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# Children in Migration 2021-2022: an Overview

European Migration  
Network Report

May 2024

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## Explanatory note

This report was prepared on the basis of national contributions from 28 EMN NCPs (AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO, GE, MD) collected via an AHQ developed by the EMN NCPs to ensure, to the extent possible, comparability. The information contained in this inform refers to the situation in the abovementioned EMN Member and Observer Countries up to December 2022.

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# 1. EXECUTIVE SUMMARY



## 1.1. KEY POINTS TO NOTE

The number of migrant children, including unaccompanied minors, registered as present in the European Union (EU) rose between 2020 and 2021, then went on to rise significantly between 2021 and 2022.

According to Eurostat, the 27 EU Member States (EU-27) and Norway<sup>1</sup> received over 518 000 first time asylum applications from children under 18 years of age<sup>2</sup> and 79 000 asylum applications from applicants considered unaccompanied minors in 2020-2022.<sup>3</sup> This included 13 620 unaccompanied minor applicants in 2020, 25 290 in 2021, with a large jump to 40 175 in 2022.

Not all unaccompanied minors arriving in the EU apply for asylum or are beneficiaries of temporary protection. Data are not collected systematically across the EU on those children who do not apply for, or benefit from, either regime and it is difficult to give a total number of those involved. However, unaccompanied children registered by child protection services can help to fill in the gaps in many EU countries (see Table 1).

With increasing numbers of migrant children arriving in Europe and children's rights on the agenda of different EU and national institutions, including as part of the negotiations of the new Pact on Migration and Asylum,<sup>4</sup> the protection of children in migration remained an area of considerable development in legislation and policy throughout 2021-2022, at both EU and national level.

Several EU Member States<sup>5</sup> reported introducing policies and practices to better identify children in migration procedures, as well as detect and address any additional vulnerabilities they may have.

Six EU Member States and Norway implemented measures to safeguard vulnerable groups in reception centres in 2021<sup>6</sup> or 2022,<sup>7</sup> while three others increased the provision of special accommodation places for families or unaccompanied minors.<sup>8</sup> New alternative (non-institutional) care options for unaccompanied children, particularly family-based care/care families, were introduced or improved by four Member States in 2021,<sup>9</sup> and by Norway in 2022.

In 2022, several EU Member States reported overall pressures on reception systems, which affected places for children,<sup>10</sup> and/or higher numbers of unaccompanied children arriving, which impacted reception facilities generally.<sup>11</sup>

New provisions to strengthen guardianship systems were introduced,<sup>12</sup> and the group of minors eligible for a care order<sup>13</sup> or a guardian allocation was expanded during the reporting period.<sup>14</sup>

Procedural safeguards were strengthened in several Member States, including to ensure that the best interests of the child were examined in different procedures,<sup>15</sup> or by including additional safeguards in procedures specifically for children.<sup>16</sup>

A majority of EU Member States started new initiatives to support unaccompanied minors transitioning to adulthood,<sup>17</sup> mostly in the areas of employment, education and accommodation.

Non-governmental organisation (NGO) research and projects highlighted good practices on guardianship, providing alternative (non-institutional) care, and the importance of providing children in migration with access

1 Although not covered by the Communication from the Commission to the European Parliament and the Council: The protection of children in migration (COM(2017) 211 final), NO reports against these criteria since 2019, GE since 2021 and MD since 2022.

2 Eurostat, Asylum applicants by type of applicant, citizenship, age and sex - annual aggregated data, MIGR\_ASYAPPCTZA, data extracted on 30 November 2023.

3 Eurostat, Asylum applicants considered to be unaccompanied minors by citizenship, age and sex - annual data, MIGR\_ASYUNAA, data extracted on 14 April 2023.

4 European Commission, 'Pact on Migration and Asylum', [https://home-affairs.ec.europa.eu/policies/migration-and-asylum/pact-migration-and-asylum\\_en#:~:text=The%20Pact%20on%20Migration%20and%20Asylum%20is%20a,on%20solidarity%2C%20responsibility%2C%20and%20respect%20of%20human%20rights.n](https://home-affairs.ec.europa.eu/policies/migration-and-asylum/pact-migration-and-asylum_en#:~:text=The%20Pact%20on%20Migration%20and%20Asylum%20is%20a,on%20solidarity%2C%20responsibility%2C%20and%20respect%20of%20human%20rights.n), last accessed on 25 April 2024.

5 2021: BE, CY, DE, EL, ES, FR, HR, IT, LU, PL, PT, SK; 2022: BE, BG, EL, FR, IT, MT.

6 BE, CY, DE, FI, HR, IE.

7 BE, LU and NO.

8 2021: BG, EL; 2022: AT, BG.

9 CY, EL, IT.

10 AT, BE, EE, NL.

11 BE, HR, FR, IT.

12 BE, DE, EL, IT, LT, LU, MT.

13 A care order is when a child is placed under the care of the authorities and the relevant authority is given (shared) parental responsibility for the child.

14 2021: BE, LT, MT, SI.

15 2021: AT, SK.

16 2021: BE, EL.

17 2021: AT (depending on provincial regulations and in exceptional cases), BE, CY, CZ, DE, EE, EL, ES (measures apply to unaccompanied minors irrespective of their migratory status), FI, FR, IE, IT, MT, NL, LT, LU (support including but not limited to unaccompanied children), SE, SK; 2022: CY, EE, EL, ES, FR, IE, IT, LU, NL.

to information and free quality legal assistance to enable them to access justice.

Russia's war of aggression against Ukraine prompted high numbers of women and children to flee to the EU, Norway, Georgia and Moldova in 2022. Over 1.5 million children were beneficiaries of temporary protection in the EU and Norway,<sup>18</sup> including over 10 500 unaccompanied minors at the end of 2022.<sup>19</sup> Although an important factor for children in migration for many EU Member States, Norway, Georgia and Moldova in 2022, the implementation of the Temporary Protection Directive (2001/55/EC) in

respect of children is covered in detail elsewhere, including in the European Migration Network (EMN) Annual Report on Migration and Asylum 2022.<sup>20</sup>

Rather than covering all the topics included in the 2017 Communication from the Commission to the European Parliament and the Council on the protection of children in migration (2017 Communication),<sup>21</sup> topics are chosen for their particular relevance in the years 2021–2022.<sup>22</sup>

A summary of the findings for each topic is included below.



## 1.2. IDENTIFICATION AND REGISTRATION

The 2017 Communication on Children in Migration notes that when migrant children come into contact with different Member State authorities when crossing borders, they should always be identified and registered as children, prioritised in border-related procedures, and receive adequate support from specially trained staff. Biometric data collection should be applied using child-friendly and gender-sensitive approaches. The Communication recommends that Member States should pay attention to the specific vulnerabilities and protection needs of unaccompanied and separated children, who may be at a higher risk of exploitation and trafficking, and notes that the identification of a person as a minor is crucial, as it can influence subsequent procedures and treatment.

New developments in 2021 in the identification and registration of minors predominantly concerned the enhanced collection of biometric data,<sup>23</sup> improvement of practices through inter-agency working groups on child protection,<sup>24</sup> the allocation of more staff to child-specific services,<sup>25</sup> and the implementation of policies and practices to better identify vulnerabilities generally, but also for children.<sup>26</sup>

In 2022, several EU Member States implemented measures to enhance the identification and registration of minors, including changes in legislation<sup>27</sup> or identification and registration processes,<sup>28</sup> often due to increased migratory pressure on reception facilities<sup>29</sup> or regions,<sup>30</sup> and/or to better safeguard the rights of the child.<sup>31</sup>



## 1.3. PROVIDING ADEQUATE RECEPTION FACILITIES

The 2017 Communication reiterated that reception conditions must be in line with the EU *acquis* and provide appropriate accommodation. Necessary support services should also secure the child's best interests and well-being, including independent representation, access to education, healthcare, psychosocial support, leisure, and integration-related measures.

In 2021, six Member States implemented measures to safeguard vulnerable groups, including children, in reception centres.<sup>32</sup> Other measures included increasing the provision of special accommodation places for families and/or unaccompanied minors,<sup>33</sup> ensuring that minors and other vulnerable groups were accommodated with their families in their best interest,<sup>34</sup> and the promotion of

18 Eurostat, Decisions granting temporary protection by citizenship, age and sex - annual aggregated data, MIGR\_ASYTPFA, data extracted on 12 January 2024.

19 Eurostat, Decisions granting temporary protection to unaccompanied minors by citizenship, age and sex - annual data, MIGR\_ASYUMTPFA, data extracted on 25 November 2023. Data provided by 17 EU Member States, CH, IS, LI and NO. In the context of temporary protection, Eurostat defines an 'unaccompanied minor' as a third-country national or stateless person below the age of 18, who arrives on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person, or a minor left unaccompanied after they have entered the territory of the Member States (Eurostat, 'Temporary Protection Statistics', [https://ec.europa.eu/eurostat/cache/metadata/en/migr\\_asytp\\_esms.htm#data\\_rev1678716076683](https://ec.europa.eu/eurostat/cache/metadata/en/migr_asytp_esms.htm#data_rev1678716076683), last accessed on 20 November 2023).

20 EMN, 'Annual Report on Migration and Asylum', 2022, [https://www.bing.com/search?q=emn+inform+resettlement&gs\\_lcrp=EgZjaHJvbWUqBwgEEUYwgMyBwgAEEUYwg-MyBwgBEEUYwgMyBwgCEEUYwgMyBwgDEEUYwgMyBwgEEUYwgMyBwgFEEUYwgMyBwgGEEUYwgMyBwgHEEUYwgPSAQkyMTIzMmowajSoAgwAgE&FORM=ANAB01&P-C=U531](https://www.bing.com/search?q=emn+inform+resettlement&gs_lcrp=EgZjaHJvbWUqBwgEEUYwgMyBwgAEEUYwg-MyBwgBEEUYwgMyBwgCEEUYwgMyBwgDEEUYwgMyBwgEEUYwgMyBwgFEEUYwgMyBwgGEEUYwgMyBwgHEEUYwgPSAQkyMTIzMmowajSoAgwAgE&FORM=ANAB01&P-C=U531), last accessed on 4 December 2023.

21 Communication from the Commission to the European Parliament and the Council on the protection of children in migration, COM(2017) 211, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017DC0211>, last accessed on 30 November 2023.

22 Information gathered as part of the EMN Annual Report on Migration and Asylum (ARM) process. The topics selected follow the 2017 Communication, but not all topics in the Communication are included. For example, 'addressing root causes and protecting children along migratory routes' is not monitored as part of the ARM process and is not reported here. Additionally, as the ARM report covers new developments, topics may be limited each year depending on the number of new developments reported by EU Member States. For 2021–2022, a review was completed of all topics, i.e. previous topics were excluded, such as alternatives to detention (2020 only), durable solutions (2019 only) and access to asylum procedures (2019 only).

23 DE, FR.

24 BE, IT.

25 MT (Agency for the Welfare of Asylum Seekers (AWAS) continued to develop the Unaccompanied Minor Asylum Seekers (UMAS) Protection Services Unit by increasing the number of specialised social workers in this unit), SK.

26 CY, EL, HR, IT, SK.

27 FR, MT.

28 BE, BG, EL (unaccompanied/separated Ukrainian minors), FR.

29 BE.

30 FR.

31 FR.

32 BE, CY, DE, FI, HR, IE.

33 BE, EL, HR, IT, LU (new facility for unaccompanied minors opening in 2022), SI, SK.

34 LT.

guidelines on the care and reception of unaccompanied minors.<sup>35</sup>

In 2022, measures for the reception of children in migration were reported by EU Member States and Norway. Overall pressure on reception systems had an impact in Austria, Belgium, Estonia and The Netherlands, while in Belgium and Croatia, higher numbers of unaccompanied minors prompted changes in reception arrangements.

Luxembourg and Norway highlighted new monitoring and supervision of children's rights in reception through

different mechanisms. In Luxembourg, this was carried out by the Ombudsman's office. In Norway, as of July 2022, independent supervision was established by law, with the County Governor supervising the care of unaccompanied minors in reception centres in the same way as children are supervised in the child welfare sector. Meanwhile, France undertook several initiatives to ensure that minors have access to services and their rights, and improved support for unaccompanied minors by anticipating the transition to adulthood.



## 1.4. ALTERNATIVE (NON-INSTITUTIONAL) CARE

In line with overall EU policy approach on deinstitutionalised care for children, the 2017 Communication encourages EU Member States to ensure that a range of alternative (non-institutional) care options are provided for unaccompanied children. At the time, it found that, while the use of family-based care/foster care for unaccompanied children had expanded in recent years and proven successful and cost-effective, it was still underutilised.

In 2021, three EU Member States reported seeking to introduce or improve alternative care options for unaccompanied children, such as semi-autonomous housing<sup>36</sup> or the inclusion of unaccompanied minors in national foster care systems.<sup>37</sup> In 2022, Norway highlighted new developments in legislation that made family-based accommodation a possibility for unaccompanied minors up to the age of 15.



## 1.5. GUARDIANSHIP<sup>38</sup>

Minors who are unaccompanied or separated from their caregiver are particularly vulnerable and susceptible to abuse and exploitation. Accordingly, the 2017 Communication recommends that Member States focus their efforts on strengthening guardianship authorities/institutions to ensure swift appointment of guardians for all unaccompanied minors. It states that guardians can help to prevent minors from going missing or falling prey to trafficking, underlining their crucial role in guaranteeing access to rights and safeguarding the interests of all unaccompanied minors, including those not applying for asylum.

Guardianship systems and approaches vary considerably across the EU. To strengthen these systems and approaches, several Member States introduced new provisions in 2021,<sup>39</sup> such as restructuring services or working in collaboration between ministries,<sup>40</sup> expanding the groups of minors eligible for a care order or to be allocated a guardian,<sup>41</sup> and developing tools to support guardians' work.<sup>42</sup> They also reviewed the existing legal framework and its application.<sup>43</sup>

Developments in 2022 included changes to improve the organisation and quality of general guardianship through legislation,<sup>44</sup> working in partnership with civil society,<sup>45</sup> and speeding-up the processes for allocating guardians.<sup>46</sup>



## 1.6. ACCESS TO EDUCATION (INCLUDING EARLY CHILDHOOD EDUCATION AND CARE)

Across the EU, access to education is a basic right for children and is made available to them as early as possible. The 2017 Communication encourages Member States to: ensure that all migrant children

have timely access to inclusive formal (or non-formal) education, including early childhood education and care (ECEC), regardless of the status of the child and/or their parents; develop and implement targeted programmes;

35 FR, IT.

36 CY.

37 EL, IT.

38 The term 'representative' is used in EU legislation, including: the Asylum Procedures Directive (2013/32/EU), which provides for special guarantees for unaccompanied minors, including appointing a representative to an unaccompanied minor (Article 25); the Reception Conditions Directive (2013/33/EU), as above (Article 24). More recent legislative proposals and policy materials often use the term 'guardian', including: the Proposal for a Regulation of the European Parliament and the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU - COM(2016/0467 final - 2016/0224 (COD), which states that unaccompanied minors should be assigned a guardian. The 2017 Communication similarly uses the term guardians, stating that there are major shortcomings in the functioning of the guardianship systems in some Member States and calling for strengthening of the guardianship institutions. As per the 2017 Communication, a European guardianship network has been established. The Communication from the Commission on a New Pact on Migration and Asylum (COM(2020) 609) mentions both guardians and representatives. This report will primarily use the term 'guardian', in line with the 2017 Communication.

39 AT, BE, BG, FI, HR, LT, LU, MT, SI, SK, SE and NO.

40 EL, FI, FR, MT.

41 BE, LT, MT, SI, SE.

42 BE, HR, SK.

43 AT and NO.

44 DE, EL, LT.

45 EL, LU.

46 BE, LT, MT.

and prioritise education in all integration-related policies, using more EU funds where necessary.

In 2021, several Member States introduced new initiatives to ensure equality of education provision and inclusion.<sup>47</sup> In primary and secondary education in 2021, some measures remained in relation to the COVID-19 pandemic, alongside new measures to fight poverty and exclusion. Measures included the provision of financial, social, and material support for learning,<sup>48</sup> while support for language

learning was also strengthened, both in early education<sup>49</sup> and primary and secondary education.<sup>50</sup>

In 2022, Cyprus and Finland reported measures in ECEC, while several EU Member States reported supporting language education at primary and secondary level.<sup>51</sup>

Significant developments on education were reported by Ireland in relation to access to further and higher education, while Luxembourg proposed to extend compulsory schooling from 16 until 18 years of age.<sup>52</sup>



## 1.7. PROCEDURAL SAFEGUARDS (INCLUDING ACCESS TO LEGAL AID)

The 2017 Communication notes occasional long delays in processing asylum applications and other proceedings concerning children. It underlines that children's status determination procedures should be prioritised ('urgency principle') in line with the Council of Europe Guidelines on child-friendly justice.<sup>53</sup>

Several Member States strengthened their procedural safeguards for minors in the asylum procedure in 2021. This meant ensuring that the best interests of the child were examined,<sup>54</sup> introducing exemptions for minors from certain procedures<sup>55</sup> or additional safeguards for procedures,<sup>56</sup> and introducing new child-friendly information materials.<sup>57</sup> In 2021, The Netherlands introduced the obligation to research adequate reception and care in

the country of return before issuing a return decision to unaccompanied minors.

In 2022, several EU Member States highlighted measures in this area,<sup>58</sup> including training staff<sup>59</sup> or providing checklists<sup>60</sup> for interviewing children, prioritising applications for asylum for unaccompanied minors in need of special procedural guarantees,<sup>61</sup> changing legislation to incorporate the best interests of the child,<sup>62</sup> exempting unaccompanied minors from paperless notifications on their case,<sup>63</sup> and harmonising best interests assessment in every step and circumstance of an unaccompanied minor's case.<sup>64</sup> Finland provided training and guidance to ensure more systematic hearing of children under 12 in the asylum procedure and minors were a more visible part in the decision-making process.



## 1.8. DETENTION FOR THE PURPOSE OF RETURN OF UNACCOMPANIED MINORS AND FAMILIES WITH CHILDREN

The 2017 Communication underlines that the administrative detention of children on migration grounds should always be in line with EU law, applied exclusively in exceptional circumstances, where strictly necessary, only as a last resort, for the shortest time possible, and never in prison accommodation.<sup>65</sup> Where there are grounds for detention, everything possible must be done to ensure a viable range of alternatives to the administrative

detention of children in migration. The best interests of the child must remain a primary consideration.

Belgium reported significant developments in alternatives to detention for families with minors in 2021 and 2022. In 2021, a new department 'Alternatives to Detention' was established in the Immigration Office to promote voluntary return and individual case management, including for families with children. NGOs highlighted

47 AT, BE, CY, CZ, EL, FI, IE, LU, LV, MT, NL and GE.

48 AT, EL, FI, LV, NL.

49 BE, CY, CZ, FI, LU.

50 AT, CY, FI, LU.

51 AT, BE, CZ, EL and GE.

52 Article 4(2) of the Law of 20 July 2023, [https://legilux.public.lu/eli/etat/leg/loi/2023/07/20/a460/fo#art\\_4](https://legilux.public.lu/eli/etat/leg/loi/2023/07/20/a460/fo#art_4), last accessed on 2 February 2024.

53 Council of Europe, 'Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice', 2010, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016804b2cf3](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016804b2cf3), last accessed on 7 September 2021.

54 AT, SK (2021: in preparation, not approved).

55 EL.

56 BE, LT.

57 CY, HR, IT.

58 AT, BE, EL, FI, FR, MT, SK.

59 BE.

60 AT.

61 MT.

62 SK.

63 FR.

64 EL.

65 Article 17 of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32008L0115#:~:text=Directive%202008%2F115%2FEC%20of%20the%20European%20Parliament%20and%20of,Member%20States%20for%20returning%20illegally%20staying%20third-country%20nationals> and Article 11 of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>, last accessed on 20 November 2023.

Belgium's family-based case management system as a good practice.



## 1.9. TRANSITION TO ADULTHOOD

There is no specific legal framework in EU or international law covering the situation of unaccompanied minors turning 18 years of age. The 2017 Communication encourages EU Member States to provide guidance, support and opportunities for continuing education and training to children in that transitional phase, particularly migrant children in State care.

In 2021, support for minors in transition to adulthood continued in many EU Member States.<sup>66</sup> Several also reported implementing new initiatives to assist young people transitioning to adulthood with their employment prospects,<sup>67</sup> accommodation during the transition phase,<sup>68</sup> and educational support.<sup>69</sup>

In Germany, a large part of the recast of the German Social Code came into force in June 2021, strengthening the position of young adults between 18 and 21 years of age. It established a strict legal entitlement to assistance, the possibility of returning to assistance was clarified in law, and the transition procedure from youth welfare to other social service providers, if necessary, was legally defined. An entitlement to aftercare was also introduced.<sup>70</sup>

Several EMN Member Countries reported developments in policies and practices on the transition to adulthood in 2022.<sup>71</sup> France began to provide additional information during the child's interview from 17 years of age to ensure that children were fully aware of their rights during the transition to adulthood.

<sup>66</sup> Member States with ongoing or new initiatives to support the transition to adulthood in 2021: AT (depending on provincial regulations and in exceptional cases), BE, CY, CZ, DE, EE, EL, ES (measures apply to unaccompanied minors irrespective of their migratory status), FI, FR, IE, IT, MT, NL, LT, LU (support including, but not limited to, unaccompanied children), SE, SK.

<sup>67</sup> AT, EL, ES, IT, MT.

<sup>68</sup> CY, EL, MT.

<sup>69</sup> DE, IE, LU.

<sup>70</sup> German Civil Code, BGBI, 2021 Part I No. 29, p.1444.

<sup>71</sup> CY, ES, FR, EL, IE, IT, LU, NL.



# 2. INTRODUCTION



## 2.1. RATIONALE AND AIMS OF THE REPORT

This European Migration Network (EMN) report maps the progress of European Union (EU) Member States and Norway, Georgia, Moldova<sup>72</sup> from 2021-2022 in the implementation of most<sup>73</sup> of the recommended actions laid down in the 2017 Communication on the protection of children in migration (2017 Communication).<sup>74</sup>

The 2017 Communication sets out actions to reinforce the protection of all third-country national migrant children at all stages of migration to and within the EU, at EU and national levels. This is the third report in this series and follows earlier reports covering 2019<sup>75</sup> and 2020.<sup>76</sup>



## 2.2. SCOPE OF THE REPORT

The scope of this report covers migrant children in the categories set out in the 2017 Communication:

- Accompanied minors/families with children;<sup>77</sup>
- Separated children;<sup>78</sup>
- Unaccompanied minors, including:<sup>79</sup>
  - Those recorded within the asylum system;
  - Those not applying for asylum but recorded within other migration procedures;

- Those not applying for asylum, who remain outside the asylum/migration/(child) protection system, where information is available.

Rather than reflecting on developments from 2021-2022 in all of the actions laid down in the 2017 Communication, the report focuses on areas where EMN Member and Observer Countries reported new developments of specific interest in relation to the EU Strategy on the Rights of the Child.<sup>80</sup> The report does not cover actions linked to the implementation of the Temporary Protection Directive (2001/55/EC) for children, which is covered extensively elsewhere.

72 Although not covered by the 2017 Communication, NO also reports against these criteria since 2019, information from GE is included in data provided for the Annual Report on Migration (ARM) since 2021, and MD since 2022.

73 Information gathered as part of the EMN ARM process. The topics follow the 2017 Communication, but not all topics are included. For example, 'addressing root causes and protecting children along migratory routes' is not monitored as part of the ARM process and is not reported here. Additionally, as the ARM report covers new developments, topics may be limited each year depending on the number of new developments reported by EU Member States. For 2021-2022, the following are excluded: alternatives to detention (2020 only), durable solutions (2019 only) and access to asylum procedures (2019 only).

74 Communication from the Commission to the European Parliament and the Council on the protection of children in migration (COM(2017) 211 final), <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52017DC0211>, last accessed on 23 November 2021.

75 EMN, 'Children in Migration: Report on the state of implementation in 2019 of the 2017 Communication on the protection of children in migration', 2021, [https://home-affairs.ec.europa.eu/system/files/en?file=2021-03/00\\_eu\\_emn\\_2019children\\_in\\_migration\\_synthesis\\_report\\_final\\_0.pdf](https://home-affairs.ec.europa.eu/system/files/en?file=2021-03/00_eu_emn_2019children_in_migration_synthesis_report_final_0.pdf), last accessed on 20 November 2023. Previously, progress on the implementation of the 2017 Communication was mapped by two informal groups of experts in the European Commission's Directorate-General for Migration and Home Affairs (DG HOME) and the Directorate-General for Justice and Consumers (DG JUST).

76 EMN, 'Children in Migration: EMN report on the state of progress in 2020 of the European Commission communication on the protection of children in migration from 2017', 2022, [https://home-affairs.ec.europa.eu/system/files/2022-02/EMN\\_Children\\_in\\_migration\\_2020\\_report\\_0.pdf](https://home-affairs.ec.europa.eu/system/files/2022-02/EMN_Children_in_migration_2020_report_0.pdf), last accessed on 16 November 2023.

77 Accompanied minor: A minor who is accompanied and effectively taken into the care of an adult responsible for them by law or by the practice of the Member State concerned. Families with children: minors who are accompanied by one or both parents or by their legal or customary primary caregiver (Qualification Directive (2011/95/EU), inferred from the definition of unaccompanied minor in Article 2(1)).

78 Separated child: A child under 18 years of age who is outside their country of origin and separated from both parents or their previous legal/customary primary caregiver (EMN Glossary, Version 8).

79 Unaccompanied minor: a minor who arrives on the territory of an EU Member State unaccompanied by the adult responsible for them by law or practice of the EU Member State concerned, and for as long as they are not effectively taken into the care of such a person; or who is left unaccompanied after they have entered the territory of the EU Member State (Article 2(1) of the Qualification Directive (2011/95/EU)).

80 EU Strategy on the Rights of the Child and the European Child Guarantee, 2021, [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/rights-child/eu-strategy-rights-child-and-european-child-guarantee\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/rights-child/eu-strategy-rights-child-and-european-child-guarantee_en), last accessed on 25 April 2024.



## 2.3. METHOD AND ANALYSIS

The report was prepared on the basis of the annual national contributions to the EMN ARM submitted by 26 EMN National Contact Points (EMN NCPs) in 2021 and 28 EMN NCPs in 2022<sup>81</sup> and from previous children in migration reports, where relevant.<sup>82</sup> Non-governmental organisations (NGOs) contributed additional information,

in line with the EMN Guidelines on cooperation with third parties.<sup>83</sup>

Statistics on unaccompanied minors collected during data collection exercises for the EMN ARM<sup>84</sup> are also included in the report.



## 2.4. STRUCTURE OF THE REPORT

Following an overview of developments at EU level in Section 3, the report is divided into eight sections, which closely follow the key chapters of the 2017 Communication:

- Section 4.1: Identification and registration;
- Section 4.2: Providing adequate reception facilities;
- Section 4.3: Alternative (non-institutional) care;
- Section 4.4: Guardianship;
- Section 4.5: Access to education (including early childhood education and care (ECEC));
- Section 4.6: Procedural safeguards (including access to legal aid);

- Section 4.7: Detention for the purpose of return of unaccompanied minors and families with children;
- Section 4.8: Transition to adulthood.

The report gives an overview of the main developments in legislation and policies from 2021-2022 for each section, with examples of good practices.

For the 2021-2022 period, a review was completed of previous topics and new developments. As a result, alternatives to detention (covered in 2020), durable solutions (covered in 2019) and access to asylum procedures (covered in 2019) are excluded.

81 2021: AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and GE, NO; 2022: AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and GE, MD, NO.

82 EMN, 'Children in Migration: Report on the state of implementation in 2019 of the 2017 Communication on the protection of children in migration', 2021, [https://home-affairs.ec.europa.eu/system/files/en?file=2021-03/00\\_eu\\_emn\\_2019children\\_in\\_migration\\_synthesis\\_report\\_final\\_0.pdf](https://home-affairs.ec.europa.eu/system/files/en?file=2021-03/00_eu_emn_2019children_in_migration_synthesis_report_final_0.pdf), last accessed on 20 November 2023; EMN, 'Children in Migration: EMN report on the state of progress in 2020 of the European Commission communication on the protection of children in migration from 2017', 2022, [https://home-affairs.ec.europa.eu/system/files/2022-02/EMN\\_Children\\_in\\_migration\\_2020\\_report\\_0.pdf](https://home-affairs.ec.europa.eu/system/files/2022-02/EMN_Children_in_migration_2020_report_0.pdf), last accessed on 16 November 2023.

83 Internal document.

84 Includes data from Eurostat and national authorities (e.g. on unaccompanied children recorded within child protection systems). Data sources are shown throughout the report.

# 3. EU DEVELOPMENTS

According to Eurostat, the 27 EU Member States (EU-27) and Norway<sup>85</sup> received over 518 000 first time asylum applications from children under 18 years of age<sup>86</sup> in 2020-2022. The number of unaccompanied minors arriving in the EU-27 and Norway was also high: having decreased from 29 195 in 2017 to 13 620 in 2020, it rose to 25 290 in 2021, then rose again sharply to 40 175 in 2022.<sup>87</sup>

Not all unaccompanied minors arriving in the EU apply for asylum, and unaccompanied minors may be recorded outside of the asylum system in some Member States. Data on the number of unaccompanied minors who do

not apply for asylum are not collected in a systematic manner across the EU, but the numbers are not negligible (see Table 1). In 2022, for example, over 47 000 unaccompanied minors were identified in child protection systems in EU Member States (except Finland, Germany, Luxembourg, Sweden and Norway, where, in general, all unaccompanied minors apply for asylum.<sup>88</sup>) It is not possible to give a final total of unaccompanied minors outside the asylum system, as three EU Member States<sup>89</sup> note that some unaccompanied minors who apply for asylum may be included in their figures.

**Table 1: Unaccompanied minors recorded within the child protection system (outside of the asylum procedure) in 2020-2022 in EMN Member and Observer Countries<sup>90</sup>**

EU-27, GE, NO	2021			2022		
	Total	F	M	Total	F	M
AT	n/i	n/i	n/i	n/i	n/i	n/i
BE	n/i	n/i	n/i	n/i	n/i	n/i
BG	50	46	4	182	20	162
CY	1	0	1	0	0	0
CZ <sup>91</sup>	167	1	166	136	12	124
DE <sup>92</sup>	n/i	n/i	n/i	n/i	n/i	n/i
EE	0	0	0	1	0	1
EL <sup>93</sup>	3 761	276	3 485	4 548	472	4 076
ES	264	143	121	n/i	n/i	n/i
FI <sup>94</sup>	n/a	n/a	n/a	n/a	n/a	n/a
FR <sup>95</sup>	11 315	584	10 731	14 782	1 012	13 770
HR <sup>96</sup>	214	n/i	n/i	272	n/i	n/i
HU <sup>97</sup>	30	6	24	n/i	n/i	n/i
IE <sup>98</sup>	98	25	73	158	61	97

85 Although not covered by the 2017 Communication, NO reports against these criteria since 2019, Georgia since 2021 and Moldova since 2022.

86 Eurostat, Asylum applicants by type of applicant, citizenship, age and sex - annual aggregated data, MIGR\_ASYAPPCTZA, data extracted on 30 November 2023.

87 Eurostat, migr\_asyunaa, <https://ec.europa.eu/eurostat/databrowser/view/tps00194/default/table?lang=en>, data extracted on 6 January 2023.

88 Or who are registered as beneficiaries of temporary protection.

89 EL, FR, IT.

90 Unaccompanied minors [1] recorded within the child protection system (i.e. outside of the asylum procedure) in 2019-2022 - flow data (i.e. unaccompanied minors newly recorded between 1 January and 31 January) [1] i.e. whose age of minority has been confirmed by the (Member) State authorities.

91 Facility for Children of Foreign Nationals of the Ministry of Education, Youth and Sports.

92 In DE, unaccompanied minors are generally obliged/required to apply for asylum.

93 The number of unaccompanied minors within the child protection system regardless of whether or not they have applied for international protection in the asylum procedure.

94 In FI, unaccompanied minors are normally registered in the asylum system or as beneficiaries of temporary protection.

95 Number of unaccompanied minors entrusted by legal decision from 1 January to 31 December 2021 included (Ministry of Justice, Unaccompanied Minors Mission (MNA-SDMPJJ), March 2022). Mission MNA is not informed of situations that could lead to asylum applications. These data may include some asylum applications.

96 Total number represents number of unaccompanied minors detected in illegal border crossing or illegal stay, excluding those who applied for asylum.

97 Data from the Child Protection Authority.

98 Unaccompanied minors taken into care under relevant provisions of the Child Care Act 1991.

EU-27, GE, NO	2021			2022		
	Total	F	M	Total	F	M
IT <sup>99</sup>	12 284	333	11 951	20 089	2 988	17 101
LT	n/i	n/i	n/i	n/i	n/i	n/i
LU <sup>100</sup>	n/a	n/a	n/a	n/a	n/a	n/a
LV	<5	n/i	n/i	0	0	0
MT	63	3	60	88	2	86
NL	n/a	n/a	n/a	n/i	n/i	n/i
PL	1 <sup>101</sup>	0	1	2354 <sup>102</sup>	n/i	n/i
PT	127	n/i	n/i	126	n/i	n/i
SI	241	2	239	67	5	62
SE <sup>103</sup>	n/a	n/aa	n/a	n/i	n/i	n/i
SK <sup>104</sup>	173	2	171	281	41	240
NO <sup>105</sup>	n/a	n/a	n/a	n/a	n/a	n/a

Source: EMN NCPs.

Note: No statistics available (n/i) or applicable (n/a) for AT, BE, DE, DK, FI, LT, LU, NL, PT, RO, SE and GE, MD, NO.<sup>106</sup>

Although not covered specifically here, in 2022, over 1.5 million children were beneficiaries of temporary protection in the EU and Norway,<sup>107</sup> including nearly 10 500 unaccompanied minors.<sup>108</sup>

There were several important developments in EU-level policy over the 2021-2022 period, some of which started in 2020, when the European Commission presented a series of legislative proposals for the New Pact on Migration and Asylum.<sup>109</sup> The accompanying Communication emphasised the need to protect vulnerable groups and the importance of continuing to work to achieve the objectives of the 2017 Communication.

The EU Strategy on the Rights of the Child,<sup>110</sup> adopted in March 2021, enhanced the mainstreaming of children's rights across all relevant EU policies, including migration. In preparation for the new Strategy, the European Commission invited children living in Europe and beyond to share their views and influence the Strategy's development. It worked with five child rights organisations - ChildFund Alliance, Eurochild, Save the Children, United Nations Children's Fund (UNICEF) and World Vision - to

facilitate consultations with children across Europe and beyond. Over 10 000 children had participated by February 2021.<sup>111</sup>

As part of the EU Strategy on the Rights of the Child, the European Commission established the EU Network for Children's Rights. The Network was officially launched on 31 March 2022 to promote the exchange of good practices and mutual learning among EU Member States, the Commission, and others working on the rights of the child.<sup>112</sup>

At the same time, a proposal was launched for a Council Recommendation establishing the European Child Guarantee,<sup>113</sup> which aimed to promote equal opportunities for all children in Europe and was adopted by the Council in June 2021. Children with a migration background are among the Recommendation's target subgroups and will be monitored through Eurostat's at-risk of poverty and social exclusion (AROPE) indicator, disaggregated by parental background.<sup>114</sup>

2022 saw several EU-level developments to protect children generally, which also covered children in migration.

99 Compared to 7 080 unaccompanied minors on 31 December 2020. Data are provided by the Ministry of Labour and Social Policies, which is responsible for monitoring the presence of unaccompanied minors in the IT reception system. They refer to the presence of unaccompanied minors on 31 December 2021. In IT, all unaccompanied minors have access to the reception system regardless of whether or not they have applied for international protection.

100 All unaccompanied minors must apply for international protection in LU.

101 Article 186(1) of the Act on Foreigners (p. 2).

102 Summarised data for unaccompanied minors based on Article 186(1) of the Act on Foreigners and information obtained from the Ministry of Family and Social Policy on unaccompanied minors of UA nationality (specific information on age, sex, time of remaining in child protection system is not available).

103 In SE, unaccompanied minors are normally registered in the asylum system.

104 Ministry of Labour, Social Affairs and Family of the Slovak Republic. In 2021, SK recorded 21 unaccompanied minors applying for asylum.

105 With some exceptions, all accompanied minors in NO are handled within the asylum procedure.

106 European Commission, 'Annual Report on Migration and Asylum EU 2021 - Statistical Annex', 2022, [https://ec.europa.eu/home-affairs/networks/european-migration-network-emn/emn-publications/annual-reports-migration-and-asylum\\_en](https://ec.europa.eu/home-affairs/networks/european-migration-network-emn/emn-publications/annual-reports-migration-and-asylum_en), last accessed on 25 April 2024.

107 Eurostat, Decisions granting temporary protection by citizenship, age and sex - annual aggregated data, MIGR\_ASYTPFA, data extracted on 12 January 2024.

108 Eurostat, Decisions granting temporary protection to unaccompanied minors by citizenship, age and sex - annual data, MIGR\_ASYUMTPFA, data extracted on 25 November 2023. Data provided by 17 EU Member States and CH, IS, LI, NO. Eurostat defines an 'unaccompanied minor' in the context of temporary protection as a third-country national or stateless person below the age of 18, who arrives on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person, or minors who are left unaccompanied after they have entered the territory of the Member States (Eurostat, 'Temporary Protection Statistics', [https://ec.europa.eu/eurostat/cache/metadata/en/migr\\_asytp\\_esms.htm#data\\_rev1678716076683](https://ec.europa.eu/eurostat/cache/metadata/en/migr_asytp_esms.htm#data_rev1678716076683), last accessed on 20 November 2023).

109 Communication on a New Pact on Migration and Asylum, COM(2020) 609 final, [https://eur-lex.europa.eu/resource.html?uri=cellar:85ff8b4f-ff13-11ea-b44f-01aa75e-d71a1.0002.02/DOC\\_3&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:85ff8b4f-ff13-11ea-b44f-01aa75e-d71a1.0002.02/DOC_3&format=PDF), last accessed on 18 April 2023.

110 EU Strategy on the Rights of the Child, adopted on 24 March 2021, [https://ec.europa.eu/info/sites/default/files/child\\_rights\\_strategy\\_version\\_with\\_visuals3.pdf](https://ec.europa.eu/info/sites/default/files/child_rights_strategy_version_with_visuals3.pdf), last accessed on 02 September 2021.

111 UNICEF, 'Children speak up about the rights and the future they want', February 2021, <https://www.unicef.org/eu/press-releases/children-speak-about-rights-and-future-they-want>, last accessed on 25 November 2022.

112 European Commission, 'EU Network for Children's Rights', 2022, [https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/rights-child/eunetwork-childrens-rights\\_en#:~:text=Documents-,The%20Network%20%E2%80%93%20what%20is%20it%3F,2022%20by%20Vice%20President%20%20C%5AQuica](https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/rights-child/eunetwork-childrens-rights_en#:~:text=Documents-,The%20Network%20%E2%80%93%20what%20is%20it%3F,2022%20by%20Vice%20President%20%20C%5AQuica), last accessed on 10 September 2023.

113 Council Recommendation (EU) 2021/1004 of 14 June 2021 establishing a European Child Guarantee, [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AO-JL\\_2021.223.01.0014.01.ENG&toc=0J%3AL%3A2021%3A223%3ATOC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AO-JL_2021.223.01.0014.01.ENG&toc=0J%3AL%3A2021%3A223%3ATOC), last accessed on 14 April 2023.

114 First version of the joint monitoring framework for the European Child Guarantee, prepared by the Social Protection Committee's Indicators' Sub-Group and the European Commission, published on 21 December 2023, [https://unece.org/sites/default/files/2024-02/8TransMonEE%20EU\\_ENG.pdf](https://unece.org/sites/default/files/2024-02/8TransMonEE%20EU_ENG.pdf), last accessed on 2 February 2024.

For example, the European Commission published a new Proposal for a Regulation<sup>115</sup> to prevent and combat child sexual abuse, including online, highlighting the importance of providers using technologies to detect, report and remove online child sexual abuse material.

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<sup>115</sup> Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse, COM/2022/209 final.

# 4. NATIONAL DEVELOPMENTS



## 4.1. IDENTIFICATION AND REGISTRATION

The 2017 Communication notes that when migrant children come into contact with different Member State authorities when crossing borders, they must always be identified, registered as children, prioritised in border-related procedures for identification or screening, and receive adequate support from specially trained staff. Biometric data collection should be applied using child-friendly and gender-sensitive approaches. It recommends that Member States should pay attention to the specific vulnerabilities and protection needs of unaccompanied and separated children, who may be at a higher risk of exploitation and trafficking, and notes that the identification of a person as a minor is crucial, as it can influence subsequent procedures and treatment.

In 2021, France and Germany brought in new legislation on collecting biometric data. In France, the Law of 24 January 2022 on criminal responsibility and internal security allowed the use of force to obtain fingerprints, handprints and photographs of suspects who refuse to identify themselves in order to determine their identity and age more effectively, while providing additional guarantees to minors due to their vulnerability. In Germany the Second Data-Sharing Improvement Act reduced the minimum age for fingerprinting to when the child reaches the age of six as of 1 April 2021. This aims to enhance and facilitate the verification of the identity of minors, including responding to their special needs, such as in cases of missing persons.

In Spain, a law was introduced in 2021 on the comprehensive protection of children and adolescents against violence. It provides that when the age of majority cannot be established, the child shall be considered a minor. Medical tests for the determination of the age of minors must be prompt, require the prior informed consent of

the person concerned, respect their dignity, without risk to their health, and cannot be applied indiscriminately, as per the relevant conditions in the Asylum Procedures Directive (2013/32/EU).<sup>116</sup>

In 2021, several Member States brought in policies or legislation to improve the identification of children through inter-agency working groups<sup>117</sup> and the allocation of more staff to services.<sup>118</sup> Others sought to improve the identification of vulnerabilities, both broader vulnerability procedures that could identify vulnerabilities in children<sup>119</sup> or through specific procedures intended to identify vulnerabilities where children may be at particular risk.<sup>120</sup>

Some EU Member States developed guidelines to identify more specific vulnerabilities among children, including indicators related to human trafficking,<sup>121</sup> sexual exploitation,<sup>122</sup> or victims of gender-based violence.<sup>123</sup> In Greece, a study focused on services available and accessible to children and mapped the special needs of children living with their mothers in shelters for victims of gender-based violence.<sup>124</sup> In 2020, Luxembourg appointed a vulnerability project manager to the Health Unit within the [National Reception Office](#) (ONA) to promote better care and appropriate accommodation for vulnerable people and/or people in precarious health situations, including minors.<sup>125</sup> In 2021, internal guidelines on the detection and support of third-country nationals who are presumed victims of human trafficking, including minors, were developed by the ONA to provide more efficient detection and support. In Ireland, the government approved plans for a revised national referral mechanism for the identification of victims of trafficking, which will include the Child and Family Agency (*TúsIa*) in a revised list of competent authorities. There was also further progress towards placing this on a statutory footing in 2022.<sup>126</sup>

116 Article 25 of the Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013L0032>, last accessed on 25 April 2024.

117 BE, IT.

118 MT, SK.

119 CY, SK.

120 EL, HR, IT.

121 BE, DE, ES, HR, LU, PL, PT, SK.

122 ES.

123 EL, IT.

124 General Secretariat for Demography and Family Policy and Gender Equality (GSDFPGE) and UNICEF, 'Programmatic Review of Services available and accessible to children in the shelters of the Network of the General Secretariat for Demographic and Family Policy and Gender Equality', 2021, [https://ich-mhsw.gr/wp-content/uploads/2023/03/3.-Programmatic-Review-of-Services-for-children-in-the-shelters-of-the-GSDPGE-Network.docx\\_compressed.pdf](https://ich-mhsw.gr/wp-content/uploads/2023/03/3.-Programmatic-Review-of-Services-for-children-in-the-shelters-of-the-GSDPGE-Network.docx_compressed.pdf), last accessed on 18 March 2024.

125 EMN, 'Detection of vulnerabilities in the international protection procedure', 2021, pp. 11-12, <https://emnluxembourg.uni.lu/emn-luxembourg-inform-detection-of-vulnerabilities-in-the-international-protection-procedure/>, last accessed on 8 December 2023.

126 General Scheme of the Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022, published in July 2022, included the draft statutory provisions for the National Referral Mechanism.

To raise awareness of access to the asylum procedure for unaccompanied minors and identify vulnerabilities, the Directorate for Asylum and the Office for the Protection of Refugees and Stateless People (Office français de protection des réfugiés et apatrides – OFPRA) in France delivered training and communication activities for all professionals working in the field of childhood in prefectures.

On registration of minors, there was a new development in Latvia in 2021. When a parent with minor children applies for refugee (or an alternative) status, the information on all asylum seekers referenced in the application is appended to the application registered in the Register of Asylum Seekers (children together with the parent in one application). In Lithuania, new legislation stipulates that an unaccompanied minor should be issued with a foreigner's registration certificate within two days of receipt of information on the identified unaccompanied minor.

### **Box 1: Improvements in tracking and identifying all unaccompanied minor third-country nationals and stateless children in Greece, 2021**

Following the mass transfer of unaccompanied minors from the islands and Evros Registration and Identification Centres (RIC) to the Greek mainland, it was found that large numbers of unaccompanied minors had remained unregistered for a long period of time. This resulted in the national authorities having an incomplete picture of the population of minors, and unaccompanied minors being deprived of access to a range of benefits and services. Data on all unaccompanied minors transferred to secure facilities on the mainland was collected to accelerate registration procedures and ensure their best interests were immediately safeguarded. From April 2021, a National Emergency Response Mechanism for Unaccompanied Minors in Precarious Living Conditions was established for unaccompanied minors who were homeless or living in precarious conditions and/or had not been registered/identified. A tracking and referral mechanism and a direct response for protection was set up, including emergency shelter. The aims were to track and identify all unaccompanied minor third-country nationals so that each child was visible to the State and within the protection system, as well as the immediate provision of care through a comprehensive response based on the rights of the child.

In 2022, several EU Member States reported new measures to enhance the identification and registration of minors, including changes in legislation<sup>127</sup> or to identification and registration processes,<sup>128</sup> or to better safeguard the rights of the child.<sup>129</sup>

### **Box 2: Interinstitutional Coordination Mechanism in Bulgaria in 2022**

Bulgaria introduced important systemic changes in 2022, with a nationwide Interinstitutional Coordination Mechanism. The new system brings more clarity about the roles and responsibilities of different institutions in cases of unaccompanied refugee minors. Positive aspects include an obligation to notify the child protection system in every single case, the introduction of a 24/7 working regime, and a system for monitoring implementation of the mechanism. Child protection authorities at central, regional and local levels, as well as other responsible institutions and organisations, are now obliged to identify unaccompanied minors and children separated from their families and guarantee their rights, ensuring an appropriate standard of living, access to health care, education, social support and adaptation, and taking long-term decisions for their protection.

Italy reported improvements in monitoring the presence of unaccompanied foreign minors through continued use of the National Information System for Unaccompanied Foreign Minors (*Sistema informativo nazionale dei minori stranieri non accompagnati* - SIM). Data are collected and surveyed monthly by the General Directorate of Immigration and Integration Policies of the Ministry of Labour through the SIM. Every six months, an in-depth monitoring report on issues related to unaccompanied foreign minors is published on the Ministry of Labour and Social Policies' website. As of 31 December 2022, 1 163 local authorities were active on the SIM, hosting 99% of unaccompanied minors in 13 regions and 89 prefectures, with a total of 2 250 active users. Using the SIM reportedly simplified procedures and increased their effectiveness and speed.

On broader vulnerability procedures, in Cyprus, all applicants went through a vulnerability interview for early detection and provision of special reception needs, enabling vulnerable groups to be prioritised through the asylum procedure.

In 2021 and 2022, two Member States identified issues driving change in the early identification and registration of unaccompanied minors, including increasing migratory pressure on reception facilities,<sup>130</sup> larger numbers of arrivals of unaccompanied minors,<sup>131</sup> and a concentration of unaccompanied minors in particular regions.<sup>132</sup>

Belgium changed its identification and registration process on arrival. Faced with growing pressure on the Arrival Centre in Belgium, the registration of international protection applications was temporarily moved to the main office of the Immigration Office in August 2022. This had a knock-on effect on the social team at the Arrival Centre, which had less time to screen minors for vulnerabilities before their transfer to a reception facility for unaccompanied minors (arrivals were often in late afternoon).

127 MT.

128 BE, BG, EL, FR.

129 BG.

130 BE (2022).

131 BE, FR (2021, 2022).

132 FR (2021, 2022).

### Box 3: Child Circle report, 'In Need of Targeted Support,' 2021

The report, 'In Need of Targeted Support'<sup>133</sup> was commissioned by the Council of Baltic Sea States from Child Circle. It focuses on whether Barnahus, or Barnahus-like services<sup>134</sup> already do - or could - play a role in enhancing the identification, support and assistance provided to children who may have been trafficked and in supporting criminal investigations into cases of child trafficking. The report argues that the identification of trafficked children is challenging, limited and requires further action across the region. Significant difficulties arise in criminal investigations,

including disclosures by children and ensuring procedural safeguards during criminal proceedings. Trafficked children's access to services and assistance may also be hampered by the difficulties experienced in coordinating child protection and criminal justice proceedings, as well as migration-related proceedings. The report points to features of the inter-agency, child-centred Barnahus model which would likely significantly assist in such cases, including the use of digital technology to fulfil the procedural safeguards required by EU law. It also has important potential to strengthen children's access to support and assistance.



## 4.2. PROVIDING ADEQUATE RECEPTION FACILITIES

The 2017 Communication notes that reception conditions should be in line with the EU *acquis* and should include safe and appropriate accommodation. Necessary support services should also be provided to secure the child's best interests and well-being, including independent representation, access to education, healthcare, psychosocial support, leisure, and integration-related measures.

In 2021, several EU Member States reported implementing actions to safeguard vulnerable groups in reception centres,<sup>135</sup> including increased provision of special accommodation places for families and/or unaccompanied minors,<sup>136</sup> ensuring that minors and other vulnerable groups were accommodated with their families where it was in their best interest,<sup>137</sup> the promotion of guidelines on the care and reception of unaccompanied minors,<sup>138</sup> vulnerability assessments,<sup>139</sup> or more specific topics, such as the abandonment of female genital mutilation (FGM) and care for victims of FGM (awareness-raising, helplines, support).<sup>140</sup>

The Netherlands announced plans to create the option of so-called prolonged reception for unaccompanied minors from the age of 18 until 21. The goal of prolonged reception is to offer extra support to a group of unaccompanied minors with an asylum status after they reach legal adulthood (see section 4.8). In Ireland, a pilot vulnerability assessment procedure for protection applicants commenced in December 2020 and was extended to all protection applicants in February 2021. The purpose of the assessments was to determine if an applicant had special reception needs, what those needs were, and the actions required to address those needs.<sup>141</sup>

Member States and Norway supported working groups, commissions or cooperations to better address the protection of minors in reception systems;<sup>142</sup> regulating those responsible for the care of minors in reception centres;<sup>143</sup> increased<sup>144</sup> or trained staff,<sup>145</sup> and undertook monitoring to ensure standards in reception centres, including for minors.<sup>146</sup> In Germany, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) worked together with UNICEF and other partners to run the Federal Initiative to Protect Refugees and Migrants in Refugee Accommodation Centres – a campaign to protect (accompanied) minors, women and other vulnerable groups.<sup>147</sup> As part of this work, the fourth edition of the Minimum Standards for the Protection of Refugees and Migrants in Refugee Accommodation Centres<sup>148</sup> was published in June 2021.

### Box 4: Increasing the capacity and coordination of reception facilities for unaccompanied minors in Belgium in 2021

In 2021, Belgium experienced a lack of reception facilities for unaccompanied minors. To counter this issue, the first phase reception capacity for unaccompanied minors was increased in dedicated reception centres and new reception centres were opened for this group. At the same time, vulnerability criteria were applied to restrict access of 'non-vulnerable' unaccompanied minors to Observation and Orientation Centres after office working hours. A new temporary instruction was issued in Belgium in December 2021 to make more places available in the second reception phase. This meant that unaccompanied minors already residing in the reception network who

133 Children at Risk, 'In Need of Targeted Support', 28 June 2021, <https://childrenatrisk.cbss.org/publications/in-need-of-targeted-support/>, last accessed on 25 November 2022.

134 Barnahus (Children's House) is a child-centred, interdisciplinary and multi-agency model to support children.

135 BE, CY, DE, EL, FI, HR, IE, IT, LT, LU, SI, SK and NO.

136 BE, EL, HR, IT, LU (new facility for unaccompanied minors opened in 2022), SI, SK.

137 LT.

138 FR, IT.

139 IE.

140 BE, FI.

141 Unaccompanied minors are not accommodated in reception centres in IE.

142 AT, BE, DE, IE (children in families, unaccompanied minors are not accommodated in reception centres), IT, LU, NL.

143 NO.

144 SK.

145 AT, LV.

146 DE, EL, FI, FR, IT.

147 In DE, unaccompanied minors should generally not be accommodated in reception centres.

148 BMFSFJ and UNICEF, Minimum Standards for the Protection of Refugees and Migrants in Refugee Accommodation Centres, 2021, <https://www.bmfsfj.de/bmfsfj/meta/en/publications-en/minimum-standards-for-the-protection-of-refugees-in-refugee-accommodation-centres-184704>, last accessed on 28 November 2023.



reached adulthood between 6 December 2021 and 7 March 2022 (or the end of the spring school holiday) and who met the minimum criteria for autonomy and were not considered vulnerable, were assigned an adult place in the same reception facility. The instruction on the creation of reception facilities for autonomous unaccompanied minors in second-phase federal reception centres was extended in September 2021 to newly arrived non-vulnerable unaccompanied male children who declared themselves to be at least 16 years old and who met the minimum criteria for autonomy. This allowed direct designations from the dispatching service at the Arrival Centre to the second reception phase, relieving the Observation and Orientation Centres, where the first reception phase usually takes place. The shortage of reception capacity for unaccompanied minors continued in 2022.

Two Member States reported developments on ‘safe zones’ for unaccompanied minors in reception facilities in 2021.<sup>149</sup> Safe zones provide a safe accommodation environment for minors, where they receive care adapted to their age, sex, religion and cultural background from trained professionals, including social workers, psychologists, legal experts, and interpreters, as well as access to basic services. Bulgaria continued to cooperate with the International Organization for Migration (IOM) on two safe zones, while, in Greece, ‘safe areas’ operating as separate spaces for the hosting of minors in Reception and Integration Service (RIS) mainland camp facilities stopped operating in favour of hosting minors in dedicated structures for unaccompanied minors (see Box 5).

#### **Box 5: Significant changes in the reception of unaccompanied minors in Greece in 2021**

After unprecedented numbers of unaccompanied minors arrived in 2019 and 2020, actions were implemented to reduce the length of their stay in RIC and strengthen the national capacity of long-term accommodation places for unaccompanied minors. The Special Secretariat for the Protection of Unaccompanied Minors (SSPUAMs) set a strategic goal of developing 2 500 long-term accommodation places to ensure that the accommodation system guaranteed the protection of minors, appropriate support, social integration, and smooth transition to adult life. Within three months, from September to November 2021, all ‘safe zones’ in the open accommodation centres for asylum seekers in the mainland were evacuated and unaccompanied minors were transferred to accommodation facilities and semi-autonomous living apartments.

The establishment of the new closed controlled access centres (CCACs) in Greece provided more space and overall better living conditions for unaccompanied minors. Alongside the large decrease in new arrivals for 2021, there were other efforts to free up reception space. Alongside those moved from the islands and assigned to proper unaccompanied minor housing facilities on the Greek mainland, others were relocated to other EU Member States under the voluntary relocation scheme, again with the supervision of SSPUAMs. Specifically designed secure areas were established for unaccompanied minors and single-headed families in CCACs, while wheelchair-friendly accessibility was also ensured in all residential and administrative areas. The RIS, in collaboration with SSPUAMs also established an Emergency Referral Mechanism for minors living in precarious situations and created emergency shelters so that each child was visible to the state and within the protection system.

Third-country nationals or stateless unaccompanied minors will no longer be placed under protective custody because they lack a safe and known/stated residence. Instead, the Prosecutor for Minors, or the Public Prosecutor of First Instance, who acts as a temporary guardian of unaccompanied children, and the Special Secretariat for the Protection of Unaccompanied Minors, should immediately be informed and take the necessary action to transfer the minor to safe and appropriate accommodation facilities.<sup>150</sup>

Luxembourg highlighted a specific challenge after the Haqbin case, a judgment of the Court of Justice of the European Union (CJEU) that led to the tacit abrogation of Article 22(1)(b) of the Law of 18 December 2015.<sup>151</sup> For reception centres, this means that the transfer of a disruptive person is often not carried out as a disciplinary measure, which limits the extent to which other occupants and centre staff can be protected from aggressive behaviour, threats or physical aggression, often over prolonged periods of time.<sup>152</sup> Luxembourg reported the need to find appropriate, feasible and effective ways of handling aggressive and threatening behaviour of certain unaccompanied minors in reception facilities.

In 2022, EU Member States and Norway again continued to implement measures to ensure that they were providing adequate reception facilities.<sup>153</sup>

In several countries, overall pressure on reception facilities prompted changes for minors.<sup>154</sup> In Belgium, the Federal Agency for the Reception of Asylum Seekers (Fedasil) significantly increased its reception capacity for unaccompanied minors, doubling its capacity compared to January 2020. Other measures included the deployment

149 BG, EL.

150 Third-country nationals or stateless persons who are identified as unaccompanied children should be immediately referred to emergency accommodation through the SSPUAMs referral pathway and the competent Prosecutor’s transfer order.

151 Law of 18 December 2015:

1. relating to international protection and temporary protection;
2. amending the amended Law of August 10, 1991 on the legal profession, the amended Law of August 29, 2008 on the free movement of persons and immigration, the law of May 28, 2009 concerning the detention centre;
3. repealing the amended Law of 5 May 2006 on the right to asylum and additional forms of protection. 2015. <https://legilux.public.lu/eli/etat/leg/loi/2015/12/18/n15/jo>, last accessed on 2 February 2024.

152 Judgment of the Court (Grand Chamber) of 12 November 2019, Zubair Haqbin v Federaal Agentschap voor de opvang van asielzoekers, ECLI:EU:C:2019:956. Afghan national, Zubair Haqbin, arrived in Belgium in 2015 as an unaccompanied minor, was unlawfully subjected to sanctions consisting of the withdrawal of accommodation and material assistance. The case highlighted that the Receptions Conditions Directive (2013/33/EU) does not define the concept of sanctions. The CJEU ruled that Member States may determine sanctions, but without violating asylum seekers’ fundamental rights.

153 AT, BE, BG, CY, DE, EE, EL, FR, HR, IT, LU, LV, NL, SI, SK and NO.

154 BE, EE, NL.

of additional staff and quicker age tests. Despite these efforts, in October 2022, Fedasil failed to accommodate all unaccompanied minors who had registered with the Immigration Office, with others subsequently offered an accommodation solution by NGOs.

In Estonia, pressure on reception capacity meant an accommodation centre for asylum seekers was reopened in Vägeva and adjusted for families. In the Netherlands, unaccompanied minors were transferred or placed in regular (adult) spots in reception centres three months before their 18th birthday (at the age of 17 years and nine months) unless there were additional vulnerabilities or medical issues to consider.

Faced with increased numbers of unaccompanied children among those seeking international protection, Croatia set up an Interdepartmental Committee for the Protection of Unaccompanied Children.

In France, changes were driven by the need to better address the financial burden, while in France and Italy, changes reflected the need to ensure better services for unaccompanied minors transitioning into adulthood. In France, the Law of 7 February 2022 on childhood protection amended the criteria for the distribution of separated foreign minors in French territory, by adding two new criteria: a socioeconomic<sup>155</sup> criterion, and the number of unaccompanied minors who would become adults who were cared for by the departments (thus accounting for the financial situation of the departments).

Other changes in 2022 included increasing safeguards for children in reception. Two 'safe zones' were developed in reception centres in Bulgaria, while, in Austria, the Federal Agency for Reception and Support Services developed a new child protection concept (see Box 7). Monitoring the rights of children in reception facilities was highlighted in Luxembourg, under the mandate of the Ombudsman.<sup>156</sup> Norway established independent supervision of the care of unaccompanied minors living in asylum reception centres.

#### **Box 6: New child protection concept in care and accommodation for minors in federal reception centres in Austria in 2022**

In July 2022, the Federal Agency for Reception and Support Services announced the development of a child protection concept, outlining important quality standards for the provision of care and accommodation for accompanied and unaccompanied minors and young people in federal reception centres, and including measures to protect children against violence. Child protection officers who had completed their training in April 2022 were appointed at all federal reception centres in which children were housed. As well as dealing with children's rights and protection against violence, the training also included modules on missing children and child trafficking.



### **4.3. ALTERNATIVE (NON-INSTITUTIONAL) CARE**

The 2017 Communication encourages Member States to ensure that a range of alternative (non-institutional) care options are provided for unaccompanied children. While the use of family-based care/foster care for unaccompanied children has expanded in recent years and proven successful and cost-effective, it is still underutilised.

Suitable options could include placement with adult relatives or a foster family, accommodation centres with special provision for children, or other suitable accommodation, such as closely supervised open reception centres designed to ensure the protection of children, or small-scale independent living arrangements for older children.<sup>157</sup> The UN Guidelines for the Alternative Care of Children are relevant standards.<sup>158</sup> There are also Common European Guidelines on the Transition from Institutional to Community-based Care.<sup>159</sup>

In 2021, developments were reported by four EU Member States,<sup>160</sup> primarily on the extension of autonomous accommodation and inclusion in national foster care systems.

#### **Box 7: Semi-independent housing for unaccompanied children over 16 in Cyprus in 2021**

In Cyprus, two new shelters for hosting unaccompanied minors were created in the villages of Pelandri and Episkopi as part of the project, 'Semi-Independent Housing Structures for Hosting Unaccompanied Children Over 16 Years'. The shelters aimed to increase the capacity of the shelters for unaccompanied children over 16 years old and provide a smooth transition for unaccompanied children to adulthood in Cyprus, both through the provision of semi-independent housing and by ensuring access to social services at local and national level.

#### **Box 8: Working group for the gradual inclusion of unaccompanied minors in the national foster care system in Greece in 2021**

In Greece, the Ministry of Labour and Social Affairs created a working group for the gradual inclusion of unaccompanied minors in the national foster care system. By the end of 2021, all the necessary

<sup>155</sup> The socioeconomic criterion will be defined by a decree (being prepared and arbitrated at the time of writing).

<sup>156</sup> Ombudsman for children and youngsters (OKaJu), 'Rapport Annuel 2022 - Une enfance mise en suspens - Situation et accueil des enfants issus de l'exil au Luxembourg', 15 November 2022, [http://okaju.lu/files/PDFs/OKAJU\\_Brochure\\_A4\\_Rapport\\_Annuel\\_2638\\_2\\_with\\_links\\_web.pdf](http://okaju.lu/files/PDFs/OKAJU_Brochure_A4_Rapport_Annuel_2638_2_with_links_web.pdf), last accessed on 2 February 2024.

<sup>157</sup> Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0033&from=EN>, last accessed on 25 April 2024.

<sup>158</sup> United Nations Guidelines for the Alternative Care of Children, 2010, <https://www.refworld.org/docid/4c3acd162.html>, last accessed on 5 December 2023.

<sup>159</sup> Common European Guidelines on the Transition from Institutional to Community-based Care, 2017, <https://deinstitutionalisationdotcom.files.wordpress.com/2017/07/guidelines-final-english.pdf>, last on accessed 5 December 2023.

<sup>160</sup> CY, EL, IT.

action points for the inclusion of unaccompanied minors aged 0-12 years old who are accommodated in shelters had begun. In November 2021, a Memorandum of Cooperation was signed between the Ministry of Labour and Social Affairs and the United Nations High Commissioner for Refugees (UNHCR). The Memorandum is valid until the end of 2022. Throughout 2021, there was close cooperation with organisations implementing programmes on fostering unaccompanied minors, including the IOM. A support programme for unaccompanied minors living in semi-autonomous housing with mentorship was also initiated. The mentors team consisted of four former unaccompanied minors, who had managed to fully integrate into Greek society and could act as role models, providing individualised support and empowerment to unaccompanied minors in shelters. The action attempted to optimise the functional characteristics of the accommodation system for unaccompanied minors, as well as creating employment opportunities and synergies with both local and refugee communities, contributing to smooth social integration and strengthening social cohesion.

In Italy, a call for proposals in 2021, 'The promotion of foster care within the framework of the national system for the reception of unaccompanied minors', led to seven projects being approved. These aimed to provide information, raise awareness of foster care for unaccompanied foreign minors, assess the adequacy of family placements, and implement care paths for minors, together with the competent local social services. In early 2021, the Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) started a pilot project on the rapid resettlement of unaccompanied minors in foster care. The project was a cooperation between the Norwegian Directorate of Immigration and a private actor providing foster families.



## 4.4. GUARDIANSHIP

Minors who are unaccompanied or separated from their caregiver are particularly vulnerable and susceptible to abuse and exploitation. The 2017 Communication states that guardians can help to prevent minors from going missing or falling prey to trafficking, underlining their crucial role in guaranteeing access to rights and in safeguarding the interests of all unaccompanied minors, including those not applying for asylum.

Although the importance of inclusive protection systems, including guardianship is underlined in the EU *acquis*,<sup>161</sup> the guardians of children in migration are responsible for ensuring that the child's well-being and best interests are taken into account and protecting minors deprived of parental care, while the role of representatives is often to enable minors to participate in administrative, civil, or criminal judicial proceedings. The 2017 Communication encourages Member States to strengthen guardianship

### Box 9: Eurochild: highlighting good practices and gaps in the provision of alternative care in 2021

Eurochild member, 'The Smile of the Child', has highlighted good practices in the 'Homes for children in danger IV' project in northern Greece to provide an adequate framework for the protection and care of unaccompanied minors and preparation for their autonomy. The project includes financing part of the running costs of two 'The Smile of the Child' homes in northern Greece for children at risk: unaccompanied refugee children and children, victims of abuse and neglect, irrespective of nationality, living in Greece, who have been removed or separated from their family environment by decision of the prosecuting and judicial authorities. The project is currently funded under the Sectoral Development Programme of the Greek Ministry of Immigration and Asylum (National Development Programme (NDP)).

In 2021, Eurochild set up a Child Guarantee Taskforce with members from nine EU countries. In January 2022, country reports were published, analysing the situation of children in need and identifying the gaps in child protection at national level. In Italy, the number of unaccompanied minors arriving has put the reception system under stress for several years. The latest challenge is to prepare unaccompanied children, mainly aged 16 (23.2%) and 17 years old (64%), for independent living and building solid networks. Although the law gives priority to foster care and family-based care, only 3% of unaccompanied and separated migrant children are currently able to benefit from it.

In 2022, the Norwegian Child Welfare Act was changed to include family-based accommodation as a possibility for unaccompanied minors up to the age of 15. This was largely due to the influx of children from Ukraine but applies to all unaccompanied minors.

systems to ensure that guardians for all unaccompanied children are swiftly put in place.

In France, the Vulnerability Plan of 2021 intended to reflect on speeding up the appointment of a legal representative for unaccompanied minors and to clarify the use of legal guardianship to ensure quality support. It also sought to improve the accessibility of the asylum procedure for unaccompanied minors.

In Austria, in February 2021, the Federal Ministry of Justice appointed a Commission on the Best Interests of the Child following public discussions surrounding the removal of two families with children who grew up or were born in Austria. The Commission reviewed the legal framework and its practical application for children in asylum and right-to-remain procedures and drew up a Europe-wide comparison. In July 2021 it submitted its report,<sup>162</sup> which

161 For example, Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), Article 2 (j), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>, last accessed on 10 December 2023.

162 Commission on the Best Interests of the Child, 'Bericht der unabhängigen Kommission für den Schutz der Kinderrechte und des Kindeswohls im Asyl- und Fremdenrecht', 13 July 2021, pp. 234-240, [https://www.bmj.gv.at/dam/jcr:0a8466e4-c24a-4fd2-bfbc-c8b11facba2f/Bericht%20der%20Kindeswohlkommission\\_13.%20Juli%202021%20\(Langfassung\).pdf](https://www.bmj.gv.at/dam/jcr:0a8466e4-c24a-4fd2-bfbc-c8b11facba2f/Bericht%20der%20Kindeswohlkommission_13.%20Juli%202021%20(Langfassung).pdf), last accessed on 8 December 2021.

contained recommendations, *inter alia*, to provide legal counselling for minors and ensure suitable accommodation and guardianship from the outset.

In May 2021, Germany reformed the law on guardianship, improving the legal status of minors, and explicitly granting them specific rights. It came into effect on 1 January 2023.

In 2021, several EU Member States changed the authority responsible for guardianship issues,<sup>163</sup> or established working groups or interministerial agreements<sup>164</sup> to improve the coordination of this work. In Malta, AWAS signed a bilateral agreement with the Maltese Child Protection Services, while the Maltese Courts started to issue pending care orders for unaccompanied minors in reception centres, as well as appointing representatives.<sup>165</sup> In Luxembourg, the law states that the family affairs judge takes all decisions on legal administration of minors and those relating to the guardianship of minors.<sup>166</sup> The Law of 16 June 2021 amending the Asylum Law provided that it is the family affairs judge who appoints the administrator responsible for assisting and representing the unaccompanied minor (as well as the appointment of guardians).<sup>167</sup>

Some Member States expanded the group of minors eligible for a care order or guardian:

- Belgium: a special pool of guardians was dedicated to street children;
- Lithuania: there is no longer a need for a court order granting permission to remove the child from the care of their legal representatives where minors arrive, and their parents are unknown. This makes it easier to provide this group with a guardian;
- Malta: for those presenting as minors on arrival, with no documentation, and where there were serious doubts that they are a minor, as well as for minors confirmed by the disembarkation assessment team as minors;
- Slovenia: for minors after they receive a decision on asylum to ensure continuation of the legal representation of a minor regardless of their unaccompanied minor status.

In Sweden, a government inquiry<sup>168</sup> recommended that a legal guardian be appointed for an unaccompanied minor regardless of whether or not they apply for a residence permit. It also recommended that a custodian be

appointed without delay once an unaccompanied minor is granted a residence permit.

Due to larger numbers of arrivals of unaccompanied minors in Belgium, the number of guardians was not sufficient to meet demand and priority was given to unaccompanied minors with additional vulnerabilities, such as youth, being a suspected victim of trafficking, or unaccompanied minors with serious medical or psychological problems. This left unaccompanied minors with no additional particular vulnerabilities to wait several weeks before a guardian was assigned. To address the lack of guardians, the Guardianship Service selected, recruited and trained a significant number of new guardians. In 2021, Luxembourg took measures to reduce the delay in assigning an ad hoc administrator to an unaccompanied minor, which could take from a few weeks to a few months. The appointment of an ad hoc administrator and the registration of unaccompanied minors was improved and made faster.

Tools were developed to support the work of guardians in several Member States in 2021, including a new e-learning tool in Belgium and guidelines in Croatia and Slovakia.<sup>169</sup> The amount of the allowance paid to a guardian for the maintenance of a child under custody was increased in Latvia.<sup>170</sup> Information was also produced in innovative formats for unaccompanied minors on the role of guardians.<sup>171</sup>

On monitoring and evaluating the role of guardians, Belgium developed a new improved asset report, which guardians must submit to the Justice of the Peace and the Guardianship Service (supervisory body) at least twice a year, covering the personal and financial situation of minors in their care.<sup>172</sup>

#### Box 10: European Guardianship Network (EGN), 2021-2022<sup>173</sup>

The EU Strategy on the Rights of the Child was published in 2021 and invited Member States 'to strengthen guardianship systems for all unaccompanied children, including through participation in the activities of the European Guardianship Network' (EGN) to which it provides funding, alongside Nidos. A central objective of the EGN is to improve the quality of guardianship offered to unaccompanied children across EU Member States. In 2021, network meetings facilitated sharing of experience and practice knowledge on topics such as trafficking and relocation

163 EL, FI.

164 FR, MT.

165 Article 21, Chapter 602 of the Laws of Malta, previously known as legal guardianship.

166 Law of 27 June 2018 establishing the family affairs judge, reforming divorce and parental authority and amending: 1) the New Code of Civil Procedure; 2) the Civil Code; 3) the Penal Code; 4) the Social Security Code; 5) the Labour Code; 6) the amended Law of 11 November 1970 on the cession of labour remuneration and pensions; 7) the amended Law of 7 March 1980 on the organisation of the judiciary; 8) the amended Law of 10 August 1992 on the protection of young people; 9) the amended Law of 27 July 1997 on the insurance contract; 10) the amended Law of 9 July 2004 on the legal effects of certain partnerships; 11) the Act of 27 June 2017 adopting a multiannual recruitment programme for the judiciary and amending the amended Act of 7 March 1980 on the organisation of the judiciary, Memorial 589 of 12 July 2018, <http://data.legilux.public.lu/eli/etat/leg/loi/2018/06/27/a589/jo>, last accessed on 2 February 2024.

167 Law of 16 June 2021 amending the Law of 18 December 2015 on international protection and temporary protection, Memorial A 489 of 1 July 2021, <http://data.legilux.public.lu/eli/etat/leg/loi/2021/06/16/a489/jo>, last accessed on 25 April 2024.

168 Swedish government inquiry report, reference SOU 2021:36.

169 BE (manual, e-learning tool); HR (guidelines), SK (guidelines).

170 Cabinet regulations No 256 of 20 April 2021, [Amendment to Cabinet Regulation No. 1643, Procedures for the Granting and Payment of Benefits for the Maintenance of a Child in guardianship - Latvijas Vēstnesis](https://www.zemval.gov.lv/Portals/0/Attiecibas%20regulacijas%20Nr%20256%202021.pdf) No 77, 22.04.2021 (entered into force on 1 July 2021).

171 BE (animation and board game).

172 Article 13 and Article 19 of the Guardianship Act (I) (Article 479) - Title XIII - Chapter VI: Guardianship of unaccompanied foreign minors of 24 December 2002. 'At least twice a year, the guardian shall submit to the Justice of the Peace a report on the financial situation of the minor and on the evolution of his personal situation, in particular as regards his state of residence and the tracing of his family or of reception structures in his country of origin as well as his education. The report shall also mention the duties performed by the guardian and any problems the minor may have. A copy of the report is given to the Guardianship Service.' The report consists of a narrative part, where guardians answer questions about residence, reception, health, school, durable solutions, etc. A second part deals with management of the assets (including the social allowances and benefits they receive) of the unaccompanied minor.

173 EGN, About EGN, n.d., <https://www.egnetwork.eu/about/>, last accessed on 25 November 2022.

procedures. The EGN Secretariat also undertook country visits to meet with key and senior policymakers to contribute to greater awareness and understanding of good practices within the Member States.

The EGN and its members contributed to several policy discussions at national level, including consultations on how to engage effectively with children during the COVID-19 pandemic, considering the role of the guardian during age assessment processes, and developing complaints mechanisms for children dissatisfied with the service from their guardian. At European level, the Network contributed to the Commission's consultation exercise on the development of the EU Strategy on the Rights of the Child, and worked alongside the European Union Agency for Fundamental Rights (FRA) to develop a training manual for guardians. The EGN guide, 'Children on the Move – a guide to working with Unaccompanied Children in Europe'<sup>174</sup> also contributed to the development of policy and informed discussions and decisions at both national and European level.

Throughout 2022, the EGN sought ways to strengthen guardianship, including through a working group of members who piloted the ProGuard assessment tool. Another EGN working group focused on cross-border challenges and cooperation on transnational procedures. Finally, a roundtable in December 2022 with EU and UN agencies, the European Commission and the Council of Europe looked at strengthening guardianship through assessment and monitoring.

Developments in 2022 included improving the organisation and quality of guardianship through legislation,<sup>175</sup> working in partnership with civil society,<sup>176</sup> and speeding-up the processes for allocating guardians.<sup>177</sup>

New legislation was introduced to strengthen guardianship in Germany, Greece and Lithuania. In Germany, legislation to strengthen the responsibility of the guardian for the personal welfare of the unaccompanied minor came into effect in January 2023. In Greece, new legislation aimed to make the guardianship system functional and flexible, with the State responsible for supervising and implementing the system, and non-profit legal entities specialising in child protection providing guardianship services for unaccompanied minors (after being appointed by the competent prosecutor). In 2022, Luxembourg added a representative of civil society to the Advisory Commission on the Evaluation of the best interest of Unaccompanied Minors to ensure that civil society is represented in the Commission and to provide an additional safeguard for the protection of children.<sup>178</sup> In Lithuania, legislative changes made it possible to speed-up the appointment of a representative for a separated minor where the representative was a natural person.

Measures in Belgium and Malta aimed to decrease waiting times for the appointment of guardians. In Malta, new legislation allowed for the appointment of interim legal guardians and accelerated the process of recognising individuals as minors so that they can access appropriate care.

Italy published its Regulation on reimbursement procedures and actions in favour of volunteer guardians of unaccompanied foreign minors. It regulates the reimbursement procedure for employers for the hours of absence of the volunteer guardian, for expenses incurred by the volunteer guardians, and for compensation that the volunteer guardian may request from the Juvenile Court in particularly complex guardianship cases.



## 4.5. ACCESS TO EDUCATION (INCLUDING EARLY CHILDHOOD EDUCATION AND CARE)

### 4.5.1. Access to education

The 2017 Communication states that children in migration can face barriers accessing education. They are not always assured early access to education, although this is fundamental for securing their future and well-being. Access to education while awaiting the identification of a durable solution,<sup>179</sup> such as integration in the host country or return to a third country, should also be ensured. Of particular importance is the early integration to support children's development into adulthood, particularly through education, guidance and support.

The 2017 Communication encourages Member States to ensure that all children have timely access to inclusive

formal (or non-formal) education, including ECEC, regardless of the status of the child and/or of their parents, to develop and implement targeted programmes, and to prioritise education in all integration-related policies, using more EU funds.

### 4.5.2. ECEC

ECEC is an important tool for the integration of children, in particular their language skills.

In 2021, several EU Member States introduced new measures to support language learning for migrant children or children with a migratory background.<sup>180</sup> In Belgium (Flanders), pupils who have yet to master the

174 EGN, 'Children on the Move – a guide to working with Unaccompanied Children in Europe', n.d., <https://www.egnetwork.eu/wp-content/uploads/2021/10/Children-on-the-move-A-guide-to-working-with-unaccompanied-children-in-Europe.pdf>, last accessed on 25 January 2023.

175 DE, EL, LT.

176 EL, LU.

177 BE, LT, MT.

178 Ministry of Foreign and European Affairs, 'Bilan de l'année 2021 en matière d'asile, d'immigration et d'accueil', 7 February 2022, pp. 7, 114, <https://gouvernement.lu/dam-assets/documents/actualites/2022/02-fevrier/07-asselborn-bilan-2021/Bilan-2021-Immigration,-Asile-et-Accueil.pdf>, last accessed on 5 September 2023; Grand-Ducal Regulation of 12 August 2022 amending the Grand-Ducal Regulation of 4 November 2020 relating to the composition and functioning of the advisory commission for the assessment of the best interests of unaccompanied minors provided for in Article 103 of the amended Law of 29 August 2008 on the free movement of persons and immigration, Mémorial A464 of 23 August 2022, <https://legilux.public.lu/eli/etat/leg/rgd/2022/08/12/a464/jo>, last accessed on 5 September 2023.

179 Any means by which the situation of refugees can be satisfactorily and permanently resolved to enable them to live normal lives (EMN Glossary, Version 7).

180 BE, CY, FI, LU.

language of instruction can be given extra support in their last year of nursery school so that they can acquire as much Dutch as possible by the time they enter primary school. From the school year 2021-2022 onwards, all pupils undergo language screening at the start of compulsory education and pupils who have not mastered the Dutch language sufficiently will follow a language integration trajectory. In Finland, a special government grant was given to improve teaching Finnish/Swedish as a second language, staff training, and the development of curriculum in early childhood education. In Germany, the federal programme, Language Day Care Centres (*Sprach-Kitas*) targeted children's day-care centres with an above-average share of children with special language development needs. The programme paid for more than 7 000 specialists supporting day-care teams with language education, inclusive education, working with families, and promoting digitalisation and media education.

Several EU Member States took action in 2021 to ensure equality of education provision or inclusion,<sup>181</sup> including reviewing the situation for children with disabilities.<sup>182</sup> In Finland, a legislative amendment on the Act on early childhood education and care came into effect in December 2021, updating the national core curriculum for early childhood education and care during 2021-2022, guided by the inclusion principle and ensuring pedagogical, structural and therapeutic arrangements to support a child's well-being. Support may also include interpretation and assistance services and special aids. In Latvia, amendments to the Law on Education<sup>183</sup> extended basic education provision to minor third-country nationals or stateless persons without a legitimate basis to reside in the Republic of Latvia during the period specified for voluntary departure or during the period for which removal has been deferred, as well as during any period of detention.

Other developments included the translation of documents facilitating communication between parents and schools,<sup>184</sup> as well as tutorials for children in accommodation facilities.<sup>185</sup>

Cyprus reported on measures taken in 2022 to achieve inclusion for all children attending public pre-primary schools. Additional (non-permanent) staff were employed in 52 pre-primary schools, under the EU-funded DRA.S.E.+ programme for the school year 2022-2023 as second teachers in the classroom. Online seminars on cooperation between the kindergarten teacher and the teaching assistant in the context of differentiated teaching were organised by the Cyprus Pedagogical Institute, as were seminars on the tools/materials that can be used to teach Greek as a second language in kindergartens.

Finland noted an increase in funding for ECEC in 2022, driven by a government programme from 2019 but given new impetus after the outbreak of Russia's war of aggression against Ukraine.

### 4.5.3. Primary and secondary education

In primary and secondary education, there were still some measures in place as a result of the COVID-19 pandemic in 2021, alongside new measures to fight poverty and exclusion. This included the provision of financial, social, and material supports for learning.<sup>186</sup>

New measures in language support were a feature of primary and secondary education for several Member States in 2021.<sup>187</sup> In the Netherlands, in response to the impact of the anti-COVID measures on the education of third-country nationals, the Dutch government decided to provide temporary additional funds for primary and secondary education of third-country national minors. Primary schools are now temporarily able to request financing for asylum seekers and other third-country nationals who have remained in the Netherlands for a maximum of four years. Previously, schools could only request funding for asylum seekers who had been in the Netherlands for a maximum of two years and third-country nationals who had been in the Netherlands for no longer than one year. Other third-country nationals temporarily receive the same amount of funding as asylum seekers in their first year, due to the need to remedy the COVID-19-linked language deficiency in this group. The extension for primary schools applies until July 2023. Secondary schools received one-off additional funding for third-country nationals who have been in the Netherlands for less than two years between 1 April 2020 and 1 April 2021: both those who participated in the International Intermediate Class (*Internationale Schakelklas*) and those who followed regular education.

#### Box 11: Summer schools with German language support classes in Austria in 2021

In Austria, summer schools were set up with German support classes for children and accompanying courses for parents as part of the COVID-19 response. In December 2021, it was decided to integrate the summer school into the regular school system annually. One focus is on language-sensitive instruction and support for pupils so they can overcome their language deficiencies. Pupils from German support classes or courses<sup>188</sup> who complete summer school are given the option to take standardised tests to redetermine their language level. As a result, they have the option of switching to a German support course or attaining the status of a regular pupil.

Cyprus significantly increased the number of hours offered to all students in primary education who attend language lessons in Greek as a second language for period of two years through the DRASE+ programme. The Czech Republic launched a new system of language

181 LU, FI, MT.

182 EL.

183 Law, Amendments to the Law on Education, *Latvijas Vēstnesis* No 75, 20.04.2021 (entered into force on 4 May 2021).

184 CY.

185 EL.

186 AT, EL, FI, LV, NL.

187 AT, CY, FI, LU.

188 Since the school year 2018-2019, students who are unable to follow lessons due to a lack of language skills have been taught in separate German support classes or in German support courses parallel to lessons. The assignment to a German support class or to a German support course is made on the basis of Measuring Instrument for Competence Analysis – German (MIKA-D). Whether the student receives exceptional status or is assigned to a German support course due to deficient/insufficient German skills is then determined (<https://www.bmbwf.gv.at/Themen/schule/schulpraxis/ba/sprabi/dfk.html>, last accessed on 8 December 2022).

training for foreigners in basic education to aid more successful integration into basic education, mostly (but not exclusively) for children fleeing the war in Ukraine. Following the arrival of large numbers of foreign students to Luxembourg during spring 2021, the Department for the Education of Foreign Children (SECAM) of the Ministry of Education, Children and Youth opened additional classes in April 2021, which were not foreseen by national planning. These classes aimed to provide students with the necessary language skills to prepare them for the upcoming school year.

The arrival of larger numbers of children from Ukraine led to a shortage of places in the reception classes for non-Dutch speaking newcomers (OKAN) in 2022 in Belgium, which are provided for pupils between 12 and 18 years old. There was a lack of both classrooms and teachers. Some local authorities developed a 'waiting offer', where young people received language practice opportunities and engaging activities while waiting for a place in OKAN.

### **Box 12: Evaluation of preparatory teaching for basic education and the teaching of pupils' mother tongues in Finland in 2021-2022**

Finland undertook a state of play and impact assessment of preparatory teaching for basic education and teaching of pupils' mother tongues. It was commissioned in 2021 by the Ministry of Education and Culture and conducted by the Finnish Education Evaluation Centre. Results of the evaluation were published in 2022 in the report, 'Linguistic skills and capacities to attend school – evaluation of preparatory education and instruction in the student's own mother tongue'. The evaluation investigated factors promoting and preventing teaching and learning and informed the government's Right to Learn development programme. The aim of the programme is to draw up measures for securing the learning potential and educational transitions of children and young people with immigrant backgrounds, especially in education transition phases.

EMN Member Countries introduced different measures to assist migrant children's access education in 2022.<sup>189</sup> Good practice guides were provided for education professionals, including intercultural education and research into language literacy support.<sup>190</sup> A major development was reported in Lithuania, where Law No XIV-946 of 17 March 2022 amended Article 32 of the Law on the Legal Status of Foreigners. One of the main changes was the introduction of a general time limit of three months to ensure access to education for children under 18 years of age, including access to pre-school and pre-primary education. In 2022, Luxembourg introduced a bill to create a new School Integration and Reception Service (*Service de l'intégration et de l'accueil scolaires* - SIA) in order to improve reception and guidance services for all foreign pupils, including unaccompanied minors.<sup>191</sup> In Ireland, a revised model was announced in March 2022 for designation of schools as Delivering Equality of Opportunity in Schools (DEIS) schools, which receive additional supports.

The refined identification model includes components to reflect the educational disadvantage experienced by international protection applicant students residing in reception accommodation.

In 2022, new developments to support language education were reported at primary and secondary level.<sup>192</sup> Georgia developed the 'State Language Programme' for people over 14 years old, including migrants, covering A1 to B2 levels.

Greece reported measures to help refugee and migrant children to access and remain in school. In 2022, the Ministry of Migration and Asylum (MMA) and UNICEF signed a Memorandum of Cooperation to collaborate on the 'All children in Education initiative for refugee and migrant children in Greece 2021-2024'. The aim of the programme is to facilitate and support migrant and refugee children to improve school readiness and access education through the operation of Homework and Creative Activities Centres. The Centres operate in regions where migrant and refugee families live, to support and facilitate the smooth access of children (aged 4-17) to school and their continuous school attendance. Children are taught Greek, English and other subjects by qualified teachers, educators, and volunteers from the UNICEF network. The collaboration between the MMA and UNICEF also aims to continue the successful intervention of interpretation and intercultural mediation in schools, with the aim of creating an inclusive school environment for children, preventing school drop-out, and facilitating the inclusion of children in schools.

### **Box 13: Plonge app in Belgium in 2022**

On 7 November 2022, the House of Dutch Brussels launched the Plonge app. This app is a free and interactive online city game for Brussels residents aged 16+ to experience Dutch in Brussels. It aims to playfully guide users around Brussels in places where Dutch plays an important role. The app aims to show young people that Dutch is everywhere in Brussels. Although primarily aimed at young people, it can also be used by Dutch as a second language students.

In Germany, all unaccompanied minors have the right to attend school. This applies regardless of their residence status or whether asylum proceedings are pending, concluded, or not considered. The specific details of access to school however differ from one Land to another, and from one municipality to another (to some extent). School law is within the portfolio of the Länder, while public authorities below Länder level have considerable influence on the organisation of access to school and school activities. The federal level only has coordinating functions.

Due to the federal system in Germany, there are different possibilities for schooling for newly arrived migrant children and adolescents. In some Länder, newly arrived migrant pupils are (partially) taught in separate classes. In some Länder, the pupils are taught using the 'integrative model', where migrant pupils are taught in regular classes and receive additional German lessons. In some Länder,

189 CZ, IE, LU, LT, LV.

190 CZ, FR, IT.

191 This bill became the Law of 14 July 2023 and entered into force on 24 July 2023, <https://legilux.public.lu/eli/etat/leg/loi/2023/07/14/a424/jo>, last accessed on DD Month YYYY.

192 AT, BE, CZ, EL, IE and GE.

asylum-seeking children, in particular, have access to regular school (in separate or inclusive classes) or early childhood education only when they are allowed to leave the jurisdiction of the Länder and move to the municipalities, which must be within a six-month period.<sup>193</sup>

#### 4.5.4. Further and Higher education

Several EU Member States reported changes in several areas of education in 2021-2022 (see Boxes 14 and 15).<sup>194</sup>

##### **Box 14: Waiver of international student fee for international protection applicants with permission to work in Ireland in 2021**

There were significant changes in Ireland, which announced that international protection applicants with permission to work would no longer be required to pay the international student fee of € 3 600 to access Post-Leaving Certificate (PLC) education courses that develop technical and practical skills for an industry recognised qualification and offer an alternative route to higher education. International protection applicants, including minors, who are currently in the system and who have been resident in Ireland for three years are facilitated in accessing third-level education by means of their eligibility for support under the Student Support Scheme run by the Department of Further and Higher Education, Research, Innovation and Science (D/FHERIS). This provides a similar level of financial support for international

protection applicants as for Irish students who are eligible for support under the Student Grant Scheme (SUSI). In 2021, the SUSI for eligible students in the international protection system to access third-level education was amended to include postgraduate courses for the first time. In 2021, grants were also made available under Dormant Accounts Funding to assist with education and training for unaccompanied minors, meeting a funding need for SUSI grants or where the course/resources did not meet criteria for SUSI funding.

##### **Box 15: Access to higher education diplomas in Luxembourg in 2021**

In Luxembourg, as of the academic year 2021-2022, the *École nationale pour adultes* (ENAD) offers the international Access to Higher Education Diploma (*Diplôme d'accès aux études supérieures* - DAES), an English-speaking programme for adults. DAES is recognised as a Luxembourgish secondary school-leaving diploma awarded on successful completion of an English-speaking programme for adults unable to attain the level of studies or the diploma necessary for their university studies. It can also facilitate access to the labour market and higher education/university studies. To qualify for this programme, sufficient language skills are required in English and French.<sup>195</sup>



## 4.6. PROCEDURAL SAFEGUARDS (INCLUDING ACCESS TO LEGAL AID)

The 2017 Communication states that there are sometimes long delays in processing asylum applications and other proceedings concerning children. It notes that children's status determination procedures should be prioritised (the 'urgency principle') in line with the Council of Europe Guidelines on child-friendly justice.<sup>196</sup>

In 2021, there were several new developments, with some EU Member States reporting that the best interests of the child were examined in asylum and right-to-remain procedures,<sup>197</sup> that minors' applications were prioritised in asylum and other procedures,<sup>198</sup> that specific registration procedures were created for asylum applications for unaccompanied minors,<sup>199</sup> or that legal aid and advice were strengthened.<sup>200</sup> In Norway, changes to the Unit Price Regulations meant that children in deportation cases who were legally resident had up to five extra hours of free legal advice. Member States also exempted children from certain procedures<sup>201</sup> or provided additional safeguards

in others.<sup>202</sup> For example, there were new legal developments at the national level in relation to family reunification under the Dublin III Regulation (Regulation (EU) No 604/2013) in Croatia in 2021, where all possible family reunification cases are prioritised, particularly regarding unaccompanied minors. In the Netherlands, unaccompanied minors can apply for family reunification directly via the Family Reunification Directive (2003/86/EU) since 2021 and not only through Article 8 of the European Convention on Human Rights and Fundamental Freedoms (ECHR).<sup>203</sup>

In Greece, children were exempt from remote/online interviews and children under 15 were exempt from the application of returns based on the safe third country provision, with additional safeguards introduced when the safe third country provision was implemented for children aged over 15, such as interviews with trained personnel, in a child-friendly, gender-sensitive and age-appropriate

193 Article 47 of the Asylum Act.

194 IE, LU.

195 Ministry of Education, Children and Youth, 'Diplôme d'accès aux études supérieures', 28 May 2021, <https://men.public.lu/fr/publications/enseignement-secondaire/informations-generales-offre-scolaire/daes-diplome-acces-etudes-superieures.html>, last accessed on 25 April 2024.

196 Council of Europe, 'Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice', n.d., [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016804b2cf3](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016804b2cf3), last accessed on 7 September 2021.

197 AT, SK (in 2021, under preparation).

198 HR.

199 FR.

200 HR and NO.

201 EL, LT.

202 BE, EL.

203 Right to Family Life.



manner.<sup>204</sup> In the Netherlands, the obligation to conduct research on adequate reception and care upon return before issuing a return decision to unaccompanied minors was introduced in 2021, whereas previously this was done before deciding on whether to effect a return decision.

Sweden developed a digital notebook for examining the best interest of the child in the Dublin process, the return process and the process for detention (and supervision, an alternative to detention), which was made available to case workers of the Swedish Migration Agency. Case workers use the tool to document how they have taken the best interests of the child into consideration. Information was also provided to improve access to justice for children,<sup>205</sup> as well as additional information for staff.<sup>206</sup>

In Lithuania, the Law Amending the Law on the Legal Status of Foreigners entered into force on 23 July 2021 and established that asylum applications will not be examined in an accelerated procedure in case of applicants who are unaccompanied minors or have been tortured, raped, or subjected to other serious psychological, physical or sexual violence. This rule would not apply where a state of war, a state of emergency, or an extreme situation or an extreme event due to a mass influx of foreigners is declared.

#### **Box 16: Piloting the use of audio recordings for interviews for children under 12 in Belgium in 2021**

In 2021, Belgium launched a pilot project to assess the use of audio recordings for asylum interviews of children under 12. With the aim of improving the connection between the child and the protection officer by removing the computer, the officer no longer has to type out a verbatim transcript during the interview. This allows the protection officer to fully focus on the interaction with the child and actively use tools such as Duplo and drawings as interview techniques. After the interview, the recording is typed out and the interview report is added to the file.

Before the interview, the child, guardian, and legal representative received a letter explaining the purpose and procedure and were asked to formally agree to the recording of the interview. It was possible to refuse the recording, but all children involved in the pilot project agreed. The interviews of six children were recorded and the overall evaluation of the project was very positive. The Commissioner General for Refugees and Stateless Persons (CGRS) is now looking at introducing this methodology more widely.

#### **Box 17: Kids in Need of Defence (KIND) in Europe, 'Realising Legal Protections for Unaccompanied and Separated Children,' 2021-2022**

Unaccompanied children seeking international protection in the EU face complex processes requiring legal assistance and information. KIND Europe is working with partners in Greece, Ireland and France to strengthen legal assistance provision by supporting pro bono law firm interventions. This is done by training and supervising pro bono lawyers to provide high quality, free legal assistance to unaccompanied children in processes such as applying for family reunification and challenging age determinations.

Legal advice is important in family reunification procedures under the Dublin III Regulation or other avenues because procedures are complex and can take significant time, require appeals and submission of evidence, response to queries, and more. A lawyer can be vital to success in these cases, keeping children informed of the process and timeline and referring them for mental health support services and appropriate accommodations throughout the process. In the case of age assessments, a wrongful age determination could deprive children of access to appropriate accommodations and services, and mean that their claims for international protection will be assessed from the perspective of an adult rather than a child. Overcoming a presumption of adulthood requires evidence to be gathered and presented, or, in the case of Ireland, judicial review<sup>207</sup> (due to lack of an administrative process). Access to a lawyer can help a child to understand the age assessment procedure and to challenge any wrongful determination.

There were fewer new developments reported in this area for children in 2022, with only seven EU Member States reporting relevant measures.<sup>208</sup>

Training and awareness-raising activities were undertaken in France for childcare professionals and staff from prefectures. Finland introduced guidance and training to ensure more systematic hearing of children under 12 in the asylum procedure, as well as to make minors a more visible part of the decision-making process in asylum procedures.

In Malta, the European Union Agency for Asylum (EUAA) continued to provide support, information and assistance with the registration of unaccompanied minor applications, following legislative changes in 2021 to improve the appointment of representatives. From 2022, all alleged unaccompanied minors referred to AWAS were then referred to the child protection agency within 72 hours of disembarkation so they can be issued a provisional care order and a representative from AWAS.

Austria published guidelines on the best interests of the child in asylum and aliens law in summer 2022, outlining the key criteria for assessing the best interests of the child based on the latest case-law, to be used as a working aid by judges of the Federal Administrative Court. A new training initiative was implemented for case

204 Legislative Developments 2021: JMD No. 42799 (O.G.G. B' 2425/07-06-2021) & JMD No. 458568 (O.G.G. B'-5949-16-12-2021).

205 CY, HR, IT.

206 SE.

207 Judicial review in Irish law is an assessment of how an administrative decision is made, rather than a review of the substance of the case.

208 AT, BE, EL, FI, FR, MT, SK.

workers of the Federal Office for Immigration and Asylum and they were also provided with a UNHCR checklist to facilitate interviewing of minors.

**Box 18: Fostering inclusion and protection of migrant children who are at risk or survivors of sexual and gender-based violence – IOM Equalcity project in Belgium, Sweden, Italy, and Luxembourg in 2019-2022**

IOM implemented the project Equalcity in Belgium, Sweden, Italy and Luxembourg to improve safeguards for unaccompanied children in migration. This project involved training for legal guardians, social workers, and cultural mediators working with unaccompanied

migrant children on how to provide tailored services to support those at risk or who had survived sexual and gender-based violence. It also aimed to familiarise frontline workers with the issues and necessary safeguards. The project toolbox included a training manual to train children on the topic of sexual and gender-based violence and to provide knowledge to help them in their transition to adulthood.

The primary focus of the project was Brussels, Gothenburg, Rome, and Luxembourg. However, a total of 66 trainee cities and organisations played an active role in the Equalcity project across Europe.



## 4.7. DETENTION FOR THE PURPOSE OF RETURN OF UNACCOMPANIED MINORS AND FAMILIES WITH CHILDREN

The 2017 Communication underlines that administrative detention of children on migration grounds must align with EU law, applied exclusively in exceptional circumstances, where strictly necessary, only as a last resort, for the shortest time possible, and never in prison accommodation. Where there are grounds for detention, everything possible must be done to ensure a viable range of alternatives to the administrative detention of children in migration.

In 2019, EMN Member Countries reported that while the detention of unaccompanied minors and minors with families was legally permitted in several countries, it was only implemented as a last resort and strong safeguards were in place to protect the well-being of the child.

Belgium reported significant developments in 2021 and 2022, both linked to alternatives to detention for families with minors. In 2021, a new department 'Alternatives to Detention' was established within the Immigration Office, for the development and implementation of alternatives to detention and to achieve more voluntary returns by providing intensive return coaching through individual case management. This included for families with minors in irregular stay and residing in open return places (managed by Fedasil).

**Box 19: Family-based case management in Belgium in 2020-2022**

Since 2020, the Jesuit Refugee Service (JRS) has implemented a rights-based case management

programme – 'Plan Together' – that ensures alternative care arrangements for accompanied children and their families who would otherwise be at risk of detention. JRS Belgium provides families with independent, holistic case management that enables children to stay in a familiar environment in their community while their parent(s) work towards case resolution. Two case managers visit the families in their homes on a regular basis. The overall objective of the pilot was to reduce the use of detention in general and to end child detention for migration-related reasons. Case management is tailored to the individual needs of each family member and the best interest of the child. It focuses on building a relationship of trust, strengthening families' resilience, and providing them with correct and clear information about their cases. It is geared towards exploring all options for a durable solution: legal stay in Belgium or in another EU Member State, or voluntary return to their country of origin.

14 families were supported in the pilot between September 2020 and February 2022 (a total of 65 individuals). A recent evaluation highlighted several key issues: trust is a central element of successful case management; previous negative experiences of the system can make families reluctant to engage; high-quality legal advice is central to successful case management; families' basic needs must be met before they can focus on their case resolution.



## 4.8. TRANSITION TO ADULTHOOD

There is no specific legal framework in EU or international law covering the situation of unaccompanied minors turning 18 years of age. The 2017 Communication encouraged Member States to provide children in that transitional phase with guidance, support and

opportunities for continuing education and training, particularly migrant children in State care.

In 2021, several Member States implemented initiatives to assist young people with their employment prospects.<sup>209</sup> Italy's 'Pathways for the training, employment and integration of young migrants' project was launched

in 2016. In 2021 it started its fourth phase, promoting the consolidation of social and labour integration measures and services for unaccompanied minors in transition to adulthood or young migrants welcomed in Italy as unaccompanied foreign minors, through the provision of a six-month internship and a range of integrated and related services. During the first three phases of the project, 1 738 internships were completed.

There were significant developments in Spain. A Royal Decree was approved, modifying the legal regime for minors and children who have been in foster care to facilitate their integration so they can access the labour market from the age of 16 (and after reaching the age of 18). A separate regime was created for unaccompanied minors who reach the age of majority, which favours the continuation of the authorisation to stay they held as a minor. In addition, the accreditation of 'sufficient means' was reduced to a more appropriate amount. In the case of minors who reach the age of 18 without documentation, a new system will now document them, providing authorisation to reside and work. The reform was expected to benefit approximately 15 000 people but exceeded expectations (see Box 20).

#### **Box 20: Legislative reform facilitates access to residence and work permits in Spain in 2021-2022**

In October 2021, the Spanish government adopted a decree facilitating access to residence and work permits for unaccompanied children and those who arrived as children but aged out (*extutelados*) and who were between 18 and 23 years old at the time of the reform.

The reform simplified bureaucratic procedures to access residence and work permits before and after turning 18, extended the validity of the permits to two years (instead of one), shortened deadlines for the delivery of a residence permit to unaccompanied children, and allowed them to work from their 16th birthday. (Spanish law considers all unaccompanied children in the care of the state as regularly residing, but the children would sometimes have to wait almost a year for a permit.) The decree also launched a regularisation programme for *extutelados* who had aged out recently and were between 18 and 23 years old in October 2021.

Official figures from November 2022, a year after the reform came into effect, show that 16 716 unaccompanied children and former unaccompanied children were able to obtain a permit, 10% more than the government's predictions.

EMN Member Countries also launched new initiatives in 2021 to support young people with accommodation during the transition phase.<sup>210</sup> In Cyprus, two new shelters for hosting unaccompanied minors were created as part of the 'Semi-Independent Housing Structures for Hosting Unaccompanied Children Over 16 Years' project, funded by Social Welfare Services and implemented by IOM Cyprus. They aimed to increase the capacity of the shelters

for unaccompanied minors over 16 years old so as to provide a smooth transition of unaccompanied children to adulthood, both through the provision of semi-independent housing and by ensuring access to social services at local and national levels.

In Malta, a social worker contacts the minor six months before they reach adulthood to discuss their plans once they reach 18 years of age. Once the unaccompanied minor is approaching the age of majority, those unaccompanied minors who are working legally and assessed to be capable of living on their own are encouraged to rent private accommodation rather than be transferred to an Open Centre at the age of 18. Other unaccompanied minors who cannot afford to rent their own accommodation are given accommodation for a maximum of one year in one of the Adult Open Centres. Further accommodation is given in cases of vulnerability. Minors who have reached adulthood are supported with financial assistance. Social workers continue to monitor those who turned 18 years for a while, supported by the Therapeutic Team.

In the Netherlands, in November 2021, the Ministry of Justice and Security announced a plan to provide for prolonged reception and support for a selected number of unaccompanied minors with an asylum status who reach legal adulthood. The need for adequate care for former unaccompanied minors has been repeatedly emphasised in recent debates, and the provision of prolonged reception and support for this group aims to guarantee this additional care. In summer 2022, the government decided that structural financing would be provided to facilitate prolonged reception and support for unaccompanied minors.

Finally, several Member States reviewed the ways in which they provide services for young people transitioning to adulthood.<sup>211</sup> In France, the draft law on child protection obliges regional departments to support the young people entrusted to them until they are 21 years old. A Minority Assessment Support File (AEM) should be used systematically to check whether the minor has already been assessed in another department, and departments are prohibited from re-examining whether a minor is a minor or unaccompanied after they have been redirected from another department. Departments must also offer support to young people in care until they are 21 years old. These provisions aim to strengthen access to autonomy and the integration of young unaccompanied minors entrusted to child welfare services and to trustworthy third parties. Greece developed an action plan for the transition of unaccompanied minors to adulthood.

#### **Box 21: SOS Children's Villages, Germany, 'Climbing Mt. Everest - Young refugees' way to vocational training in Berlin'<sup>212</sup>**

Project Everest helps young migrants (aged 16-27) to find their way to a job and become part of society. This is difficult for them, as they often lack school education or their degrees are not recognised in Germany. Starting vocational training creates specific needs for support, provided by Project Everest.

210 CY, EL, MT.

211 EL, FR.

212 SOS Villages, 'Help for young refugees, <https://www.sos-kinderdorf.de/kinderdorf-berlin/angebote/qualifizierung-fuer-ausbildung-beruf/projekt-everest> (in German), last accessed on 15 January 2023.

The project gives young migrants the opportunity to undertake several internships with partner companies. During their participation in the project (12-18 months), young people get language lessons, in cooperation with the *Volkshochschule Berlin-Mitte*, as well as individual help and support from educators from SOS. Having completed the programme, participants can start a job or study with partner companies. The situation for resident permits can be challenging because participants in the programme often lack a secure status, which creates an additional barrier and stress.

#### **Box 212 SOS Villages Norway, 'TOGETHER'<sup>213</sup>**

The TOGETHER project helps to ensure that young people who have fled alone to Norway and local young people have the opportunity to get to know each other. This helps children who are newcomers to quickly and naturally enter their local community. Networks and ownership of the local community ensures a smoother transition into adulthood, as it prevents refugees from falling outside the social structures where they live.

Based on interests and their choice, the TOGETHER project forms groups of six young people, three local and three refugees to work and create something together. The group can decide on their project, then carry it out as a group. A supervisor and the municipality assist as far as needed.

Through this, children experience 'a way in' to Norwegian society, in a way which otherwise have proven difficult. The project has been evaluated as filling a great need. There have been some challenges in recruiting and keeping local youths in a project over a longer period of time. The municipalities who have succeeded state that participants now have a stronger sense of belonging in their local community, thus a better chance of success in adulthood.

Several EMN Member Countries reported developments in policies and practices on the transition to adulthood in 2022.<sup>214</sup>

In France, a new Law of 7 February 2022 aimed to improve the transition of unaccompanied minors to adulthood by offering additional support and anticipating the issue of legal stay when they become adults. An interview takes place one year before the child turns 18, at which point unaccompanied minors are informed that they can receive support to obtain a residence permit or apply for asylum. Greece took part in study visits to help to develop an action plan for the transition of unaccompanied minors to adulthood. In Italy, a three-year Memorandum of Understanding (MoU) promoted the social and labour integration of unaccompanied foreign minors in transition to adulthood and former unaccompanied foreign minors, other applicants and beneficiaries of international protection, and other foreign nationals under vulnerable conditions. Recipients will be included in training courses and are eligible for internships in companies.

Important developments in education occurred in Luxembourg and Ireland. In Luxembourg, a new bill<sup>215</sup> states that compulsory schooling should end when pupils turn 18 years. In Ireland, measures were taken to support access to higher and further education (see section 3.5).

213 Berit Berg, TOGETHER; Youth Integration Project, Trondheim, NTNU Samfunnsforskning, 2018, <https://www.sos-barnebyer.no/dokumentfil-793910028?pid=Native-Content-File&attach=1>, last accessed on 25 November 2022.

214 CY, FR, EL, ES, IE, IT, LU, NL.

215 This bill became the Law of 20 July 2023, Article 4(2), [https://legilux.public.lu/eli/etat/leg/loi/2023/07/20/a460/jo#art\\_4](https://legilux.public.lu/eli/etat/leg/loi/2023/07/20/a460/jo#art_4), last accessed on 2 February 2023.





## For more information

EMN website: <http://ec.europa.eu/emn>

EMN LinkedIn page: <https://www.linkedin.com/company/european-migration-network>

EMN Twitter account: <https://twitter.com/emnmigration>

EMN YouTube channel: <https://www.youtube.com/@EMNMigration>

## EMN National Contact Points

Austria [www.emn.at/en/](http://www.emn.at/en/)

Belgium [www.emnbelgium.be/](http://www.emnbelgium.be/)

Bulgaria [www.emn-bg.com/](http://www.emn-bg.com/)

Croatia [emn.gov.hr/](http://emn.gov.hr/)

Cyprus [www.moi.gov.cy/moi/crmd/emnncpc.nsf/home/home?opendocument](http://www.moi.gov.cy/moi/crmd/emnncpc.nsf/home/home?opendocument)

Czechia [www.emncz.eu/](http://www.emncz.eu/)

Estonia [www.emn.ee/](http://www.emn.ee/)

Finland [emn.fi/en/](http://emn.fi/en/)

France [www.immigration.interieur.gouv.fr/Europe-et-International/Le-reseau-europeen-des-migrations-REM3/Le-reseau-europeen-des-migrations-REM2](http://www.immigration.interieur.gouv.fr/Europe-et-International/Le-reseau-europeen-des-migrations-REM3/Le-reseau-europeen-des-migrations-REM2)

Germany [www.bamf.de/EN/Themen/EMN/emn-node.html](http://www.bamf.de/EN/Themen/EMN/emn-node.html)

Greece [emn.immigration.gov.gr/en/](http://emn.immigration.gov.gr/en/)

Hungary [www.emnhungary.hu/en](http://www.emnhungary.hu/en)

Ireland [www.emn.ie/](http://www.emn.ie/)

Italy [www.emnitalyncp.it/](http://www.emnitalyncp.it/)

Latvia [www.emn.lv](http://www.emn.lv)

Lithuania [www.emn.lt/](http://www.emn.lt/)

Luxembourg [emnluxembourg.uni.lu/](http://emnluxembourg.uni.lu/)

Malta [emn.gov.mt/](http://emn.gov.mt/)

The Netherlands [www.emnnetherlands.nl/](http://www.emnnetherlands.nl/)

Poland [www.gov.pl/web/european-migration-network](http://www.gov.pl/web/european-migration-network)

Portugal [rem.sef.pt/en/](http://rem.sef.pt/en/)

Romania [www.mai.gov.ro/](http://www.mai.gov.ro/)

Spain [www.emnspain.gob.es/en/home](http://www.emnspain.gob.es/en/home)

Slovak Republic [www.emn.sk/en](http://www.emn.sk/en)

Slovenia [www.gov.si/](http://www.gov.si/)

Sweden [www.emnsweden.se/](http://www.emnsweden.se/)

Norway [www.udi.no/en/statistics-and-analysis/european-migration-network---norway#](http://www.udi.no/en/statistics-and-analysis/european-migration-network---norway#)

Georgia [migration.commission.ge/](http://migration.commission.ge/)

Republic of Moldova [bma.gov.md/en](http://bma.gov.md/en)

Ukraine [dmsu.gov.ua/en-home.html](http://dmsu.gov.ua/en-home.html)

Montenegro [www.gov.me/mup](http://www.gov.me/mup)

Armenia [migration.am/?lang=en](http://migration.am/?lang=en)

Serbia [kirs.gov.rs/eng](http://kirs.gov.rs/eng)