been granted funding:

Project: "Ensuring effective responses to vulnerable asylum-seekers: promotion of adequate standards for identification and claim determination for people with special needs", to be implemented by the UNHCR, 2011, € 546.840,00 (indicative amount). The project aims to address the specific needs of vulnerable groups and promote high quality decision-making and capacity building in the countries concerned. Its objectives include the effective and proper identification of vulnerable asylum-seekers and the provision of a timely and sufficient response to their needs through the comprehensive analysis and monitoring of national legal frameworks and practice, targeted capacity-building, inter-country exchanges on good practice, networking with civil society, and the creation of national standard operating procedures to ensure the quality and harmonization of national procedures.

Project: NET FOR U — Needs Tackling and NETworks FOR Unaccompanied minors integration; implemented by Istituto don Calabria, 2011, € 645.480,00 (indicative amount); the main goals of the action are to define and test common intervention programmes aimed to improve the integration of TCN unaccompanied foreign minors (studying and elaborating new practices of needs assessment and family tracing); and to strengthen collaboration between EU countries and main stakeholders working in the field at local and transnational level while also exploring opportunities for cooperation with minors' countries of origin.

Activities for the protection of unaccompanied minors have been also funded under the Daphne III Programme.

Project: Frame of reference in prevention of sexual and gender-based violence against and among young refugees, asylum seekers and unaccompanied minors in the European reception and asylum sector; implemented by the University of Gent, 2008-2010, € 400.000,00 (indicative amount). Based on a knowledge, attitude and practice survey conducted in eight EU Member States (Belgium, Netherlands, Ireland, Malta, Portugal, Spain, Greece, Hungary) as well as on an evaluation of good practices, the project developed a Frame of Reference for Prevention of Sexual and Gender based Violence in the European Reception and Asylum Sector, available in 15 languages. The Senperforto Frame of Reference consists of Standard Operating Procedures, a Code of Conduct, a Sensitization Kit and a Training Manual.

Project: Better integration of separated children – capacity building and exchange of good practise to prevent violations of their rights; implemented by Save the Children Denmark, 2009-2011, € 160.526, 54 (indicative amount). Through this project professionals in five countries (Austria, Denmark, Poland, Slovenia, Slovakia) working with separated children in the integration process have become better equipped to assist separated children in their development and foster the health, self-respect and dignity of separated children, thereby improving their rights. By assessing the challenges facing separated children after receiving a residence permit, developing national networks, identifying challenges, developing recommendations and holding national and European training seminars, the project has contributed to the exchange of knowledge, experiences and good practices between professionals.

The Daphne Programme has also awarded annually operating grants for the functioning of the Separated Children in Europe Programme SCEP, implemented by Save the Children Denmark. The aim of these operating grants is to develop the SCEP network for the promotion and protection rights of separated children.

Furthermore, in 2012 the Commission will introduce a new pilot project under budget line 18 03 18: "Pilot Project – Analysis of reception, protection and integration policies for unaccompanied minors".

The pilot project aims to contribute to the identification of good practice on prevention, reception, protection and integration policies for unaccompanied minors. It foresees that the child may be returned to his or her country of origin where it will be necessary to guarantee reintegration; or they may be given the status of international protection or other legal status that allows the child to integrate in the Member State of residence; or they may be resettled in the EU. In all these cases the interests of the child will be guaranteed.

To monitor the quality of care for UAMs in order to ensure that the best interest of the child is being represented throughout the decision making process.

In February 2011 the Commission adopted the EU Agenda for the rights of the child which addresses the protection of children in vulnerable situations, including unaccompanied minors. Actions envisaged include promoting the use of the Council of

Europe Guidelines of 17 November 2010 on child-friendly justice which also contains provisions on unaccompanied minors. The Agenda also envisages supporting and encouraging the development of training activities for judges and other professionals at European level regarding the optimal participation of children, including unaccompanied minors, in judicial systems.

To support an exchange of best practices on care arrangements for UAMs and develop guidelines and common curricula and training.

In March 2012, DG JUSTICE ran an internal pilot training course for DG JUSTICE and DG HOME staff on the promotion of the Council of Europe Guidelines on child-friendly justice, encompassing also the rights of unaccompanied minors. In view of the success of the pilot, the Commission will explore, together with the Council of Europe, how to better promote child-friendly justice in the EU.

On the basis of Article 5 of the Co-operation Arrangement between Frontex and FRA, the FRA developed a fundamental rights training programme for Frontex staff, which covers child protection with a focus on unaccompanied or separated asylum-seeking children and survivors of torture and who need special treatment. The aim is to enhance Frontex staff's skills on child protection so that they consider this in their projects and activities.

IV.2. Actions in EU Member States

Most Member States' legal frameworks cater for UAMs' reception and procedural guarantees, regardless their migratory status, with the best interest of the child prevailing over other considerations.

In their contributions to the mid-term report, Member States explained in great detail how they provide these guarantees and procedures to be followed from the very moment the minor is suspected to be isolated, granting the minor reception conditions, an interpreter, separate lodging from adults, the appointment of a guardian who is to be present in procedures, free legal advice, information to the child, education and care. EL states that UAMs are kept in separate reception centres under the responsibility of the Police department and are treated as children.

Some Member States (DE, ES, FR, IT or HU) gave information on the role played by the specific Minor Prosecutor Office.

In some Member States – BE, DE, ES, FR, IT, NL, SE, UK - the responsible authorities for reception and care are the state agencies and the regional or local authorities. In other Member States, the responsible authorities are either responsible to the Ministries of

Labour or Social Welfare (CY, CZ¹⁴), the Ministries of the Interior (BG, EL, HU) or the Asylum authorities (AT, BE, FIN, IE, LT, MT or SI).

Inter-ministerial cooperation and involvement of NGOs was also mentioned by most Member States.

Some Member States provided specific information on procedures concerning missing person alerts in the Schengen Information System for cases of UAMs absconding or disappearing from care (DE, HU, LT, NL and PT) and use of the VIS database by competent authorities dealing with minors (BE and SK).

EL, IT and HU highlighted that many of the activities concerning reception and care are funded by the European Refugee Fund.

Detailed information on Member States activities

Austria's Basic Care Agreement makes specific provisions for the accommodation of UAMs. Austria's Asylum Act specifies that the legal advisor for unaccompanied minors must act as their legal representative in the admission procedure and is required to attend every interview at the initial reception centre and every hearing in the admission procedure. The care of unaccompanied foreign minors also encompasses a daily schedule adapted to their needs (education, free time, sport, group and individual activities, household chores) and administrative issues relating to the age, identity, origin and place of residence of family members to facilitate family reunification and, where appropriate, developing an integration plan and measures to implement schooling, training and activities to prepare for entry into the labour market with the aim of developing self-sufficiency.

The Federal Asylum Office (BAA) is now carrying out a project, implemented by the UNHCR, aimed at developing comprehensive, harmonised and binding standards for dealing with unaccompanied minors who are seeking asylum so better consideration can be given to the special needs of minors.

Belgium deals with minors through specific designated services. A guardian, a lawyer and, if necessary, an interpreter are automatically assigned to an identified minor. A 24 hour running Guardianship Service is notified when a minor is found at the border or within Belgian territory. Procedures are treated on a case by case basis. The Federal Agency for Asylum coordinates UAMs who apply as asylum seekers. The Agency and the Guardianship Service work together to ensure adequate care and to identify a durable solution. The majority of UAMs are accommodated in Federal Agency for the reception of asylum seekers (Fedasil) in open centres, or by partners such the Red Cross and local

¹⁴ In the Czech Republic, the Ministry of Labour and Social Affairs is responsible for questions of guardianship, the Ministry of Education, Youth and Sports is in most cases responsible for the accommodation facilities and the Ministry of the Interior is responsible for issues regarding the stay/residence.

authorities financed by Fedasil. A limited number of UAM are accommodated by local authorities and non-profit organisations financed through the European Refugee Fund.

Since the end of 2005, **Bulgaria** has been applying a “Coordination mechanism for referral and care of cases of unaccompanied children and children-victims of trafficking returning from abroad”. If the minor has been given special protection under the Law for Asylum and Refugees, the coordination mechanism is applied accordingly and the “Migration” Directorate of the Ministry of Interior issues a residence permit. The State Agency for Refugees and the National Committee to Combat Human Trafficking are also notified. Until the durable solution is found or the person reaches the age of 18, the Agency provides the necessary material support, medical care and custody, legal assistance and representation as well as access to free education in public schools. Minors are accompanied by police officers who have at least two years professional experience. They may be supported by pedagogues, psychologists, psychiatrists, translators, health and social workers or others when the execution of the task requires. After receiving protection, UAMs are accommodated in the specialized institutions for raising and educating children without parental care.

In **Cyprus** the Law provides for the protection of UAMs who are under the competence of the Director of the Social Welfare Services. An unaccompanied minor, irrespective of his or her nationality, can enjoy all services applied for the protection and well-being of the child. The best interest of the child is of primary concern. The Social Welfare Services work in cooperation with all the relevant stakeholders, such as the Ministry of Health, the Ministry of Education and Culture, the Commissioner for Children’s Rights and others, for the smooth integration of the minor into society.

Reception measures and access to relevant procedural guarantees apply from the moment an unaccompanied minor asylum seeker is found. From the moment an UAM asks for asylum, the competent authority informs the Commissioner for the Protection of Children's Rights so that action can be taken as soon as possible. The Director of the Department of Social Welfare Services is also informed in order to act as a guardian of the UAM and to take all measures necessary on the minor’s behalf and in his or her best interest.

In the **Czech Republic**, all requirements arising from the asylum directives have been transposed into the law and are implemented in practice. In 24 hours from the first contact with UAM the court decision about the UAM’s stay is issued and the child is accommodated in a special child care facility. A legal guardian is appointed from an NGOs if the UAM applies for asylum. The guardian has to be present in each legal act with the UAM.

Currently, changes in UAMs accommodation system are being discussed. While today almost all the UAMs with the foreign background are accommodated in the special Center for children-foreigners, according to the new concept individual planning based on individual needs and abilities should prevail and children will be placed in all kinds of childcare centers, ideally together with the children of Czech citizenship and language.

The Czech Republic expects better integration of such children and profit for both side of the society.

Denmark has set up specific procedures for unaccompanied minors asylum seekers, who are accomodated in special facilities for minors. A personal representative is appointed upon recommendation of the Red Cross to assist the minor throughout the asylum procedure. During the appeals procedure, or if the case is processed under the manifestly unfounded procedure, the Danish Immigration Service appoints an attorney to represent the minor. The Danish Action Plan for the prevention of Human trafficking also focuses on trafficking of minors.

Estonia reports to have been neither a country of destination nor a country of transit for unaccompanied children, thus lacking experience on receiving unaccompanied children. However, its legal framework offers reception and procedural guarantees to UAMs and specifies their rights and obligations.

According to the **Finnish** Government Programme, adopted in June 2011, the detention of unaccompanied minor asylum seekers will be prohibited and the Government Proposal on the matter will be submitted to Parliament in autumn 2012 at the latest.

Under the provisions of the Act the Reception of Persons applying for International Protection (746/2011) which came into force on 1 September 2011, unaccompanied minor asylum applicants are placed in special accommodation separate from adult asylum applicants. A representative will be appointed without delay if the child is staying in Finland without a guardian or other legal representative and it is required that this representative submits an extract of his/her criminal record to the District Court. The representative exercises the right of the guardian to be heard in matters concerning the child. The representative is not responsible for the daily care, upbringing or other care of the child. Since the beginning of 2010 the Finnish Immigration Service has been responsible for the training of representatives at national level.

In **France**, the legislation on entry and stay of foreigners and on the right to asylum stipulates that a minor cannot be required to have a residence permit. An unaccompanied minor cannot be made to leave the territory and cannot be subjected to forced removal.

Since the introduction of the law on child protection of 5 March 2007, UAMs are placed into the local social services reception and care. A special unit deals with minors. A first check on actual isolation and age is undertaken and the minor's history is written down.

An ad-hoc administrator is designated to represent the unaccompanied minors who apply for asylum during the entire course of the procedure. This administrator participates in all interviews conducted as part of the procedure.

Germany's legislation has given legal recognition to the particular need to protect refugees who are unaccompanied minors and has introduced the duty for the youth

welfare authorities to take care of UAMs if there is the child is unaccompanied. The care of unaccompanied minors is provided at the local government level.

Greece provides information on the different accommodation centres for unaccompanied minors currently active in the country and funded under the European Refugee Fund's annual programme. Social, medical care, education and psychological support are provided to UAMs. In addition, reception centres for unaccompanied minors are being set up to provide legal and social support, funded either by the European Refugee Fund or exclusively from the state budget.

The Greek Ministry of Citizen Protection is planning to sign a Memorandum of Understanding with the International Committee of the Red Cross, with the aim of providing care to unaccompanied foreign minors entering Greece in a context of mutual understanding and care.

In **Ireland** the Refugee Act 1996 provides that where it appears to an immigration officer or an authorised officer that a child under the age of 18 years, who has either arrived at the frontiers of the State or has entered the State, is not in the custody of any person, the officer shall, as soon as practicable, inform the Health Service Executive (HSE). The provisions of the Child Care Act 1991 apply in relation to the child. The purpose the Refugee Act 1996, as amended, is twofold: to ensure the protection of unaccompanied minors by bringing them to the attention of the relevant statutory body in the State and, to enable them to make an asylum application via the Health Service Executive if deemed appropriate by that body. The services provided include multi-disciplinary assessment of need resulting in an individual Care Plan, the implementation of which is overseen by a Social Worker.

Concerning asylum seeking, the Office of the Refugee Applications Commissioner (first instance determining body) has put in place guidelines in relation to the determination of applications from unaccompanied minors which take into consideration any specific factors and circumstances arising in such cases. In developing these guidelines, account was taken of past experience, UNHCR guidelines and advice and the EU Children First Programme.

A group of experienced interviewers has received additional specialised training to assist in cases involving unaccompanied minors. In the interests of adopting a multi-agency approach, this training programme is also attended by the Health Service Executive, Refugee Appeals Tribunal and the Refugee Legal Service.

In **Italy** migration of UAMs is regulated by the Legislative Decree and Unified Text Containing the Measures Governing Immigration, prohibiting expulsion and rejection of foreign minors; and defining measures regarding minors placed in foster care once they come of age and the establishment of the Committee for Foreign Minors, an inter-ministerial body whose responsibilities are regulated by Decree issued by the Prime Minister. Municipalities are in charge of minor tutorship and housing and minor host institutions have to be registered by the Region. Municipalities have developed a network

of comprehensive services of social assistance for minors (housing, health care, education, integration activities, etc...).

In **Hungary** both the legislation on asylum and the legislation on the entry and stay of third-country nationals in Hungary contain provisions aiming to ensure that a decision is made on the future of each unaccompanied minor within a reasonable time period. Hungarian legislation provides an additional procedural guarantee protecting the interests of unaccompanied minors in both the immigration control procedure and the asylum procedure: unaccompanied minors are provided with a case guardian who is appointed by the child protection service. The only exception to the provision of a case guardian applies in cases of asylum seeker unaccompanied minors who are likely to become adult before the refugee authority would take an in-merit decision regarding their case.

Unaccompanied minors can only be interviewed in the presence of their case guardian and cannot be held in administrative detention. Since September 2011 they have been accommodated in a specialised facility for child protection. In 2010 and 2011 the Ministry of Interior financed two projects with the aim of ensuring special services appropriate for the needs of unaccompanied minors with the help of the European Refugee Fund. At the end of December 2011 the number of asylum seeker children accommodated at the specialized facility for unaccompanied minor asylum seekers was 17. Minors who have been victims of rape, serious neglect, exploitation, torture or cruel, inhuman or degrading treatment or who have suffered trauma during armed conflicts receive the appropriate rehabilitation, mental care and qualified counselling.

The disappearance of unaccompanied minors during the refugee status determination procedure is a common phenomenon. In order to combat the disappearance of unaccompanied minors in care of the Hungarian authorities all child care institutions have an obligation to report the disappearance of a child in their care to the Police. The Police then declare the child a missing person and enters his/her data on the watch list resulting in the information to be forwarded to the Schengen Information System.

Lithuania's Law establishes a set of rights for unaccompanied foreign minors: the right to education, free access to the necessary medical care, social services, legal assistance guaranteed by the State, etc. Under the Law, minors are classified as a vulnerable group. An unaccompanied minor who has applied for asylum may not be refused entry into the territory of the Republic of Lithuania even if he/she arrived from a safe third country. In the event of submission of a manifestly unfounded asylum application or arrival from a safe country of origin, unaccompanied minors are not subject to fast-track processing (where processing may not take more than seven days).

Regardless of the legality of their stay in the territory of the Republic of Lithuania, unaccompanied minors are taken into temporary guardianship/care for the period of their stay, and the interests of the unaccompanied minor are represented by a temporary guardian/carer. Unaccompanied minors are given accommodation at the Refugee Reception Centre run by the Ministry of Social Security and Labour, with personnel and

facilities which take into account the needs of persons of their age. Their safety is guaranteed.

Unaccompanied minors who have applied for asylum may be detained only as a last resort. The asylum hearing of an unaccompanied minor is attended by the minor's guardian/carer or, where no guardian/carer has yet been designated, by an employee of the children's rights protection service and/or a lawyer. The hearing is usually conducted with an interpreter, who, through the use of video conference equipment, may also be from another Member State. Lithuania receives only a few applications from unaccompanied minors each year, so hearings are conducted by the most experienced staff that has been trained in Lithuania and abroad to work with unaccompanied minor asylum applicants.

Malta's Office of the Refugee Commissioner is responsible for evaluating applications for international protection. Each individual entering Malta, legally or illegally, has the right to request international protection. Information is provided in the form of printed materials and audio-visual presentations produced by the Office of the Refugee Commissioner in thirteen different languages. At this early stage the Office of the Refugee Commissioner can identify vulnerable persons such as unaccompanied minors.

The registration form asks third country nationals to provide basic details, including their date of birth. The Office of the Refugee Commissioner uses this form to determine whether any of the asylum seekers claim to be under the age of 18. The Office refers such cases to the Standards Director for Social Protection and to the Agency for the Welfare of Asylum Seekers (AWAS). The latter is responsible for assessing ages. The Office of the Refugee Commissioner is informed when the AWAS has reached a decision concerning the age of the applicant. The Office of the Refugee Commissioner proceeds with the applications of those determined to be unaccompanied minors only once a Care Order is issued and a representative or guardian is appointed.

Additional safeguard procedures have been introduced with regard to unaccompanied minors so that no later than thirty days from the issue of the care order, the guardian is obliged to inform the minor about the meaning and consequences of the asylum procedure and, where appropriate, help him to prepare for the interview.

As a rule, the unaccompanied minor is not placed in detention, other than for a very short period until the medical tests are carried out. Following the tests, an (interim) care order is issued until the applicant's age can be determined outside the detention centre, where necessary. In other cases, where it is difficult to determine whether or not an immigrant is an unaccompanied minor, the immigrant is housed in the detention centre with the other immigrants depending on his/her gender, until a decision is taken by the AWAS concerning his/her age.

Malta made legislative amendments in 2010 to the Criminal Code (Cap. 9) including provisions protecting minors. From 2011, a project is being implemented with funding

from the European Refugee Fund to refurbish a centre for minors and to carry out more socio-educational activities by recruiting educators to work with these young people.

The Netherlands' asylum procedure has included a 'rest and preparation period' during which the asylum seeker is prepared for the procedure since mid-2010. The minimum preparation period for unaccompanied minors is longer than for other asylum seekers because of their special situation and because there are more activities planned for them during this period, such as getting to know their guardian and, in some cases, an investigation to establish their age. The Netherlands has different types of accommodation for unaccompanied minors of different ages and level of independence.

The revision of the policy on unaccompanied minors (presented by the Minister of Immigration, Integration and Asylum in 2012) places more emphasis on the role of the guardian; the policy also explicitly states that guardians can express their views on the minor's interests at any stage of the procedure, in agreement with the lawyer.

Unaccompanied minors who go missing or disappear from accommodation and whose details are passed on by the local police will be listed as missing in SIS so that efforts can be made to establish their whereabouts, following the Schengen Agreement Convention.

Poland's Alien Act of 13 June 2003 as amended in 2009 sets procedures on unaccompanied minors and foreigners whose psychophysical condition gives rise to the presumption that they have been subjected to violence or are disabled. The authority accepting the application for refugee status, submitted by the unaccompanied minor, immediately applies to the guardianship court for the appointment of a guardian to represent the minor in proceedings for granting them refugee status and their placement in an institution of care and education. Until the guardianship court issues a decision, the unaccompanied minor stays with a professional foster family, unrelated to the child, acting as an emergency family, or in an institution of care and education.

Before being interviewed, the minor is instructed about the factual and legal circumstances which may have an impact on the result of proceedings regarding refugee status and about the possibility of requesting that the interview be carried out in the presence of an adult selected by the minor. The interview is carried out in a language understood by the unaccompanied minor, in a manner appropriate with respect to their age, maturity and mental development and taking into account the possibility that they may have limited knowledge of the actual situation in their country of origin. The unaccompanied minor is interviewed in the presence of a guardian; the adult selected by the minor, provided that this will not impede the proceedings; and a psychologist or educator who prepares the opinion on the minor's psychophysical condition. Moreover, the unaccompanied minor is entitled to use free-of-charge legal support, both in first and second instance proceedings.

The Polish National Contact Point at the European Migration Network, located at the Ministry of Interior, has been disseminating knowledge about the issue of unaccompanied

minors, *inter alia*, by distributing a report prepared by the European Migration Network: ‘Unaccompanied Minors — an EU comparative study’, both during domestic meetings and international conferences.

The Border Guard authority was the beneficiary of the project carried out by the Nobody’s Children Foundation, entitled ‘Information and education campaign about threats to children and youth posed by commercial sexual abuse, child prostitution or trafficking in human beings during EURO 2012 championship’. The Chief Commander of the Border Guard holds honorary patronage over this campaign. According to the project’s provisions, the Border Guard participated in propagating information addressed to the general public concerning the commercial abuse of children and youth (in particular in the aspect of sexual abuse and so-called ‘sponsoring’), in particular during the EURO 2012 European Football Championship.

The above-mentioned initiatives took place in cities where football games were taking place during EURO 2012 (i.e. Warsaw, Wrocław, Gdańsk, and Poznań). These workshops were targeted, in particular, at the identification of potential victims who are minors, including the abuse of minors in the scope of trafficking in human beings. The workshops were attended by the so-called ‘first-line’ officers who have contact with society on an everyday basis as a part of their official duties. Plans for 2012 provide for more training sessions, including those for Border Guard coordinators for preventing and combating trafficking in human beings, located at all organisational units of the Border Guard.

Portugal’s admission procedures for accompanied/unaccompanied minors are laid out in Law 23/2007 of 4 July 2007 and, where applicable, in Law 27/2008 of 30 June 2008 (asylum). In addition to the general requirements, the national border posts carry out procedures that are specifically aimed at the movement of minors in and out of the country. The border guards can access an internal portal that contains legislation and various documents that should be consulted, mainly the European Commission’s Action Plan 2010-2014 regarding unaccompanied minors, as well as Frontex Guidelines regarding preventing, combating and protecting against child trafficking. When minors enter or leave the country, their best interests are taken into account and all the necessary and appropriate conditions are created for their protection and/or assistance, in the light of their age and individual circumstances.

The procedures also establish that experts may be called on to report on specific questions, in particular of a medical or cultural nature. Rights and protection of any category of children and young people at risk, in such a way as to guarantee their well-being and overall development are also recognized by Law. The protection of these children falls to the entities responsible for children and young people, the Immigration Service, the Commissions for the Protection of Children and Young People, the public prosecution authorities, the courts and the Portuguese Council for Refugees. Owing to the small number of such cases in Portugal, it is possible to monitor these minors closely.

In accordance with Portuguese law, minors who are third-country nationals cannot be detained for breaking the laws applicable to foreigners who enter and remain in the

country. The law facilitates the regularisation of minors found to be in an irregular situation on national territory, without prejudice to national or international measures to identify the holders of parental responsibility, or to grant guardianship or have recourse to voluntary repatriation programmes. Unaccompanied minors have full access to health care and pre-school and school education with the same rights and guarantees that are granted to minors in Portugal.

Portugal also reports of a refugee children support centre that was opened in a neighbourhood of Lisbon with the joint efforts of the Municipality of Lisbon and a private company.

In **Romania**, the best interest of the child is a basic principle both in the asylum procedure and in the context of minors taken into public custody pending removal. Request for asylum from unaccompanied minors are given priority in the asylum system. The Romanian Immigration Office shall ensure the appointment, in the shortest time, of a legal representative to assist the unaccompanied minor asylum seeker during the asylum procedure. The legal representative and the unaccompanied minor asylum seeker are informed in a language which the latter knows, about the possibility of performing a medical examination to determine his/her age.

Asylum seekers benefit from the confidentiality of all data and information about their case. Interview with unaccompanied minors shall be performed by decision officers specialized in this field, which will take into account the special situation of these people. Asylum seekers are provided, free of charge, an interpreter throughout the asylum procedure. The unaccompanied minor can be assisted by a lawyer or a legal counselor from an NGO or UNHCR, according to the national asylum legislation.

Minor asylum seekers are entitled to have access to compulsory education under the same conditions as Romanian minors. To facilitate their access to the Romanian education system, minor asylum seekers receive free of charge, during a school year, a preparatory language course for the entry into the national education system.

In case the application of an unaccompanied minor for granting protection is rejected by a final and irrevocable decision, the General Direction for Social Assistance and Child Protection implements the actions foreseen by the law in order to establish a measure of protection for the latter, requesting in this respect the courts to establish the placement of the child in a special protection service. The measure of protection lasts until the return of the child to the country of residence of the parents or to the country where other members of the family have been identified as willing to receive the child authority.

In the **Slovak Republic**, the police takes the appropriate measures concerning unaccompanied minors through its border and aliens departments (identification, emergency healthcare where necessary, investigation of the facts and the reasons for crossing the State border, informing the competent bodies that an unaccompanied minor has entered Slovak territory, issue of unaccompanied minors' residence permits and assistance with returns) and collaborates with the competent authorities and specialist

civil-society organisations (Office of Labour, Social Affairs and Family, International Organisation for Migration in the Slovak Republic, Human Rights League).

The Act on the social and legal protection of children and social care specifies procedures to take. If the minor has no legal representative or the legal representative cannot represent him or she in proceedings, the court appoints a guardian for the minor immediately after taking an interim measure. In urgent cases, continuous assistance for the child is provided by duty officers of the social and legal protection of children and social care authority.

UAMs have the same rights as every other child who is a citizen of the Slovak Republic. Elementary language preparation is carried out in the Children's Home (specialized Slovak Language text books). Further education is provided by the Academy of Education. The Children's Home for UAM is obliged to find out, if possible according to child's age and mental development, the child's perspective on all factors affecting him/her (relocation, family reunification, return to the country of origin, asylum).

Slovenia's International Protection Act provides that, in the case of proceedings with an unaccompanied minor applicant for international protection, it is necessary to abide by the principle of the child's best interests. The first step is to establish the minor's identity and launch the process of looking for parents as soon as possible, to treat the application as a priority and to grant the child a legal representative who will represent him/her in the procedure for granting international protection and protect his/her rights in the area of health and education. The Act also stipulates that unaccompanied minors must receive an oral explanation of the information on rights and duties in the procedure in a language that they understand, and that this explanation must be provided in way that is adapted to their age and level of mental development. When an unaccompanied minor who expresses the intention to submit an application for international protection arrives at the Asylum Centre, he/she is housed in the reception premises intended for unaccompanied minors and subsequently in the accommodation section of the Asylum Centre intended for unaccompanied minors.

At the same time, in the case of unaccompanied minors to whom international protection has been granted, the law provides that it is necessary to take into account the child best interest and immediately after the status has been granted appoint him a legal representative. They have the right to live with adult relatives or a foster family or to reside in suitable accommodation for minors. To this end, the Ministry of the Interior has renovated the ground floor of the Integration House in Ljubljana, which is now used exclusively to house unaccompanied minors.

In October 2010, Slovenia set up an interdepartmental working party on unaccompanied minors, including representatives of the Ministry of the Interior, the Ministry of Education and Sport and the Ministry of Labour, Family and Social Affairs and a representative of non-governmental organisations. In 2011 the intergovernmental working party completed its examination and assessment of the current situation with regard to unaccompanied minors in Slovenia, and in 2012 guidelines and proposals for

comprehensive, systematic provision of suitable protection, care and assistance to unaccompanied minors will be prepared.

Spain amended substantially its Alien Constitutional Law at the end of 2009 and then in April 2011 the Implementing Regulation of this important law, among other reasons to introduce new substantive and detailed procedures on minors' return. Protection of minors who are victims of trafficking is also covered. Reception, protection and procedures are also determined by the Law.

The Asylum Law of 2009 establishes that unaccompanied minors seeking international protection will be sent to the departments responsible for child protection and this shall be reported to the Public Prosecutor. Measures shall be taken immediately to ensure that the representative of the minor, appointed in accordance with current legislation on protection of minors, will act on behalf of the unaccompanied minor and assist him in examining the international protection application.

In **Sweden** a guardian *ad litem* is appointed for every unaccompanied minor, regardless of whether he or she claims asylum and this is initiated as soon as a minor is identified as unaccompanied. In general, an initial interview is held when an asylum application is lodged at the Migration Board. The municipalities are responsible for providing housing and care to unaccompanied minors. A staff of eight or nine therapists or counsellors and a director are assigned for each 10-15 housing places, called "homes for care", with one employee who stays overnight at the facility. The Swedish Social Welfare Board may decide on placement in a foster family, previously assessed. According to the Swedish system, the only ground for detaining children or families with children is related to return procedures. Children are never detained for border security or immigration purposes, or in other premises than the Swedish Migration Board's detention centers.

The **United Kingdom** complies with this Action Plan by considering the best interests of the child whenever a case is subject to review or when an immigration decision is taken. The UK Border Agency deals with asylum applications from children in a prompt and appropriate manner ensuring that their best interests are considered throughout. In cases where applications for asylum are not successful, unaccompanied children are granted discretionary leave which can ultimately last until they are 17 and a half. This then enables them to submit a further application and have that decided promptly so that when they are 18, there is clarity around their status in the UK.

The Government's new Missing Children and Adults Strategy provides a core framework for local areas to put in place better arrangements to prevent children and adults going missing and provides a core framework of objectives for local agencies to review the arrangements they have in place and consider whether they can and should be doing more.

IV. 3. Age assessment and family tracing

IV.3.1. Actions at the EU level

The Commission will issue best Practice Guidelines, in collaboration with scientific and legal experts and in cooperation with European Asylum Support Office who will prepare technical documents on age assessment.

European Asylum Support Office is invited to organise training activities on age assessment, prepare a module within the European Asylum Curriculum and a best practice handbook.

- Belgian Presidency seminar 'Unaccompanied Minors: children crossing the external borders of the EU in search of protection', 9 – 10 December 2010, Brussels. The conference was co-financed by the Commission (EBF) and was focussed on age assessment and protection of children from the first encounter. A background discussion paper had been prepared 'Identification of Unaccompanied and Separated Children: Exploring Age Assessment Challenges' and the conference resulted in Recommendations (Recommendation no 7 and 13 of the Recommendations on Child Protection Safeguards at the Border and on First Encounter; and Recommendation no 2 on Recommendations on Potential Transnational Actions concerning Border Crossings contribute to the Implementation of the EU Action Plan on Unaccompanied Minors)
- The 2012 Work Programme includes a section on the activities EASO is expected to carry out in the context of the implementation of the Action Plan on Unaccompanied Minors (2010-2014) and lists, among objectives for 2012, the following:
 - deliver technical documentation on age assessment. Start developing training activities and handbook on age assessment;
 - set-up working group on age assessment (5-10 members) with 4 meetings in 2012;
 - organise 4 expert meetings (Member States, EC, UNHCR, and other relevant partners) on UM, best practices and age assessment.
 - In March 2012, EASO commissioned a questionnaire to consult with wider civil society, including legal experts, academics, NGOs and others about their views on age assessment. This research will contribute to informing future discussions, identifying key areas for consideration and developing documents and guidance on age assessment.
 - Expert meetings on interviewing techniques & methods, use of x-ray/medical evidence, legal aspects & roles of the courts & judiciary due to be held from July 2012 onwards will involve contributions from relevant experts. The outcome of these meetings will also contribute to the development of future training materials and guidance on age assessment.
 - The budget allocated to the tasks is 290 000 euro.

- During 2011 EASO updated the EAC ‘Interviewing Children’ module. This module addresses training needs of asylum officials so that they are equipped to consider complex issues of gender, trauma and age; it also ensures that interviews with minors are conducted in a child-friendly manner.
- In July 2012 an expert meeting on Interviewing techniques & methods was held. As part of the expert meeting, participants (including experts in the field of asylum) were invited to take part in and feedback on the EAC module, ‘interviewing children.’ The outcome of which will be used as a basis for identifying future development of the module as well as other training needs relating to Unaccompanied Minors.
- In November 2012 an expert meeting concentrating on the identification of good practice and the way forward for age assessment will take place. The outcome of these meetings will contribute to the development of future training materials and guidance on age assessment.

Member States should use the Visa Information System (VIS), once operational, to verify the identity of an unaccompanied minor if he/she is registered and under the conditions of Article 19 of the VIS Regulation.

Visa information System went live on 11 October 2011.

The Commission will support Member States in mutual assistance in family tracing in countries where one Member State has established functioning networks for this purpose.

The Commission will promote a common approach (i.e. best practice guidelines) to age assessment and family tracing including on how to address these issues in the context of appeals.

An expert group meeting took place in March 2012.

- Meeting of the Expert Group on Unaccompanied Minors on family tracing:
On 26 March 2012 the Commission organised the second meeting of the expert group on unaccompanied minors devoted to the issue of family tracing. The meeting was attended by the representatives of the Member States, international and non-governmental organisations and EU institutions. It was concluded that without involvement of countries of origin, families, legal guardians or appropriate minor caring entities, family links cannot be restored and minors cannot be returned to a safe environment. Spain and France presented how they cooperate with countries of origin and Italy explained how tracing is carried out by IOM. Despite Member States' divergent approaches to family tracing, some rules and practices developed at national level could be usefully shared among

Member States. It was therefore proposed that a questionnaire would be drawn up to catalogue the information and share best practice on family tracing.

- Under the Return Fund Community Actions 2009, a project led by Swedish Migration Board (in partnership with NL, NO, UK) called European Return Platform for Unaccompanied Minors (ERPUM) addresses (among other issues) the issue of tracing parents/guardians, notably through establishing tracing contact points. The project started in January 2011 with duration of 18 months.
- The 2011 Work Programme of the Return Fund called, amongst other things, for projects concerning family tracing, monitoring of returned minors and reception centres for returned UAMs.

IV.3.2. Actions in EU Member States

According to replies received, age assessment procedures are being carried out in most Member States, with the exception of BG. These procedures follow similar technical protocols, in which full explanation is provided to the minor and guardian and legal services are duly informed. When doubt persists the adolescent is declared a minor, as reported by BE, ES, FR, IE and IT. If the adolescent refuses to undergo testing, then CZ, FI, LT, NL, PT, RO and SK would declare him an adult.

As for family tracing 15 Member States report practice in the field – AU, BE, DE, EE, EL, ES, FI, IT, HU, LT, NL, PL, RO, SE, SI and UK. All of them report on the difficulties encountered in countries of origin. BE, ES, IT, HU, LT, NL and PL explain procedures on consular cooperation and international legal assistance for tracing the minor's relatives. AU, BE, DE, FI, IT, HU, LT, NL, PL, RO and SI rely on cooperation with International Organizations and NGOs working in the field, mainly IOM and the Red Cross. PL and SE have developed guidelines for family tracing, AU is working on common standards and ES and Morocco have drafted a common protocol to be followed to trace families.

Detailed information from Member State reporting

The **Austrian** Federal Ministry for the Interior has developed best practice guidelines on age assessment. According to the Asylum Act, in cases of doubt an age diagnosis should be made before starting other aspects of the asylum processes and to the best interest of the child. When unaccompanied minors undergo an age determination, they are informed in a language they understand. They are provided with information about the doubts concerning their age, the applicable method and the consequences if they refuse to undergo the medical examination. The age assessment is conducted by experts i.e. Ludwig Boltzmann Institute of Forensic Medicine. If there is still doubt after the age assessment has been conducted the person is treated as a minor (“In dubio pro minore”).

As regards family tracing, a project on support for asylum procedures for unaccompanied minors is developing standards elaborated in an earlier project. The project aims to promote further training of the legal advisors, workshops with the locally competent youth welfare offices, and to develop quality standards for interpreters. A brochure specially designed for children shall be developed for better information of UAMs about their rights and obligations in asylum procedures. Furthermore, there should be a desk review of procedures in selected EU Member States to inform the development of recommendations on family tracing in Austria.

Belgium's legal framework caters for age determination and the corresponding procedures and tests, informing the minor and his guardian on the different steps to be taken. Only in case of doubt concerning the age, concerning the age, a medical examination is carried out consisting of a general examination and three radiographs (wrist, collar bone and teeth) to determine the age and the youngest age is taken into consideration. The guardianship service is responsible for age determination and the Alien Office reports to this service when a suspected minor has been identified and doubts were raised concerning his declared age. Concerning family tracing, the guardian is responsible provided that the UAM agreed to initiate tracing. The Alien Office and the Consular posts abroad cooperate jointly in the matter.

In **Cyprus**, in case of use of medical examinations, the Refugee Laws 2000-2009 provides that the Asylum Service should ensure that the unaccompanied minor is informed prior to the examination of his application, and in a language which he can reasonably be expected to understand. Also the Asylum Service ensures that the unaccompanied minor and/ or his representative consent to carry out an examination to determine the age of the unaccompanied minor. The Social Welfare Services cooperate with the International Social Services where applicable, for tracing the parents of the unaccompanied minor and where possible achieve family reunification.

In **the Czech Republic** age assessment procedure can be demanded by the Ministry of the Interior (in asylum procedure), by the police, by the director of a child care facility and by the court. There is only an x-ray of a wrist taken, no other methods are used. The age assessing statement is carried out by an anthropologic and a pediatric doctor. On that basis the police, Ministry of the Interior or the court can decide if a person is under or over 18 years of age. Final decision depends on the certainty of the assessment. When there are doubts, the authorities decide in the benefit of the person concerned (in dubio pro reo). In the asylum procedure if a medical examination is refused, the applicant is regarded to be of legal age (adult). There were 3 age assessments in asylum process made in the beginning of the year 2012, all of these asylum seekers were assessed as adults.

In **Denmark** age assessment is conducted by the Institute of Forensic Medicine, under the presence of the minor's guardian and procedures and legal guarantees are catered for in relevant Danish legislation. The latest figures from the National Police show that in 2010, 166 out of 246 persons assessed were determined to be above 18 years. Decisions can be appealed and lodged at the Ministry of Justice.

Family tracing is launched by the Danish Immigration Service and if the minor agrees to it. The search services of the International Red Cross may be used.

The **Estonian** Police and Border Guard Board require age assessment to be carried out only when there are doubts as to whether the person concerned is a minor. Assessments are carried out by the Estonian Forensic Science Institute. With regard to tracing the family of unaccompanied minors, Estonian authorities cooperate with the Estonian Red Cross.

In **Finland** the provisions on medical age assessment in the Aliens Act (301/2004) came into force on 1 August 2010. A medical age assessment may be carried out to establish the age of a sponsor or an alien applying for a residence permit if there are reasonable grounds for suspecting the reliability of the information the person has given on his or her age. The examination requires the consent in writing of the person to be tested and his/her parent/guardian/other legal representative. Anyone who refuses to undergo an examination is treated as an adult if there are no reasonable grounds for refusal.

In 2007, the Finnish Immigration Service signed a cooperation agreement with International Social Service regarding family tracing. Tracing is a lengthy process and has not given many results; very few guardians of unaccompanied minors have been traced. In 2010, the Finnish Immigration Service received 5 reports in response to 18 requests. In 2011, 19 requests for tracing were sent: in 6 cases guardians were traced, and in 13 cases guardians were not traced or tracing was discontinued.

In **France** local authorities follow their procedures, so no single procedure is followed at national level. However, there are some common steps: document determination, interviews and if doubts arise on minor's age, intervention of the judiciary for medical age determination. In case of doubt, minors will be considered as such.

In **Germany** a medical age examination is possible if the competent aliens office decides so. Within asylum procedures the Federal Office for Migration and Refugees may use those or other age assessments if they seem to be plausible. Else the Federal Office may perform an age assessment by an experienced and specially trained staff member who talks to the applicant and tries to form an opinion, whether the applicant has the looks and the behaviour of an adult or not. If there is reasonable doubt that the applicant concerned is an adult, he will be treated as a minor.

The local authorities cooperate with the UNHCR or the search services of the International Red Cross for tracing the parents of the unaccompanied minor.

In **Greece** the competent screening authorities can use medical examinations for age determination. In this case, care is taken so that unaccompanied minors are informed, before their application is examined. The information is provided in a language UAMs understand and concerns the method used and the consequences of refusal to undergo the medical examination. The decision to reject an application for asylum from an unaccompanied minor who has refused to undergo medical examination cannot be based

solely on that refusal and until the medical examination has been completed; the person who claims to be a minor shall correspondingly be treated as a minor.

With regard to family tracing, the competent Public Prosecutor takes necessary steps to determine the identity and nationality of the foreign minor and to find the minor's family.

In **Ireland**, the Office of the Refugee Applications Commissioner (ORAC) does not undertake formal age assessment but does form opinions as to the age of applicants who may or may not be under 18 years. This is usually done after consultation with the Health Service Executive (HSE). The current procedure in place in ORAC is where there is a doubt that the person in question is actually under 18 as claimed; an authorised officer will talk to the individual to try to form a reasonable opinion as to whether the person is under or over 18 years old. The procedure involves an informal interview carried out by an experienced staff member, with the assistance of an interpreter if required. If there is any doubt, a fairly wide benefit is of course given in favour of the applicant and they are referred to the HSE as being under 18. The process tends to be difficult as the majority of asylum applicants provide no satisfactory documentary evidence of their stated name, nationality, age or how they travelled to the State. The ORAC policy is to follow the views of the HSE regarding the age of the person concerned.

Italy's Public Security authorities are in charge of identification of unaccompanied foreign minors, working in collaboration with the consular and diplomatic representatives of the country of origin of the minor. Guidelines containing requirements have been elaborated by responsible administrations, ANCI (National Association of Italian Municipalities) and Save the Children-Italy NGO, in order to improve age assessment procedures of unaccompanied foreign minors. The guidelines are based on the international provisions aiming at protecting rights of minors. The experience of the last months with regard to the North Africa Emergency showed the presence of a lot of young people, clearly adults, who declared to be minors and whose presence represents a risk for real minors hosted in dedicated structures.

The Committee for Foreign Minors is in charge of family tracing in the country of origin of unaccompanied foreign minors. Such a body is responsible for starting family investigations in collaboration with IOM which supports family tracing and gives useful information to understand context of origin of the minor. Through interviews and meetings with the family, IOM defines family and local background for each minor in order to be able to give to Municipalities, responsible social assistants and operators the required information on the family history and reasons for migrating and evaluate possible chances of reintegration in the country of origin, based on the sustainability of the action and on the best interest of the minor.

In **Hungary** the age of unaccompanied minors who are not asylum seekers and the age of asylum seekers who apply for asylum are determined by a medical expert where there are doubts about their age. When there is still doubt about the age of the person following this determination the person is considered to be a minor.

Since September 2011, a complex age assessment procedure has been put in place for asylum seekers who claim to be minors, if the minor status is disputed by the refugee authority. The complex age assessment usually includes an anthropological assessment, as well as a dental and an x-ray examination and is conducted by qualified medical professionals. The new practice allows for a more holistic approach, a faster examination and also makes age assessment examinations uniform for all asylum seekers. A margin of error is envisaged for each examination applied, therefore if the results of the examination (a range of years, such as 17-19) include the minor age, the person is considered to be a minor. There is no separate legal remedy against the decision determining the age of the applicant but this decision can be challenged together with the decision taken on the merits of the application.

It is the obligation of the refugee authority to take action to trace the person responsible for the unaccompanied minor with the exception where it can be presumed that there is conflict of interest between the person responsible for the minor and the minor or, if tracing the person responsible for the minor is in the best interests of the child. In practice this tracing is usually conducted by the Hungarian Red Cross on the basis of the data provided by the minor. In certain cases other Member States and the authorities of third countries can also be contacted in the framework of international legal assistance.

In **Lithuania**, in case of reasonable doubt concerning the minor's age, the Migration Department under the Ministry of the Interior may take the decision to have the age assessed. Age assessment of an unaccompanied minor is carried out only with the consent of the asylum applicant or his/her guardian. If the asylum applicant refuses to undergo an assessment without a valid reason, other data are assessed.

Upon receiving information about an unaccompanied minor asylum applicant, the Migration Department must work together with representatives of Lithuanian non-governmental or international organisations and the unaccompanied minor's temporary guardian/carer to organise immediate tracing of his/her family members in order to locate them or their close relatives, unless this is contrary to the child's interests.

In 2011, **Malta** improved the age assessment system by introducing the possibility of issuing interim care orders as well as definitive care orders enabling the minors to be removed from the closed centres as quickly as possible, even if further investigations concerning their age are necessary. There is also a pilot project - Sparklet (Supporting Closed and Open Centres through Profiling, Action Research and Knowledge Transfer) – which partially focuses on tracing of the families of unaccompanied minors. This project is co-financed by the European Refugee Fund.

In **The Netherlands** age assessment is carried out if UAMs cannot produce documents to prove their identity and if there are doubts about the stated minority. X-rays of wrist and collarbones are used to determine bone age and conclude whether the foreign national is definitely over the age of majority or it is likely that he or she is a minor. The procedure is described in a Protocol. If the UAM, who is offered an age assessment because there are doubts about his minority, refuses the assessment, he is considered an adult. Age

assessment is monitored by an independent committee which in April 2012 has published a report of its findings and recommendations. Overall, the committee concludes that the method used in the Netherlands, and the way it is applied, is scientifically correct and that the procedure is accurate.

During the asylum interviews unaccompanied minors are asked about family members and their whereabouts. The Repatriation and Departure Service is actively involved in tracing family members and reuniting unaccompanied minors with their families. Returning them to family or friends is preferable to returning them to a care home. On the basis of a tracing request, the Ministry of Foreign Affairs can inform the Repatriation and Departure Service in an individual report about the possibilities for suitable accommodation. If suitable accommodation has been found and the unaccompanied minor has the necessary travel documents, the minor will be escorted by the Repatriation and Departure Service during the trip back to the country of origin and handed over to the family or care institution there. In cases of independent departure the minor will be escorted by the IOM.

Poland's Act of 13 June 2003, Article 30(1) on granting protection to foreigners in the territory of the Republic of Poland, states that a foreigner claiming to be a minor can undergo, upon their own consent or the consent of their statutory agent, a medical examination in order to determine their actual age if there is any doubt concerning the person's age. The result of the medical examination should indicate the person's age and provide the margin of error. The Office for Foreigners and the Polish Red Cross have a model of practical cooperation regarding the search for relatives of unaccompanied minors applying for refugee status in the Republic of Poland.

In **Portugal**, all necessary steps are taken in order to ascertain the minor's identity. This may include establishing their age. In accordance with Law 23/2007 of 4 July 2007, there are mechanisms in place not only to identify unaccompanied minors and establish their nationality, but also to locate their family. With a view to protecting the unaccompanied minor's best interests, the Asylum Act also establishes that efforts must be made to find the minors' family members in collaboration with the other entities involved in the procedure, as well as the Ministry of Foreign Affairs.

In **Romania**, in case the unaccompanied minor cannot prove his age and there are serious doubts about his minority, the Romanian Immigration Office calls for a forensic assessment of age determination of the applicant, with the prior consent in writing of the minor and of the legal representative. If the asylum seeker and/or his/her legal representative refuse the forensic age assessment and no conclusive evidence are brought, he/she will be considered an adult (it will be considered that the person has turned 18 years of age at the date of submitting the asylum application). This procedure does not apply if there are solid reasons for the refusal to perform a forensic examination for age determination, found during the evaluation made by a psychologist from the Romanian Immigration Office.

Family reunification of unaccompanied minors is guaranteed by national law, which complies with identification of parents regardless of their place of residence, for the purpose of family reunification. But if the parents or other family members are not identified or if the minor is not accepted in the country of origin, he/she will be allowed to have a temporary residence in Romania. If the family of the unaccompanied minor was found, the possibility and the conditions to achieve reunification will be analyzed, a motivated decision being issued in this respect.

Tracing of unaccompanied minor asylum seekers family is made as soon as possible. Unaccompanied minor asylum seeker's opinion on finding his or her family is taken into account and is given due importance according to his/her age and maturity.

Slovenia's International Protection Act, states that in a procedure concerning an unaccompanied minor it is necessary to establish the minor's identity and to launch the procedure for looking for his or her parents or other relatives as soon as possible. In cases in which international protection has been granted the unaccompanied minor concerned has the option of requesting family reunification with his/her parents.

Slovenia has not yet developed any special mechanisms for determining the age of unaccompanied minors.

In the **Slovak Republic** the procedure for assessing the age of a third-country national is determined by law. If a third-country national declares to be a minor and is travelling without travel documents and his or her appearance and physical build does not appear to correspond to the date of birth indicated, a medical examination may be performed to determine the person's age. The applicant is obliged to undergo a medical examination. At the same time it is necessary to obtain the consent of his/her legal representative or guardian. If the third-country national refuses to undergo a medical examination, he or she is presumed to be an adult. It is the duty of the police to inform third-country nationals of their entitlement to order a medical examination to determine age, and of the method and consequences of that examination. If the medical examination fails to determine whether a person is an adult or a minor, she is presumed to be a minor for the purpose of the procedure, in accordance with the Act on Asylum.

The Slovak Republic has also set up the Central Visa Information System (C-VIS), accessible via VIS at the Ministry of Foreign Affairs since the date of its launch, 10 November 2011. Only the first name, surname, date of birth, visa sticker number and document number can be monitored, however.

Spain, in the 2011 Alien Law Implementing Regulation, caters for legal provisions on age assessment and family tracing.

If the minority of an unaccompanied minor cannot be definitely established, this circumstance has to be immediately communicated to the Public Prosecutor who shall (in the shortest delay) order the process of determination of the age (in this process, appropriate medical institutions must collaborate to carry out the necessary tests). A

Framework Protocol in order to unify criteria, including those relating to methods for the determination of age, is being currently developed.

For family tracing, the national migration authorities in the regions request the General Commissariat for Aliens and Borders (Ministry of the Interior) to make the necessary enquiries to the Spanish Consular authorities in the country of origin, in order to draw a report on the minor family situation and the acceptance by origin country authorities to bear responsibility over the minor.

The **Swedish** Migration Board has issued guidelines on age assessment. If there are doubts about the age stated, an overall age assessment will take place after an extended asylum interview, after which the applicant could be registered as an adult. The applicant has the burden of proof to make his/her stated age probable. Medical examinations are used only as a means for the applicant to support his or her stated age, if the Migration Board considers that the stated age is incorrect. Bone (hand and wrist) and dental examinations are the medical methods used to assess age, and only with the applicant's/appointed guardian's consent. If the minor/legal guardian does not wish to make an age determination, the age assessment is based on the findings from the interviews and observations made by the case worker.

According to Swedish legislation, tracing of parents/family should start as soon as possible after arrival to Sweden. In 2011, the Swedish Migration Board has published a set of guidelines relating to tracing, to help clarify questions such as when, and under which circumstances, tracing can and should start.

The United Kingdom has experience in family tracing in asylum cases, but family tracing is not started until there is enough information to allow staff to make an assessment of the safety implications for both the child and their family members.

Where there is little or no evidence to support an applicant's claimed age and their claim to be a child is doubted, a UK Border Agency officer will conduct an initial age assessment. If the officer considers that an applicant's physical appearance/demeanour very strongly suggests that they are significantly over 18 years of age, and this is independently agreed with by a senior officer, the applicant will be treated as an adult.

In all other cases the applicant will be informed, in a sensitive way, that, because there is insufficient information at this stage on which to make a final decision, they will be given the benefit of the doubt and will be treated as a child until all available information is collected and a decision on their age has been made. The applicant will be referred to the relevant local authority which will make an assessment of their age and communicate that information to the UK Border Agency, at which time a final decision will be made on their age. The UK has not previously been involved in exchanging best practice guidelines on age assessment by combining scientific and legal criteria, but is keen to do so and is continually developing their guidelines.

V. DURABLE SOLUTIONS

V.1 Return and reintegration in the country of origin

V. 1.1. Actions at the EU level

The Commission will prioritise funding of unaccompanied minors-specific activities by the Return Fund and the Thematic Programme Migration & Asylum, including projects providing for post return monitoring and follow up, especially in the case of child victims of trafficking in human beings; promoting reunification of children with their parents through family tracing activities in Member States and countries of origin; support to families and communities for reintegration; support to authorities of countries of origin in managing the return, creating training centres, supporting families and returned minors, protecting victims of trafficking in human beings and preventing re-victimisation, etc.; support for projects and policies creating study and training opportunities in the countries of origin, open to all minors.

- Minors and unaccompanied minors are part of the group of vulnerable returnees. Measures addressing the situation of this group are included under specific priority 1.2 of the Return Fund. The concrete actions to be implemented under this priority are determined by the Member States in their Annual Programmes.
- Under the Community actions Return Fund 2010, the Work Programme foresaw the fostering of cooperation of two or more Member States in the field of pre-departure and post-arrival reintegration activities. Applicants were invited to give a particular emphasis to the reintegration needs of vulnerable groups, in particular unaccompanied minors. One of the projects selected, European Reintegration Instrument by the Dutch Repatriation and Departure Service, has some specific focus on the UAMs, since it should assess the reception and reintegration situation in selected third countries, present a standard model for reintegration of UAMs and provide actual assistance to selected group of returning minors (those that are older than 16,5 years). Another running project on UAMs is under 2009 Work Programme. It is called the European Return Platform for Unaccompanied Minors and focuses on exploring the ways of returning unaccompanied minors who can no longer stay in the participating Member States following a negative decision. The project should provide a basis for direct cooperation of Member States administrations with third country authorities in the practical work of securing the best interests of the child while returning unaccompanied minors.
- Furthermore, the call for proposals under the Return Fund work programme 2011 has an objective focussing on a safe and sustainable return of minors, including the family tracing of returned UAMS, reception centres for returned UAMS and monitoring of returned minors (accompanied and unaccompanied).

- The Thematic Programme Migration & Asylum multi-annual strategy for the period 2011-2013 clearly identifies measures addressing the phenomenon of unaccompanied minors as one of the priorities of the Thematic Programme. Such measures should be related to prevention, such as awareness-raising programmes for children at risk, training of specialised personnel in main areas of origin to detect situations of risk, as well as activities concerning return and reintegration in the country of origin (for instance, projects providing for post-return monitoring and follow-up, especially in the case of child victims of trafficking, support to families and communities for reintegration, etc.). The human rights dimension will be particularly taken into account in projects funded by the thematic programme in this area. A call for proposals for 2011/2012 under the EU Thematic Programme on Migration and Asylum is on-going. One of the identified priorities is 'vulnerable groups especially unaccompanied minors; support measures addressing the challenge posed by unaccompanied minors, namely awareness-raising programmes for children at risk or training of specialised personnel, as well as activities concerning return and reintegration in the country of origin'. The call also mentions protection of migrants' human rights as a specific priority which should be supported through legislative development, awareness-raising and capacity building for national authorities.
- Projects financed by the financial instruments under EEAS/ DEVCO:

Project: "Prevention of trafficking in children, youth and women in Myanmar and support for the return and reintegration of trafficked victims" (TP Migration & Asylum, 2008-2011, €0.7M)

Project: "Technical Assistance Program to Strengthen Social Service Provision to Child Victims of Human Trafficking in Russia" (Thematic Programme Investing in People, 2009-2012, €585,444)

Project: "Programme de protection, réhabilitation et réinsertion des enfants victimes et/ou vulnérables face à la traite et à l'exploitation sexuelle en Guinée Bissau" (Thematic Programme Investing in People 2009-2012, €600,000)

Project "Programme Afrique de l'Ouest": Transnational action for socio-Professional integration of children and teenagers victims of trafficking or smuggling" (2011-2013, TP Migration & Asylum, €1.5M)

Project: "Return and Resettlement - Children's participation in decision making" in Azerbaijan (TP Investing in People, 2010-2012-, €519,000)

Project "Upgrading the Capacities of the Reception Centre for Foreigners in Croatia": additional premises will be built in the (so far) unique detention centre for irregular migrants in Croatia for unaccompanied minors and families of irregular migrants (Border Management and Security, € 2.148.225).

The Commission will publish a study on existing Member State practices and legislation on the return of unaccompanied minors and situation of unaccompanied minors falling under readmission agreements.

Under the 2009 Return Fund Community actions, the Commission launched a call for tender and selected a service provider (European Council on Refugees and Exiles in cooperation in partnership with Save the Children EU Office) who carried out the study examining the situation of minors during the process of return and outlined the best practices relating to return of minors, including unaccompanied minors, in the Member States. The conference during which the outcome of the study was discussed took place on 7 November and the study was finalised in November 2011.

The Commission will promote child-friendly best practices in Member States.

The interim findings of the comparative study on best practices in the field of return of minors were presented in the Contact Committee on the Return directive on June 24, 2011 and the final study was presented to the same committee on 2 December 2011.

To call on the Commission and Member States to promote the development of methods of pre-departure counselling, with the aim of encouraging the voluntary return of minors to their countries of origin.

As referred to above, the study commissioned under the Return Fund's Community Actions 2009 identified the best practices in the field of return of minors was presented to the Member States in the Contact Committee on the Return directive. During the presentation, Member States were encouraged to apply the best practice identified in their daily work.

To encourage the Commission and Member States so that EU and national external cooperation instruments are used in a well-coordinated manner to finance projects in third countries to facilitate the return and reintegration of UAMs in their countries of origin.

See above.

To support forms of practical cooperation among Member States, as well as between Member States and countries of origin and between Member States and International and Non-Governmental Organizations in order to establish operative networks to facilitate the return of minors to their countries of origin, in a process which takes account of the importance of a humane, safe and dignified return in accordance with the UN Convention on the Rights of the Child and within the framework of Directive 2008/115/EC on common standards and procedures in

Member States for returning illegally staying third-country nationals .

Continuously throughout the entire 2008-2013 programming period of the Return Fund. Such projects can be implemented under the annual programmes of the Member States or under the Community actions. For relevant projects financed under the Community Actions, see the first measure of chapter 4.1 above.

To encourage Member States to make full use of operational networks in order to establish and maintain contacts with the authorities in the countries of origin or return, with a view to finding ways and means to facilitate the return and reintegration of minors in their countries of origin or return.

Continuously throughout the entire 2008-2013 programming period of the Return Fund. Such projects can be implemented under the annual programmes of the Member States or under the Community actions.

Under the Return Fund Community Actions 2010, the Commission is funding the establishment of a Voluntary Return European Network that should serve as a forum for exchange of information and dissemination of best practice among the relevant stakeholders in the Member States and potentially major countries of return. This could also prove to be a useful forum to pursue exchange of information and experience in the field of return and reintegration of minors. For other relevant projects financed under the Community Actions, see the first measure of section 4.1 above.

V.1.2. Actions in EU Member States

Member States consider return in the framework of the unaccompanied minors' chances to reintegrating back home and as a durable solution. As reported by Member States, return can only be done with the minor's consent and if a safe family environment is awaiting in country of origin. FR points out that from 2003 to 2010 only 100 returns have taken place, out of over 6 000 unaccompanied foreign minors in the country. In IT or ES rate is even smaller and it is the same in all Member States who are engaged in safe return.

DE frames minors' return in the readmission agreements signed with third countries. EE has signed a bilateral agreement for return with Albania, HU and LT have done the same with Serbia. ES, FR and IT have also signed bilateral agreements for safe return. Some Member States – AT, BE, EE, EL, IT, HU, PL and SK - report working with either International Organizations like UNHCR, or with IOM or other NGOs such as Caritas or the Red Cross to implement safe return. EE, HU and MT discuss making use of the European Return Fund for these activities. SE, NL, UK and NO have established the ERPUM project to work for safe return and durable solutions in Afghanistan. IE does not return minors.

Detailed information on Member States practices

Austria is working with the International Organisation for Migration in the area of voluntary repatriation to ensure a hand over to family or local youth welfare offices. In the case of forced returns, the authorities are bound by the provisions of the Immigration Authorities Act and the implementation of the Return Directive.

In **Belgium**, the agency Fedasil created a reintegration fund in 2006 for minors returned to their country of origin. Fedasil works with IOM and Caritas on durable reintegration activities before minor's leave and upon arrival to country of origin. Belgium has recently put all stakeholders dealing with UAM under the authority of the Secretary of State for Asylum and Migration, reporting to the Ministry of Justice. Coordination shall be reinforced as regards data and databases and UAM's return and reintegration in Morocco and the Guinea.

Bulgaria reports that the main tasks of the State Agency for Refugees are constantly focused on finding durable solutions regarding data collection; positive, humane and efficient search of the family of the unaccompanied child and their gathering, if so requested by the child and is for his safety; exploring the possibility of taking care of the child in a family environment and accommodation in specialized institutions with special conditions for minors.

The Czech Republic cooperates with the International Organisation for Migration on voluntary repatriations of UAMs to their countries of origin. There is no experience with forced returns of UAMs because (under the Czech law) UAMs can legally stay in the territory till the age of 18.

Denmark is evaluating at present the programme they run together with IOM on voluntary assisted return for unaccompanied minors. Denmark participates in a pilot project, partly EU funded, with Sweden, UK, the Netherlands and Norway concerning the establishment of reception and care facilities in Afghanistan. The aim is to reunite returned minors with family and ensure reintegration.

Estonia can only return an unaccompanied minor if guardianship is arranged for the minor in the receiving country and if his or her rights and interests will be protected. Return is organised in coordination with the competent national authorities in the receiving country and, where necessary, in the country of transit. The Ministry of the Interior and the Estonian Red Cross have signed a cooperation agreement so that the Estonian Red Cross monitors compliance with the procedural requirements at each step of the expulsion procedure and ensuring that a person being expelled is able to exercise all his or her human rights. There is also the 'Providing material support to people being expelled' project funded by the European Return Fund and implemented by the Police and Border Guard Board, under which it is possible to provide material support to

unaccompanied minors to enable them to initially support themselves in their country of origin.

Finland has returned very few unaccompanied minor asylum seekers. Before a minor may be returned to his/her country of origin, the reception of the minor must be ensured.

France reports that no return can be implemented if determined circumstances are not met: judicial authorization, family or guardianship found in country of origin, education and living conditions met in country of origin and minor's own will. Only 100 returns have taken place between 2003 and 2010.

Germany has not signed any particular agreement with third countries relating to unaccompanied minors except for regulations in readmission agreements. There has so far been no perceived need for such provisions in agreements with third countries. Germany transposed the 'Return Directive' 2008/115/EC into national law in 2011. The procedural safeguards and accommodation guarantees laid down therein have been largely applied in national return procedures since before 2010. EU and bilateral readmission agreements mostly contain a clause on compliance with international protection rules, which include the rights and welfare of children.

In **Greece** and in accordance with Law, if the competent public prosecutor judges that, under the specific circumstances, repatriation does not serve their interests, they can order any measures necessary to protect the minor until the court issues a decision, which must be within thirty days, on the appointment of a Commissioner.

With regard to non-asylum seeking unaccompanied minors, once the competent Immigration Department has completed its enquiries, when their parents or the persons whose care they are in are not found in Greece, INTERPOL are informed so that they can look for them in their country of origin.

With regard to asylum applicants and in accordance with the Dublin Convention, the competent services, maintaining the basic principle of family unity, try to unite unaccompanied minors who are on Greek territory with members of their family who are resident in EU Member States and to this end, cooperate with UNHCR and with NGOs in order to complete the relevant applications and to make possible the transport of minors so that they can be near their families, whilst at the same time ensuring that their safety is guaranteed. Asylum seekers who are minors are transported, in cooperation with the competent departments of the Ministry of Health and Social Welfare, to existing facilities which are appropriate for housing them (*Reception Centres for Asylum Seeking Minors*) and the necessary action is taken to appoint a Commissioner through the competent Public Prosecutor's office, who will assist the minor throughout the asylum procedure.

For minors with Albanian citizenship in particular, the two governments have signed an agreement for their protection, including repatriation, rehabilitation and care of Albanian children who are victims of migrant-smuggling to Greece. All other minors are deported by air, once the Interpol branch in their country has been informed.

Ireland does not generally return unaccompanied minors unless they have been reunited with their family in Ireland and are all subject to Deportation Orders. There have been a very small number of cases where Ireland has returned minors. Immigration Act 1999 sets out procedures in relation to deportation orders. When deciding on whether or not to make a deportation order in relation to a person, the Minister has regard to a number of factors, including the age of the person. In relation to subsidiary protection or permission to remain as a result of a consideration under section 3 of the Immigration Act 1999, the fact that someone is an unaccompanied minor will be taken into account if their claim is processed while they are still a minor.

Italy runs programmes on voluntary return of unaccompanied foreign minor to his/her country of origin, regulated by the Committee for Foreign Minors, which evaluates minors willing and the information given by the municipal social services first. Then, it takes into consideration the results of family investigations made by IOM, the opinion of the tutor and the certificate of the judicial authority. Voluntary return instrument aims at protecting the best interest of the minor, and it is possible only with his/her consensus. The Committee is in charge of the costs (such as the plane ticket) until the minor reaches his/her family, and it provides for an individually tailored reintegration, so that the minor is able to get quickly an economic independence from his/her family. Additionally, IOM is in charge of monitoring activities of the implementation of the project giving information to the Committee.

Hungary cannot return third country national unaccompanied minors to their countries of origin or to a third country unless their adequate protection (in their family or in an institution) is ensured there. In practice all unaccompanied minors who are returned to their countries of origin or to a third country are returned by virtue of readmission agreements. Most of them are returned by virtue of the EU readmission agreement in force between the European Union and Serbia. On the basis of this agreement the Serbian authorities readmit Serbian nationals and third country nationals arriving from Serbia to Hungary (except for Kosovar nationals) provided that they were apprehended at or in the vicinity of the Serbian border. In case of unaccompanied minors special procedural rules shall be followed including that they can only be returned if the representative of their family or the institution is awaiting them at the border.

In Hungary the Budapest Office of the IOM has been operating an Assisted Voluntary Return (AVR) Programme for several years for asylum seekers, persons granted international protection and persons who do not fulfil the residence conditions in Hungary who wish to return to their countries of origin. The programme is implemented in cooperation with the Office of Immigration and Nationality and is funded by the European Return Fund and the Hungarian Ministry of Interior. Potential voluntary returnees are informed about the AVR programme through the NGO “Menedék”, which has social workers in reception centres and guarded accommodations in Hungary. Furthermore IOM provides a Website and a Hotline for potential voluntary returnees and IOM leaflets comprising information on voluntary return possibilities are made available at reception centres and detention facilities. These services are available to

unaccompanied minors, but they can only be returned to their countries of origin if proper care is ensured there. Therefore it is very rare that Hungary makes use of these opportunities.

Lithuania can return unaccompanied foreign minors who are illegally present or residing in the country only if they are properly looked after in the foreign country to which he or she is returned, taking into account his or her needs, age and level of independence. Where an unaccompanied foreign minor cannot be returned to his or her country of origin or another country, he/she must be granted the right to reside in the Republic of Lithuania on the grounds laid down by the Law. The return of an unaccompanied foreign minor is a question that is resolved in cooperation with other countries and international organisations on the basis of international agreements.

Malta uses the Best Interest Determination system to find a care plan for each minor within no more than six months following their arrival in the dedicated centre for minors. The plans are submitted to the Children and Young Persons Advisory Board, part of the Ministry of Justice, Public Consultation and the Family, for approval by the Minister.

Malta has not returned any unaccompanied minors to their country of origin against their will in the past two years (2010-2011). From the start of the voluntary assisted return and reintegration programme until now, one unaccompanied minor (aged 17 years and three months) made use of this facility in 2010. IOM implemented this return and the minor in question was helped to engage in an economic activity in his city of origin. This activity is being carried out together with the minor's father and sister. This project was part-financed by the European Union out of the Return Fund.

The Netherlands do not repatriate unaccompanied minors unless suitable care in the country of origin, measured by local standards, is met. The Government has been investing in creating suitable accommodation in countries of origin (for example recently in Angola and the Democratic Republic of Congo), partly drawing on funds for development cooperation. Wherever possible, existing facilities are used. The Netherlands is working with European partners (Sweden, Norway, the UK and Denmark) to develop care facilities in Afghanistan, which is the main country of origin of unaccompanied minors. In this connection they are also investing in education for local orphans so that they, too, can be offered opportunities for the future. Support is provided in various ways to unaccompanied minors in the Netherlands who have exhausted all the legal remedies and are returning to their countries of origin independently. For example, they are entitled to financial support or assistance in kind.

According to **Poland's** Act on foreigners, a decision to remove a minor foreigner to the country of origin or a different country is carried out only if upon arrival, the minor will be under the care of parents, other adults or care institutions, according to the standards specified by the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989.

Moreover, a minor foreigner may only be removed under guardianship of their statutory agent, unless the decision regarding removal is carried out so that the minor is handed over to the statutory agent or representative of the relevant authorities of the country to which they are removed.

When it comes to the assisted voluntary return, the Border Guard and the Office for Foreigners cooperate with IOM which organises aid in voluntary return to the country of origin, also for persons requiring special treatment. In the case of unaccompanied minors, the aid includes medical examination in order to confirm the beneficiary's ability to make the return journey and organisation of medical or regular escort. Procedures apply to unaccompanied minors, pursuant to the overriding principle of acting in the child's best interest (Convention on the Rights of the Child). The child's guardians in the country of origin are contacted before the minor is returned to that country.

In **Portugal**, if minors expressly state that they want to return, or even where they do not do so, they may be returned if their parents, family members, social services or other caring children organisations are identified in their country of origin.

Romania, in order to harmonize the national legislation with the EU acquis in the field of return, has approved in 2011 amendments to the national law on aliens' regime to cater for guarantees to non-refoulement and identification of the unaccompanied minor's family, while waiting for removal from the territory.

In the **Slovak Republic** the legal guardian and the facility in which the unaccompanied minor is housed are responsible for providing information on the minor's situation and possible solutions. This information is usually given to a minor in writing.

The duties of the guardian in the asylum or subsidiary protection procedure include preparing the minor for interview and thoroughly explaining the minor's situation in advance. No interview may take place without the guardian's presence (supervising the form and content of the questions asked, arranging for breaks in the interview, explaining the purpose of the questions).

The basic border and aliens police forces work closely with the competent bodies like IOM in returning unaccompanied minors and provide appropriate assistance in the best interests of the child. For return, procedures include communicating to the representative office of the country in which the unaccompanied minor usually resides the measures taken in the interests of return or transfer of the unaccompanied minor and requesting the child's return or transfer to the country in which he or she usually resides, where it is clear that the usual residence is in a safe country which is not the subject of the International Convention (the Convention on the Civil Aspects of International Child Abduction). Alternatively, the border and aliens police submits the family reunification proposal to the representative office of a country in which the unaccompanied minor does not usually reside but where his or her parent or personal carer is living, and communicates the measures taken in the interest of that reunification. Stakeholders include the UNHCR, the Slovak Ministry of Internal Affairs, IOM and other bodies

active in the field in implementing measures for the social and legal protection of children and social care for unaccompanied minors.

As for **Spain**, the Regulation implementing the Alien Law works towards establishing a Framework Protocol mainstreaming all relevant stakeholders' activities concerning durable solutions, starting the moment a minor is traced, followed by his identification, care, age determination and guardianship by the corresponding authorities. An inter-institutional service working group has already been set up to create the abovementioned framework protocol. Return is ruled by the Regulation as well, stressing the role of the Police to enforce the return resolution and the presence of personnel from the minor protection services until the minor is delivered to the competent authorities of his or her origin country.

Sweden established in January 2011 the project ERPUM, European Return Platform for Unaccompanied Minors, in partnership with the UK, the Netherlands and Norway. Within the project an agreement is currently being discussed with the Government of Afghanistan, together with IOM as a coordinating partner. The aim is to support and assist unaccompanied minors to reintegrate, making individual assessments before return which also includes family tracing. In Iraq an initial dialogue has commenced with the authorities in both Baghdad and Erbil.

The United Kingdom conducts a best interest determination prior to the voluntary return of a minor. If return is determined to be in the best interests of the minor, the mechanics of their return will be facilitated by the Family Returns Panel (or equivalent). Key partners responsible for the welfare of a minor during their time in the UK, e.g. social worker, teacher, medical professional, will form part of that panel and they will provide the necessary support prior to return.

The UK is working collaboratively with Sweden, the Netherlands and Norway on the European Return Platform for Unaccompanied Minors (ERPUM) project. The project aims to find new methods for the return of unaccompanied minors that need to return home after receiving a final rejection of their asylum application. The partner countries intend to organise family tracing, family reunification and adequate reception facilities for returning minors.

V.2 International protection status, other legal status and integration of UAMs

V.2.1. Actions at the EU level

<p>Member States are invited to maximise use of existing funding possibilities available under the European Refugee Fund and the Fund for the Integration of third-country nationals.</p>
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Under the European Refugee Fund III, it is stated that all actions shall take account of the specific situation of vulnerable person, such as unaccompanied minors. Furthermore

these kinds of actions, i.e. those taking into account the special needs of vulnerable people such as unaccompanied minors, qualify for 75% of EU co-financing instead of 50% (being considered as one of the specific priorities under Priority 1 of the Strategic Guidelines).

Similarly, under the European Fund for the Integration of third-country nationals, unaccompanied minors can be considered as "specific target groups" and therefore projects dealing with unaccompanied minors could receive a co-financing of 75% (instead of 50%) should the Member State opt for this specific priority.

The Commission will strengthen unaccompanied minors-related activities when defining the priorities for Community Action in the annual work programmes adopted for these funds.

Under centralised management, the European Refugee Fund Community Actions 2011 Work Programme identified the vulnerable group of unaccompanied minors as part of the target group of the programme (asylum seekers, refugees and beneficiaries of subsidiary protection).

The call for proposals to be published in the third quarter of 2012 will pursue, in line with this, priority 4: promoting common measures to address specific needs of vulnerable groups among asylum seekers and persons benefiting from international protection, in particular of those who are unaccompanied minors, with a view to implement the EU Action Plan on Unaccompanied Minors.

The programme also pursues the specific objective of exchanging information and development of best practices between national asylum authorities, between them and other stakeholders (such as non-governmental organisations and international organisations) and between the latter, in addressing the needs of minors, unaccompanied minors and other vulnerable persons when implementing EU legislation and preparing for higher and more convergent standards of protection.

The European Fund for the Integration of third-country nationals Community Actions 2012 Work Programme identified unaccompanied minors with a legal status as part of the target group of the programme.

The call for proposals to be published in Q3 2012 will pursue, in line with this, priority 3: governance and effectiveness of integration measures; and the specific objective to assess the effectiveness of integration measures, in particular measures targeting particularly vulnerable migrant groups, such as women, elderly, and children; including unaccompanied minors and victims of trafficking.

The Commission will reflect on how to better include the unaccompanied minors dimension in the next generation of financial instruments, as of 2014, in the field of migration management.

The proposals for the next generation of financial instruments in the home affairs area have been adopted by the Commission on 15 November 2011. The proposal for an Asylum and Migration Fund foresees the possibilities to develop an integrated migration policy and to focus inter alia on unaccompanied minors. The new instrument, bringing together support for integration, migration, asylum and return management, will be able to address more comprehensively the needs of the different target groups of third-country nationals and, in accordance with Member States individual circumstances, focus in particular on all the measures necessary to assist adequately the different categories of unaccompanied minors.

In the Multi-Annual Financial Framework for the period 2014-2020 the financial instrument for home affairs will be the Asylum and Migration Fund (established by Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund, adopted on 15/11/11).

The new Fund shall be used in full respect with the rights and principles enshrined in the Charter of Fundamental Rights of the European Union. In particular, eligible actions should take account of the specific situation of vulnerable persons, in particular, with special attention and dedicated responses to unaccompanied minors and other minors at risk. Similarly, the Fund foresees the group of unaccompanied minors as one of the target groups that would increasingly benefit from the new instrument (the target group will be easier to reach because of the merging of different actions into one Fund).

Under the specific objective related to reception and asylum systems, the new Fund aims to provide specific assistance for vulnerable persons, among others for minors and unaccompanied minors.

Under Integration measures at local and regional level, the eligible actions shall take into account the specific needs of different categories of third-country nationals and their family members, including vulnerable groups of migrants: among others minors and unaccompanied minors.

Concerning the Union Resettlement Programme, unaccompanied minors are one of the vulnerable groups of refugees that shall in any event be included in the common Union resettlement priorities and qualify for financial support in the form of lump sums.

The new Fund foresees additional resources for specific actions that may be allocated to Member States. One of such specific actions is joint initiatives aimed at identification and implementation of new approaches concerning the procedures at first encounter and standards of protection of unaccompanied minors.

The Commission will finance projects for the integration of unaccompanied minors having legal status, with particular attention to programmes aimed at supporting the recovery of victims of child specific violence or trafficking in human beings.

In line with the priorities and specific objectives defined in the European Fund for the Integration of third-country nationals Community Actions 2011 Annual Work

Programme, the Commission may award funding for actions on the integration of unaccompanied minors having legal status. The list of proposals selected for funding following the call for proposals published in July 2011 will be available in Q1 of 2012.

The specific issue of unaccompanied minors should be further developed in EU and national integration policies by exchanging and developing best practices, etc.

The Commission provides a framework for monitoring, dialogue and exchange of good practice in the area of integration, and creates incentives through the European financial instruments. In setting priorities for the European Fund for the Integration of third-country nationals, it has included unaccompanied minors as a particularly vulnerable group of migrants, which should be targeted in integration measures supported by the Fund.

The Commission will address the specific challenges posed by unaccompanied minors in the new EU agenda for migrants' integration.

The European Agenda for the Integration of Third-Country Nationals (COM(2011) 455 final) aims to strengthen the economic, social and cultural participation of migrants in their receiving societies. Special attention should be paid to the specific needs of vulnerable groups of migrants, including unaccompanied minors, for example removing barriers blocking effective access to social and health services.

The Commission will examine the specific situation of unaccompanied minors in the planned study on the treatment of illegally staying third-country nationals who temporarily cannot be returned and assess the need for and advisability of establishing a common framework in relation to unaccompanied minors who cannot be returned.

Study on the situation of third-country nationals pending postponed return/removal in the EU Member States and the Schengen-associated countries is expected to deliver a clear and comprehensive inventory detailing the legal requirements and conditions in the Member States and Schengen Associated Countries concerning the treatment of third-country nationals during periods for which return/removal has been postponed. The study will focus on the rights expressly mentioned in Article 14 of the Return Directive (family unity, health care, education, needs of vulnerable persons, papers) as well as other pertinent rights (such as access to the labour market and material reception conditions) not mentioned in Article 14 but in practice granted by Member States to this category of persons. The final results of the study should be available in December 2012.

V.2.2. Actions in EU Member States

All Member States have in place regulatory framework to protect UAMs, grant protection status and care for their integration in the host country.

Even if an unaccompanied minor asylum seeker is denied asylum, he or she is not denied protection in any Member State. The best interest of the child is of primary concern to all Member States. Nonetheless, some Member States like CZ report that several possible types of residence status can be granted to UAMs. UAMs who ask for international protection enjoy the status of asylum seekers and are accommodated in specialized schooling facilities. UAMs who do not ask for international protection are placed in these facilities as well and the law grants them a permanent residence permit valid until the age of 18. In FR the situation of UAMs is substantially improved if they are granted asylum, since they are eligible to take French nationality, but only 10% minors ask for asylum. In addition to this, a minor who has been taken care of by the reception authorities for more than three years is entitled to apply for French nationality.

HU, LT, MT, PL, PT, and SE either grant asylum status to unaccompanied minor asylum seekers or grant other subsidiary protection. In UK all unaccompanied asylum seeking children are also referred to the Refugee Council Children's Panel who advise and assist the child.

In FI, FR and IT integration paths and programmes are drawn up for the minor to help them integrate in host country. Since August 2011, in IT the Unified Text Containing the Measures Governing Immigration was amended so that when the minor comes of age, a residence permit can be issued for study reasons, employment or self-employment work.

RO is making use of the European Refugee Fund to provide care for minors seeking asylum and SK is using ERF funding for children granted asylum and the EIF for other UAMs.

Detailed information on actions carried out in EU Member States

Belgium has put in place a special procedure for minors' stay in the country while waiting for family reunification or return.

In **Bulgaria** the main means of integration of refugees, including UAMs, are the following: pedagogical consultations on the rights of refugee children, including unaccompanied minors, introduction of the parents refugees with the Bulgarian culture and education, work on their social inclusion in the Bulgarian environment; organization of intercultural activities, introduction to the main rights and obligations of refugees and the rights and obligations of refugee children. Particular attention is paid by exploring and developing educational programs and projects related to education of the refugee children in the Bulgarian schools. There are on-going public discussions with NGOs

regarding the needs of the refugees and the results are reflected in the key strategic documents and legislative proposals to find durable solutions.

In **Cyprus** an unaccompanied minor, irrespective of his or her nationality, can enjoy all services applied for the protection and well-being of the child. The best interest of the child is of primary concern. The Social Welfare Services work in cooperation with all the relevant stakeholders, such as the Ministry of Health, the Ministry of Education and Culture, and the Commissioner for Children's Rights.

The **Czech Republic** reports several possible types of residence status that can be granted to UAMs. UAMs who ask for international protection enjoy the status of asylum seekers and are accommodated in specialized schooling facilities. UAMs who do not ask for international protection are placed in these facilities as well and the law grants them a permanent residence permit valid until the age of 18. The permit can be changed under certain conditions to a regular permanent residence permit based on humanitarian grounds after the UAM reaches 18.

Denmark only allows minors to go through the asylum procedure if the Danish Immigration Service assesses enough maturity on the minor. In general, children under the age of 12 are not considered sufficiently mature to go through the asylum procedure. If the minor is considered not mature enough he/she can be granted a residence permit without having to go through the asylum procedure. This permit is conditional on there being no family or adequate reception facilities in country of origin and is temporary until the minor comes of age. Appeals can be lodged to the Refugees Appeals Board. During their stay in the country unaccompanied minors are lodged and schooled.

Estonia organises UAM's everyday life in special centres as similarly as possible to family life, thereby providing the child with stability and confidence. A guardian is appointed by a court for an unaccompanied minor afforded international protection. That guardian may be an individual, a legal entity or a local authority. The duties and obligations of guardians are laid down in the Family Law Act. There are no specific measures laid down in Estonian law for the integration of unaccompanied minors, but the general measures aimed at adults under the integration plan apply.

Concerning **Finland**, the Act on the Promotion of Integration (1386/2010) laying down provisions on support and promotion of integration and immigrant's participation in society came into force in September 2011. Under the new legislation, the provisions on obligations to take account of the best interest of the child are more detailed than before. The Act includes an obligation for municipalities to draw up a clear integration plan for all unaccompanied minors who are issued with a residence permit in Finland taking into account the opinion of the child. Within the framework of the pilot project Participative Integration in Finland included in Chapter 9 of the new Act, it is intended to create one integration path for immigrant children and young immigrants in order to improve the integration of these groups and prevent social exclusion.

In **France** many minors come of age while they are being taken care by the different reception facilities. When a child becomes of age, he/she will benefit from substantially increased protection if recognised as a refugee. In addition to the possibilities for obtaining French citizenship upon recognition of refugee status, the refugee turned adult will receive a 10-year residence permit and benefit from the same social protection rights as French nationals. However, only 10% minors ask for asylum. In addition, a minor who has been taken care of by the reception authorities for more than three years is entitled to ask for the French nationality. If he or she does not meet this criterion he or she still can be granted a residence permit provided that there is positive reporting from the receiving authority on the minor's willingness to follow education and training to integrate in host society. The local reception authorities provide care to young people over 18, until they reach 21, if they are willing to follow further integration activities.

In **Greece** the possibility of granting a residence permit for humanitarian reasons to victims of human trafficking, even if they do not cooperate with the law enforcement authorities, is provided for by legislation. The residence permit is renewed until the criminal procedure finishes or no further action is taken. In addition, the law has simplified the criteria for issuing and/or renewing residence permits when humanitarian and exceptional reasons have been identified. In particular, a residence permit can be granted for humanitarian reasons for minors who are proven to need protective measures and whose return to a safe environment is impossible, as well as to minors who are sheltered by institutions or other legal persons of a charitable nature.

Italy has been running a National Programme for the protection of unaccompanied foreign minors, aiming at developing the protection of unaccompanied foreign minors in the country, supporting the municipalities in the implementation of specific services and promoting the standardization of the interventions at the national level. The Programme created a network of 32 local projects, involving 14 regions, 29 provinces and 56 municipalities. On 31 May 2011 the Programme provided services to 2 000 unaccompanied foreign minors.

In August 2011 the Unified Text Containing the Measures Governing Immigration was amended so that when the minor comes of age, a residence permit can be issued for study reasons, employed or self-employed work, once the Committee for Foreign Minor have expressed a positive opinion on the minor and if the minor has been residing in Italy for at least three years and has been participating in a social and civic integration project for at least two years.

Hungary's Act on Asylum grants refugees the same rights and obligations as Hungarian citizens, unless an Act of Parliament or a Government Decree expressly provides otherwise. Under the same Act, beneficiaries of subsidiary protection have the same rights and obligations as refugees unless an Act of Parliament or a Government Decree expressly provides otherwise. However, they are not entitled to be naturalized under the preferential terms that are available to refugees and receive a different type of passport from refugees. Support for enrolment to school for children participating in general education, reimbursement of the costs of Hungarian language exam, support for living

costs, and housing benefits are also provided. Minor refugees, beneficiaries of subsidiary protection and minors who are granted a humanitarian residence permit fall under the scope of the Child Protection Act and by law are entitled to the same care that is provided for Hungarian children.

In **Lithuania**, unaccompanied minor asylum applicants are usually granted subsidiary protection, i.e. a Lithuanian residence permit for a period of one year, renewable thereafter. No unaccompanied minors have been granted refugee status to date. The process of adaptation by unaccompanied minors to a foreign environment starts at the reception centre, which is where they live until they are moved to locations across the municipalities for integration support or, if social integration services are provided at the Centre, until such time as integration support comes to an end. Support is granted at the Centre for up to eight months. Taking into account the interests of the child, the period of time for which support is granted to unaccompanied foreign minors at the Centre may be extended until they reach 18 years of age. In the event of unforeseen circumstances, support at the Centre may be extended further.

In **Malta** unaccompanied minors who apply for asylum are always interviewed in the presence of their guardian. The Office of the Refugee Commissioner can decide not to conduct the interview if the minor is very young. In these exceptional cases, the information is obtained from the guardian. The Office of the Refugee Commissioner, as stipulated by Law, can recommend two types of protection: refugee status or subsidiary protection. In the event that minors cannot benefit from either of these, the Office of the Refugee Commissioner can provide another form of local protection, known as Temporary Humanitarian Protection, until the minor reaches the age of majority.

The aim for **The Netherlands** is that unaccompanied minors who are granted international protection or another type of residence permit should be integrated in the country as quickly as possible. There are various measures in the field of education, care, housing and employment which are available to anyone in a disadvantaged position, including unaccompanied minors. Unaccompanied minors who applied for asylum, have a right to reception until they become of age or return to their country of origin. The reception includes the possibility to go to school, medical care, special guidance etcetera. ERF is used to improve reception facilities for children. If the application is rejected, (unaccompanied) minors still have the right to get reception/shelter, school and medical care. Integration is not the aim for minors without a residence permit.

In **Poland** issues regarding granting international protection are regulated in Section II of the Act of 13 June 2003 on granting protection to foreigners in the territory of the Republic of Poland. Criteria concerning granting international protection also apply to unaccompanied minors seeking refugee status, except in situations where there are no grounds for providing international protection to the unaccompanied minor. Their situation is additionally considered in the context of ensuring care after return; either by the closest family, relatives, institutions or, alternatively, organisations established for this purpose in the country of origin.

Another form of protection provided for by the Act is a tolerated stay. Pursuant to Article 97(1a) of the Act, a foreigner is granted a permit for tolerated stay in the territory of the Republic of Poland if their removal would violate the right to family life within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms, or violate the rights of the child specified in the Convention on the Rights of the Child to a degree posing a considerable threat to the child's psychophysical development.

Regarding integration, it should be noted that in 2010–2011, representatives of the Ministry of Interior and Administration participated in meetings of an expert group organised by the Government Plenipotentiary for Equal Treatment. During the meetings, the participants discussed issues occurring in the process of educating children of different races and cultures at Polish schools.

Portugal's national legislation, in those cases where the right of asylum is not granted, caters for subsidiary protection to unaccompanied minors through the granting of a residency permit on humanitarian grounds, if the minor is a national of a State where there is a serious lack of security due to armed conflict or a systematic violation of human rights. If they are not eligible for subsidiary protection, their situation may be covered by the general regime for foreigners, under Law 23/2007 of 4 July 2007.

Portugal recalls the Hague Convention of 19 October 1996, regarding competency, applicable law, recognition, execution and cooperation in parental responsibility and child protection measures, in so far as it might be necessary for a Member State to recognise legal measures that were applied in another State (for example, recognising the institutionalisation of a minor). This Convention came into force in Portugal on 1 August 2011. The Directorate-General for Social Re-integration is the national central body with responsibility in relation to this Convention.

In **Romania** programs have been developed through European funding from the ERF or the EIF. Through the European Integration Fund 2010, two projects take place in Romania, targeting minors from third countries, residents in Romania. Another two projects are carried out with the support of the European Refugee Fund 2010 targeting minor asylum seekers and minors who obtained a form of protection in Romania.

The Ministry of Labour, Family and Social Protection through the General Directorate for Child Protection is responsible for the welfare of minors in Romania, elaborating the policies and strategies in the field of child protection. At local level, in each county of Romania there is a General Directorate for Social Assistance and Child Protection which is the competent authority for all child protection issues. Regardless of whether the child has a legal status or not, his or her rights are fully respected.

In the **Slovak Republic** stay of an unaccompanied minor is taken care by the social and legal protection of children and appropriate measures are adopted to support the culture, language, religion and traditions of the child's country of origin. Measures include also assistance where necessary in seeking the child's parents or relatives, and assistance with

integration with the child's own family. In the event of voluntary return of an unaccompanied minor to the country of origin, the authorities work closely with the International Organisation for Migration.

Unaccompanied minors have the same rights as any child who is a Slovak citizen. Basic language instruction is given directly in the Children's Home where UAMs are housed on arrival. The child remains in the reception centre until the decision to grant or refuse asylum or subsidiary protection is handed down. Once the Supreme Court of the Slovak Republic has confirmed a decision by the regional court to refuse asylum or subsidiary protection, the unaccompanied minor is transferred to the Children's Home, within the scope of the Ministry of Labour, Social Affairs and Family. Since 2009, the UAM who is granted subsidiary protection is placed into a facility for minor foreigners (Children's Home for Foreigners) or another Children's Home.

During the stay in the Ministry of Internal Affairs Migration Office's reception or accommodation centre, children with asylum-seeker status are given social, legal, psychological and material assistance by non-profit organisations financed from the European Refugee Fund. Unaccompanied minors without this status are a target group of the European Fund for the Integration of Third-Country Nationals, where they receive support from non-profit organisations financed by the Fund.

In **Slovenia** legislation in the area of international protection does not permit a person to obtain the status of international protection solely because he/she is an unaccompanied minor; rather, this status is granted on the basis of the individual circumstances of the minor concerned/the validity of the reasons for granting international protection.

Spain deals with UAM international protection by means of both the Alien Law and the Asylum Law. When there is no possibility of returning the minor, and nine months after being put into the custody and care authorities, the minor is granted a one year validity residence permit. This does not prevent return if this can be implemented, always taking into consideration the best interest of the child. If the minor is 16, he or she is authorized to work.

In **Sweden** a minor who is a refugee or other person in need of protection will be granted a status declaration. If an application is rejected and it turns out during the return process that the minor cannot be returned, he or she may be granted residence permit on the ground that there is an impediment to the enforcement.

Asylum-seeking children and young people are entitled to health and dental care on the same terms as children resident in Sweden. They also have the right to education in the public school system, pre-school activities and school-age childcare. However, school attendance for asylum-seeking children and young people is not compulsory.

In **the United Kingdom**, the care of the child is the responsibility of the local authority in the area in which the child is living. The child will have a social worker who will be responsible for arranging care that is appropriate for the needs of the individual child. In

asylum cases, the UK Border Agency case owner will liaise with the social worker at all key points within the asylum process. All unaccompanied asylum seeking children are also referred to the Refugee Council Children's Panel who advise and assist the child, who also has access to legal representation.

The Agency has recently agreed to put in place procedures by which unaccompanied asylum seeking children will, on arrival in the UK, have a period of up to four days to recover from their journey and arrange legal representation before they are subject to any substantive interviews.

V.3. Resettlement

V.3.1. Actions at the EU level

The Commission will encourage Member States to continue to make maximum use of funding possibilities available under the ERF in relation to resettlement activities.

Under the ERF the resettled unaccompanied minors qualify for the Fund's financial support – as one of the vulnerable groups. Also the recently adopted 'Joint EU Resettlement Programme' for 2013 lists the unaccompanied minors as one of the vulnerable priorities eligible for ERF co-funding. Through ensuring that unaccompanied minors are resettlement priority for the EU, the Member States participating in the ERF resettlement pledging exercise are more likely to choose unaccompanied minors to be resettled. This means that more refugee unaccompanied minors may find a durable solution through resettlement to the EU.

The Commission and Member States should ensure that the specific needs of minors are taken into account when implementing the proposed Joint EU Resettlement Programme.

In the preparation of each Regional Protection Programme (done in close cooperation with the UNHCR) the unaccompanied minors are always taken into consideration while designing concrete objectives and activities of the action. For example the resettlement component of Regional Protection Programmes addresses the needs of the most vulnerable refugees, among them unaccompanied minors.