

# GUARD - U P

## 2.1. National Action plans

in Greece, Italy, Poland, Cyprus,  
Croatia and Belgium



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## Preface

This document provides a comprehensive analysis and mapping of the guardianship systems in Greece, Italy, Poland, Cyprus, Croatia and Belgium and is an integral part of the GUARD-UP project, which aims to strengthen the protection systems for unaccompanied minors in six European Union member states. It offers an in-depth overview of the relevant national laws and regulations, in conjunction with the applicable international legal frameworks, identifying gaps and areas for improvement. The mapping utilizes the EGN PAS-tool, developed by Nidos and its partners in the ProGuard project, which serves as a tool to assess existing guardianship systems.

The report includes a summary of key provisions concerning the appointment and responsibilities of guardians, as well as the training and support requirements for all stakeholders involved. Additionally, it examines the national policy frameworks for the guardianship of unaccompanied minors, reviewing pertinent policy documents and initiatives. The document also identifies the roles and responsibilities of key stakeholders—including guardians, policymakers, practitioners, NGOs, and other relevant actors—and highlights any existing collaborations or partnerships between them.

More specifically, the **first chapter** of each national report, **National Framework**, outlines the context of each country's guardianship system, including legal and social factors that shape its functioning. This foundational understanding is crucial for grasping the diversity of systems and the unique challenges each country faces. **Chapter two, Assessment of the Guardianship System**, evaluates the strengths and weaknesses of these systems, using data to highlight areas of success and those in need of reform. In **Chapter 3, Gaps and Good Practices** the report identifies both the gaps in the current systems and the good practices that have emerged, offering insights into areas for improvement. Finally, **Chapter 4: Recommendations** provides actionable suggestions for enhancing the guardianship systems, offering guidance to policymakers and stakeholders on how to address the challenges identified throughout the report. Together, these chapters offer a detailed exploration of the guardianship system in each country, highlighting key issues and providing practical recommendations for their improvement.

The importance of this mapping and analysis lies in its potential to drive meaningful improvements in the guardianship systems, ensuring that unaccompanied minors receive the protection, care, and support they need. Furthermore, it promotes alignment with international standards, ultimately contributing to the strengthening of guardianship frameworks across the countries involved.



## National Action Plan – Belgium

### Introduction

Belgium is both a transit and destination country for unaccompanied minors in migration. Its political structure is divided across three levels of government: the federal government, three language-based communities (Flemish, French, and German-speaking), and three regions (Flanders, Brussels-Capital, and Wallonia). This complex governmental organisation significantly influences various systems, including the reception and care of unaccompanied foreign minors. Nevertheless, the guardianship system for unaccompanied minors (UAMs) is organised at the federal level and is managed by the Guardianship Service, which operates under the Federal Public Service (FPS) Justice. Operating independently from the Immigration Office to prevent conflicts of interest, the Guardianship Service is dedicated solely to safeguarding the welfare and rights of UAMs. All unaccompanied minors arriving in Belgium, whether seeking asylum or living without official residence, are entitled to be represented by an appointed guardian of this service. This National Action Plan offers a comprehensive analysis of the Belgian guardianship system, evaluating it against seven guardianship standards. The plan aims to improve conditions and outcomes for unaccompanied minors in Belgium by highlighting existing gaps and challenges, showcasing good practices, and offering recommendations to enhance guardianship and support systems. This research serves as a valuable resource for policymakers and professionals who engage with guardians and provide direct support to unaccompanied migrant minors (UAMs) on the move. It offers practical insights and guidance to inform their decision-making processes and enhance support systems for UAMs.

### Methodology

The research methodology consisted of desk research, interviews and focus group discussions with key stakeholders. The desk research provided an overview and assessment of the existing legal and administrative frameworks related to guardianship for unaccompanied minors in Belgium. Drawing on the PAS-tool, pilot assessment system of guardianship, the research examined how the structure of a guardianship system fulfils seven European standards of guardianship. The standards underlying the PAS, derive from the European Commission and the Fundamental Rights Agency Handbook on guardianship for children deprived of parental care including: non-discrimination; accountability and responsibility; independence and impartiality; child rights centered; child's participation; quality; sustainability and collaboration.

To complement the desk research, interviews and focus group discussions with stakeholders were conducted, allowing for a better identification of gaps, challenges, and the pressing needs of guardians to effectively support UAMs in their care.

Ethical considerations were an important aspect in data collection, ensuring that the rights, dignity, and privacy of participants were prioritised throughout the data collection process. Comprehensive measures were implemented to obtain informed consent, clearly outlining the purpose of the study, the nature of the data collected, and how it would be used. All participants' data was handled with the

utmost diligence and securely stored in compliance with the General Data Protection Regulation (GDPR). This included measures such as pseudonymisation, encryption, and restricted access to the data, ensuring that participants' identities and personal information remained protected at every stage of the research.

## Chapter 1: National Profile

### Statistical overview

The Guardianship Service in Belgium provides yearly statistics on unaccompanied children affected by the guardianship system<sup>1</sup>. The following data maps the number of unaccompanied children affected by the guardianship system in Belgium for the last 5 years:

- **2019:** 3098
- **2020:** 3309
- **2021:** 3168 guardianships
  - o 542 guardians
- **2022:** 3496
  - o 642 guardians
- **2023:** 3638
  - o 670 guardians
- **As of June 2024<sup>2</sup>:**
  - o 3881 ongoing guardianships
  - o 1372 new guardianships appointed
  - o 150 terminations of guardianships
  - o 712 guardians

The data is broken down by current guardianship services, new designations of guardianships and terminations of guardianship.

### Key Legal Instruments at the National Level

- [Guardianship Act \(Programme Law \(I\) \(Art. 479\) - Title XIII - Chapter VI: Guardianship of unaccompanied foreign minors, 24 December 2002\)](#) provides specific provisions around guardianship for UAMs on Belgian territory or at the border<sup>3</sup>.
- [Law of 12 January 2007](#) regarding the reception of asylum seekers and other categories of

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<sup>1</sup> FPS Justice, *Statistics from the Guardianship Service 2023* (2023)

<https://justice.belgium.be/sites/default/files/statistiques/2023%20Stat%20ST-DV%20NT.pdf>.

<sup>2</sup> FPS Justice, *Statistics from the Guardianship Service, 2024*, (2024)

<https://justice.belgium.be/sites/default/files/downloads/2024%2006%20%20Stat%20ST-DV%20NT.pdf>.

<sup>3</sup> EMN Belgium, *Unaccompanied Minors in Belgium*, December 11, 2009, p.6

[https://emnbelgium.be/sites/default/files/publications/02a\\_belgium\\_national\\_report\\_on\\_unaccompanied\\_minors\\_final\\_version\\_11dec09\\_en1.pdf](https://emnbelgium.be/sites/default/files/publications/02a_belgium_national_report_on_unaccompanied_minors_final_version_11dec09_en1.pdf)

**aliens** outlines reception conditions for asylum seekers, including provisions for unaccompanied minors.

- [Law of 15 December 1980](#) on entry, residence, settlement, and removal of foreign nationals. Contains definitions both for refugee status and subsidiary protection status<sup>4</sup>.
- **Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI “foreign unaccompanied minor” of the Programme Law of 24 December 2002** on the implementation of the guardianship systems for foreign unaccompanied minors within the Federal Public Service Justice system in Belgium.
- [Royal Decree of 9 April 2007](#) sets the regime and rules of operation of the Observation and Orientation Centers for UMs. It specifies the rights and obligations of reception beneficiaries, establishing specific provisions applicable to vulnerable people and minors. Article 40 specifies how appropriate supervision is provided to unaccompanied minors during an observation and orientation phase in a relevant center.
- [Royal Decree of 25 April 2007](#) on the assessment modalities for evaluating the individual situation of the reception beneficiary.
- [Law of 26 May 2002](#) on the right to social integration.
- [Circular of 19 April 2004](#) on identifying and taking charge of unaccompanied minors by the Guardianship Service.
- [Circular of 23 April 2004](#) on the unaccompanied minor's identification form.
- **Related:** circular of 25 July 2008 modifying the Circular of 23 April 2004 on the “foreign unaccompanied minor” identification form.
- [Circular of 30 April 2004](#) on cooperation between the Immigration Department and local government departments on the residence of UMs.
- [Circular of 15 September 2005](#) on the residence of unaccompanied minors.
- [Circular of 2 August 2007](#) on European unaccompanied minors in a vulnerable situation.
- [Circular of 26 September 2008](#) on the introduction of multidisciplinary cooperation in the field of human trafficking victims and/or other aggravated forms of human trafficking.

In addition to national legal frameworks, Belgium is bound to EU legislation and the International Treaties it is signatory of.

### Guardianship Authority

The appointment of guardians for UAMs is not made by a court decision, but by the Guardianship Service of the Federal Public Service Justice.

The Guardianship Service is responsible of the following:

1. Appoint guardians for unaccompanied minors to ensure their representation.
2. Identify unaccompanied minors and verify age through medical tests, if disputed.
3. Coordinate with authorities on matters of asylum, residency, reception, and family tracing.

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<sup>4</sup> CGRS, "Legal Framework." last modified December 15, 2021, <https://www.cgrs.be/en/content/legal-framework#:~:text=The%20Act%20of%2015%20December,status%20and%20subsidiary%20protection%20status.>

4. Ensure a durable, minor-centered solution is promptly pursued by authorities.
5. Approve and, if necessary, withdraw approvals of appointed guardians.
6. Maintain an up-to-date list of approved guardians and their caseloads.
7. Provide guardians with specialised training for supporting unaccompanied minors.<sup>5</sup>

The Guardianship Service is part of the Federal Public Justice Service to ensure independence from various bodies such as the Immigration Office, which manages access to the territory, residence, the establishment and removal of foreigners.<sup>6</sup> The Guardianship Service contacts accommodation centers and assigns the UAMs a guardian after they receive reports (usually from the police or the immigration office), identify the UAM and ensure their age (through a medical test).<sup>7</sup>

### Types of Guardians:

In Belgium, guardians for unaccompanied minors can be both professionals and volunteers. There are three types of guardians in Belgium.<sup>8</sup>

1. **Voluntary Guardians:** a voluntary guardian is limited to overseeing a maximum of 8 guardianships per year.

2. **Self-employed Guardians:** a guardian is considered self-employed when their primary activity is guardianship, and they are not bound by an employment contract. They manage between 9 and 25-40 guardianships per year.

a) Guardians having a main professional activity, but are self-employed guardians as a supplementary activity

3. **Employee Guardians:** employed by an association active in the supervision of unaccompanied foreign minors: they exercise guardianship within the framework of an employment contract.

However, there is never any employment contract between the Federal Public Service Justice and the guardian.

### Qualifications requirements

<sup>5</sup> Guardianship Act, "24 décembre 2002. - Loi-programme (I) (art. 479) - Titre XIII - Chapitre VI : Tutelle des mineurs étrangers non accompagnés." updated August 9, 2023,

[https://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&cn=2002122445&table\\_name=loi](https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2002122445&table_name=loi)

<sup>6</sup> FPS Justice. "Service des tutelles pour les mineurs étrangers non accompagnés." Accessed 24 July 2024.

[https://justice.belgium.be/fr/themes\\_et\\_dossiers/enfants\\_et\\_jeunes/mineurs\\_etrangers\\_non\\_accompagne/service\\_des\\_tutelles](https://justice.belgium.be/fr/themes_et_dossiers/enfants_et_jeunes/mineurs_etrangers_non_accompagne/service_des_tutelles).

<sup>7</sup> Asylum Information Database. "Legal Representation for Unaccompanied Children." Last modified 2024.

<https://asylumineurope.org/reports/country/belgium/asylum-procedure/guarantees-vulnerable-groups/legal-representation-unaccompanied-children/>.

<sup>8</sup> FPS Justice. "Status of Guardians for Unaccompanied Minors." Accessed July 24, 2024.

[https://justice.belgium.be/fr/themes\\_et\\_dossiers/enfants\\_et\\_jeunes/mineurs\\_etrangers\\_non\\_accompagne/tuteur/statut#:~:text=Plus%20pr%C3%A9cis%C3%A9ment%2C%20le%20tuteur%20est,par%20un%20contrat%20de%20travail](https://justice.belgium.be/fr/themes_et_dossiers/enfants_et_jeunes/mineurs_etrangers_non_accompagne/tuteur/statut#:~:text=Plus%20pr%C3%A9cis%C3%A9ment%2C%20le%20tuteur%20est,par%20un%20contrat%20de%20travail).

Guardians for UAMs (unaccompanied minors) must meet specific qualifications to ensure they can effectively support the minors; these include:

- Sensitivity to UAMs issues
- Knowledge and experience in dealing with and supervising UAMs
- Proficiency in migration law, youth law, and civil law (especially regarding property management)
- Educational and psychological skills, including training in listening to minors and multicultural reception
- Strong relational, organisational, and coordination skills
- Legal requirements: must be of legal age, reside in Belgium or hold an unlimited residence permit
- No conflict of interest with the minor
- Provision of a clean criminal record.<sup>9</sup>

No specific diploma is required, but the Guardianship Service must verify that the applicant meets these qualifications.

### **Disqualifications**

Certain individuals are prohibited from becoming guardians, including those mentioned in [Articles 397 and 398 of the Civil Code](#):

- People unable to freely manage their property (e.g., those who are themselves under guardianship)
- Individuals who have lost parental authority, have been involved in serious misconduct, or whose financial management indicates incapacity
- Those involved in a lawsuit with the minor that impacts the latter's status or property

Additionally, individuals holding positions that present a conflict of interest, cannot serve as guardians:

- Staff of the FPS Interior - General Directorate of the Foreigners' Office, CGRS, or CCE
- A person, spouse or cohabitant, that is involved in a lawsuit with the minor whose estate, wealth or a significant part of their property is in jeopardy;
- Individuals working in institutions responsible for the minor's care or local reception initiative organised by a C.P.A.S, or heading such institutions
- Members of the Social Assistance Council or Municipal Council oversee the care institution on which the C.P.A.S depends.<sup>10</sup>

Furthermore, if the guardian is a lawyer, they cannot be the lawyer of the minor, who therefore must have another lawyer to assist and defend him in all proceedings.

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<sup>9</sup> FPS Justice. "Becoming a Guardian for Unaccompanied Minors." Accessed July 24, 2024.

[https://justice.belgium.be/fr/themes\\_et\\_dossiers/enfants\\_et\\_jeunes/mineurs\\_etrangers\\_non\\_accompagne/tuteur/devenir\\_tuteur](https://justice.belgium.be/fr/themes_et_dossiers/enfants_et_jeunes/mineurs_etrangers_non_accompagne/tuteur/devenir_tuteur).

<sup>10</sup> Mineurs en exil, "Dossiers Thématique : Tutelle." Accessed July 25, 2024, <https://www.mineursenexil.be/fr/dossiers-thematiques/mena/tutelle/>.

## Chapter 2: Assessment of the guardianship system

### 2.1 Non-discrimination - Equal guardianship services for every child

Belgium aims to uphold the principle of non-discrimination within its guardianship system through legal frameworks and policies to ensure that all children, regardless of their residence, age, or immigration status, receive appropriate guardianship services.

#### **Minors who qualify to be appointed guardians:**

According to the Federal Public Justice System, to be eligible for guardianship, a person should<sup>11</sup>:

- be UAM, which includes 4 conditions:
  - be under 18 years of age, even if the country of origin legally dictates otherwise
  - not be accompanied by a person exercising parental authority
  - come from a country that is not a member of the European Economic Area
  - be in Belgium as an asylum seeker or without a residence permit

However, with the [law from 21 November 2014](#), vulnerable European minors can also be considered as UAMs under certain (cumulative) conditions:

- National of a member country of the EEA or of Switzerland;
- Not accompanied by a person exercising parental authority or guardianship;
- Not provided with a legalised document certifying that the person exercising parental authority or guardianship has given authorisation to travel and stay in Belgium;
- Not registered in the population register;
- AND pertain to one of the following situations:
  - either have applied for a temporary residence permit based on article 61/2, § 2, paragraph 2, of the law of 15 December 1980 on access to the territory, residence, establishment and removal of foreigners;
  - or find oneself in a vulnerable situation.<sup>12</sup>

Overall, Guardianship Service is flexible and can appoint a guardian in the interest of the minor, as in the cases of children from Ukraine.

The conditions mentioned above are verified through a process involving various actors.<sup>13</sup>

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<sup>11</sup> FPS Justice "Identification of an Unaccompanied Foreign Minor." Accessed July 24, 2024.

[https://justice.belgium.be/fr/themes\\_et\\_dossiers/enfants\\_et\\_jeunes/mineurs\\_etrangers\\_non\\_accompagne/service\\_des\\_tutelles/identification\\_d\\_un\\_mineur\\_etranger\\_non\\_accompagne](https://justice.belgium.be/fr/themes_et_dossiers/enfants_et_jeunes/mineurs_etrangers_non_accompagne/service_des_tutelles/identification_d_un_mineur_etranger_non_accompagne).

<sup>12</sup> Mineurs en Exil, "Definition and Statistics of Unaccompanied Minors." Accessed July 24, 2024.

<https://www.mineursenexil.be/fr/dossiers-thematiques/mena/definition-et-statistiques-1/>.

<sup>13</sup> FPS Justice "Mineur étranger non accompagné (MENA)." accessed July 25, 2024,

[https://justice.belgium.be/fr/themes\\_et\\_dossiers/enfants\\_et\\_jeunes/mineurs\\_etrangers\\_non\\_accompagne/mineur\\_etran ger\\_non\\_accompagne\\_mena](https://justice.belgium.be/fr/themes_et_dossiers/enfants_et_jeunes/mineurs_etrangers_non_accompagne/mineur_etran ger_non_accompagne_mena).

### Access to services

Under the Reception Act of 12 January 2017, all UAMs are entitled to medical and psychological support, social protection, legal assistance, and should be placed in suitable accommodation regardless of their age, gender, or status.<sup>14</sup>

### Equal quality guardianship for all UAMs

The quality of guardianship is the same for all unaccompanied children in migration and Belgian law sets the same standards on guardianship quality.<sup>15</sup>

## 2.2 Accountability & responsibility – Clear legal basis, responsible authority & monitoring mechanism in place

### Legal basis

Belgium has a clear legal basis for guardianship, composed of several legal texts which are outlined below.

**Guardianship Act (2002)**<sup>16</sup>: It establishes a legal framework for the guardianship of UAMs and ensures they receive appropriate protection and support. It mandates the appointment of guardians to represent the interests of unaccompanied minors, facilitating access to essential services and safeguarding their rights within the Belgian legal system.

**General guidelines for Guardians of Foreign Unaccompanied Minors, 2 December 2013.**<sup>17</sup> It provides a framework for guardians to ensure the protection, welfare, and rights of unaccompanied minors. These guidelines emphasise the importance of individualised support, legal representation, and collaboration with relevant authorities to address the specific needs of these vulnerable children.

### Responsibility

The effective management and responsibility of the guardianship system is established at the federal level. The Ministry of Justice oversees the framework, which includes the appointment of guardians and ensuring that guardians fulfil their roles effectively through the drafting of initial, yearly and final reports. Additionally, regional authorities may be involved in implementing specific procedures and providing resources to support guardianship, although challenges in consistency and resource allocation can affect overall effectiveness.

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<sup>14</sup> FPS Justice, "Prise en charge d'un mineur étranger non accompagné." accessed July 25, 2024, [https://justice.belgium.be/fr/themes\\_et\\_dossiers/enfants\\_et\\_jeunes/mineurs\\_etrangers\\_non\\_accompagne/service\\_des\\_tutelles/prise\\_en\\_charge\\_d\\_un\\_mineur\\_etranger\\_non\\_accompagne#a1](https://justice.belgium.be/fr/themes_et_dossiers/enfants_et_jeunes/mineurs_etrangers_non_accompagne/service_des_tutelles/prise_en_charge_d_un_mineur_etranger_non_accompagne#a1).

<sup>15</sup> European Migration Network (EMN) "Guardianship of Unaccompanied Minors." accessed July 25, 2024, [https://emnluxembourg.uni.lu/wp-content/uploads/sites/225/2024/03/EMN-Luxembourg-Inform\\_Guardianship-of-unaccompanied-minors.pdf](https://emnluxembourg.uni.lu/wp-content/uploads/sites/225/2024/03/EMN-Luxembourg-Inform_Guardianship-of-unaccompanied-minors.pdf)

<sup>16</sup> FPS Justice, "Loi du 24 décembre 2002 relative à la protection des mineurs", last modified December 24, 2002, [https://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&cn=2002122445&table\\_name=loi](https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2002122445&table_name=loi).

<sup>17</sup> FPS Justice "Directives générales pour tuteurs de mineurs étrangers non accompagnés." December 2, 2013, [https://justice.belgium.be/sites/default/files/directives\\_generales\\_pour\\_tuteurs\\_-\\_02\\_12\\_2013.pdf](https://justice.belgium.be/sites/default/files/directives_generales_pour_tuteurs_-_02_12_2013.pdf).

## Monitoring and Oversight

In Belgium, guardians are bound to a double monitoring process:

- 1) The first is by the Guardianship Service and involves the material organisation of the guardian's work (i.e. checking that the guardian meets conditions of approval, uniformity of practices). The Guardianship Service also ensures that the guardian is searching for sustainable solutions in line with the best interest of the child.
- 2) The second is by the Federal Public Justice Service that verifies whether the guardian properly manages the minor's property and if they seek lasting solutions for the minor.

Within 15 days of their appointment, the guardian must submit an initial report to the Guardianship Service and the Justice of the Peace. Twice a year, they must send a report to the Federal Public Justice Service and a copy to the Guardianship Service. A final report is submitted at the end of the supervision.<sup>18</sup>

The Federal Public Justice Service reviews the guardianship reports and keeps the administrative file of the minor. The Federal Justice Service is also mandated to settle disputes between the minor and the guardian. Any party involved can file a complaint against the guardian including the minor, a supervisor of a reception facility, a family member, and the Guardianship Service.

### 2.3 Independence & impartiality – The best interest of the child

The Guardianship Service is attached to the Federal Public Service Justice (FPS Justice) to guarantee independence from different bodies such as the Immigration Office, attached to the FPS Home Affairs, which manages territorial access, residency, the settlement and removal of foreigners.

Appointing a guardian that is free from conflict of interest, is enshrined in Belgian law.

Belgian legislation stipulates that people who, by virtue of their position, have a conflict of interest with the minor, may not be appointed as guardians:

- Staff of the FPS Interior - General Directorate of the Foreigners' Office, CGRS, or CCE.
- A person, spouse or cohabitant, that is involved in a lawsuit with the minor, where their estate, wealth or a significant part of their property is in jeopardy.
- Individuals working in institutions responsible for the minor's care or local reception initiative organised by a C.P.A.S, or affiliated with such institutions.
- Members of the Social Assistance Council or Municipal Council oversee the care institution on which the C.P.A.S depends.<sup>19</sup>

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<sup>18</sup> FPS Justice. "Supervision of Guardians for Unaccompanied Minors." Accessed July 24, 2024. [https://justice.belgium.be/fr/themes\\_et\\_dossiers/enfants\\_et\\_jeunes/mineurs\\_etrangers\\_non\\_accompagne/tuteur/control\\_e\\_du\\_tuteur](https://justice.belgium.be/fr/themes_et_dossiers/enfants_et_jeunes/mineurs_etrangers_non_accompagne/tuteur/control_e_du_tuteur).

<sup>19</sup> Mineurs en exil, "Dossiers Thématique : Tutelle." Accessed July 25, 2024, <https://www.mineursenexil.be/fr/dossiers-thematiques/mena/tutelle/>.

## 2.4. Child Rights Centered – Respecting, protecting and fulfilling children’s rights

### Child well-being and best interests

Article 20 of the Guardianship Act (2002) stipulates that guardians are the legal representatives, responsible for ensuring the general well-being of the minor. Their main duties include:

- Arranging legal representation for the minor.
- Submitting asylum or residence permit applications.
- Challenging decisions that are not in the minor's best interests.
- Supporting the minor through legal procedures and attending relevant hearings.
- Ensuring access to education, psychological and medical care, suitable accommodation, and public support.
- Communicating decisions affecting the minor.
- Searching for the minor's family members.
- Offering stable, long-term solutions for the minor’s future.
- Coordinating with caregivers, relevant authorities, and other involved organisations.
- Managing the minor’s property.
- Providing regular reports on the minor's situation and progress.

The guardian regularly discusses the minor’s overall reception situation and well-being within the care facility or foster family. The guardian also seeks input from caretakers or family members. If, after consulting all parties, the guardian considers that the provided accommodation is inadequate for the minor's needs, they submit a request for specific assistance to the appropriate authorities, regardless of the status of the asylum or residency process.

Although the guardian informs and represents the UAMs, they do not manage their day-to-day life. This is the responsibility of the counsellor of the reception center where the UAM resides or of the family where the young person stays in cases of foster care. The guardian has some responsibilities that contribute to the child’s overall well-being such as enrolling them in a school and thinking about leisure activities. These activities are done in coordination with other actors responsible for the well-being of the UAM.<sup>20</sup>

### Legal procedures

It is the task of the guardian to represent the UAM in all legal matters and inform them on the different steps of legal procedures.<sup>21</sup> This is also done by sharing child-friendly information materials such as the

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<sup>20</sup> European Migration Network (EMN) "Guardianship of Unaccompanied Minors." accessed July 25, 2024, [https://emnluxembourg.uni.lu/wp-content/uploads/sites/225/2024/03/EMN-Luxembourg-Inform\\_Guardianship-of-unaccompanied-minors.pdf](https://emnluxembourg.uni.lu/wp-content/uploads/sites/225/2024/03/EMN-Luxembourg-Inform_Guardianship-of-unaccompanied-minors.pdf)

<sup>21</sup> European Migration Network (EMN) "Guardianship of Unaccompanied Minors." accessed July 25, 2024, [https://emnluxembourg.uni.lu/wp-content/uploads/sites/225/2024/03/EMN-Luxembourg-Inform\\_Guardianship-of-unaccompanied-minors.pdf](https://emnluxembourg.uni.lu/wp-content/uploads/sites/225/2024/03/EMN-Luxembourg-Inform_Guardianship-of-unaccompanied-minors.pdf)

"Guide for Unaccompanied Minors Who Apply for Asylum in Belgium".<sup>22</sup> The aim is to explain the stages an UAM goes through when applying for asylum and which is presented to every UAM when their asylum application is being registered.

Legal matters for foreign UAMs are complex as they involve immigration law and youth protection, youth assistance, social assistance and sometimes even criminal proceedings. Due to the complexity of these issues, it is important that lawyers are appointed to these children. If the UAMs apply for asylum or a residence permit, they are entitled to legal aid. Legal aid can come from volunteer lawyers, the "MENA"<sup>23</sup> lawyers' section of the Legal Aid Office of the Brussels Bar. The lawyer manages the file in all its legal and procedural aspects.<sup>24</sup>

### **Durable solutions and life plan**

As set out in Article 11, § 1 of the Guardianship Act, guardians make proposals they deem appropriate in seeking a durable solution that aligns with the minor's best interests. A durable solution may include obtaining international protection or another legal residence status (such as those related to unaccompanied minors, human trafficking, or regularisation), returning to and reintegrating with the family in their country of origin, transferring to another country where relatives reside, or finding an alternative accommodation suitable for the minor. The guardian continuously works on these matters by submitting necessary requests, following established procedures, and assisting in implementing final decisions for durable solutions. The guardian analyses various options without bias. Their personal views or beliefs regarding migration should not hinder the pursuit of sustainable solutions.

Also, a month before a temporary residence permit expires, the guardian applies for extension to the Vulnerable Persons Unit. Applications must contain information that was identified prior to the UAM's life plan in Belgium, which includes:

- any specific information related to the situation of the UAM;
- the family situation of the UAM;
- proof of regular schooling;
- proof of knowledge of one of the three national languages.<sup>25</sup>

After a period of three years from receiving the A card, the UAM can receive a permanent residence permit (B card).

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<sup>22</sup> CGRS, "Guide for Unaccompanied Minors Who Apply for Asylum in Belgium.", 2019, [Jaarverslag 2013 - Commissariaat-generaal voor de Vluchtelingen en de Staatlozen \(CGVS\)](#).

<sup>23</sup> MENA *in fr. mineurs étrangers non accompagnés*. Translates to unaccompanied foreign minors (UAMs)

<sup>24</sup> Mineurs En Exil "Aide juridique." accessed July 25, 2024, <https://www.mineursenexil.be/fr/dossiers-thematiques/mena/aide-juridique/>.

<sup>25</sup> Office of the Commissioner General for Refugees and Stateless Persons. "Best Interest Procedure for Unaccompanied Minors." Accessed August 1, 2024. <https://dofi.ibz.be/en/themes/international-protection/vulnerable/best-interest-procedure-unaccompanied-minors-search-0>.

## 2.5. Child's participation – The right to be heard

Documentation on procedures and rights is available to the child in a child friendly manner. Some resources are made specifically for children on the FPS Justice<sup>26</sup>:

- [Brochure on UAMs](#): available in several languages
- [Explanatory video](#) of what a guardian does for the child: available in several languages
- [Fact Sheet for UAMs from Ukraine](#)

Other resources include:

- Video explaining UAMs rights in Belgium [EN - The rights of an unaccompanied minor in Belgium \(2021\) \(youtube.com\)](#)

### **Feedback and Complaint mechanism**

The Justice of the Peace handles complaints against a guardian filed by a minor or a third party.<sup>27</sup> Upon receiving a complaint, they must notify the Guardianship Service, which will appoint an ad-hoc guardian to temporarily replace the current one. The Justice of the Peace will then hear from the minor, the guardian, their lawyer, and others, as needed to decide whether to continue or terminate the guardianship. If the guardian has not fulfilled their duties or has serious conflicts with the minor, the Justice can terminate their assignment. The court clerk will notify the Guardianship Service within 24 hours, and a new guardian is appointed immediately.

The Guardianship Service works to improve the feedback process by visiting reception centres and using a child-friendly approach. This includes a specially designed board game to inform minors and make it easier for them to share feedback about their guardians. The game includes questions aimed at understanding the guardian's responsibilities and if the child is satisfied or if there are any wanted changes.

## 2.6. Quality - Qualifications and trainings/support for guardians from stakeholders

### **Qualifications**

Regarding education and prior experience, the Guardianship Act does not provide detailed required criteria to become a guardian.<sup>28</sup> No specific diploma or educational background is required to become a guardian. One must be of age and reside in Belgium or hold a permanent residence permit. The only specification entails how the Guardianship Service ensures that the candidate has sufficient knowledge in the subjects covered by the training. They also verify the guardian's competence regarding their mission and particularly in their capacity to establish a trusting relationship, guarantee sufficient

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<sup>26</sup> FPS Justice "Information for Young Unaccompanied Foreign Minors." Accessed July 24, 2024.

[https://justice.belgium.be/fr/themes/enfants\\_et\\_jeunes/mineur\\_etranger\\_non\\_accompagne\\_mena/informations\\_pour\\_le\\_s\\_jeunes#tab-top-1](https://justice.belgium.be/fr/themes/enfants_et_jeunes/mineur_etranger_non_accompagne_mena/informations_pour_le_s_jeunes#tab-top-1).

<sup>27</sup> FPS Justice, "Tutors' Handbook." Accessed July 24, 2024. [Tutors' Handbook | Service public federal Justice](#)

<sup>28</sup> Mineurs en Exil. "Guardianship of Unaccompanied Minors." Accessed July 24, 2024.

<https://www.mineursenexil.be/fr/dossiers-thematiques/mena/tutelle/>.

availability for optimal monitoring, seeking the most appropriate solutions with the minor, assisting them for procedures, etc.

The Guardianship Service can only appoint guardians who: went through the selection procedure to become an official guardian, meet the requirements and follow the five-days basic training.<sup>29</sup> The training is spread over the first months of their assignment and covers the following topics:

- Immigration Law
- Juvenile Law
- Civil Law related to management of assets
- Pedagogy and Psychology
- Multicultural Care/Reception

Once a year, guardians must also undergo continuing and/or further training while exercising their guardianship.

In addition to the training, the Guardianship Service:

- Sends a monthly newsletter to guardians with information about changes in the legislative field, information from partners, additional training offers, etc.
- Can reimburse external training costs that guardians have chosen to follow
- Has a **coaching project** where experienced employed guardians support voluntary status or self-employed guardians
- **E-learning** on psychosocial accompaniment of minors and interaction (plus peer consultations with experts)
- Makes materials available to guardians.<sup>30</sup>

## Workload

Belgium's legislation limits the number of UAMs that can be managed per guardian, based on the type of guardianship<sup>31</sup>:

1. **Voluntary**: up to 8 simultaneous guardianships;
2. **Self-employed**: more than 8 guardianships (up to 40)
3. **Employee guardians**: allowed to manage up to 25 guardianships.

The workload varies depending on the complexity of each minor's situation; therefore, it is difficult to assess the workload only by the number of guardianships per guardian.

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<sup>29</sup> European Migration Network Belgium. "Ad-hoc Query on Guardianship of Unaccompanied Minors (Compilation of Answers)." Accessed July 24, 2024. <https://emnbelgium.be/sites/default/files/publications/Ad-hoc%20query%20on%20Guardianship%20of%20unaccompanied%20minors%20%28compilation%20of%20answers%29.pdf>

<sup>30</sup> European Migration Network (EMN) "Guardianship of Unaccompanied Minors." accessed July 25, 2024, p.20 [EMN Luxembourg Inform Guardianship of unaccompanied minors.pdf](#)

<sup>31</sup> European Migration Network (EMN) "Guardianship of Unaccompanied Minors." accessed July 25, 2024, p.23. [EMN Luxembourg Inform Guardianship of unaccompanied minors.pdf](#).

## 2.7. Sustainability and collaboration - Guardianship systems are an essential part of the national child protection system

Governmental budget is allocated to the Justice Federal Public Service (FPS Justice) and is used to pay guardians who receive basic allowances. There are agreements between the FPS Justice and non-profit organisations involved in the reception of UAMs, aimed at allowing their staff members to be recognised as guardians. The total budget allocated to the Guardianship Service is 12 million euro per year and consists of a multidisciplinary team involving 44 officials. The Federal Administration ensures proper usage and imposes standards for the management of the funds.<sup>32</sup>

### Cooperation

Guardians collaborate with several agencies and organisations to support minors; these are outlined in the Guardianship Act (2002) and General Guidelines for Guardians (2013).

The Guardianship Service has formal cooperation with the Immigration Authorities (CGRS, IBZ), Fedasil-Federal asylum agency responsible for reception, and their partners.

In addition to cooperation with Fedasil and Immigration authorities, guardians cooperate with Communities, and local administrations to secure appropriate housing based on each minor's needs. They request additional assistance, including financial and social support from the CPAS, in writing, providing detailed justification from the minor and involved professionals such as social-educational teams, psychologists, or schools. Guardians play an observing role but if they suspect a minor may be a victim of human trafficking, guardians consult specialised support centres like PAG-ASA, Payoke, or Sürya. Minors who are suspected victims of trafficking and exploitation can be registered to centers for foreign unaccompanied minors/victims of trafficking such as **Esperanto** in Wallonia, **Juneco** in Flanders, or **Minor N' Dako** in Brussels. These centers ensure that the minors are accommodated and given legal and administrative support.<sup>33</sup>

Fedasil is the competent authority for reception of foreign UAMs which involves cooperation with guardians and their respective contact with the relevant reception and accommodation actors:

- **Red Cross Centers**
- **Local Reception Initiatives (ILA)** – Managed by local CPAS (Public Social Welfare Centers).
- **Communities** – If the minor is not an asylum seeker, Fedasil arranges accommodation through Community-managed centers in relevant regions. (Wallonia - <http://www.cfwb.be/> or Flanders - [www.vlaanderen.be/](http://www.vlaanderen.be/))

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<sup>32</sup>European Migration Network (EMN), "Belgium National Report on Unaccompanied Minors." December 11, 2009, [https://emnbelgium.be/sites/default/files/publications/02a\\_belgium\\_national\\_report\\_on\\_unaccompanied\\_minors\\_final\\_version\\_11dec09\\_en1.pdf](https://emnbelgium.be/sites/default/files/publications/02a_belgium_national_report_on_unaccompanied_minors_final_version_11dec09_en1.pdf).

<sup>33</sup> Federal Migration Centre, "Shelter for victims." accessed July 25, 2024 [Shelters for victims | Myria](#)

- **Family or Community Contacts** – If it's in the minor's best interest, the guardian can suggest placement with relatives or friends by coordinating with Fedasil or relevant community authorities.<sup>34</sup>

## Chapter 3: Gaps and good practices of the guardianship system

### 3.1 Gaps of the National Guardianship System

#### **Prolonged periods of staying in the 1st phase of reception and limited availability of places in 2<sup>nd</sup> phase accommodation**

The 1<sup>st</sup> stage of reception is done by Fedasil and all UAMs, whether they are asylum-seekers or not, they are welcomed in one of the two observation centers in Belgium. In principle, they should be in one of these centers for maximum 30 days:

- 15 days to identify the UAM and assign them a guardian
- 15 extra days where either the guardian, Fedasil or communities must find a solution for housing

However, in practice, minors often remain in these centers for 2–3 months due to shortages in second-phase accommodation. The transition to long-term housing is hindered by high demand and limited availability, which becomes particularly critical during periods of increased arrivals. Strict requirements for securing accommodation further complicate the process. For instance, during reception crises, minors who are absent from their assigned center for more than 24 hours without explanation risk losing their spot. While this is not standard practice, guardians in non-crisis situations may coordinate with shelters to confirm a minor's whereabouts—such as travel to another country or plans to return—to prevent unnecessary loss of placement.

This situation presents a significant challenge for guardians, who often have difficulties to secure suitable long-term accommodation for UAMs. Prolonged stays in observation centers delay access to stable support structures, further impacting the effective care and integration of these vulnerable minors.

#### **Limited Foster Care**

A major challenge for effective foster care in Belgium is the ongoing shortage of foster families, especially for unaccompanied minors (UAMs). Demand for foster placements exceeds availability, particularly for teenagers, who face additional challenges due to the complexities of adolescence. Most UAMs arriving in Belgium are between 14 and 18 years old, making it even harder to secure suitable family placements. Foster care is managed on the level of communities and not federally. The Guardianship Service actively promotes foster parenting for UAMs by organising information sessions

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<sup>34</sup> FPS Justice "*Prise en charge d'un mineur étranger non accompagné.*" accessed July 25, 2024, [https://justice.belgium.be/fr/themes\\_et\\_dossiers/enfants\\_et\\_jeunes/mineurs\\_etrangers\\_non\\_accompagne/service\\_des\\_tutelles/prise\\_en\\_charge\\_d\\_un\\_mineur\\_etranger\\_non\\_accompagne](https://justice.belgium.be/fr/themes_et_dossiers/enfants_et_jeunes/mineurs_etrangers_non_accompagne/service_des_tutelles/prise_en_charge_d_un_mineur_etranger_non_accompagne).

to encourage more families to participate. However, the number of foster families willing to take in UAMs remains low. Despite initiatives like the ALFACA-II project<sup>35</sup>, aimed at strengthening foster care programs for UAMs, scaling these efforts more broadly continues to be challenging. While there has been some interest in fostering Ukrainian children, similar interest is lacking for children of other nationalities.<sup>36</sup>

### **Limited support and system preparedness for vulnerable UAMs with special needs.**

Minors arriving to Belgium have varied profiles and associated vulnerabilities. Belgium faces critical shortages in specialised care, housing, and support for unaccompanied minors (UAMs), especially those with vulnerabilities like abuse, trafficking, or exploitation. While there are specialised support centers such as PAG-ASA, Payoke, and Esperanto, they cannot always meet the diverse needs of these minors, and space is limited. Cultural stigma and fear of reprisal often deter minors from seeking or accepting help, further complicating the challenge. Finding safe, supportive housing is particularly difficult, especially for non-asylum-seeking minors, who face even greater barriers. Reception centers managed by Communes are not obliged to accommodate these minors, often citing a lack of appropriate resources to address specific needs, such as mental health challenges or compatibility issues with other residents. As such, the shortage of suitable accommodation facilities for minors with specific vulnerabilities has been highlighted by all stakeholders as a significant challenge in Belgium. Similarly specialised support, including mental health is very scarce and some organisations exclude non-asylum-seeking minors and those with no residence in Belgium.<sup>37</sup>

Furthermore, guardians and support personnel often lack the specialised skills and training needed to effectively work with this population, and as new groups of vulnerable minors arrive. Currently, there are increased arrivals of Afghan minors are victims of sexual abuse but for example previously, there were many Nigerian girls, victims of sexual trafficking and/or forced prostitution who required specialised support. This way the profiles are diverse, changing over time. As such, the system struggles to adapt quickly enough to provide tailored support.

### **Unaccompanied minors in transit**

UAMs in transit initially avoid seeking international protection in Belgium, as they plan to continue towards another country. To remain undetected, they avoid contact with Belgian authorities and do not enter the official reception system. As a result, they frequently face complex legal challenges and are vulnerable to forced disappearance, human trafficking, and illicit practices. Due to their mistrust of the current system and unwillingness to formalise their presence, they turn to informal networks where misinformation is common. While local initiatives exist (such as Xtra MENA project), the structural and policy challenges remain unaddressed. Migration and asylum legal framework do not offer a wide spectrum of options for these minors, perpetuating issues that are highly difficult to address solely on the reception level.

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<sup>35</sup> Nidos, "Alfaca-II Country Report Belgium" [ALFACA-II-Country-Report-Belgium.pdf](#)

<sup>36</sup> Interview with a Stakeholder, Brussels, via Zoom, October 16, 2024.

<sup>37</sup> KU Leuven, "Paso, Information for referrers" <https://www.upckuleuven.be/nl/paso-info-voor-verwijzers>

### **MENA en errance: Wandering minors**

In Belgium, the profile of “wandering” unaccompanied foreign minors (MENA en errance) typically includes young males, mostly between 15 and 17, primarily from the Morocco and Algeria, who live in conditions of extreme instability.<sup>38</sup> Their journey to Europe usually involves prolonged, precarious stops, where they are exposed to severe hardship, exploitation, and lack of basic care. On arrival in Belgium, they face further uncertainty due to an erratic and incomplete support system, being unable to secure residency rights or consistent social services. This instability fosters mental health struggles, substance use, and sometimes being forced into petty crime, often in response to their traumatic experiences and unmet needs. Consequently, they stay in a continuous cycle of survival, struggling to adapt within a fragmented social and health support landscape that fails to address the complex trauma and administrative exclusion shaping their lives.

### **Lack of targeted support and cooperation**

There is a need for more organisations to support family reunification procedures as it is a complex process, and guardians do not have the necessary skills to support minors with this. More importantly, it does not fall within their responsibilities, resulting in inconsistent support. As such, some guardians go as far as supporting the visa process for family reunification purposes while others do not engage in this at all. This is arbitrary and based on the guardians’ knowledge, time and commitment but is not part of their immediate responsibilities.

### **Coordination**

This challenge pertains to information exchange, case transfer and case coordination among different organisations. Five different but interrelated factors foster interprofessional collaboration: timely and adequate diagnoses; knowledge of all service providers; sufficient capacity; informal trust relationships between professionals; and cultural competence of social workers and other professionals. While some of these issues can be addressed at the level of individual organisations, many are also embedded in a structural context of time pressure, understaffing, increased stress levels and high personnel turnover.

#### **a. Good practices of the National Guardianship System**

##### **Coaching programme for independent guardians (voluntary and self-employed)**

Belgium's guardianship system, where many guardians are self-employed or volunteer-based, benefits from a dedicated coaching program funded by the Guardian Service and managed by Caritas International Belgium for French-speaking guardians and the Red Cross Flanders for Dutch-speaking guardians.<sup>39</sup> Both organisations employ professional guardians, creating an effective structure where experienced professionals offer peer support to independent guardians. The program provides

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<sup>38</sup> CBCS, “Adolescence in migration: what support?” [Adolescence in migration: what support? - CBCS](#)

<sup>39</sup> Caritas International, “Support for independent Guardians.” accessed July 18, 2024 [Support for independent guardians | Caritas International Belgium](#)

For Dutch speaking independent guardians: Red Cross BE: [Our guardians | Red Cross \(rodekruis.be\)](#)



comprehensive assistance, including individualised support, training sessions, and a Helpdesk accessible by phone and email.

The program's Helpdesk and training sessions enhance guardians' specialised skills, knowledge, and practical expertise, empowering them to provide more effective support to minors. Received feedback indicates that guardians appreciate the focused, case-specific insights offered, which bring a valuable new perspective. Each guardian can ask for individual support for an ongoing guardianship, especially in complex cases or during their first guardianship. For many independent guardians working alone, these sessions also fulfil an essential need for peer engagement and support.

### **Guide for Frontline Professionals on Missing UAMs**

Given the pressing phenomenon of UAMs going missing from the reception facilities in Belgium, the Belgian organisation Child Focus in collaboration with a wide range of partners, led by the Secretary of State for Asylum and Migration and the Minister of the Interior developed a Guide Frontline Professionals on Missing UAMs.<sup>40</sup> This guide is intended for those working with UAMs to support both prevention and follow-up in cases of disappearance. The primary target groups include police, staff at the arrival centers, guardians, shelter workers, and frontline outreach teams.

### **Xtra MENA project – support to UAMs in transit**

Unaccompanied minors in transit are children who find themselves in Belgium but are in transit to another European country. These are highly vulnerable UAMs who do not initially seek international protection in Belgium, as they intend to continue their journey to another country.

The Xtra MENA project objectives are to: support these minors in transit by informing them of all the forms of protection and reception for UAMs in Belgium; to raise awareness, to train and support primary care workers who come into contact with these youth, including the youth welfare sector and in the concerned cities and municipalities; to develop a proposal for an accessible and supportive reception path for the UAM in transit.<sup>41</sup> The project, implemented by Fedasil and the guardianship team for UAMs (CAP Brabantia – a branch of Caritas International), is subsidized by Fedasil, ensuring its sustainability.

### **Board Game Initiative: Promising practice to ensure child participation and feedback**

A new initiative introduced by the Guardianship Service demonstrates a promising practice for fostering meaningful child participation and gathering feedback from unaccompanied minors about their guardians. The *Board Game* initiative is designed to create a child-friendly and structured approach to engaging with minors, encouraging them to express their views and experiences.

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<sup>40</sup> Childfocus, "Guide on the disappearances of Unaccompanied Minors." accessed July 20, 2024 [Interactief draaiboek - verdwijning NBMV FR.pdf \(childfocus.be\)](#)

<sup>41</sup> Caritas International, "Assistance for young migrants in transit." Accessed on July 20, 2024 [Assistance for young migrants in transit | Caritas International Belgium](#)



The Guardianship Service representatives visit reception centers to conduct these sessions, where minors participate in a specially designed board game. The game serves dual purposes: informing children about the role and responsibilities of a guardian and facilitating feedback through targeted questions such as: *What are the tasks of a guardian? Does this align with your experience? How is your relationship with your guardian? What improvements would you like to see?*

This innovative approach prioritises children's voices in an accessible and interactive manner. While still in its early stages, the initiative holds promise, with its impact to be assessed in future evaluations.

## Chapter 4: Recommendations

Based on the analysis of the existing legal framework, practical arrangements and identified gaps, the following recommendations serve as initial actions for the improvement of the guardianship system and ultimately support UAMs on the move.

### **Specialized reception support for vulnerable minors**

To address the diverse and evolving needs of unaccompanied minors (UAMs), Belgium should develop specialised reception facilities that cater to the unique vulnerabilities of this group. This includes scaling up programs that provide targeted support for children facing mental health challenges, post-traumatic stress disorder (PTSD), or other psychological or psychiatric conditions.

Many minors arrive after enduring traumatic experiences, requiring not only immediate care but also long-term mental health interventions. Guardians must be equipped with the support of qualified mental health professionals to ensure these minors receive appropriate and effective care. To meet the needs of minors with psychological, psychiatric, addiction-related, or disability challenges, Belgium should implement comprehensive, long-term initiatives that focus on delivering tailored care. This strategy will enhance the guardianship system's ability to respond proactively and provide the specialised, sustainable support these vulnerable children require.

### **Need for more employee professional guardians**

The availability of guardians varies by region; some by area, requiring additional recruitment from the Guardianship Service. There is also an ongoing demand for guardians with specific skills whereby regular turnover creates a need for new recruits.

### **Enhancing administrative and logistical support for family reunification**

To strengthen the guardianship system and ensure consistency in support for unaccompanied minors (UAMs), targeted measures should be introduced to enhance family reunification assistance. Family reunification is a critical process that often requires extensive paperwork, coordination, and communication with families. While organisations like Caritas International provide support services, their limited capacity and long waiting lists create significant delays. This gap has led many guardians to take on family reunification tasks, such as support with paperwork and liaising with families, despite

these duties being outside their formal responsibilities. The resulting variability in the level of assistance—where some guardians go above and beyond while others adhere strictly to their defined role—leads to inconsistent support for minors.

To address this, the system should:

- **Expand specialised support services:** Increase the capacity of organisations that provide support to handle family reunification cases, ensuring broader access and shorter waiting times. This will also ensure uniform support, avoiding over-reliance on individual efforts of the guardians in the matters of family reunification.
- **Provide structured support for reunited families:** Establish aftercare programs to assist minors and their families, post-reunification. Such programs could include integration support, counselling, and access to essential services to ensure a smooth transition and continued stability.

These measures would alleviate the burden on guardians, improve the efficiency and equity of family reunification processes, and enhance the overall well-being of minors and their families.

#### **Tailored approach to foster care**

The adequate support for foster families to host UAMs arriving in Belgium should be available and efficiently implemented, including appropriate matching between the minor and the family, ensuring the best interest of the child.

To improve foster care for unaccompanied minors in Belgium, foster care agencies should prioritise awareness-raising campaigns to recruit more foster families, especially from ethnic and cultural communities, while enhancing **culturally sensitive training and trauma-informed guidance**. Strengthening preparation and support systems for both children and foster families, including the option of "support families" and cross-border networking with biological families, will increase placement stability and overall care quality.

#### **Improve child participation, feedback and complaint mechanisms**

Clearly and efficiently communicate the mechanisms for collecting feedback from minors on the guardianship system. Ensure that the feedback and complaint mechanisms are clear, explained and accessible in a child friendly manner to UAMs. To achieve this, more accessible channels of communication can be devised and promoted amongst children.

#### **Strengthening support programs for transition to adulthood, including extended support until age**

##### **21**

To ensure a smoother transition into adulthood for unaccompanied minors (UAMs), Belgium should enhance and expand its support programs, extending assistance up to the age of 21. This aligns with

the Council of Europe's *Life Projects for Unaccompanied Migrant Minors* framework, which emphasises tailored, long-term strategies to prepare minors for independent living.<sup>42</sup>

Currently, while Belgium offers transitional support to minors approaching adulthood, additional efforts are required to address the needs of those who are not yet ready to live independently at 18. Extending the duration of support up to 21 years would provide the youth with crucial time to develop the skills and stability necessary for a successful transition towards self-reliance.

This approach has proven effective in other contexts, such as the Netherlands, where legislation mandates transitional support up to the age of 21. Adopting a similar model in Belgium would ensure:

- **Enhanced stability:** Providing minors with the time and resources to address personal, educational, and professional challenges before assuming full independence.
- **Targeted outreach:** Implementing proactive measures to identify and support vulnerable youth who might otherwise disengage from assistance programs.
- **Individualised life projects:** Developing comprehensive life plans tailored to each minor's needs, focusing on education, employment, housing, and mental health support during the transition period.

Such measures would not only uphold Belgium's commitment to international standards but also equip vulnerable youth with the tools to integrate successfully into society as independent and empowered adults.

### **Coordination and Interagency Collaboration**

Effective case coordination, information exchange, and case transfer among organisations rely on five interconnected factors: timely and accurate diagnoses, awareness of all service providers, adequate capacity, informal trust relationships between professionals, and cultural competence among social workers and other professionals. While some improvements can be made within individual organisations, many of these challenges are rooted in structural issues such as time pressure, understaffing, elevated stress levels, and high staff turnover.

### **Expansion of regular migration pathways, relocation and regularization options**

To effectively protect and support UAMs, expanding regular migration pathways and improving relocation and regularisation options are important steps. The limited opportunities for minors—and those transitioning to adulthood—to secure residence permits often force them into undocumented status. This, in turn, heightens their vulnerability to precarious situations, including trafficking and exploitation.

By broadening pathways for regularisation, streamlining relocation processes, and prioritising family reunification efforts, these risks can be significantly mitigated. Addressing these challenges requires

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<sup>42</sup>Council of Europe Steering Committee for the Rights of the Child (CDENF), "*Comprehensive report on the Review of the implementation of Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors.*" . 7 January 2021, <https://rm.coe.int/cdenf-2020-04rev-life-projects-report/1680a1246d>



comprehensive action at both federal and European levels, as they stem from deeply rooted structural and policy issues that cannot be resolved at a local scale alone. A coordinated, multi-level approach is essential to ensure the safety, stability, and long-term integration of these vulnerable minors.

## National Action Plan – Croatia

### Introduction

In the last few years, we are witnesses of an increased number of unaccompanied or separated children passing through or seeking international protection in the countries of the European Union. Some data show that in 2022, people under the age of 18 made up approximately 41% of the world's refugee population (World Migration Report, 2024). When we look at the situation in Croatia, in the past five years there has been a twenty-fold increase in the number of unaccompanied children registered in the guardianship system.

The system that governs the area of protection, care and support for unaccompanied or separated children (hereinafter: UAC) in the Republic of Croatia is based on international, European and national documents according to which all forms of assistance and protection of unaccompanied children are provided. According to the Act on International and Temporary Protection (Narodne novine 33/23), an "unaccompanied child" is a citizen of a third country or a stateless person under the age of eighteen, who entered the Republic of Croatia unaccompanied by an adult responsible for them in terms of parental care in accordance with legislation of the Republic of Croatia, as long as they are not placed under the care of such a person, and it also includes children who were left unaccompanied after entering the Republic of Croatia. In the case of UAC, a special guardian is appointed, which ensures the protection of personal and property rights and interests of UAC in all proceedings before the competent authorities of the Republic of Croatia.

As part of the general efforts to strengthen the mechanisms, systems, services and infrastructures of the EU member states to better respond to the needs and rights of UAC, as part of the GUARD-UP project, an assessment of the current state of the custody system for UAC in the Republic of Croatia was carried out. The Center for Missing and Exploited Children, which conducted this assessment, and the GUARD-UP international project consortium would like to thank all the experts who participated in collecting information on the guardianship system for UAC in the Republic of Croatia, sharing their experience of working directly with UAC and their knowledge of the legal framework of the guardianship system.

### Methodology

This national action plan is the result of a comprehensive data collection, which consisted of several different steps: a review of the available legal documents governing the guardianship of UAC in Croatia, a comprehensive mapping and analysis of the existing guardianship system in Croatia through the PAS-questionnaire, and information obtained from relevant stakeholders, which were collected through a



group discussion at the meeting of relevant national stakeholders and through individual interviews with experts in the field.

The following legal documents that form the legislative framework for the care of UAC in the Republic of Croatia were reviewed:

- Protocol on the treatment of unaccompanied children (2018)
- Aliens Act (Narodne novine 133/2020)
- Law on International and Temporary Protection (Narodne novine 33/23)
- Social Welfare Act (Narodne novine 156/23)
- Family Law (Narodne novine 156/23)
- Guidelines for alternative childcare (UNICEF Office for Croatia and the Ministry of Health and Social Welfare of the Republic of Croatia, 2010)
- UN Convention on the Rights of the Child (1989)
- Council of Europe Strategy for Children's Rights (2016-2021)

The analysis of the abovementioned legal sources brought a greater understanding of the functioning of the guardianship system and facilitated the selection of relevant stakeholders who were then approached with a request to participate in data collection. Relevant national stakeholders participated in an online meeting where an extensive group discussion was held. The identified advantages and disadvantages of the guardianship system, as well as recommendations for its optimization, were further discussed in detail in individual interviews with relevant stakeholders. All interviewed participants previously submitted their written consent to participate in the interviews.

Individual interviews were conducted in a semi-structured form; the guardianship system was analyzed and discussed through the lens of the 7 standards of the European Guardianship Network (EGN), which also form the backbone of the PAS questionnaire.

Semi-structured interviews were held with social workers who have extensive experience as guardians, with legal advisors and a child protection officer. All the information obtained through the mapping, analysis and the interviews were finally summarized in the national action plan for Croatia.

## **Chapter 1: National Profile**

Croatia is almost traditionally considered a transit country rather than a destination country for many who are on a migration path, and therefore experiences a high number of children on the move. This has become more evident in the rising numbers of UAC entering Croatia in the past decade or so. According to statistics provided by the Croatian Ministry of Interior, in 2023 12,150 children expressed the intention to seek international protection, among them a total of 1516 unaccompanied children, of which 1458 were boys and 58 were girls (Report on the work of the Ombudsman for Children, 2024).



This is a very high number of UAC, especially when compared to the number seeking international protection in the years before that: in 2019 there were 70, in 2020 there were 186, in 2021 there were 195 and in 2022 there were 436 UAC seeking international protection in Croatia. These numbers, when looked at in isolation are already concerning, but it should not be forgotten that there are many UAC who enter (and leave) Croatia unnoticed, or better said, unregistered. It is also important to note that the already struggling social services are finding it difficult to cope with such increasing numbers of UAC in Croatia.

The legal framework that guides the guardianship for UAC in Croatia comprises of many various documents, some of them on national and some of them on European or international level. There are several conventions, laws and a specific protocol that address guardianship of UAC in migration in Croatia: UN Convention on the Rights of the Child (1989), EC Strategy for the Rights of the Child (2022-2027), Aliens Act (2020), Law on international and temporary protection (2023), Social Welfare Act (2023), Family Law (2023) and Protocol on the treatment of unaccompanied children (2020).

An unaccompanied child, according to the Aliens Act (2020) and Law on International and temporary protection (2023), is a third-country national or a stateless person younger than eighteen years of age who entered the Republic of Croatia unaccompanied by an adult person responsible for him or her in the sense of parental care, pursuant to the law of the Republic of Croatia, until placed under the care of such a person, and includes all children who are left unaccompanied after they entered the Republic of Croatia.

The Croatian Institute for Social Work is the regulatory body responsible for the care and protection of UAC. The Croatian legislative system predicts an appointment of a guardian by the Croatian Institute for Social Work for all UAC who enter the country. Guardians are appointed among the employees of regionally competent social work offices, and by profession they are mainly social workers. Employees of a social service setting that provides accommodation for UAC can also be appointed but this is not common. Additionally, in very rare cases, guardians are named from the circle of foreign nationals with whom the child is found. To be appointed, workers do not need to be specifically qualified as guardians, outside of the prescribed qualifications they need to possess to be employed in the Croatian Institute for Social Work or care setting. Specialized educations are held periodically but are not a strict requirement for the appointment as guardian.

As an exception, an UAC over the age of 16 who is married will not be appointed a guardian. It is prescribed that the UAC must immediately be informed of the appointment of a special guardian, who will facilitate the submission of a request for international protection for the UAC. The special guardian is obliged to prepare the UAC for the hearing regarding the approval of international protection in a timely manner and provide him with information about the meaning and consequences of the hearing in a language that he can reasonably be expected to understand and in which he can communicate. Outside of the legal process concerning the approval of international protection, and regardless of whether UAC are placed in homes for children without adequate parental care (if they are under 15 years old), in social welfare institutions for children with behavioral problems (if they are aged 15 to



18) or to reception centers for international protection seekers (for UAC over 16), the guardians have the same duties, rights and responsibilities for all UAC under their care.

## Chapter 2: Assessment of the guardianship system

Unaccompanied children, having fled their home countries due to conflict, persecution, or disaster, often find themselves in vulnerable situations. Guardianship systems play a critical role in providing these children with the care, protection, and support they need to thrive. Conducting assessments of guardianship systems serves different purposes: from evaluating the effectiveness of existing guardianship systems (which can include examining the legal frameworks, administrative procedures, and the quality of care provided to UAC), identifying gaps and challenges by pinpointing areas where the system may be falling short, and making recommendations for improvement, based on the findings of the assessment and proposing specific actions to enhance the system's capacity to protect and support the UAC. By conducting a comprehensive assessment, valuable insights are gained into the strengths and weaknesses of a particular guardianship system. This knowledge can empower us to implement evidence-based reforms that promote the best interests of these vulnerable children and ensure their long-term well-being. Results of such an assessment of the guardianship system in Croatia are laid out in this chapter.

The appointment of a guardian for all UAC is provided for in the Social Welfare Act, the Family Law, as well as the Law on International and Temporary Protection and the Aliens Act. It is also prescribed by the Protocol on treatment of unaccompanied children. The system that governs the area of protection, care and support for UAC in the Republic of Croatia is based on international, European and national documents according to which all forms of assistance and protection of unaccompanied children are provided. The system of managing guardians appoints them for all UAC in migration. If it is established that UAC already has an appointed guardian, an expert worker of the Croatian Institute for Social Work or a police officer will invite the appointed guardian to participate in further procedures for the unaccompanied child. Regardless of whether UAC are placed in homes for children without adequate parental care (if the children are under 15 years old), in social welfare institutions for children with behavioral problems (if the children are aged 15 to 18) or to reception centers for international protection seekers in Zagreb or Kutina (for children over 16), the appointed guardians have the same duties, rights and responsibilities for all UAC in migration. The standard of care for UAC (which applies equally to the whole territory of Croatia, given that the regionally competent offices of the Croatian Institute of Social Work are present throughout the country) is prescribed by the Protocol on Treatment of Unaccompanied Children, which seeks to establish a solid and efficient national system in procedures for UAC. The provision of equal guardianship services to all UAC within the state territory, irrespective of their place of residence, age or immigration status is mandated by the existing legislative framework.

UAC in Croatia can depend on a guardianship system that has a clear legal basis, a responsible authority and monitoring and accountability mechanisms in place. Relevant laws and the Protocol on Treatment of Unaccompanied Children provide the legal basis for guardianship by prescribing the duties of a

guardian. The professional requirements refer only to the conditions of employment of professional workers in the Croatian Institute for Social Work; no special conditions are prescribed for performing the duties of a guardian and there is no additional vetting process. There are also no special training requirements. There are also no formalized monitoring procedures (the guardian is only required to submit a report on his work when requested, and a final report on his work with the UAC when the case is closed – this serves as a type of verification and supervision of their work) or external independent monitoring procedures. Mechanisms of responsibility are not additionally prescribed, apart from the responsibilities of the guardian which are specified in the Protocol on the treatment of unaccompanied children and their professional responsibilities arising from their position in the Croatian Institute for Social Work. According to the Protocol on the treatment of UAC, guardians have duties and obligations to cooperate with various other stakeholders, but they often cooperate with additional institutions and persons not listed in the Protocol. In their work, the guardians are governed by the ethical code of their respective profession and of the Croatian Institute for Social Work.

All UAC in Croatia can depend on their guardians being independent and impartial when taking decisions in their best interest. Impartiality and prioritizing the best interests of the child are paramount in guardianship for UAC, given that UAC are often traumatized, confused, and in a general state of vulnerability. They need a guardian who is trustworthy, reliable, and solely focused on their well-being. An impartial guardian can provide the necessary support and guidance without personal biases or ulterior motives. They can also make critical decisions on behalf of the child, such as placement, education, and healthcare. Impartiality ensures that these decisions are based on the child's needs and rights, rather than personal preferences or potential conflicts of interest. Furthermore, an impartial guardian can protect the UAC from exploitation, abuse, and trafficking by acting in their best interests and ensuring their safety and security. To help foster a sense of belonging and identity, a guardian must also be culturally sensitive and respectful to the beliefs, traditions and customs of the UAC. Guardianship is not just about immediate needs; it's about shaping the child's long-term future. An impartial guardian can help the child develop essential life skills, build resilience, and achieve their full potential. The Croatian guardianship system for UAC functions in such a way that it is independent of the authorities responsible for identification of a child as UAC but is under the same jurisdiction as the authority delivering the care services. This ensures optimal communication within the system. The appointment of a guardian does not require the involvement of a judge, and all organizations, institutions and individuals whose interests are in conflict with the interests of the UAC are effectively excluded from the care of UAC. Appointed guardians have the authority to intervene and make independent and impartial decisions, assessments, actions and representations guided by the best interest of the UAC.

Guardians (and the whole guardianship system) have an obligation to respect, protect and fulfill children's rights. The purpose of the Protocol on the treatment of UAC is to define the bearers of obligations, methods and deadlines for dealing with unaccompanied children, with the aim of timely and effective protection of their rights and interests. The guardian appointed by the Croatian Institute for Social Work office is involved in the following processes concerning a UAC in migration: identification of an unaccompanied child, expression of intention during the identification process,

initial health examination, age assessment, accommodation, healthcare, international protection, temporary residence for humanitarian reasons, inclusion in the educational system, inclusion in society (integration), search for family members, return procedure. In practice, a guardian may be instructed to represent the rights and interests of the child in general, but may also be specifically instructed to have, for example, the authority to reunite the UAC with their family. Determining the best interests of the UAC is entirely within the competence of the appointed guardian, the discussion on return and reintegration is supported by the guardian, while local integration is mainly carried out by the institution where the UAC is placed and carried out with support of the guardian.

UAC are encouraged and enabled to speak out and influence, participate in and contribute to the review of the guardianship system, although there is no formal procedure established. Their guardian is obliged, among other things, during the introductory interview with the UAC to enable them to express their views and needs and file a complaint. Providing the UAC with a secure channel to speak out about their needs or to express concerns or complaints about the work of their guardian or any other professional supporting them is crucial as it empowers children by giving them a voice and agency in decisions that affect their lives. This can help them feel more in control and less vulnerable. It also holds guardians accountable for their actions and ensures that they are fulfilling their duties in the best interests of the child. Another benefit is that it helps to identify potential issues or problems with the care provided by the guardian. This feedback can lead to improvements in the quality of care and protection offered to the child. By allowing UAC to freely express their concerns and wishes the system can support the building of trust between the child and the guardian. Knowing that their concerns are heard and valued can strengthen the relationship and encourage open communication on both ends. Finally, it can help to prevent abuse or neglect by providing a mechanism for children to report any mistreatment or inappropriate behavior. Within the Croatian guardianship system for UAC there is no predetermined maximum number of cases which a single guardian can have, and there are also no requirements for the number of contacts/visits a guardian must have with the UAC. Similarly, there is no specifically created care plan for UAC. Guardians do not receive supervision for their work with UAC.

When it comes to collaboration and sustainability, UAC can depend on the guardianship system to be an integral part of the Croatian national child protection system. The guardianship system has secure funding but there are practical difficulties in the work of guardians, given that their work as guardians is but a part of their job. They do however, efficiently and effectively cooperate with all relevant bodies/persons involved in the care of a UAC. This coordinated approach ensures that the child's diverse needs, including physical, emotional, educational, and legal needs, are comprehensively addressed. Moreover, it helps identify and mitigate potential risks, such as exploitation, abuse, or neglect, that UAC may face. Through joint work, relevant bodies and persons can create a supportive and protective environment for UAC, helping them to overcome challenges and build a positive future.

### Chapter 3: Gaps and good practices of the guardianship system

While the Croatian guardianship system for UAC aims to provide for specialized care and protection to ensure their specific needs are met in the best possible way, there are areas where improvement is needed. As part of this assessment, interviews were held with various experts from different backgrounds but who are all working with(in) the guardianship system for UAC in Croatia. Interviewed were social workers who have many years of experience of being guardians for UAC, legal experts who provide legal support for UAC as well as experts who have worked on the development of the Protocol on the treatment of UAC.

The number of UAC arriving or passing through Croatia has increased extensively in the last few years and they represent a significant number of users of the national social welfare system. The first identified shortcoming of the system is the absence of a unified system for collecting information about UAC, which could be accessed equally by all stakeholders involved in working with UAC. In practice, each authority keeps its own records, without a timely exchange of information between different systems, which is why unique information on the number of UACs in Croatia is often inconsistent. Employees of the guardianship system for UAC are under a heavy burden, especially those professionals who are appointed as guardians for UAC (mainly social workers). From a practical point of view, it is positive that guardians for UAC are appointed from among the employees of the social welfare system, given that the same system (i.e. the same relevant ministry) is responsible for placing unaccompanied children. This facilitates cooperation between the various stakeholders who care for the UAC. However, considering that guardians perform other work tasks that are part of their job in addition to the role of the guardian, this means that they are under a heavy workload and do not have enough time to dedicate themselves to every UAC case. When they are appointed guardian they must make the UAC case a priority, which means their other cases must be put on hold, which additionally burdens the social welfare system. Also, they often have to be at the disposal of the UAC or other institutions dealing with the UAC at outside of regular working hours, which makes their work even more difficult.

Furthermore, given that UAC are a unique group of users with specific problems, guardians require a special education for their work. From the experience of the experts interviewed, such trainings are held but it is not mandatory to participate in them before being appointed as a guardian. This can sometimes be problematic, given that all guardians have a different work experience, different knowledge of the legal framework for UAC protection, or varying degrees of motivation to work on UAC cases (they cannot choose whether or not they want to be appointed as a guardian). As the interviewed experts unanimously point out, the most important thing for successful work with UAC is the professional knowledge of the guardian. We point out as positive the practice mentioned by the legal advisers, the one where guardians who are appointed for the first time turn to legal advisers to support them in their work. Furthermore, the absence of specifically prescribed conditions for the appointment as guardian, apart from the conditions for employment in the Croatian Institute for Social Work, is also problematic. Any of the professional workers of a regional office can be appointed guardian, but mostly they are social workers, since they acquire important knowledge about the legal

framework of child protection in Croatia through their professional qualification process. As already stated, UACs are a special population with unique needs, which makes it very difficult to standardize case management. This was attempted by the introduction of the Protocol on the treatment of UAC, but it is not a binding legal act: it only provides guidelines for various stakeholders. In addition, there is no precisely prescribed number of contacts that guardians are required to have with the UAC, so some do not make any contacts with the UAC beyond the initial one due to their large scope of work.

Another identified shortcoming of the guardianship system for UAC in Croatia is the absence of a formalized mechanism for monitoring and evaluating the work of guardians, as well as the absence of formalized involvement of UAC in these processes. Guardians are required to submit a final report on the UAC case and ad-hoc reports if explicitly requested. Apart from this, their work on a specific case of a UAC is not monitored in some standardized way. For their work with UAC, custodians also have no supervision to facilitate their coping with the demands of this role. In addition, there is no formalized way for UACs in Croatia to submit objections and complaints about the work of their guardians. At the first meeting with the guardian, according to the Protocol, they are informed on their right to participate and decide in all processes and procedures that concern them, but there is no official way of filing a complaint on the work of their guardians.

The pattern of UAC behavior that the interviewed experts describe as very frequent in the last few years is the one where UAC enter Croatia, they are appointed a guardian and placed in an institution, and immediately run away from Croatia, since it is just one of the stops on their way to a destination country. This increases the scope of work for the guardians, since they are always appointed but the UAC immediately leaves the country. For this reason, some regional offices of the Croatian Institute for Social Work decided to temporarily change their mode of work with UAC, in such a way that the guardian is not appointed immediately but after a certain time when it becomes clear that they will remain in Croatia, i.e. under the jurisdiction of a certain regional office. This is often the case in areas that are more saturated with the influx of UAC, as additional staff/guardians are rarely hired to take on these jobs. Due to a rapid fluctuation of UAC in Croatia, guardians and other stakeholders who work directly with them do not have the opportunity to carry out screenings to identify the risks they are (were) exposed to on their migration journey, nor for counseling or empowerment to stay. In addition to the lack of opportunities for screening, experts point out the lack of appropriate follow-up for UACs who leave Croatia with the aim of, for example, reuniting with their families.

Finally, as the most important shortcoming in the system of care for UAC in Croatia, all the interviewed experts pointed out the inappropriateness of the accommodation. Since the care facilities for children without adequate parental care are continuously at capacity, it is a long-standing practice to place UAC in institutions for children with behavioral problems or even shelters for adult asylum seekers. This is inappropriate on several levels and exposes them to numerous risks (e.g., stigmatization, traumatization, neglect, violence, abuse and human trafficking, among others). A few years ago an initiative was launched to establish foster care for UAC, which is very commendable, but no significant progress was achieved, with very few UAC being fostered.

## Chapter 4: Recommendations

This section presents a series of recommendations aimed at improving the guardianship system for UAC in Croatia. They are based on the comprehensive analysis of current practices and expert opinions attained through detailed interviews. The goal is to enhance the protection, care, and well-being of UAC, ensuring their rights are upheld and their best interests are prioritized.

Although long-term stay in a care facility can be harmful for children, it has been pointed out repeatedly in this assessment that the establishment of a specialized care institution for UAC would be of extreme value. The proposed specialized institution has long been the topic of debate within the social welfare system, with opposing views for its establishment. Some believe that it would be a positive development as it would address the burning issue of the inappropriateness of the placement currently offered for UAC in Croatia. They would no longer be placed in care homes for children with behavioral difficulties or shelters for adult asylum seekers, which would significantly reduce the risks they are exposed to. It would also allow the opportunity for comprehensive assessments (including but not limited to medical assessment, risk assessments, psychological and educational assessments and support, legal support) that could inform a detailed long-term care plan. UAC would, in this way, have access to all relevant services “under one roof”, which would support their empowerment and facilitate access to information. Furthermore, it is known that the best care for UAC is provided when the guardian and the child in question are in close physical proximity. It would allow for trust building opportunities and connection on a more human level. It was also noted that there are sometimes notable differences in the engagement between different guardians. Via an establishment of an institution of this type it would be possible to employ only experts who are highly motivated to work with UAC and who would only be working with UAC, in comparison to the now existing practice of appointing a guardian who has other work tasks outside of the work with UAC. However, the establishment of this type of institution must be carefully planned and executed, as it should be organized in such a way that the UAC are only placed for a short, limited period, during which they are empowered to access the necessary services and supports.

Complementary to the first outlined recommendation, there is a consensus between the experts in the field of social welfare and working with UAC that the professionalization of guardianship would immensely improve the care for UAC. It would allow for motivated experts to be specifically trained and educated to work with UAC. They could then provide specialized and comprehensive care for UAC, focusing on the subjects of risk assessment and prevention, child protection, legal rights, cultural sensitivity, trauma-informed care, and understanding the specific needs of UAC. It would provide manageable caseloads, allowing them to dedicate adequate time and attention to each child's needs. Moreover, it would ensure regular supervision and support mechanisms are in place to ensure guardians receive guidance, address challenges, and maintain high standards of care, as well as ensure continuous monitoring and evaluation of their work in a formalized way. Guardians' roles and responsibilities would be clearly defined, ensuring accountability and efficient coordination with other stakeholders and they would have access to necessary resources, including financial support, administrative assistance, and access to specialized services like legal aid and counseling. An important

aspect of caring for UAC is ensuring they understand their rights and avail of the supports they have at hand. As noted by the interviewed experts, there is a need for specifically designed, well-thought out and easily accessible resources that enable children to understand their rights and possibilities.

Additionally, it is agreed that there is a need to promote foster care for UAC in Croatia. There have been initiatives which focused on this, but there has not yet been a significant increase in the number of UAC who are placed in foster homes. Promoting foster care for UAC is crucial for several reasons: foster care provides a safe and stable environment for children who have experiences of trauma and displacement, it offers them a sense of belonging, protection, and a chance to heal; foster families can provide emotional support and nurturing that these children often lack, helping them cope with their experiences and build resilience; foster care can facilitate access to education, ensuring children have the chance to learn and develop their potential; foster families can help children maintain their cultural identity and heritage, which is vital for their sense of self and belonging; a stable foster care placement can have a positive impact on a child's long-term well-being, increasing their chances of success in education, employment, and forming healthy relationships. By promoting foster care, we can offer unaccompanied children a brighter future and help them reach their full potential. Moreover, it would also reduce the burden on the already struggling social welfare system and prevent UAC from being placed in inappropriate settings.

Digitalization and centralization of data collection in relation to UAC could also significantly improve the guardianship system, firstly by offering a single, unique number of UAC on state territory. Digital systems provide efficient and secure data collection, storage, and retrieval, ensuring that critical information about each child is readily accessible to all relevant stakeholders. Real-time tracking of case progress, including legal proceedings, medical appointments, and educational placements, allows for better monitoring and coordination of services. Also, secure information sharing between different agencies involved in the care (e.g., social services, immigration authorities, healthcare providers) improves communication and collaboration. Such improvements could streamline administrative processes, which are known to be bottlenecks in the care for UACs in Croatia and provide a clear audit trail, enhancing accountability and ensuring that the best interests of the child are always prioritized.

Last but not least, in 2022 an Interdepartmental Commission for the Protection of Unaccompanied Children was formed. It was established with the aim of improving the interdepartmental cooperation of competent authorities and other stakeholders involved in the protection of UAC. It discusses the current situation of unaccompanied children in the Republic of Croatia and draws conclusions on improving cooperation and protection of unaccompanied children. It has the potential to influence and govern the guardianship system but insofar it has not been achieving its full potential. It is necessary to empower this institution, to ensure the best possible care for UAC.



## National Action Plan – Cyprus

### Introduction

The **GUARD UP: Empowering guardianship systems to improve the guidance of unaccompanied children** project aims to promote and facilitate a change and an improvement to the guardianship system for unaccompanied migrant children in 6 EU countries including Greece, Italy, Poland, Cyprus, Croatia and Belgium. The main outcome that the partnership is working towards is to improve the care, protection and support that is provided to unaccompanied migrant children by their guardians, and reduce the exploitation, abuse and other forms of harm experienced by this vulnerable group.

To achieve this, the project will be focusing on building capacity among guardians and stakeholders, conducting a comprehensive review of existing guardianship arrangements, developing an online forum for guardians, and monitoring and evaluating the project's activities on a regular basis to ensure long-term sustainability.

This document presents an Action Plan which is divided into three main parts. Firstly, it will outline the policy framework that exists at national level related to guardianship for unaccompanied minors including a review of relevant policy documents and initiatives. The second part will focus on the assessment of guardianship, including the responsibilities of the guardians and exploring how the best interests of the child are taken into consideration within the legal guardianship system and us processes throughout this whole process. Finally, the good practices together with the gaps identified will be presented before proceeding to recommendations.

### Methodology

Gathering information on the guardianship system involved the use of two methods. Primarily, the researchers began with desk research, identifying what information is available before proceeding with interviews with guardians and local authorities who are responsible for the guardianship of young migrants.

#### Desk Research

The researchers focused on gathering information through the review of academic and grey literature and national law. The desk research drew particularly on the Refugee Law of 2000 (6(I)/2000) the Children's Law Chapter 352 and other secondary sources like the website of the Ministry of Interior, legislations from UNHCR that are applicable to Cyprus, and materials produced by the European Commission and different NGOs that deal with the guardianship system for unaccompanied minors and are related to Cyprus. Guardianship falls within the scope of work of the Social Welfare Services (SWS) since the SWS is responsible for the protection of young migrants.

#### Interviews

To enhance the information gathered during desk research, the researchers arranged interviews with people actively working in the field of guardianship. The interview allowed the opportunity for the

researchers to discuss with the experts while gathering answers to the questions raised. For Cyprus, many practices were not described adequately in papers that were found online, making it difficult to explicitly present the process followed. Moreover, the interview shed light to questions surrounding financial and human resources as well as the way that the SWS schedules training courses for guardians.

## Chapter 1: National Profile

The migration crisis over the last decade has intensified dramatically with European countries receiving a large influx of migrants, especially asylum seekers, into their territories. In 2012, Cyprus hosted only 26 unaccompanied children (UACs), in 2016, 224, and by October 31, 2022, the number of UACs hosted in Cyprus was 1200. The number of unaccompanied minors is on the rise with a lot of them arriving in the country via the sea route. According to the Eurostat statistics for 2023, first-time applicants of asylum below the age of 18 in Cyprus reached the number of 2135. This is a little bit lower than in 2022, which reached 2150 first-time applicants aged less than 18 years old in the EU and EFTA countries.

In Cyprus, the national legal framework for asylum seeking children is governed by the Refugee Law from 2000 to 2023 (Law No. 6(I) of 2000), the UN Convention of the Rights of the Child, ratified on 7 February 1991 and incorporated as Law N. 243(II) 1990 (later amended by N. 5(III) of 2000), and the European Convention on the Exercise of Children's Rights which was ratified by the Republic of Cyprus on 25 October 2005 and incorporated as Law N. 23(III) of 2005.

The national child protection law provides for the appointment of guardians, in cases where a child's parental care is absent, as soon as he/she enters the Reception Center in Pournara and applies for international protection. The guardian should be appointed as soon as possible and no later than five working days after an unaccompanied child makes an application. In such cases, the Asylum Service is notified and must immediately notify the Director of the Social Welfare Services (SWS) of the incident. According to the Refugee Law, the Director of the SWS acts, either in person or via an officer of the SWS, as the legal representative of the unaccompanied minor with the representation of the child resting under the SWS throughout the asylum procedures. The only time when this is except is for any judicial proceedings. In such cases, a legal representative is appointed to the unaccompanied minor by the Commissioner for Children's Rights.

Most Member States provide a general description of the qualifications required to become a guardian. In institutional guardianship the guardian role is generally given to an employee of the institution; the guardian must comply with the general professional requirements of their employer. Often, these guardians will be social workers, legal professionals or psychologists, while they should also receive appropriate initial and ongoing training. In Cyprus, all Social Services Officers (inc. guardians) have a University Degree in the fields of social work, psychology, sociology etc. and are registered and certified professionals.

Before starting their duties, all newly appointed Social Services Officers (guardians) attend a comprehensive training on issues related to Applicants of International Protection and unaccompanied minors including training on the Refugees' Law 2000-2023, the Asylum procedures as well as their role and responsibilities. Also, Social Services Officers who act as guardians receive ongoing training on issues related to asylum procedures and how to work together with the unaccompanied minors. It is important that guardians dealing with children with particular needs, such as victims of trafficking or torture, have the knowledge and skills to detect as well as the expertise to respond effectively. However, it has been noticed that in Cyprus there is a lack of 'double' legal knowledge in children's human rights and refugee and migration law, which is a major factor contributing to the failing to understand in a more holistic and spherical way the duties and tasks of guardianship.

In regard to support being offered to the guardians, they all are subject to inspection from their supervisors, who are individuals that have more expertise and knowledge in the field. Apart from the knowledge exchange, the supervisors also offer their support when needed. The SWS strives for more training courses and workshops to be offered to the guardians, to continuously improve the quality of support that is offered both to them and to the unaccompanied minors.

## Chapter 2: Assessment of the guardianship

### 2.1 Non-discrimination - Equal guardianship services for every child:

If the Asylum Service determines that the applicant is in need of special procedural guarantees, he or she shall be provided with sufficient support in accordance with subsection (6) of Article 9 of the Act, including sufficient time to enable the applicant to enjoy the rights and comply with the obligations of this Act throughout the international protection procedure and to enable him or her to present the evidence required to substantiate the application.<sup>43</sup>

In particular, for children who display a certain vulnerability, appropriate care is required and he or she is placed in a frame that can provide the necessary care and support the child's needs (e.g. a child who has diabetes and has a history of epileptic seizures, a setting should be sought where immediate medical care for the child will be ensured as well as psychological support, thus indicatively: close to an urban area, in particular a hospital, and a carer and/or a 24-hour nurse is available who can respond to respond to the child's needs).<sup>44</sup>

Children shall benefit from equal guardianship services and treatment within the territory of the State, regardless of their place of residence, their age or their immigration status.<sup>45</sup> Thus, in Cyprus the law that provides the guidelines for unaccompanied children and the procedures that need to be followed are the same for all children, regardless of age, gender, status or ethnicity. Every child has the same needs and rights and exclusion or discrimination to a specific group of unaccompanied children is

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<sup>43</sup> Refugees Law of 2000 6(I)/2000 <[Ο περί Προσφύγων Νόμος του 2000 \(cylaw.org\)](http://www.cylaw.org)>

<sup>44</sup> K. Browne (2018) 'MANUAL for the STANDARD PROCEDURES & INSTRUCTIONS for GUARDIANS' [Handbook cypriot-version\\_2020.pdf \(asop4g.eu\)](https://www.asop4g.eu/Handbook_cypriot-version_2020.pdf)

<sup>45</sup> European Guardianship Network 'Standards of Guardianship' [Flyer-EGN-A4 tweeluk Greek.pdf \(egnetwork.eu\)](https://www.egnetwork.eu/Flyer-EGN-A4_tweeluk_Greek.pdf)

criminalized. Additionally, fair and equal access to all public entities and authorities within the Republic of Cyprus, for all unaccompanied children is guaranteed without any exceptions or discriminations.

## 2.2 Accountability & responsibility – Clear legal basis, responsible authority & monitoring mechanism in place (key provisions related to the appointment and roles & responsibilities of the guardians):

The national legal framework for asylum seeking children is governed by the Refugees Laws on from 2000 to 2023 (Law No. 6(I) of 2000), the UN Convention of the Rights of the Child, ratified on 7 February 1991 and incorporated as Law N. 243(II) 1990 (later amended by N. 5(III) of 2000), and the European Convention on the Exercise of Children's Rights which was ratified by the Republic of Cyprus on 25 October 2005 and incorporated as Law N. 23(III) of 2005.<sup>46</sup>

National child protection law provides for the appointment of guardians when a child is deprived of parental care (after entering the Pournara Reception Center and submitting an application for international protection). In Cyprus, when an application for asylum is lodged by an unaccompanied child, the head of the Asylum Service is notified, who must subsequently notify the Director of the Social Welfare Service (SWS). The Refugee law provides that the Director of SWS acts, either in person or via an officer of the SWS, as the representative of the unaccompanied child. Representation of the child remains within the SWS throughout the asylum procedures except for judicial proceedings where the Commissioner for Children's Rights is responsible for appointing a legal representative. According to law, guardianship has an automatic and immediate effect, thus, a person or an organization should be appointed as guardian as soon as possible and no later than five working days after an unaccompanied child makes an application. When an organization is appointed as representative, it must designate a person to carry out the duties of a guardian.<sup>47</sup> In practice, the representation is done by the Social Welfare Services, specifically by the child's appointed Guardian. During the interview, the representative is always present.

The Head of the Social Welfare Services shall regularly carry out assessments, including an assessment of the availability of the necessary means to represent the unaccompanied minor. The Deputy Ministry of Social Welfare shall take into account this assessment, giving any relevant instructions to the Director of Social Welfare Services and taking any other necessary measures for the effective representation of unaccompanied minors, as stipulated in Article 2(A) of the Refugees Law 2000 (6(I)/2000).<sup>48</sup> From July 2022 SWS are under the Deputy Ministry of Social Welfare Service.

There is no specific guardianship authority in Cyprus carrying the tasks mentioned above. The Director of the Social Welfare Services is considered the legal guardian of unaccompanied children, with officers from the SWS acting on her behalf as guardians. The SWS is the entity providing the guardians with the necessary support and guidance.

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<sup>46</sup> Children 's Law Ch. 352 [Ο περί Παιδίων Νόμος \(cyllaw.org\)](http://cyllaw.org)

<sup>47</sup> Fundamental Rights Report (2022) [Fundamental Rights Report 2022 \(europa.eu\)](http://europa.eu)

<sup>48</sup> Refugees Law 2000 (6(I)/2000) [Ο περί Προσφύγων Νόμος του 2000 \(cyllaw.org\)](http://cyllaw.org)

## 2.3 Independence & impartiality – The best interest of the child:

### **2.3.1 Best interest of the child:**

The best interest of the child is the main aim of the Director of the SWS as well as safeguarding his/her interests. Upon arrival, the child is asked if there are any relatives or family friends in Cyprus. The officer examining the case will take the child's views and wishes into consideration, regarding who will be the carer of the child, but not in terms of guardianship as that is entirely the responsibility of the Director of the SWS. However, it is worth mentioning that not all wishes can be accommodated, as there are instances where the child might want to stay with a relative, but due to other circumstances this is not possible and vice versa. This means that there are cases where the relative might be the one requesting for the child to stay with them, however this cannot always be guaranteed. The guardian takes all aspects into consideration and listens to the child carefully to ensure that anything that is done is in the best interests of the child.

Additionally, there are various mechanisms to address various inquiries or complaints of unaccompanied children, including the development of a 'complaint box' where each child can write down all their complaints or anything that may concern them and put it in the box. This tool works as a complaint mechanism where the child's voice and complaints are heard irrespectively and solved impartially in the best interest of the child.

The Commissioner of the Rights of the Child has the right to interview unaccompanied minors in an informal manner with the aim of gathering their thoughts and identifying whether there is anything they have issues with. Thus, the Commissioner's right to talk to children is another important tool that the child can use as a way to communicate a complaint or an issue.

Finally, if the minor lives with a family member, they most likely share their concerns and complaints with them as most of the time that member is worth their trust. The relative is in communication with the allocated social worker and has the chance to share the thoughts that the child has discussed with them. However, we need to highlight that whenever other actors are close or closer to the child, they are consulted throughout a best interest assessment and determination process. 'Other actors' refers to NGOs, professionals in the education field, mental health professionals etc. Although the United Nations' guidelines for the alternative care of children emphasize that unaccompanied children should enjoy the same rights to care and protection as citizen children.<sup>49</sup> Yes (United Nations, 2009), their level of protection and care, varies across Europe (Barrie and Mendes, 2011).

### **2.3.2 Independence & Impartiality:**

Generally, based on the Law, the Director of the Social Welfare Services (SWS) is not allowed to appoint a child to a guardian that has a direct or indirect connection with the child. Also, since the SWS is not involved at any point in the examination of any asylum requests and are just allocated for guardianship

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<sup>49</sup> L. Barrie, P. Mendes (2011) 'The experiences of unaccompanied asylum-seeking children in and leaving the out – of – home care system in UK and Australia: A critical review of the literature' [The experiences of unaccompanied asylum-seeking children in and leaving the out-of-home care system in the UK and Australia: A critical review of the literature - Larissa Barrie, Philip Mendes, 2011 \(sagepub.com\)](#)



purposes, it is safe to mention that the operation of the procedures from the guardians is indeed impartial.

In general, Cyprus follows the same law and procedures that are followed in the EU, meaning that the main aim is to safeguard and secure the well-being, human rights and social inclusion of the child thus, any political clashes will not prevail. When a child enters the Republic of Cyprus, all competent authorities and NGOs who support with the unaccompanied minors should protect the child and act upon their best interest until they reach adulthood.

#### 2.4 Child Rights Centered – Respecting, protecting and fulfilling children’s rights:

The child’s rights and well-being are prioritized by the guardians and the guardianship system in general. The Refugees Law provides applicants with the right to apply for asylum and to be treated fairly with respect for their individual application. Article 10 of the Law states that in case the applicant is an unaccompanied minor, the authorities before whom the application is submitted, and/or the competent officer, shall immediately notify the head of the case and the Director of SWS. The Director then shall act as the guardian of the said child and under the Law and its implemented regulations, shall take all the necessary measures on behalf of and in the interest of the child.

#### 2.5 Child’s participation – The right to be heard:

The right to be heard is embedded in the legislative frameworks of all Member States through general or specialized law instruments, including sometimes in relation to guardianship. Hearing the child and considering their views on matters that affect them should be part of the day-to-day practice of guardians, social workers and other persons working with migrant children. This is sometimes specified in guidelines, regulations or protocols. For instance, in some EU countries the child is given the opportunity to be heard before the appointment of a guardian and has also discretion over choosing the gender of their guardian.

Cyprus appoints a guardian or legal representative in less than a week, through the Social Welfare Services. The institution generally appoints a contact person for the child internally among the staff already employed. For example, in Cyprus, Social Welfare Services is automatically appointed as guardian by law. Twelve EU Member States have mechanisms to provide unaccompanied children with a person of support from their first contact with the police or at the border. These support persons may not be assigned legal representation but can play an important supporting role. Such a mechanism is not implemented in Cyprus.

#### 2.6 Quality - Qualifications and trainings/support for guardians from stakeholders:

There are no fixed training courses or educational workshops within the SWS for guardians. The training and educational workshops are adapted and prioritized based on the needs of the guardians, or the social workers employed by the SWS in general, and the children. There is a specific department within the SWS that specializes in organizing trainings and workshops for all the employees of the SWS irrespective of whether they are guardians or not. The service, however, benefits from any training organized through NGOs, the EU and other government funded training courses that are organized at regular times, allowing Social Services Officers to enhance their knowledge in the field.



Before starting their duties, all newly appointed Social Services Officers (guardians) attend a comprehensive training on issues related to Applicants of International Protection and unaccompanied minors including training on the Refugees' Law 2000-2023, the Asylum procedures as well as their role and responsibilities. Also, Social Services Officers who act as guardians receive ongoing training on issues related to asylum procedures and how to work together with the unaccompanied minors.

All social services officers are continuously supervised by their supervisors, who are individuals that have more expertise and knowledge in the field. In addition to the initial training after their employment, guardians also attend training sessions that are held at regular intervals and on the basis of the needs of the individuals. However, there is no set schedule for the training that a caregiver must attend. This is prepared and adjusted based on availability and needs.

The training sessions are held at regular intervals and on the basis of the needs of the individual. However, there is no set schedule for the type of trainings a caregiver must attend (the schedule is adjusted based on availability and needs).

Thus, there are no fixed trainings or workshops that are carried out, whereas the SWS choose to adapt its trainings and workshops based on its needs and on tasks that require higher expertise and knowledge.

### 2.7 Sustainability and collaboration - Guardianship systems are an integral part of the national child protection system:

Usually, the guardian cooperates with the Cyprus Asylum Services and the Police in the first stages when a child arrives in the country. In these cases, the guardian has the chance to be informed about the background of the minor (if he/she wants to share more information) but also how the child came to the island. The collaboration between agencies, private organizations and guardians is of significant importance to identify any issues and how to move forward. The SWS also cooperates with the Ministry of Education for the educational aspect, for every child to be able to enroll to the national educational curriculum, despite their educational background. They also cooperate with the Ministry of Health to safeguard the healthcare of the child, as well as with the Ministry of Justice and Public Order to secure the legal support and representation of the child in any court proceedings. In other countries there is a lawyer that represents the child, however in Cyprus, if there is a need for a court hearing, the Commissioner for the Rights of the Child appoints a legal representative for the child in cooperation with the SWS. Generally, it is important to note that a child cannot be deported from the country; this is a fundamental right that is enshrined in both national and international law and prevails.

Thus, there is a general cooperation and collaboration between ministries and other actors like NGOs to protect and safeguard unaccompanied children, their smooth integration to the community and fair access to their rights.

## Chapter 3: Gaps and Good practices of the guardianship system

While the guardianship system in Cyprus is constantly trying to adapt to the increasing needs that the country is faced with, there are some gaps that should be addressed for the better operation of the system. Having said that, there are also good practices incorporated into the guardianship system in Cyprus. Both the gaps and challenges are outlined below.

### 3.1 Gaps:

Primarily, the appointed guardians are often required to handle the cases of a large number of children due to the increasing demands that rise from the continuous flows. Nonetheless, a guardian constantly switching between cases is a fact that can cause a gap to the frequent and quality communication with each individual child. Therefore, there is need for additional training and allocation of guardianship duties to more people to ensure the better caring of the child, and a chance for establishing a closer relationship with the child based on adequate communication and more trust.

Another gap that has been identified is the absence of independent legal representation for the child, separate from the guardian. Currently, in cases where legal representation is needed, the guardian seems to hold dual roles that may often conflict. So, it is crucial for the system in Cyprus to find ways where these are separated, so that the roles and responsibilities that the guardian holds, are clear also towards the child.

### 3.2 Good practices:

On the other hand, however, as Cyprus continues to welcome a large number of migrants in its territory, the authorities involved have managed to develop a guardianship system that other EU countries have described as “organized”, “supportive” and “well-thought”.

To begin with, the fact that guardianship is assigned under a single entity is an example of good practice. Guardianship in Cyprus, according to the law, is under the authority of the Director of the Social Welfare Services and is being exercised either directly from the Director of workers at the SWS which are trained and assigned to this position. In this way, it is ensured that no time is lost in procedural formalities and that guardianship responsibilities are centralized, avoiding the complications of shared oversight among multiple actors or entities.

Moreover, the individuals who are selected to be guardians have a relevant degree. More specifically, they are either social workers, psychologists or sociologists, meaning that they have a clear understanding about the social sphere, especially the local one in Cyprus. The fact that the background of the workers is the same or similar shows consistency, which significantly contributes in a positive way to the overall system followed. In Cyprus, the guardians are all under the Director of the SWS and are constantly supervised by their superiors. Apart from the SWS, support dealing with unaccompanied minors is also coming from other authorities, such as the Asylum Service and the Police. Moreover, local agencies such as IOM and UNHCR provide their assistance both in the primary phase, thus when an unaccompanied minor first arrives in the country, and subsequently when the minor needs to be placed, either in institutionalized care (shelter for unaccompanied minors, semi-independent living



programme if over 17, or in case they have relatives and are approved by the appointed guardian to move in with them.

Another good practice that is being followed in Cyprus is the complaint mechanism system available to unaccompanied minors. Through this mechanism, minors can make their voices heard by sharing their thoughts or complaining about a situation they are found in through the ‘complaint box’ where each child can write down all their complaints or anything that may concern them and put it in the box, or by communicating with the family member/support officer in the respective cases. The mechanism is an important tool and one that creates trust between the minor and the person whom he/she chooses to share this with.

## CHAPTER 4: RECOMMENDATIONS

For the improvement of the guardianship system in Cyprus, there are a few recommendations that can be taken into consideration. Primarily, there is a need for **standardized** multidisciplinary procedures, mainly in terms of case management and follow-ups. During these procedures all relevant actors that work with unaccompanied minors are involved, from the SWS to the Police and Asylum Services. The multidisciplinary and multiagency ‘Barnahus’ model developed to handle cases of child sexual abuse could serve as a great reference for this recommendation as it is used in a number of EU countries with successful results (More information available here: <https://www.barnahus.eu/en/>).

Secondly, as has been described in the previous sections, the training courses that guardians receive are not consistent. Therefore, it would be beneficial for the professionals to attend more training courses and workshops on guardianship requirements as well as skills development. Common training amongst guardians and other partners working with the SWS will also be beneficial as this will help to enhance a wider knowledge of protection of children in migration, contributing to both personal and professional development of the guardians.

Furthermore, more professionals are needed so that the number of children allocated per guardian is lowered. This will significantly reduce the workload for each worker, ensuring more effective and frequent contact, as well as cooperation between the minor and the guardian in all areas.

Finally, by formalizing as much as possible the process of the BIA regarding durable solutions for UAMs will make the life of the youth and the professionals simpler.

## CONCLUSION

To sum up, due to the large number of migrants that Cyprus continuously welcomes, the guardianship system is obliged to adapt to its fast-changing nature. The SWS, overall, show a satisfactory adaptation to the needs of the country including the fact that guardianship has an automatic and immediate effect – that is, a person is appointed as guardian as soon as possible and no later than five working days after an unaccompanied child makes an application for asylum. Also, the fact that guardians receive continuous training and supervision is a positive aspect of the guardianship system in the country. Cyprus is characterized as an “organized”, “supportive” and “well-thought” country for its guardianship system, indicating that its centralized approach makes procedures faster and more effective.



Nevertheless, there is always room for improvement, and the Cyprus guardianship system is not an exception to this norm. Considering the most ‘alarming’ issue, which is a disproportionate number of children per guardian, more professionals are needed so that the number of children allocated per guardian is lowered to avoid overwhelming the system. Additionally, the absence of independent legal representation for the child, separate from the guardian is also a concerning matter, making the guardian holding a dual role which can lead to conflicts.

Observing the above, the guardianship system in Cyprus has both strengths and weaknesses which are addressed in this Action Plan. All legal frameworks, roles, responsibilities and duties of guardians are described above highlighting the strengths of the system as well as the gaps and loopholes identified that need to be addressed. The GUARD-UP Project aims to provide the resources and the guidance for improving the guardianship system in Cyprus for unaccompanied minors.

## National Action Plan – Greece

### List of Acronyms

FGDs	Focus Group Discussions
GMP(s)	Guardianship Mandated Person(s)
GSP(s)	Guardianship Service Provider(s)
GSVPIP	General Secretariat for Vulnerable Persons and Institutional Protection
MoMA	Greek Ministry of Migration and Asylum
NAP	National Action Plan - Greece
NGOs	Non-Governmental Organizations
NGSUM	National Guardianship System for Unaccompanied Minors in Greece
NERM	National Emergency Response Mechanism
PAS-Tool	Pilot Assessment System Tool for Guardianship

### Introduction

The National Action Plan – Greece (NAP) serves as a mapping and analytical exercise designed to document and assess the National Guardianship System for Unaccompanied Minors in Greece, as an essential component of the GUARD-UP project, aimed at strengthening the guardianship and protection systems for unaccompanied minors across six European Union Member States. The NAP’s objectives include establishing a comprehensive understanding of Greece’s current guardianship system, identifying good practices and areas for improvement, and providing actionable recommendations.

This deliverable draws on diverse data sources to provide a holistic overview of the current practices, policy frameworks, and operational realities of Greece’s guardianship system. The NAP mainly relies on the PAS-tool assessment, a structured evaluation framework that examines the effectiveness, strengths, and challenges of national guardianship systems. Complementing this assessment is a

thorough desk review of Greek legislation, policies, and procedural documents that govern guardianship. To contextualize these findings, the NAP integrates insights from consultations with the General Secretariat for Vulnerable Persons and Institutional Protection (GSVIP), the authority under the Greek Ministry of Migration and Asylum (MoMA) responsible for overseeing the guardianship of unaccompanied minors, while further qualitative feedback gathered from two Focus Group Discussions with Guardianship Mandated Persons (GMPs) and their coordinators, offering first-hand perspectives on the day-to-day workings of the system. These discussions provided insights into the practical aspects of guardianship, from daily duties and inter-agency coordination to the challenges associated with training, resource allocation, and support. To enhance the robustness of these findings, the NAP incorporates observations from a three-day study visit to Athens in October 2024, during which key actors engaged in direct discussions, providing further insight into the guardianship system's structure and real-time challenges.

The main body of the deliverable is organized around an examination of the legislative and policy framework guiding guardianship in Greece. It explores the laws, policies, and procedural standards that form the foundation of the NGSUM, evaluating their coherence and effectiveness in meeting the unique needs of unaccompanied minors. This section also defines and elaborates on the roles and responsibilities of the principal stakeholders, including the GSVIP, NGOs, GMPs, and other actors involved in guardianship.

The latter sections of the deliverable offer a comprehensive assessment of the system's performance, drawing on feedback from GMPs and other stakeholders to highlight strengths, areas for improvement, and persistent gaps in the system. The document concludes with targeted recommendations designed to improve the system's operational efficiency, strengthen collaboration among stakeholders, and align Greece's guardianship practices more closely with international standards for child protection.

The National Action Plan – Greece aims to serve as a strategic resource for policymakers and practitioners dedicated to refining Greece's guardianship system for unaccompanied minors, ensuring it provides comprehensive protection, support, and care to meet the evolving needs of these vulnerable children.

## Methodology

The NAP for the guardianship of unaccompanied minors in Greece was developed using a robust, multi-method approach to collect both primary and secondary data. This approach integrated structured assessments, desk, research and fieldwork, providing a comprehensive analysis of Greece's guardianship system and allowing for direct engagement with essential stakeholders.

### 1. Primary Assessment Framework (PAS-Tool)

The primary assessment relied on the PAS-tool, a structured evaluation framework designed to assess the strengths, challenges, and overall effectiveness of national guardianship systems. This tool facilitated a systematic evaluation of Greece's guardianship system, ensuring that areas of improvement could be effectively identified.

## 2. Desk Research

A foundational stage of this methodology was an extensive desk review, covering Greek legislation, policies, and procedural documents governing guardianship. The desk research phase spanned June to September 2024, allowing for an in-depth examination of existing legal, procedural, and policy documents.

## 3. Fieldwork: Focus Group Discussions (FGDs)

Fieldwork was conducted in October 2024, involving two focus group discussions (FGDs) held on October 1 and October 2 to gather qualitative data from professionals active in the guardianship system. The FGDs, organized by the Centre for European Constitutional Law (CECL) in collaboration with the University of West Attica, aimed to capture the perspectives and experiences of GMPs and their coordinators on practical guardianship operations.

- *First FGD:* Held with seven female professionals from PRAKSIS NGO, including five GMPs and two coordinators.
- *Second FGD:* Conducted with seven professionals (four women and three men) from METAdrasi NGO, consisting of five GMPs and two coordinators.

Each FGD lasted approximately 1.5 - 2 hours, was conducted in person, and was audio-recorded following informed consent. These discussions provided critical qualitative insights into daily responsibilities, inter-agency collaboration, and challenges related to training, resource allocation, and support. They were co-facilitated by the report's authors, with data recorded, transcribed, and coded using thematic analysis.

Ethical guidelines and data privacy standards, in line with EU data protection regulations (GDPR), were strictly observed throughout the research process. Participant anonymity and data confidentiality were maintained, with all personal data securely stored and accessible only to authorized project personnel.

## 4. Study Visit

A three-day study visit in Athens, in October 2024, offered an additional layer of qualitative data. During this visit, key stakeholders participated in direct discussions, which allowed the research team to observe and analyze the guardianship system's operational structure and challenges.

Through a combined approach of desk research and fieldwork, the NAP's methodology enabled a thorough assessment and mapping of the guardianship system in Greece. This comprehensive approach not only contextualized the legal and procedural framework but also incorporated first-hand accounts of daily guardianship operations. The findings aim to support actionable improvements in Greece's guardianship system for unaccompanied minors.

## 1. National profile

By law, all the unaccompanied minors in Greece are the subject of support for the NGSUM. As of September 2024, the number of unaccompanied minors in Greece was marginally more than 2,000. Overall, within one year of implementation of the NGSUM, from January 2024 until January 2025, 3,200 minors have been supported.

Greece avails of comprehensive legislation framework, which collectively provide for the protection and guardianship of unaccompanied minors in migration at national level. The relevant laws and policies include:

1. **Law 4960/2022**, which supplemented and amended Law 4939/2022 titled "Ratification of the Code of Legislation for the reception and international protection of third-country nationals and stateless persons and temporary protection in case of mass influx of displaced foreigners.", along with its **Interpretative Circular of Law 4960/2022** (dated 12-01-2024, ADA: 6TRF46MDΨO-0ΦΘ), enhancing the regulatory structure for the protection and care of these children, ensuring their rights and well-being are safeguarded in the context of migration.
2. **Joint Ministerial Decision No. 539638/2023** (dated 20-12-2023) regarding the Mechanism for the submission and management of complaints.
3. **Joint Ministerial Decision No. 24578/2024** (dated 26-01-2024) regarding the Regulation of the Organization and Operation of the Guardianship Council for Unaccompanied Minors.
4. **Law 4939/2022**, this specific law codifies the legislation on the reception of third-country nationals, the international protection of third-country nationals and stateless persons, and temporary protection in the event of a mass influx of displaced foreigners and thus serves as an umbrella for the legislation concerning guardianship.

In Greece, the guardianship of unaccompanied minors is managed by the Institutional Protection Unit (IPU) of the GSVPIP under the Ministry of Migration and Asylum. The IPU oversees the NGSUM, which involves designing, monitoring, and evaluating the guardianship system. This includes issuing guidelines and instructions and preparing the List of Guardianship Service Providers as stipulated in Article 66H of Law 4939/2022.

Currently, the actual implementation of the guardianship system is handled by two NGOs with long experience in child protection, METAdrasi and PRAKSIS, through a partnership. This network provides 180 specially trained GMPs who are responsible for the care, representation in personal matters, and assistance with property issues for unaccompanied minors. The NGOs are tasked with recruiting, vetting, assigning, and training these GMPs, in collaboration with the GSVPIP for the training process.

Guardianship competent authority and agencies are as follows:

1. **Institutional Protection Unit:** This unit is responsible for planning, designing, coordinating, monitoring, and evaluating the procedures and activities of the NGSUM. Within its everyday tasks is to identify the available Guardian and notify the responsible Public Prosecutor's (PP) Office, in order for the PP to appoint a Guardian for the minor.
2. **Juvenile Prosecutor's Office or Prosecutor's Office at the Court of First Instance:** When an unaccompanied minor is identified and verified, a Guardianship Status Notification is sent to this office within 24 hours. The Prosecutor's Office is responsible for ordering the guardianship

of the minor based on the list of the GSPs and the Proposal for Guardian Appointment from the Institutional Protection Unit. The Prosecutor acts as an independent institutional safeguard for the appointment of a guardian and may, in exceptional cases, assign the daily care of the minor to a relative or familiar person if it serves the minor's best interest. Additionally, the Prosecutor is informed about the minor's arrival, changes in identity or residency details, and the guardianship status (e.g., resignation of a guardian, termination of guardianship). The Prosecutor also maintains a role as defined by the Civil Code and the Code of Criminal Procedure for all children within Greek territory.

3. **Guardian (Legal Entity):** Appointed by the Prosecutor, this legal entity provides guardianship services as per Article 66H of Law 4939/2022. The Guardian, represented legally, takes on the responsibility for the minor's guardianship to ensure the minor's best interests and protect their rights, legal interests, and overall well-being according to Article 66IA of Law 4939/2022.
4. **Guardianship Mandated Persons (Natural Person):** This individual, designated by the Guardian, is responsible for performing guardianship duties for a specific unaccompanied minor. As natural persons acting under the Guardian's authority, they carry out the assigned responsibilities on behalf of the Guardian.
5. **Guardianship Council for Unaccompanied Minors (GCUM):** Comprising of five members from the GSVPIP, the GCUM oversees the implementation and effectiveness of the guardianship system. Its role is both advisory and decisive, including resolving disputes between the minor and the guardian or between the guardian and the caregiver, reviewing reports and complaints, and granting permission for the minor to work or engage in other financial activities.

As mentioned above, following a call for proposals issued from the AMIF managing authority of the Ministry of Migration and Asylum, in May 2023, a consortium of two organizations, METAdrasi and PRAKSIS, were selected to manage the actual guardianship operations. These organizations not only oversee the work of the GMPs but also include coordinators and project management teams to support them. The responsibilities of the guardians are clearly defined and include:

1. **Care of the minor:** This encompasses housing, medical care, education and training, and daily care as outlined in Article 66Δ of Law 4939/2022. It should be highlighted that the guardian is not responsible to provide the abovementioned care services but oversee and monitor that these needs are being accommodated in a quality manner.
2. **Representation in personal matters:** Guardians are responsible for representing the minor in legal, administrative, and other processes. This includes procedures for international protection, migration, age determination, family reunification, relocation, judicial matters (criminal, civil, or administrative), and legal protection as per Article 66E of Law 4939/2022.
3. **Assistance with property issues:** This involves support with employment, financial aid, and opening bank accounts according to Article 66ΣΤ of Law 4939/2022.

The structured support provided by the coordinating organizations and project management teams ensures that GMPs, required to be professionals under the supervision of the designated GSP, are effectively fulfilling these responsibilities and providing comprehensive care and assistance to unaccompanied minors.

In terms of formal qualifications, according to Law 4939/2022, these include:

**1. Educational background:**

The GMP must have a degree in humanitarian law, social sciences, or an equivalent degree from a Greek or foreign university in the same fields.

**2. Language skills:**

The GMP should have excellent knowledge of Greek and good knowledge of English or French, or languages like Arabic or Urdu that are spoken by many unaccompanied minors in Greece.

**3. Registration and compliance:**

The GMP must be registered in the NGO Members Register as per Article 78 of law 4939/2022. If the GMP is employed by a public sector entity or international organization, they must comply with specific laws regarding the employment of personnel in child protection agencies and public service positions. Additionally, all GMPs must submit a recent criminal record certificate every year, and the hiring organization ensures this compliance. Non-compliance results in penalties according to the relevant laws.

As far as training is concerned, according to Law 4939/2022, 66ΚΓ, there are mandatory training and continuous education requirements for GMPs. Specifically, the Institutional Protection Unit is responsible for establishing and developing training programs for guardians, coordinators, and GMPs, in collaboration with public and non-profit entities, as well as international organizations. GMPs designated by the Prosecutor must undergo both initial and continuous education in accordance with European, international, and national standards for the guardianship of unaccompanied minors. The training, overseen by the Institutional Protection Unit, covers a range of topics, including legal and practical aspects of guardianship, family, refugee, and migration law, the fundamental rights of the child, the legal framework for child protection and personal data security, as well as the specific needs and best interests of unaccompanied minors. It also includes training on intercultural mediation, interpretation, social integration, and counseling and psychological support.

Please refer to section 2.6 for further details and practical aspect of the trainings.

## **2. Assessment of the National Guardianship System**

### **2.1 Non-discrimination - Equal guardianship services for every child**

In Greece, the guardianship system for unaccompanied minors in migration is regulated by Law 4939/2022 and foreseen in the National Strategy for the Protection of Unaccompanied Minors. These provisions ensure comprehensive protection during the reception and care of all unaccompanied minors, promoting their rights, seeking sustainable solutions, and protecting them from all forms of violence, exploitation, and abuse.



Unaccompanied minors include those arriving in Greece without a legal guardian or authorized person, as well as those accompanied by an adult relative who provides practical care but does not have formal guardianship responsibilities (“separated minors”). The Greek system aims to appoint guardians for all unaccompanied minors, including those in precarious conditions such as homelessness or temporary housing situations, as well as minors who are third-country nationals or stateless persons who, during their stay on Greek territory, are abandoned, neglected or abused by their parents, and Articles 1532 and 1533 of the Civil Code (Presidential Decree 456/1984, A 164) on the consequences of improper exercise of parental responsibility shall apply as appropriate.

The protection system for unaccompanied minors in Greece includes designated areas during the children’s stay in the Reception and Identification Centers or Close Controlled Access Centers in the entry points, a special accommodation ecosystem where a wide range of supporting services is offered, comprising of accommodation centers of up to 30 places and supervised apartments of semi-independent living for minors from 16 years old until they reach adulthood and of course the guardianship system. Unaccompanied minors also benefit from comprehensive child protection measures, including the National Emergency Response Mechanism for children in vulnerable living conditions or experiencing homelessness of the General Secretariat for Vulnerable Persons and Institutional Protection Unit (GSVIP) of the Ministry of Migration and Asylum, as well as from access to education and healthcare services.

Overall, the Greek NGSUM is designed to provide appointed guardians for all unaccompanied children in migration, ensuring their protection and care under various circumstances. However, for 2024, the NGSUM program is funded by the Asylum, Migration, and Integration Fund, and the maximum number of minors it can support is capped at 2,700.

At practical level, the following points have been noted:

- **Differentiation of duties based on vulnerability – prioritization:** On the Greek islands, immediate priority is given to Dublin cases and very urgent medical cases. There are quick responses, and transfers happen rapidly when necessary.
- **Delays in assigning a guardian:** There is typically a 20–30-day delay in appointing a guardian, which is something that needs to change for all children. On the islands, GMPs often see the minors moving around in safe areas or during registrations, but they are unable to take any action due to the delay. In many cases, GMPs are assigned just before the children are transferred, leaving no time for even an initial meeting. However, at the entry points this is tackled by the provision that guardianship mandated persons stationed in the RICs and CCACs undertake the representation of all minors for the registration and first reception procedures.

In general, in urgent medical cases or Dublin cases, so as to avoid missing deadlines responsible authorities and related actors often put extra pressure on the Prosecutors to issue timely prosecutorial orders. However, this does not fall under the guardian’s control. In cases involving serious medical issues, a GMP is always assigned on the same day.

The law mandates the provision of guardianship services across the country, adjusted according to migration flows. Specifically, the GSPs must be fully prepared to deploy the necessary personnel, even



in emergencies or extraordinary situations involving the arrival of third-country nationals at remote entry points. These services must also meet the needs for representation and protection of unaccompanied minors from the moment they arrive on Greek territory.

Under the current system, the two GSPs, according to the list of guardians and the plan for deployment developed by the IPU, have divided GMPs geographically based on their past experience and existing presence in areas with consistently high migration flows. Specifically, METAdrasi handles 70% of the coverage, while PRAKSIS handles 30%, as outlined in the relevant operational coverage plan. In cases where changes in the geographical distribution of GSP activities affect the guardianship situation, such as when an unaccompanied minor changes residence, the Interpretative Circular of Law 4960/2022 clarifies the necessary steps to ensure that guardianship assignments and responsibilities are not delayed.

Although each GSP's areas of operation are predetermined and stable from the beginning of the program, provisions exist to allow the reallocation of coverage between GSPs when needed, to address the specific needs of the minors. However, this must always adhere to the aforementioned established ratio of coverage by METAdrasi and PRAKSIS. This situation is unique to Greece due to its distinct geographic characteristics, including both island and mainland regions, and because Greece serves as a transitional destination for many migrants. A particular challenge arises with the movement of unaccompanied minors, often linked to irregular employment, especially in seasonal work. This fact i.e. mobility among other issues, creates difficulties in ensuring consistent guardianship coverage in certain areas, as the program may struggle to provide continuous service in these regions.

## 2.2 Accountability & responsibility – Clear legal basis, responsible authority & monitoring mechanism in place

Training programs, guided by European, international, and national standards, aim to equip guardians with comprehensive knowledge of legal, psychological, and intercultural matters essential for their duties, as detailed in section 2.6. Concurrently, structured monitoring and accountability mechanisms ensure transparency and adherence to best practices, fostering a child-centric approach. Despite these provisions, challenges persist, highlighting the need for ongoing improvements to standardize procedures and address gaps in collaboration, implementation, and oversight across all entities involved.

### Monitoring and accountability mechanisms

The complaints mechanism ensures the best interests and legal rights of unaccompanied minors, prioritizing confidentiality, neutrality, impartiality, transparency, and accountability. Each Guardianship Service Provider (GSP) must have publicly available procedures for handling complaints, communicated to relevant staff and compliant with data protection laws. The mechanism respects minors' personal, social, religious, intercultural, and educational needs, ensuring child-friendly processes that are simple, age-appropriate, and in a language minors understand.

GSPs must ensure transparency by recording and resolving complaints, informing the Institutional Protection Unit (IPU) in accordance with legal provisions. Personal data must be protected throughout the process. The mechanism is part of the broader Child Protection Policy, and GSPs must inform minors about their right to complain, the procedure, and how their complaints will be addressed.

In this context the role of the **Guardianship Council for Unaccompanied Minors (GCUM)** is also crucial. The **GCUM** consists of five members from the General Secretariat for Vulnerable Citizens and Institutional Protection Unit. The **GCUM** resolves disputes between the minor and the guardian or between the guardian and the caregiver, and examines reports and complaints.

Furthermore, the mechanism includes procedures for complaint submission (e.g., forms, personal hearings, or technology), review, resolution, and record maintenance, alongside child-friendly documentation. Regular feedback is gathered from guardians, coordinators, and other stakeholders, such as accommodation centers and the minors themselves. Monitoring and evaluation involve monthly and quarterly reports, sample checks, and feedback from various stakeholders, ensuring effective implementation and coordination.

The Monitoring and Evaluation Framework as provided in the law consists of the following key elements:

- **Reporting, monitoring visits, feedback, support and capacity-building:** This includes a sample of monthly reports, quarterly and semi-annual reports, as well as a Beneficiaries List, focus group discussions with children under guardianship, monitoring visits in the field and in GSP premises, receiving feedback from other authorities, services and actors on the guardianship services offered and the GSP.
- **Feedback on the project:** This is gathered from GMPs, coordinators, prosecutors, the Reception and Identification Service, the Asylum Service, and the Accommodation Centers for Unaccompanied Minors, supervised apartments for semi-independent living (SILs) for unaccompanied minors aged 16 to 18 years, and unaccompanied minors themselves as beneficiaries of the project. Feedback is collected through group interviews and online forms, and this process should take place regularly, in the final quarter of each year of the project.
- There are established procedures for the effective management of the guardianship system, as outlined in various institutional documents and guidelines that have been periodically shared with involved agencies. However, further clarifications, explanations, and more detailed guidance are certainly needed in many areas. For example, there is currently a lack of a clear framework for coordination and collaboration with other entities. This certainly falls out of the scope of a law. However, since this is the first time that guardianship is implemented under a specific regulatory framework, in uniform manner and centrally supervised by a designated authority, while the accommodation and care of unaccompanied minors, although not regulated and systematically monitored before 2022, was offered for almost two decades now, it is understood that additional steps need to be taken for one role to learn to smoothly cooperate with the other. In the relevant circular, it states: "The guardian monitors the living and care conditions of the child under their guardianship in the accommodation and care facility, foster family, or any other housing arrangement, in cooperation with or alongside the supervisory body." However, it does not provide detailed instructions on how this collaboration should be structured. For instance, each Accommodation center seems to operate at its own pace and "decides" the role of the guardian that is acceptable to it, for instance, in cases like information sharing or reaching a common decision, or even in reporting a child's disappearance, although strictly regulated in the legal framework for the operation of accommodation centers as to when and how.

- In terms of oversight, the MoMA monitors the project in two ways: through the Managing Authority for the National Program of AMIF 2021-2027 and Other Programs on migration and home affairs, which oversees the financial and physical deliverables of the program, including compliance with employment regulations, and through the General Secretariat for the Vulnerable Persons and Institutional Protection, the competent authority for protection of unaccompanied minors, which supervises the overall implementation of the program, handling operational aspects, such as daily implementation and case management.
- Monitoring, oversight, and accountability procedures for the guardianship system are documented, recognized, and generally clear, although some areas would benefit from further clarification.

Under Article 26 of Law 4960/2022 and the added Article 66-XX of Law 4939/2022, a structured procedure for supervision and control has been established. This includes the creation of Sub-Chapter G, titled “Monitoring and Guidance of the Guardianship of Unaccompanied Minors.” The Institutional Protection Unit is designated as the authority responsible for:

1. **Monitoring and supporting guardians:** The Institutional Protection Unit oversees and evaluates the work of the guardian, the coordinator, and the GMPs.
2. **Reviewing reports:** The Institutional Protection Unit is tasked with reviewing regular and ad hoc reports submitted by guardians and coordinators.

More specifically, Article 66KA provides for the below reporting procedure:

The **guardian** submits a semi-annual report, which includes at minimum:

- a) The number, qualifications, and employment status of coordinators and GMPs,
- b) The operational planning for implementing the guardianship program for unaccompanied minors,
- c) The training and continuous professional development of personnel supporting program implementation,
- d) Internal policies for the protection of unaccompanied minors, specifically regarding supervision, monitoring, and handling of complaints.

The **coordinator** submits a quarterly report, which includes at minimum:

- a) Details of the GMPs and the unaccompanied minors they are responsible for,
- b) The scope and limits of oversight concerning the work of the GMPs,
- c) Issues arising during the exercise of guardianship duties,
- d) Complaints submitted by unaccompanied minors, in accordance with Article 66KB.

The Institutional Protection Unit designs and implements assessment tools to evaluate the quality and effectiveness of guardianship services provided. Services, authorities, and shelters for unaccompanied minors that work with the guardian in performing guardianship duties are required to provide the Institutional Protection Unit promptly with necessary evaluation-related information and offer any assistance or support required.

The findings of the evaluation of reports and audits conducted under Article 66K are communicated to authorities responsible for the management, monitoring, and implementation of programs funded by national or EU resources, if such programs involve the audited guardianship providers. These findings are binding on the competent bodies for the management and implementation of the programs specified in the first clause, within their respective areas of responsibility.

3. **Conducting onsite checks:** It conducts onsite sample checks at the headquarters of GSPs responsible for guardianship.
4. **Auditing individual files:** The Institutional Protection Unit examines the individual files of unaccompanied minors to ensure they are complete and that necessary actions have been taken.
5. **Hearing minors:** It organizes interviews with unaccompanied minors to assess their circumstances and gather feedback.
6. **Information exchange:** The Institutional Protection Unit facilitates communication with other competent authorities or support organizations, often through specific questionnaires or complaint mechanisms.

Additionally, when a complaint is filed, the GSP is required to inform the minor about the process, including the complaint's reference number, the contact details of the responsible authority, and the subsequent steps in the complaint process. This notification must be provided in a manner that is understandable to the child, using appropriate language and, if necessary, interpretation services.

Moreover, while NGOs involved in guardianship must follow with these procedures, varying practices among different organizations arise due to the complexity of the situations, differences in resources, and the interpretation of guidelines based on the specific needs of the minors involved.

In summary, while the framework for monitoring, oversight, and accountability in the guardianship system is established and clear in many respects, ongoing efforts are necessary to ensure consistent application and clarity in practice across all stakeholders involved in the care of unaccompanied minors.

### 2.3 Independence & impartiality – The best interest of the child

The guardianship system is not financially or institutionally independent from other authorities. It operates under the MoMA, which also oversees the Reception and Identification Service and the Asylum Service. This shared governance structure can lead to potential conflicts of interest.

Ideally, the guardianship system should be separated from these services to ensure a clearer delineation of responsibilities and to protect the rights of unaccompanied minors more effectively. The overlapping of these roles can create challenges in prioritizing the best interests of the child, particularly when the same Ministry is responsible for both assessing asylum claims and managing guardianship.

However, it is worth noting that the GSVPIP has implemented measures to safeguard the independence of guardians within this framework, also through the engagement in the process of assessing the best interests of the minor by all professionals involved in their care. This ensures interdisciplinarity, the inclusion of the opinions of all responsible professionals, and the ability for quality control in the assessment process by another professional, the assessment supervisor (typically

a person such as, indicatively, the organization's Child Protection Officer). These safeguards help ensure that guardians can operate effectively and advocate for the needs and rights of unaccompanied minors, despite the overarching structure that links them to other governmental responsibilities, ensuring that the rights of unaccompanied minors are still prioritized within the broader institutional context.

Guardianship under Law 4939/2022 is exercised in a way that aims to ensure impartiality by clearly defining and addressing potential conflicts of interest. Article 661ΣΤ outlines specific conditions where conflicts may arise and provides mechanisms to prevent them, ensuring that the guardianship process remains fair and independent.

**1. Conflict of interest prohibitions (Article 661ΣΤ, Paragraph 1):**

Members of the GSPs, who are appointed as guardians by the Prosecutor, along with coordinators and GMPs, are prohibited from fulfilling their duties if their interests conflict with those of the unaccompanied minor. This applies to personal interests, as well as those of their spouses, cohabitants (as per Law 4356/2015), or their close blood and in-law relatives. The scope of these prohibitions includes both direct and collateral relatives up to the second degree.

**2. Impartiality in decision-making (Article 661ΣΤ, Paragraph 2):**

The impartial exercise of guardianship is compromised in two specific scenarios: a. When there is any financial or other benefit to the guardian, their family members, or entities with which they have special relationships, and b. When this benefit results in harm, whether financial or otherwise, to the unaccompanied minor. This dual condition ensures that both personal gain and detriment to the child are taken into account when assessing impartiality.

**3. Institutional conflicts (Article 661ΣΤ, Paragraph 3):**

A significant conflict arises if the GSP appointed as the guardian is also the operator of the facility where the minor is hosted. In such cases, the same organization cannot act as both the guardian and the caretaker, as it creates a direct conflict of interest. If such a conflict exists, the appointment must be revoked, and the Prosecutor must be informed to ensure a new guardian is appointed. This provision is a key institutional safeguard to maintain the separation of responsibilities between care providers and guardians.

**4. Definition of conflict of interest (Law 4939/2022, Article 1):**

The law provides a specific definition of conflict of interest as any situation that "objectively affects the impartial and independent exercise of guardianship duties." This broad definition helps to cover various forms of conflicts that may arise and offers a comprehensive legal basis for addressing them.

**5. Foster parent conflicts (Article 661ΣΤ, Paragraph 1):**

Further potential conflicts are addressed in cases where the guardian or someone from the guardian's close circle is a foster parent of the minor. Law 4538/2018 and the Civil Code regulate foster care, which involves direct, daily care by a suitable individual or family. If a person or entity, such as the legal representative of a GSP, also acts as a foster parent for the minor under their guardianship, this is a clear conflict of interest. Such conflicts extend to the

coordinator or other colleagues within the guardianship system, if they are also foster parents to the child in question.

6. **Additional scenarios involving guardianship colleagues:**

Conflict of interest may also arise in the case of an employee of the NGSUM (guardianship Program) takes up as a foster parent and a colleague of his takes on the role of guardian for the same child. For example, if a coordinator is a foster parent to an unaccompanied minor, and a colleague is appointed as the minor's GMP, this relationship can create bias or the perception of partiality. Therefore, the law provides strict guidance to avoid these situations.

On a practical level, feedback from GMPs highlights the need for building trust with the minors, who often come from vulnerable backgrounds and may be wary of authority figures. One GMP noted that unaccompanied minors, especially those from precarious situations, take time to trust their GMP. It was suggested that some children might perceive the guardians as being aligned with public entities, which could affect their willingness to engage. Transparency is therefore emphasized, with GMPs explaining that they are part of an organization but work to create plans based on the children's needs and interests, while the final decision ultimately lies with the child.

#### 2.4 Child Rights Centered – Respecting, protecting and fulfilling children's rights

Guardians are indeed responsible for safeguarding the best interests of the child they represent. As outlined in Law 4939/2022, particularly Article 66IZT, the role of the guardian is to act impartially and independently, ensuring that no conflict of interest compromises their ability to represent the child fairly.

GMPs are involved in conducting activities related to risk and needs assessment, which are partially carried out through the Best Interests Assessment (BIA) process. During the BIA, which is developed in collaboration with the staff of the Accommodation Centre or any other reference person, there is also a focus on assessing risks and threats that may affect the unaccompanied minor. This aspect closely aligns with a risk assessment, ensuring that potential dangers to the child's safety and well-being are identified. At the same time, the assessment covers all other relevant categories of the child's needs and circumstances, ensuring a comprehensive approach to their care and protection.

The guardian has the general responsibility for ensuring the overall well-being of the unaccompanied minor, as outlined in Articles 66D, 66E and 66F of Law 4939/2022 (as amended by Law 4960/2022). This includes a wide range of duties across different areas essential for the minor's care and protection during their stay in Greece:

1. **Housing:** The guardian is responsible for finding and ensuring safe and suitable accommodation for the minor. This includes submitting housing requests and coordinating with the appropriate authorities such as the Management of UAMs Accommodation Referrals of the GSVPIP and the Reception and Identification Service. The guardian also works with the staff of accommodation centers to verify the quality, safety, and adequacy of the services provided to the minor. If necessary, the guardian arranges for the placement of the minor with

a foster family, as per Greek Civil Code and Law 4538/2018. For unaccompanied minors with disabilities or chronic conditions, the guardian collaborates with the relevant Ministries to secure specialized care facilities.

2. **Medical care:** The guardian ensures that the unaccompanied minor has access to appropriate medical care. This includes coordinating with health services, providing daily health care with the help of facility staff, and consenting to medical treatments where required. The guardian also handles essential administrative tasks such as obtaining the Temporary Alien Social Security and Healthcare Number or transitioning to a Social Security Number, giving the minor access to health records, and ensuring mental health support and social solidarity benefits when applicable.
3. **Education and training:** The guardian oversees the minor's educational needs by enrolling them in school and ensuring access to vocational training or non-formal education if needed. They maintain communication with teachers to monitor the child's progress and help the minor learn their native language, Greek, or other foreign languages. This ensures the minor's educational and linguistic development during their stay in Greece.
4. **Daily care:** The guardian is responsible for ensuring that the minor receives appropriate daily care. This includes overseeing their nutrition to ensure it meets the child's needs, providing suitable clothing, ensuring personal hygiene, and supervising their daily activities. They also monitor their social behavior, promoting positive activities and preventing delinquency. The guardian coordinates with facility staff or relatives, when relevant, to create a comprehensive care plan tailored to the minor's needs and interests. If the minor goes missing, the guardian reports the incident to the police in accordance with national protocols.
5. **Representation in civil and Legal matters** (Article 11): The guardian represents the unaccompanied minor in legal and administrative proceedings. This includes assisting with international protection procedures, submitting asylum requests, attending personal interviews, and handling appeals. The guardian also assists with procedures related to family reunification, relocation, and judicial proceedings, ensuring the minor's legal rights are protected.
6. **Assistance in property matters** (Article 12): The guardian helps manage the minor's property and financial matters, ensuring they can access immigration and social protection benefits, participate in economic life, and access banking services. In certain cases, the guardian may be involved in managing property on the minor's behalf, following the necessary legal steps for guardianship under Greek law.

The guardian has a general responsibility for exercising legal representation for the unaccompanied minor, complementing the child's limited legal capacity and supporting them in legal procedures. According to Article 66-E of Law 4939/2022, the guardian represents the unaccompanied minor in matters concerning their personal and legal status due to the minor's restricted capacity to engage in legal transactions.

This representation aligns with the provisions of the Civil Code regarding minors' legal capacity, and particularly with Article 69, paragraph 12, which states that minors over the age of 15 can submit their own application for international protection. The GMP represents the minor in all legal acts open to

direct representation, including procedures related to international protection, migration, and social integration, as well as any other administrative or judicial processes. This ensures that the GMP acts in the best interest of the child and promotes their overall well-being.

It is important to note that the GMP is not the child's lawyer but rather their representative in all relevant proceedings. According to General Comment No. 6 of the United Nations Committee on the Rights of the Child (2005), as well as the Handbook on Guardianship for Children Deprived of Parental Care published by the European Union Agency for Fundamental Rights (2015), the GMP is an independent individual who safeguards the child's best interests and overall well-being. In this capacity, the GMP complements the minor's limited legal capacity, similar to how a parent would represent their child.

If the GMP determines that specialized legal representation is necessary for a particular procedure, they can authorize a lawyer to take over this role. Moreover, the GMP ensures that the child has access to free legal assistance and effective remedies through cooperation with legal advisors and lawyers in accommodation centers for unaccompanied minors, as well as through partnerships with organizations providing legal services or through other funded legal aid programs. This comprehensive framework supports the minor in navigating legal processes effectively, thus ensuring their rights and interests are protected.

The guardian has a general responsibility for helping to identify and implement durable solutions for the child. This responsibility is particularly crucial in cases where there are disagreements about the best course of action for the child's well-being, such as differing opinions regarding family reunification. In such instances, the GCUM intervenes to facilitate decision-making among the guardian, the child, and other relevant parties, ensuring that the child's best interests remain a priority.

An essential part of identifying durable solutions involves conducting comprehensive assessments of the child's best interests. The GSVPIP, with support from relevant EU and UN bodies (EUAA, UNHCR), has developed a comprehensive **Best Interest Procedures (BIP)** toolkit. This toolkit is expected to assist in evaluating the best interests of all unaccompanied minors and includes:

- **BIA forms:** Both short and comprehensive forms designed for assessing best interests.
- **Guidelines:** Detailed instructions for completing the BIA forms.
- **Methodologies:** Clear guidelines for conducting best interest assessments, ensuring that evaluations are thorough and systematic.
- **Theoretical and legal framework:** Documentation supporting the legal considerations of the best interest assessments.
- **Undertaking of confidentiality form:** Ensuring that information gathered during assessments is handled with the utmost confidentiality.
- **Training package:** A comprehensive training program aimed at equipping professionals with the necessary skills and knowledge to implement best interest procedures effectively. This includes Training of Trainers (ToT) sessions primarily attended by the coordinators of GMPs, who are expected to provide secondary training to GMPs and other professionals involved in child welfare.

The GMP completes the appropriate BIA form and continuously updates it, in collaboration with other professionals, reference persons, or individuals who support the minor. The BIA process is designed to follow the child throughout their journey in Greece, regardless of their location, ensuring that the assessments are consistently applied and updated as needed. This continuous oversight is crucial for managing each child's case effectively and identifying sustainable solutions tailored to their unique circumstances.

By establishing a cohesive action plan for each child, the toolkit aims to minimize the need for repeated interviews about the same issues by different individuals.

## 2.5 Child's participation – The right to be heard

The Joint Ministerial Decision 539638/2023 establishes a framework for individual complaint mechanisms that are accessible to children, emphasizing the importance of their voices and experiences in the process. With the incorporation of FGDs, informative leaflets in child-friendly language, and provisions for additional support when needed, the mechanisms reflect a commitment to upholding children's rights. The framework's emphasis on education, support, and continuous feedback further reinforces the aim to create an inclusive environment where children feel empowered to participate actively in matters affecting them. More specifically:

### **Accessibility to children:**

The complaint mechanism is designed to be easily accessible to children, ensuring that the process is user-friendly and straightforward. This includes:

- Multiple avenues for complaints: Children can lodge complaints through various channels, such as in-person visits, online submissions via email, WhatsApp/Viber with written and voice messages in the mother tongues of the children, and telephone calls.
- Barrier removal: Specific measures aim to eliminate barriers, such as language and comprehension issues, that might prevent children from utilizing these mechanisms. Any child, irrespectively of their educational background or access to technology can raise their voice.

### **Focus Group Discussions:**

To further understand children's perspectives and improve the evaluation framework, focus group discussions with children take place. These discussions provide a platform for children to share their experiences and opinions, ensuring their voices are integrated into the development and refinement of the mechanisms. In the final quarter of the annual project, more than 10 focus group discussions, each one with between 5 and 7 minors, take place, taking into account the characteristics of the overall population (NGO acting as guardian, age, gender, nationality of the children) to create a representative sample.

### **Informative leaflets:**



Informative leaflets detailing the role of GMPs and the complaining mechanism have been shared with minors. These materials are crafted in child-friendly language and translated into the most common languages spoken by third-country nationals, ensuring that diverse children can understand the information provided. This initiative supports children in comprehending their rights and the role of GMPs in the complaint process.

#### **Consideration of child's views:**

The Mechanism requires that the views of the child are seriously considered in the decision-making process, emphasizing a child-centered approach where the interests and opinions of children are prioritized. Also, as mentioned before, the minors provide feedback on the services that they receive through the focus group discussions.

#### **Support and guidance:**

The decision outlines the provision of counseling services and advocacy support to help children navigate the complaint process effectively.

#### **Accessibility of information documents:**

In general, no specific accessibility measures for information documents are mandated; however, if a child requires additional support, such as sign language interpretation, efforts will be made to facilitate this, likely through collaboration with the Ministry of Labor and Social Security.

#### **Education and awareness:**

The Joint Ministerial Decision emphasizes the importance of educating children about their rights and the available complaint mechanisms, including workshops and programs designed to raise awareness and provide age-appropriate resources. Also, the guardians receive training on the Complaints Mechanism in their induction training by staff of the MoMA.

#### **Practical level**

The Mechanism must be embedded in the broader framework of the Child Protection Policy implemented by each GSP. Guardianship professionals, however, noted that this Mechanism has not been widely communicated.

In terms of child participation, children are informed about their rights and responsibilities, including their right to family reunification or requesting a change of accommodation facility, depending on the reasons. Efforts are made to ensure they fully understand their rights, including support during their transition to adulthood. For older children in particular, it is seen as crucial that they take responsibility for their decisions. If a child feels uncomfortable due to the gender of a GMP or professional, a meeting can be arranged, sometimes involving a group discussion, with a professional of a gender they feel more comfortable with.

Most children have been informed about the Mechanism, but it is very rare for a serious complaint to be lodged by a child. Typically, issues are resolved through communication between the child and the professional, often through dialogue.

The professionals suggested that the use of this Mechanism requires the child to be mature and goal-oriented, and even the professionals themselves are not always aware of the exact procedures for submitting complaints. It was also noted as important that meetings are sometimes held with the coordinator or even a lawyer from the team, which reassures the child that the professional is not acting in isolation and that their views are seriously taken into account.

## 2.6 Quality - Qualifications and trainings/support for guardians from stakeholders

### **According to Law 4939/2022, Article 66, Section IA, paragraph 2:**

At the time of assignment of guardianship duties, the **GMP** must, as a minimum:

- a) Hold a degree in humanities, law, or social sciences, or a diploma from a domestic university or an equivalent foreign qualification in the same fields of study,
- b) Have excellent knowledge of the Greek language and a good knowledge of English or French, or Arabic, Urdu, or another language spoken by a significant number of unaccompanied minors in the country,
- c) Be registered in the Registry of Members of Non-Governmental Organizations under Article 78.

Every GMP, whether from the public or private sector, is required to submit a new copy of their criminal record, for judicial or general use, within the last two months of each year, and the hiring entity monitors compliance with this obligation.

### **According to Law 4939/2022, Article 66, Section IE, paragraph 5:**

At the time of assignment of duties referred to in paragraph 2, the **coordinator** must, as a minimum:

- a) Hold a degree or diploma from a university or technical institution (A.E.I. or T.E.I.) from a domestic institution or an equivalent foreign qualification, with a degree in psychology, social work, sociology, social anthropology, education, law, or political science,
- b) Have Greek citizenship or the citizenship of another EU member state,
- c) Have a good command of English or French, and excellent knowledge of Greek,
- d) Have at least two years of professional experience in programs and actions related to child protection or the international protection of unaccompanied minors,
- e) Be registered in the Registry of Members of Non-Governmental Organizations under Article 78.

Every coordinator, whether from the public or private sector, is required to submit a new copy of their criminal record, for judicial or general use, within the last two months of each year, and the hiring entity monitors compliance with this obligation.

### **Challenges regarding the GMPs:**

Despite the minimum qualifications required by law for the GMPs, these criteria prove to be insufficient in practice at times. Reportedly, coordinators do not have sufficient time to provide the level of guidance and oversight they would like. As a result, professionals who lack previous relevant



experience struggle to manage minors' cases effectively right after their initial training. GSP can apply additional criteria in their vetting and hiring process.

Based on the qualifications outlined above (question 19), each GSP follows its own vetting procedure, aligned with their internal Human Resources policies. There is no specific provision for this vetting process under the current legal framework.

However, what has proven to be more challenging than the initial recruitment is the high turnover of GMPs. This is primarily due to the difficulties they face in the field and the demanding nature of their role, which often leads to professional burnout.

Further to the reply under the last question of Part I, in more detail it is foreseen:

### **Training and education – Article 66ΚΓ of Law 4939/2022 (Article 29 of Law 4960/2022)**

The Institutional Protection Unit is responsible for developing and implementing training programs for guardianship personnel, including guardians, appointed professionals, and coordinators. These programs are designed to align with international, European, and national standards, and ensure the provision of quality care for unaccompanied minors. Guardianship Service Providers (GSPs) are required to either implement these training programs or follow guidelines established by the Unit, with an emphasis on continuous professional development.

The training content, as outlined in Article 66ΚΓ of Law 4939/2022, includes topics such as the duties and authority of guardians, children's rights, child protection legislation, working with vulnerable children, and dealing with issues like human trafficking and abuse. The training also addresses the national child protection system, intercultural issues, and communication skills for working with vulnerable minors.

Despite these comprehensive guidelines, significant challenges have emerged. One key issue is the high turnover of guardianship professionals, which complicates the continuity of care. The allocated training budget is insufficient to meet the program's growing needs. Furthermore, coordinators, while undergoing similar training, lack specialized guidance for their more senior roles.

The current training program, typically lasting only five days, is deemed inadequate by guardians and coordinators in the field. It is often criticized for focusing heavily on theory and lacking practical, hands-on training. Many guardians feel unprepared for legal procedures, such as asylum registration, and find the training disconnected from real-world scenarios. Additionally, there is a lack of support for children with mental health issues, especially those nearing adulthood, and no clear framework exists for their transition once they turn 18.

The case-to-guardian ratio, which is supposed to be a maximum of 15 minors per guardian, is becoming increasingly difficult to manage due to the pressures of the New Pact on Migration and Asylum. This policy requires rapid guardian appointments, often within 15 days, which is challenging given the current operational context.

Reporting obligations are another critical aspect. Guardians must submit semi-annual reports on their operational planning, while coordinators are expected to submit more detailed quarterly reports. The reports include information on case distribution, GMP performance, support systems, and the maintenance of detailed records for each child.



In conclusion, while the training programs aim to provide comprehensive support to guardianship professionals, there are significant gaps in practice, particularly related to legal procedures, mental health care, and practical training. The high turnover of professionals and increasing workloads under the New Pact exacerbate these challenges, making it difficult to ensure consistent and effective care for unaccompanied minors.

## 2.7 Sustainability and collaboration - Guardianship systems are an integral part of the national child protection system

Article 66IA of Law 4939/2022 establishes guardianship as a professional role, where the appointed guardian, designated by the Prosecutor, delegates duties to a Guardianship Management Professional (GMP). The GMP, employed under professional or contractual relationships, holds the same powers as the guardian and must follow the guardian's instructions. The law excludes voluntary or temporary arrangements, reinforcing that guardianship is a professional responsibility.

A key challenge faced by the National Guardianship System for Unaccompanied Minors (NGSUM) is its reliance on funding from the Asylum, Migration, and Integration Fund (AMIF), which operates on a fixed timeline. Although an extension until 2025 has been secured, this creates uncertainty regarding the program's long-term sustainability.

In terms of collaboration with other agencies, the law emphasizes collaboration between guardians and various institutions, such as the Asylum Service, Reception and Identification Service, Accommodation Centers, and the Prosecutor's Office. However, the role of the guardian is often unclear, leading to inconsistencies in implementation. For example, some Child Protection and Care Units (CPCUs) fail to recognize the guardian's role, and public institutions may not acknowledge guardianship status, complicating the guardian's responsibilities and delaying support for minors.

Despite efforts from the Institutional Protection Unit to address these issues, communication challenges remain. Public institutions often require a guardian to be fully responsible for a minor, akin to a parent, creating a mismatch with the GMP's role. Quarterly reports from coordinators highlight the unclear nature of the guardian's role and the overburdening of guardianship professionals.

Regarding new arrivals or the identification of unaccompanied minors, when the Coast Guard, Police, Asylum Service, or Reception and Identification Service encounters a minor and determines that they are unaccompanied, they are obligated to report the child's guardianship status, triggering an appointment with a guardian (see also the definition of "guardianship status," paragraph μζ of Article 1 of Law 4939/2022). This is especially important for minors under 15, as it ensures their representation in legal procedures like identity verification or asylum applications. A designated professional, either a guardian as defined under a contract of employment with a GSP from the list established by the Ministry of Migration and Asylum, or through the assignment of duties from the guardian already appointed by the Prosecutor, or according to other applicable legal provisions, unless otherwise specified by law, must be present at all stages of the reception and identification process. If an unaccompanied minor is found in precarious conditions, any public or private entity, or international organization, must inform the Prosecutor's Office, Institutional Protection Unit, or National Emergency Response Mechanism.



In this context, Guardians act as the child's first point of contact with agencies, ensuring the minor's rights and needs are addressed from the outset.

## 3. Gaps and good practices of the National Guardianship System

### 3.1 Gaps in the National Guardianship System

#### **Lack of Standard Operating Procedures for Unaccompanied Minors Living in Precarious Conditions**

A significant gap in the current legal and operational framework concerns the support of unaccompanied minors who choose to live in precarious conditions, such as in apartments with others. The absence of Standard Operating Procedures (SOPs) leaves guardians (GMPs) unable to consistently ensure the safety of these minors, especially when vague address details prevent proper location. GMPs often lack authority to enter residences or verify the legitimacy of individuals claiming familial ties, and local social services, which would normally assist, are understaffed. The role of the Network for Children's Rights, the implementing partner of the National Emergency Response Mechanism in Attica region in managing such cases is unclear, and communication between parties is inconsistent, leaving GMPs to navigate situations without clear guidance, sometimes requiring police or municipal social services to assist. There is also no backup support during emergencies or weekends. The case is different in Central Macedonia region (Thessaloniki), where the other implementing partner of NERM, Arsis NGO, operates.

#### **Lack of Professional Supervision**

Another critical gap in the guardianship program is the absence of structured professional supervision for GMPs and their coordinators. Interim solutions, such as internal supervision provided by professionals outside of the guardianship project, fail to provide necessary impartiality or support. A complementary project planned for launch soon may help address part of this gap by offering optional supervision sessions. While this could provide some needed support, the fact that attendance will be voluntary limits its effectiveness. To truly address the need for professional oversight, a standardized, mandatory supervision framework would be necessary to ensure all staff receive consistent support.

#### **Lack of Dedicated Interpretation Services**

There is also a lack of consistent, dedicated interpretation services. Most interpretation is provided through a general interpreter pool, often via phone, which proves insufficient for complex cases. While on-site interpreters may be more effective, they are not consistently available. The general interpreter system introduces added bureaucracy and effort, further complicating urgent or unplanned actions and highlighting the need for a more stable interpretation solution.

#### **Lack of Support Structures**

The lack of support structures within the broader child protection and youth support framework significantly impacts the role of guardians. Core deficiencies include the absence of specialized services for substance users, mental health facilities, and transitional housing programs tailored for vulnerable young adults. With a waiting list for accommodations and no alternatives in day care centers, guardians struggle to find short-term solutions. The Ministry of Migration and Asylum's planned "Helios Junior" program for young adults may offer support, but the lack of mental health, substance recovery, and housing resources leaves many minors without essential services. This contributes to an increase in informal child labor and further undermines the stability of these vulnerable young individuals.

In general, the inadequate integration framework leads to increased instances of informal child labor, as young people lack viable pathways for safe, sustainable livelihoods. Without sufficient mental health, substance recovery, and housing resources, many minors and young adults are left without essential support, undermining their potential for stability and growth within society. Addressing these gaps, even through short-term or emergency provisions, is essential to provide a safety net that not only aids these vulnerable individuals but also alleviates the burden on guardians tasked with their care. During 2025 it is anticipated that day centers in Athens, Thessaloniki, Lesvos, Ioannina and Larissa will operate in their full capacity to support unaccompanied children as well as young adults.

### 3.2 Good practices

#### **Good practices of the National Guardianship System**

- **"Guardianship" information system.**

The National Guardianship System in Greece is designed to ensure comprehensive support and protection for unaccompanied minors throughout the country. Guardians are appointed to minors in various accommodation settings, including Closed Control Access Centres, Long-Term and Urgent Accommodation Centres, foster care, and even in urban areas where minors may be living in precarious conditions. The complex geography of Greece, along with the frequent movement of unaccompanied minors between different facilities, presents significant challenges in the implementation of the National Guardianship System. To address these challenges, the Institutional Protection Unit (IPU), in collaboration with the ICT Directorate of the Ministry of Migration and Asylum, developed the "Guardianship" information system, which was launched in January 2024. This system captures and tracks critical data related to guardians, coordinators, mandated persons, and the minors themselves, offering a detailed view of the guardianship process from appointment to cessation.

The "Guardianship" information system is a central tool for monitoring and ensuring the proper functioning of the National Guardianship System. It allows the IPU to track the status of guardianship for each minor, including the appointment of guardians, any changes in the minor's accommodation, and the cessation of guardianship when necessary. The system collects essential information such as the identity of the minor, the accommodation details, and relevant legal documentation. It also tracks the details of Guardianship Service Providers (GSPs), coordinators, and mandated persons, allowing for real-time updates on the progress of each case. By monitoring the entire guardianship process, the



IPU can identify challenges and gaps in the system, propose solutions and generate statistical data that help inform policy decisions.

- **Best Interest Procedures**

The implementation of Best Interests Procedures (BIP) aims to ensure that the needs and well-being of unaccompanied minors are prioritized throughout reception and asylum processes. Guardians now play a central role in reception and asylum procedures by conducting Best Interests Assessments (BIA) to develop individualized case plans tailored to each minor’s unique situation.

Historically, BIA was not a standardized component in case management. Multiple organizations used different assessment forms, resulting in inconsistent procedures and fragmented information about each child. Additionally, the absence of formal guidelines, assessor training, and a unified framework led to the risk of re-traumatization.

The current BIP project introduces a structured, standardized approach through several core components. First, the BIP Toolkit includes short and comprehensive BIA forms, guidelines for completing them, and a theoretical and legal framework to establish a uniform procedure. This toolkit also included a confidentiality undertaking to ensure secure handling of sensitive information.

The project’s training package offers “Training of Trainers” (ToT) sessions, which encompass adult education methodology, step-by-step guidance on the BIA process, child protection case management, theoretical and legal knowledge, and child-friendly communication techniques to ensure minors feel safe and understood.

To monitor progress and effectiveness, a comprehensive Monitoring & Evaluation framework has been implemented, which includes monthly narrative reports, sample BIAs, an online feedback form, and focus group discussions to gather qualitative insights from involved stakeholders.

Training initiatives have made significant strides. The Training of Trainers on “Best Interest Procedures – Best Interest Assessment” has already equipped, at the time of drafting this report, 69 focal points, with six sessions completed and one more scheduled for November 2024. These trainers are responsible for conducting secondary training sessions for field professionals, supported and monitored by the General Secretariat of Vulnerable Persons and Institutional Protection. To date, 34 secondary training sessions have been conducted, reaching over 300 field professionals. Certification is also underway for both trainers and professionals conducting BIAs, ensuring that standardized qualifications are met across all individuals involved in the procedure.

The project is supported by three partners from the National Emergency Response Mechanism, five emergency accommodation facilities, 82 accommodation centers for UAMs, supervised semi-independent living apartments, and dedicated child protection teams across safe areas. Monthly progress reports indicate a substantial advancement toward the project’s objectives, establishing a



foundation for a standardized, compassionate, and legally aligned approach to safeguarding the best interests of minors in Greece.

### **Good Practices applied by the GSVP in support of the National Guardianship System**

- **National Emergency Response Mechanism**

Since 2015, Greece has seen a significant increase in unaccompanied children (UAC), reaching 5,424 by February 2020. Many of these children faced homelessness or precarious conditions due to a lack of sufficient shelter, with some placed in police custody while waiting for accommodation. By 2020, around 1,000 children were homeless, particularly in Athens and Thessaloniki, making them vulnerable to trafficking and exploitation. In response, the Greek government abolished protective custody for UAC in 2020 and established the Special Secretariat for the Protection of Unaccompanied Minors (SSPUAM) under the Ministry of Migration and Asylum. SSPUAM became the main authority for UAC protection, leading to the creation of the National Emergency Response Mechanism (NERM) in January 2021.

NERM, established under Law 4960/2022, focuses on quickly identifying and placing at-risk minors into emergency shelters, collaborating with authorities to protect them from violence, trafficking, and abuse. Its mission is to create a safety net for unaccompanied minors, especially those in unsafe conditions, and act as a preventative mechanism against human trafficking. The NERM includes key components like a Tracing Line, operated by specialized professionals and supported by METAdrasi's 24/7 interpretation service, which coordinates the transfer of minors to shelters. Info Desks and Mobile Units in Attica and Central Macedonia provide psychosocial and legal support, conduct age assessments, and help transfer unregistered minors to shelters. Emergency Accommodation Facilities, operated by the International Organization for Migration, offer 155 places in these regions for UAC, providing psychosocial support and conducting Best Interest Assessments. NERM also supports children fleeing the conflict in Ukraine, managing cases through established registration and referral protocols.

Since its inception, NERM has facilitated the accommodation of 5,688 UAC and handled 604 cases from Ukraine. It has gained international recognition, including a presentation at the World Refugee Forum and an award from the EUCPN for crime prevention. Initially funded by UNHCR, NERM is now supported by the Ministry of Migration and Asylum through EEA Grants and the Swiss-Greek Cooperation Program (2024-2025). Looking ahead, NERM plans to expand its services to other vulnerable populations at risk of homelessness and continue its support through its Helpline.

- **Mentorship project**



The Mentorship Project, initiated by the Ministry of Migration and Asylum offers a unique approach to support unaccompanied minors (UAMs) in Greece. The project employs six mentors, most of whom are former UAMs themselves, offering relatable guidance and support for positive integration into Greek society. Mentors serve as role models, providing peer-to-peer advice and emotional support to help minors transition to adulthood. They also act as intermediaries between the Ministry and the minors, ensuring their needs are communicated.

The project's objectives include identifying minors' individual needs, encouraging educational engagement, partnering with support organizations, and increasing referrals to the Supported Independent Living (SIL) program. It also promotes participation in the Teens Network and develops child-friendly resources. Mentors organize focus group discussions and field visits to shelters and SIL apartments, engaging minors on education, employability, life skills, and personal challenges. Additional community-building activities include monthly online meetings, art workshops, educational visits, and sports.

Since its launch, the project has benefited 2,385 children from 18 nationalities and conducted 197 field visits. It has built trust with minors, empowering them to pursue personal and educational growth while strengthening peer support networks and connecting them to essential services. However, challenges include limited resources for minors over 18, geographic dispersion of facilities, and occasional reluctance from some stakeholders. Despite these challenges, the Mentorship Project plays a crucial role in supporting UAMs' integration and resilience, with continued expansion and resource allocation essential to its success.

## 4. Recommendations

The NGSUM plays a crucial role in protecting the unaccompanied minors arriving in Greece. The system has laid an important foundation by establishing essential guardianship structures and partnering with NGOs and agencies to address the immediate needs of these children. Building on this progress, there are still key opportunities to enhance the system's efficiency, sustainability, and responsiveness. The following recommendations propose targeted improvements that can strengthen the NGSUM, ensuring it can continue to safeguard and empower unaccompanied minors as they navigate complex circumstances and begin their journey toward stability and integration. By enhancing interpretation services, improving case management, strengthening training of professionals involved in guardianship services, streamlining legal and bureaucratic processes, supporting safe employment and integration, and building a robust structural framework, Greece can more effectively meet the needs of these young individuals and safeguard their well-being.

### Interpretation services

- ✓ **Increase availability and flexible scheduling of interpretation services:** Each GSP should have a core team of interpreters dedicated to assisting with cases involving unaccompanied minors. This team should be on-hand, allowing flexibility and avoiding the need for pre-scheduled

appointments. Having interpreters available across multiple languages will ensure that minors can communicate effectively in their native language, enhancing trust and understanding.

### Case management and staffing

- ✓ **Improved staff to child ratios:** To manage the complex needs of scattered cases, ensure that the 1:15 GMP to minor ratio is maintained to avoid burnout among GMPs and coordinators. Additionally, hiring administrative assistants can alleviate coordinators' workloads, helping them focus on quality interactions with minors and reduce turnover due to excessive stress, while efforts of GSPs could also focus on streamlining the appointment of GMPs based on specific locations or supporting actors. A more linear and organized approach to assigning GMPs would not only enhance coordination but also ensure that the support provided is tailored to the unique needs and context of each location.
- ✓ **Streamlined reporting:** Simplify bureaucratic processes by centralizing record-keeping and minimizing duplicate entries. GMPs currently have to input similar data into multiple systems, reducing the time they can spend with minors. A centralized reporting system would address these issues by allowing data to be entered once and accessed across relevant platforms. This would enhance data accuracy, reduce redundancy, and free up valuable time for GMPs to focus on their primary responsibilities. However, implementing such a system requires close coordination between the GSVPIP and the GSPs. Currently, the GSPs often rely on their own, non-standardized reporting tools, which add layers of bureaucratic complexity and create additional administrative pressure. To address this, it is recommended to establish streamlined horizontal reporting tools and unified administrative processes that serve the dual purpose of meeting the monitoring needs of the guardianship services and fulfilling donor reporting requirements.
- ✓ **24/7 support for emergencies:** Emergencies and urgent cases can arise at any time. A 24/7 support system through NERM or a similar mechanism would allow for prompt responses, particularly for minors in unsafe conditions. This around the clock support would prevent delays in critical situations, namely for children living in precarious conditions, providing guardians with reliable backup.

### Training and support for GMPs

To enhance the training and support provided to GMPs, it would be beneficial to diversify and modernize the training program's modalities. Incorporating **practical approaches** such as job shadowing would allow GMPs to gain hands-on experience and observe best practices in real-world scenarios. Complementary tools, such as the development of **online asynchronous training modules** for foundational aspects of the training, can provide flexible learning opportunities and ensure consistency in knowledge dissemination. Additionally, creating a **dynamic Q&A platform** dedicated to guardianship can address standard common questions while allowing GMPs to seek guidance on emerging challenges during their appointments. These initiatives collectively could strengthen the preparedness and confidence of GMPs, equipping them to better fulfill their roles.

- ✓ **Regular training sessions:** Quarterly sessions/meetings should be mandatory, covering topics such as new administrative procedures, asylum processes, and minor-related law updates. This would allow GMPs to stay current without relying solely on peer advice, which can lead to inconsistent handling of cases.
- ✓ **Case studies and practical scenarios:** Develop a repository of case studies on diverse topics, including crisis management, legal procedures, and minor protection. By simulating real-life situations, GMPs and their coordinators can gain hands on experience in handling various cases, helping them support minors more effectively.
- ✓ **Mentorship and peer support:** New GMPs would benefit from a mentorship system where they can receive guidance from experienced staff. Regular interdisciplinary meetings will foster collaborative decision-making, helping new and seasoned guardians make informed choices without carrying the entire burden themselves.
- ✓ **Legal training support in asylum procedures:** GMPs often lack the legal expertise needed during minors' asylum registrations and interviews. To address this gap, it is essential to provide targeted training that goes beyond theoretical knowledge of the asylum legal framework. Training programs for GMPs should incorporate practical components such as case studies, role-playing exercises, and scenario-based learning to familiarize them with the real-world dynamics of asylum processes. These hands-on methods will help GMPs identify potential red flags, anticipate challenges, and ensure that minors are adequately prepared and represented. By equipping GMPs with these skills before their formal appointments, they will be better positioned to advocate for the best interests of the minors under their care. In addition, adopting a multidisciplinary approach is vital. This involves strengthening collaboration between GMPs and legal professionals within the team who can provide consultations, guidance, and direct involvement in cases as needed. This collaborative effort ensures comprehensive preparation for minors, particularly in more demanding legal situations, like penal cases involving unaccompanied minors. These cases often require advanced legal expertise and may carry potential penal responsibilities for GMPs.

## Legal and bureaucratic system

- ✓ **Standard Operating Procedures (SOPs):** Developing SOPs for significantly challenging processes related to minor care, such as Dublin cases and children living in precarious conditions, will give guardians a clear reference for handling cases uniformly. This will reduce ambiguity in decision making and enhance service consistency, especially across diverse regions with different logistical challenges.
- ✓ **Acceleration of the guardian's appointment:** The guardianship system would benefit from a streamlined appointment process to expedite the assignment of guardians to new cases, reducing delays in providing necessary care. Streamlining this process can be achieved through several approaches. One solution would be to reduce the existing bureaucratic complexities by reinforcing the capacity of competent Public Prosecutors' offices. This could involve the secondment of experienced administrative staff and providing targeted training to support efficient case management. If this approach proves insufficient, an alternative could be to explore an appointment mechanism wherein the MoMA directly assigns guardians. As a public

entity responsible for the protection of unaccompanied minors, MoMA is well-positioned to take on this role, ensuring a more centralized and efficient process.

- ✓ **Safety protocols for precarious living conditions:** Unaccompanied minors sometimes reside in unstable or informal arrangements. Establishing safety evaluation protocols for these cases would allow rapid assessments by professionals within a specific timeline, ensuring that these minors receive appropriate supervision or alternative housing to mitigate safety risks.

## Employment and integration support for minors

- ✓ **Addressing child labor issues:** Many minors feel pressured to work illegally to support families back home. To reduce this, awareness raising on the legal pathway for minors should take place and more opportunities for supervised and paid vocational training should be available. This would allow minors to work in safer, legally recognized environments while continuing their education.
- ✓ **Realistic integration programs:** Integration options should be tailored to each minor's needs, allowing them to choose between asylum and other legal protections suited to their background. This flexibility will reduce false expectations and better prepare minors for life in Greece or Europe.
- ✓ **Awareness of workers' rights:** Many minors arrive with work experience and a strong drive to support their families. Providing minors with comprehensive information about their rights and safe work practices will help them make informed choices, reducing their vulnerability to exploitation.

## Structural and systemic enhancements

- ✓ **Long-term funding and stability:** Transition from temporary EU funding to a more sustainable, government-supported model to maintain continuity and reduce staff turnover. Stable funding would also allow for better long-term planning and service delivery, ensuring that minors receive continuous support without interruptions.
- ✓ **Strengthen specialized services:** Unaccompanied minors often have complex mental health and legal needs. Expanding specialized mental health services, legal counseling, and social support will provide comprehensive care, reducing the risk of minors engaging in illegal activities due to lack of resources.
- ✓ **External professional supervision for guardians:** Guardians are entrusted with significant responsibilities, including managing the personal, financial, and legal affairs of vulnerable individuals. External professional supervision serves as a critical safeguard, ensuring that guardians act in the best interests of those they are appointed to protect. Additionally, it creates an avenue for expert guidance and support, helping guardians navigate complex decisions and access necessary resources.

- ✓ **Promote foster care as an alternative:** Reinforcing the national foster care program as an alternative to institutional care, through financial and educational support for foster families could make foster care a more viable option, giving minors the opportunity to grow in a family like setting.
- ✓ **Enhancing oversight through independent evaluation:** To further strengthen the guardianship system, it would be recommended to establish or engage an external neutral and independent institution to evaluate the system and its services. An independent certifying institution would conduct comprehensive evaluations of guardianship services, assessing their effectiveness, efficiency, and compliance with legal and ethical frameworks. By operating independently, this body would offer unbiased assessments, free from internal or political influence, ensuring that evaluations are credible and objective.

## National Action Plan – Italy

### Introduction

The National Action Plan - Italy is a mapping analysis aimed at documenting and assessing the protection system for unaccompanied minors in the country; this plan is an integral part of the GUARD-UP project, which aims to strengthen the protection systems for unaccompanied minors in six European Union member states. The main objectives of the plan are to gain in-depth knowledge of the current protection system, identify areas for improvement and develop concrete recommendations for its strengthening. In the European panorama, Italy is to date the country with the highest number of Unaccompanied Children (UACs) present on the territory and it is the only country, in Europe, that has a national law regulating the Protection of unaccompanied children (Law 47/2017).

Law 47/2017<sup>50</sup>, which came into force with the aim of regulating child protection issues in a more structured and organic way, marked a significant change in the way this phenomenon is addressed. In fact, the enactment of this norm represented a shift from an emergency management to a systemic and more articulated vision of the matter, with a focus on the creation of a stable and well-defined regulatory framework. One of the most innovative and distinctive aspects of this law is the introduction of the institution of “voluntary guardianship”, which goes far beyond the mere traditional “legal guardianship”. This model of active citizenship emphasizes the importance of direct and conscious involvement of the community and adults of reference in the child's growth path. Voluntary guardianship focuses, in fact, on a more relational approach, which is not limited to fulfilling bureaucratic obligations, but promotes a constant and positive interaction with the child, in order to ensure effective and educational, as well as legal, support. In this sense, Law 47/2017 has fostered a cultural change, aiming for a form of protection that is closer to the daily reality of the child and his emotional and psychological needs, rather than a strictly formal and legal view of the concept of guardianship.

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<sup>50</sup> Law No. 47 of april 7th 2017: Disposizioni in materia di misure di protezione dei minori stranieri non accompagnati

This approach aims not only to protect the child's right to be protected, but also to promote their right to grow up in a healthy relational environment in which adult support is concrete, continuous, and geared toward the overall well-being of the child.

In this National Plan, Law 47/2017 will be the central point for an analysis of the current state of the protection system. This law is obviously part of a larger framework that sees a large number of laws and decrees in protection of lone minors as part of a diverse and complex phenomenon such as the reception of UACs.

It should be highlighted in this introductory chapter that the current system of voluntary protection for UACs is undergoing profound changes, which seem to be reducing the level of protection and guarantees for these vulnerable minors. A significant example of these changes is Law No. 176 of December 1, 2023<sup>51</sup>, which introduces amendments to Law 47/2017 reducing some of the main protections provided for UACs. These changes increase the risks to the physical safety and fundamental rights of minors, creating a more vulnerable situation. In particular, some of the changes regarding reception arrangements and ascertaining the age of registry could have significant repercussions in both the short and long term on the reception, protection and integration pathways of minors. These developments raise concerns about the future well-being and safety of UACs, prompting careful reflection on the implications of the new regulations.

The protection system is interconnected with the reception system. The reception of minors is based first of all on the establishment of governmental “first reception” facilities for the rescue and immediate protection needs of all unaccompanied minors. These are minors-specific facilities, activated by the Ministry of the Interior also in agreement with local authorities, financed on the Asylum Migration and Integration Fund (FAMI), often managed under subcontract by local third sector entities. For the continuation of the child's reception, all unaccompanied minors are expected to be received under the Reception and Integration System - SAI.

It emerges today that the reshaping of the reception system and the increase in admissions has led to the exhaustion of places in facilities specifically intended for minors, putting many local governments in the condition of having to use temporary and emergency facilities, outside the ordinary circuit, with the risk that reception and protection standards are not met.

The presence of migrant minors on Italian territory is a phenomenon that has seen a stable numerical presence in the last 3 years, but has been steadily growing in the previous years. As of 31-10-2024, the No. of UACs present on the territory is 19,215<sup>52</sup>. Unlike 2023, when the increase in arrivals was largely due to the flow of minors from Ukraine, this year the number of Ukrainian minors is decreasing. The main country of origin for migrant minors in 2024 is Egypt.

Italy, due to its strategic geographic location at the border of the European Union, has become an increasingly significant destination for Unaccompanied Foreign Minors (UACs), a phenomenon that has

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<sup>51</sup> Law No. 176 of December 1st 2023: Conversione in legge, con modificazioni, del decreto-legge 5 ottobre 2023, n. 133, recante disposizioni urgenti in materia di immigrazione e protezione internazionale, nonché per il supporto alle politiche di sicurezza e la funzionalità del Ministero dell'interno.

<sup>52</sup> Ministry of Labour and Social Policy Statistical reports on the presence of UACs in Italy, 2024

grown significantly since 2010. The country is now facing a substantial increase in arrivals due to armed conflicts, natural disasters, and severe global economic crises, prompting thousands of minors to seek refuge and opportunities for a better life.

Below are some figures on the most frequent countries of origin and age of unaccompanied minors present on the Italian territory:

Origin: Egypt 20.03%; Ukraine 18.90%; Gambia 11.57%.

Age range: 16 years: 23.75% - 17 years 52.15%.<sup>53</sup>

## Methodology

The methodology carried out during this research firstly involved the study of data and information available through the use of secondary sources. This phase of studying was complemented with the performance of online interviews with professionals representing in different ways the guardianship system for unaccompanied foreign children (UAC) in Italy. These interviews availed of the contributions of Voluntary guardians' association of Regione Toscana, the Center of International Political Study (CeSPI), the Juvenile Court of the city of Florence, Istituto degli Innocenti, the Public personal services company (ASP) of the city of Bologna and the Regional guarantor for Children of Regione Emilia-Romagna. The interviews had a variable duration of about two hours and involved questions concerning the main aspects of the current system for unaccompanied foreign children (UAC) in Italy, both on a normative/regulatory level and on a daily operational practice level. The interviews were set up according to the tools and guidance provided by the PAS-Questionnaire and were structured following a tripartite scheme into three main areas of interest. The first part focused on the general aspects concerning the functioning and the operational mechanisms of guardianship system in Italy: the players involved, how they interact with each other and how the guardianship system is supported and safeguarded. In the middle part of the interviews, we looked at the seven standards for the protection and guardianship of minors, developed by European Guardianship Network and, in light of the direction provided by them, we observed how they are declined and applied in the Italian context, with a specific focus on the Toscana and Emilia-Romagna region. In the final part of the interview, the analysis focused on identifying good practices carried out locally as well as on the gaps of the current guardianship system in Italy, in order to identify the areas of intervention for the implementation of the guardianship system and the guardianship provided to unaccompanied foreign children.

The information that emerged during the interviews and the observations proposed by the people that have been interviewed have then been taken and organized into a narrative capable of including and accounting for the whole spectrum of viewpoints, in order to provide for an organic and coherent overview of the current state of the guardianship system in Italy.

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<sup>53</sup> Dashboard Ministero del Lavoro e delle Politiche Sociali <https://analytics.lavoro.gov.it/t/PublicSIM/views/HomePage/HomePage-SIM?%3Aembed=y&%3Aiid=1&%3AisGuestRedirectFromVizportal=y>

## Chapter 1: National Framework

In the Italian legal system, the protection of unaccompanied children (UACs) is regulated by a series of normative provisions, which pay attention to their protection, safety and integration. Among the main laws regulating the matter are the Consolidated Text on Immigration (Legislative Decree No. 286/1998) and Legislative Decree No. 142/2015, which establishes the rules on the reception of applicants for international protection. However, a fundamental step in the protection of UACs was represented by the introduction of Law No. 47/2017, known as the Zampa Law, which outlined specific legislation for unaccompanied foreign children, making important changes and additions to the pre-existing legal framework.

With the approval of Law No. 47/2017, Italy guarantees comprehensive protection and dignified reception to unaccompanied foreign children, recognising them as vulnerable subjects in need of special protection. The law introduced a fundamental principle: the equalization of UACs with minors of Italian citizenship, recognising them the same rights and equal treatment in legal, social and economic terms. In particular, one of the most significant innovations of the Zampa law is the introduction of an absolute ban on rejecting unaccompanied foreign children at the border. This prohibition states that it is not possible under any circumstances to forcibly repatriate a UAC, regardless of their legal situation, placing at the center the principle of the inviolability of their security and their right to be protected.

For minors entering Italy, the law provides for different ways to acquire a residence permit, depending on their situation and age. In particular, minors can obtain two main types of residence permits:

- Residence permit for minors, which can be requested directly by the minor, or by the person exercising parental responsibility, even before the appointment of a legal guardian. This permit allows the minor to stay legally in Italy during the protection process.
- Residence permit for family reasons, which may be issued to a minor under the age of 14, entrusted to or under the guardianship of an Italian citizen with whom they live, or to a minor over the age of 14 entrusted to or under the guardianship of an Italian citizen or a legally residing foreign citizen with whom they live.

Both permits are valid until they reach the age of majority. Law No. 47/2017 provided for the creation of specific tools to monitor and coordinate actions in favor of UACs on Italian territory. In this context, the National Information System for Unaccompanied Minors (SIM) was established at the Directorate-General for Immigration and Integration Policies. This system aims to collect and manage data on unaccompanied foreign children present on the national territory, constantly monitoring their condition and movements. In fact, the SIM makes it possible to trace the movements of UACs, to verify their placement in reception facilities and to follow the process of their care by the competent social services, guaranteeing adequate support during their stay in Italy.

These measures, which are part of an evolving regulatory and social context, are fundamental to protect the rights of unaccompanied foreign children, who represent one of the most vulnerable categories of the migrant population. Thanks to the Zampa Law and the SIM System, Italy has adopted



a more inclusive and protective vision, placing the well-being and safety of minors at the center, and ensuring them a path of reception and integration that respects their dignity and fundamental rights. Law No. 47/2017 also established the figure of the Voluntary Guardian: voluntary guardians are private citizens available to exercise legal representation of a foreign minor who has arrived in Italy unaccompanied. The voluntary guardian assumes the guardianship of one unaccompanied foreign minor or several 'minors', in the maximum number of 3.

Its tasks are:

- to ensure that the person of minor age has access to rights without any discrimination;
- to promote the psycho-physical well-being of the child
- to monitor their education and integration paths, verifying that their abilities, natural inclinations and aspirations are taken into account;
- to monitor reception, safety and protection conditions;
- to administer the minor's assets, if any.

Unaccompanied minors are placed with reception facilities or foster families. The voluntary guardian is not necessarily the foster carer.

To apply to become a voluntary guardian, it is necessary to:

- be at least 25 years old and have an adequate and proven knowledge of the Italian language, if foreigner (as well as a residence permit if not an EU citizen)
- enjoy civil and political rights
- not have been convicted or be undergoing criminal proceedings or for the application of security or prevention measures.

There must be no impediment conditions under Article 350 of the Civil Code<sup>54</sup>.

In order to become a voluntary guardian, one must pass a training course (approximately 30 hours), and then confirm their availability to be appointed as a voluntary guardian by the Juvenile Court. After undergoing the training course and confirming their availability, aspiring voluntary guardians are placed on the list established at the territorially competent Juvenile Court, which will then proceed to appoint them as voluntary guardians. The activities carried out by the guardian are multiple and of fundamental importance to ensure the protection and well-being of the child. The guardian has the task of supervising and intervening to ensure that every decision concerning the child is taken in their 'best interests', always taking into account their psychological, social and educational needs. The primary objective of the guardian is to foster the harmonious growth of the minor, promoting their development in a complete and sustainable manner, so that they can become an autonomous and responsible adult. In this context, it is essential that the guardian establishes and maintains a 'constant and direct dialogue' with the care structure hosting the minor and with the 'Social Services', so that they can actively cooperate to define and monitor the minor's growth path.

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<sup>54</sup> Linee guida per la selezione, la formazione e l'iscrizione degli elenchi dei tutori volontari ex art.11, Law No.47 of April 7th 2017

## Chapter 2: Assessment of the guardianship system

### 2.1. – Non-discrimination - Equal guardianship services for every child

On a regulatory level, the law provides for the appointment of a guardian for each UAC within national territory irrespective of their gender, their age or their immigration status. In the event that there's no voluntary guardianship available, a public guardianship is established, which is held by a competent public authority. Before the establishment of Law 47/2017, guardianship was generally entrusted to the institutional guardian, who could be the Mayor of the municipality where the minor was taken in, the Counselor or other institutional actors. However, due to the large number of minors, the institutional guardian was often called upon to accompany, and was not always able to guarantee accompaniment based on an in-depth knowledge of the minor themselves.

Law 47/2017 introduced - on the basis of previous good practices widespread in some parts of the national territory - the figure of the voluntary guardian, calling on private citizens to fill this role in a more direct and effective manner (also thanks to the maximum number of minors that a voluntary guardian can follow, which is three). The voluntary guardian is in fact called upon to be the new point of reference for the unaccompanied foreign minor, facilitating their growth in the host society and supervising and ensuring that their rights are fulfilled and protected.

As far as it concerns the guardianship system in Italy, the only perceived discrimination concerns the territory and the community in which the minor happens to be placed by the foster care system. There is a strong geographical and territorial unevenness in the number of voluntary guardians and in the number of second-care facilities available, which results in discrimination in terms of guardianship, depending on where the minor happens to be located. There still are substantial geographical differences depending on the territory, the Juvenile Court and the Guarantor.

In this regard, guardians' associations guidelines intervene to establish a common basis at a national level. Even though there are laws that ensure and provide for the appointment of a guardian for all unaccompanied foreign minors, in the case of the Tuscany Region it has been observed the tendency to give special attention to minors coming from areas considered to be more at risk, to younger minors as opposed to minors closer to the age of majority and to minors with complex medical or personal situation. Therefore, on a regulatory level, the appointment of a guardian for all unaccompanied minors is provided equally, whereas on a practical and operational level it has been noticed that not all minors have equal access to guardianship nor they benefit from the same quality of guardianship.

At the present time, in regards to the Italian regions covered by this research, it is possible to observe examples of individual guardians with several minors under their guardianship at the same time and examples of minors waiting for a long time before having a guardian assigned to them. This situation

has to do primarily with a disproportionate ratio of available guardians to minors present in the area (e.g. in Tuscany there are around 900 minors on the territory compared to 200 qualified guardians, not all of whom are active). During the time gap between the arrival of the minor in the State territory and the appointment of a guardian, art. 3 of Law 184/1983<sup>55</sup> states that the function of the legal guardian has to be carried out by the person in charge of the foster care facility, which therefore implies the possibility for the person in charge of the facility to have several minors under their guardianship at the same time.

There is also an issue concerning minors with pending criminal charges both in terms of timing for the opening of guardianship and in terms of the type of guardianship that is chosen. In the case of the Emilia-Romagna region, it has been observed how the appointment of a guardian occurs in a much shorter period of time than the average and the appointment of a public guardianship is favored, which does not require an oath from the guardian and is therefore quicker and easier than the appointment of a voluntary guardianship, almost as if guardianship assumed a purely formal and legal function instead of a safeguarding and caretaking function as intended by law 47/2017. There is also a significant variability in the quality of guardianship depending on the minor's residence territory since the appointment of the voluntary guardian depends on the Juvenile Court and on the community the minor is assigned to. With regard to this, there's also an issue concerning minors approaching the age of majority, since the more they get close to that age the more it gets difficult for guardianship to be effective, also because of the limited amount of time the guardian has to get to know the minor and thus build a mentoring and supportive relationship with them, not just a formal one.

## 2.2. Accountability & responsibility – Clear legal basis, responsible authority & monitoring mechanism in place (key provisions related to the appointment and roles & responsibilities of the guardians)

On a normative level, the guardianship system in Italy is defined and regulated by the Law 47/2017 which introduces the figure of the voluntary guardian, defined by the National Office of Guarantor for Children (AGIA) as “the person who, gratuitously and voluntarily, is not only willing and capable of legally representing an accompanied alien minor, but is also a motivated and sensitive person, caring about the relationship with the minor and about understanding his or her problems and needs”<sup>56</sup>. According to the normative framework, the voluntary guardian is not only responsible for acting as a connection point between minors and institutions, but also as a mentoring and guiding person to the minor placed under their guardianship. In addition to introducing the figure of the voluntary guardian, law 47/2017 defines and establishes functions and responsibilities of the different bodies involved in the Italian guardianship system:

### - JUVENILE COURT (TM):

The Juvenile Court holds the list of trained voluntary guardians available to take on this task. It is the competent judicial authority that appoints the voluntary guardian and supervises their work. Also

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<sup>55</sup> Law No. 184 of May 4th 1983: Disciplina dell'adozione e dell'affidamento dei minori. (GU Serie Generale n.133 del 17-05-1983 - Suppl. Ordinario n. 28)

<sup>56</sup> AVVISO PUBBLICO PER LA SELEZIONE DI SOGGETTI IDONEI A SVOLGERE LA FUNZIONE DI TUTORE DI MINORI STRANIERI NON ACCOMPAGNATI A TITOLO VOLONTARIO E GRATUITO (art. 11, Law No. 47 of April 7th 2017)

established within the TM is the Public Prosecutor's Office for Minors, which is immediately notified of the arrival and presence, on Italian territory, of an unaccompanied minor. And again, among its competences concerning UACs, the Public Prosecutor's Office at the Juvenile Court may order socio-medical examinations aimed at ascertaining the age, in cases where there are well-founded doubts as to the age declared by a minor and it has not been possible to ascertain the age through a registry document;

**- OFFICE OF THE REGIONAL GUARANTOR FOR CHILDREN:**

has the function of promoting and protecting the rights of persons under the age of 18. It is the body responsible for the training of aspiring voluntary guardians, who, once they have completed the course and confirmed their availability for appointment, will transmit to the TM the list of available guardians who will be included in the list established at the Juvenile Court of the region of residence or domicile; Law 47/2017 defines and regulates the different stages required in the process of taking charge of the minor. The moment an accompanied foreign minor is tracked down on national territory and reported to the local authorities, to social services, other representatives of the local community or to the judicial authorities, they are placed in a primary care facility where, beside providing humanitarian assistance to the minor, an initial interview is conducted, aimed at investigating their personal and family history and bringing out any other elements useful for their protection. A cultural mediator is expected and guaranteed to be present at this stage. It is then required for the minor to be escorted to the local authorities for identification.

The correct identification of minors guarantees the effective exercise of their rights and avoids the adoption of measures detrimental to them, e.g. rejection at the border, forced return, administrative detention, placement with adults. As no method can determine with certainty the chronological age of an individual, age assessment must be conducted according to a holistic approach and with multidisciplinary procedures and methods carried out by qualified and independent personnel. Under Italian law, the Public Security Authority has an obligation to immediately report the presence of an unaccompanied foreign minor to the competent authorities, namely:

a) to the Public Prosecutor at the Juvenile Court and the Juvenile Court, for the opening of the guardianship, the appointment of the guardian and the ratification of the reception measures;

b) to the Directorate General for Immigration of the Ministry of Labour and Social Policies, for the census and monitoring of the presence of unaccompanied minors. Public officials, those in charge of a public service and those exercising a service of public necessity must report, as soon as possible, to the Public Prosecutor at the Juvenile Court of the place where the minor is located and of the conditions of any minor in a situation of abandonment. The Law provides that anyone is entitled to report situations of abandonment of minors to the public authority.

To ensure the protection of the child, the request for the opening of guardianship must be forwarded to the juvenile court immediately after the finding of parental absence status so as to arrive as soon as possible at the actual appointment of a guardian. Upon receipt of the report from the relevant services, it is expected that the Juvenile Court will open a file for the opening of guardianship, and thus proceed as quickly as possible to appoint a public guardian for the minor or a voluntary guardian, based on the names of available voluntary guardians on the Courts' lists. It is expected that the Juvenile Court, upon receipt of the report will then proceed to schedule an initial hearing at which the minor, the head of the facility where the minor has been placed and the voluntary guardian (once appointed) are heard. In order for the court to be able to proceed with the identification of the guardian, it is necessary that

the child's transition has taken place from the first reception facilities, where the first phase of ascertaining and verifying the child's condition is expected to take place, to a second reception facility, in order to ensure also at the geographical level that a relationship of proximity between the child and the voluntary guardian is guaranteed. Once the appropriate voluntary guardian has been identified, it is expected that the juvenile court will schedule a hearing for the guardian to be sworn in and begin their work.

As mentioned before, the voluntary guardianship system works and is therefore regulated on the basis of Law 47/2017. The figure of the voluntary guardian is one that is defined by law, it has fully the same functions as the traditional legal guardian, so for its duties it refers to the Civil Code. There are further legal references that intervene to define the voluntary guardianship system, among them:

- Art. 343 of the Civil Code<sup>57</sup>: establishes the modalities and prerequisites for the opening of a guardianship in respect of a minor;
- Decree No. 219 of 2022<sup>58</sup> regulating the modalities of reimbursements and interventions in favor of voluntary guardians of unaccompanied foreign minors;
- Legislative Decree No. 142/2015<sup>59</sup> laying down rules on reception.

Despite the different references at the legal and legislative level, the basis of reference in the field of guardianship is made up of the guidelines of the National Guarantor Authority, among these are in particular the guidelines for the selection, training and registration in the lists of voluntary guardians, created to facilitate the implementation of Law 47 of 2017. The role played by operational manuals and materials produced not only by guarantor authorities, but also by third sector entities remains fundamental.

However, the responsibilities of the protection system and management procedures remain with the National Supervisory Authority. In addition to the role of the National Supervisory Authority, there is also the role played by the Juvenile Court, which acts as an independent authority to which complaints can be submitted regarding the activities of the guardianship authority or guardians, as well as a guarantee body of the guardianship system at judicial level.

With regard to the issue of responsibility, in the case of the Emilia-Romagna region, there is, however, an issue related to cases in which, in the absence of the appointment of a guardian, the role of guardian of the minor is covered by the legal representative of the structure in which he or she is staying, who may in turn delegate the role to the person in charge of the structure or to an operator. This, in addition to representing a step backwards with respect to the attempt to standardise the system, opens a question regarding responsibility, given that the guardian pro tempore, who has legislative coverage prior to Law 47/2017 (Art. 402 of the Civil Code<sup>60</sup> - Law 184/1983<sup>61</sup>) is not appointed by a judicial authority.

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<sup>57</sup> Art.343 of the Civil Code: Apertura della tutela

<sup>58</sup> Decree No. 219 of September 19th 2022: Disciplina delle modalità dei rimborsi e degli interventi in favore dei tutori volontari dei minori stranieri non accompagnati

<sup>59</sup> Legislative Decree No. 142 of August 18th 2015: Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale.

<sup>60</sup> Art. 402 of the Civil Code: Poteri tutelari spettanti agli istituti di assistenza

<sup>61</sup> Law No. 184 of May 4th 1983: Disciplina dell'adozione e dell'affidamento dei minori



The voluntary guardianship monitoring project for unaccompanied foreign minors that the Guarantor Authority for Childhood and Adolescence (Agia) is called upon to carry out by Law 47/2017 is financed by European resources from the Asylum, Migration and Integration Fund (FAMI), managed by the Ministry of the Interior. The initiative aims to ensure nationwide rights and opportunities in the reception and integration phases for unaccompanied foreign minors present in Italy by enhancing the work of voluntary guardians and other actors involved in the protection system. The National Association of Italian Municipalities (ANCI), the National Forensic Council and the National Councils of the Associations of Social Workers and Psychologists have been asked to promote its dissemination.

In order to pursue the objective of guaranteeing equal rights to unaccompanied foreign minors present in Italy, in accordance with the provisions of Article 2 of the 1989 UN Convention, Italy does:

1. constantly update data on voluntary guardianship in Italy.
2. an inter-institutional support network for voluntary guardians.
3. constant qualification of voluntary guardians' skills.
4. awareness-raising and promotion of the function of voluntary guardians and the role of Guarantors.
5. disseminate the innovative local projects on voluntary guardianship.
6. a documentation center and national guidelines.
7. the dissemination of the Italian experience in European countries

As a result of this research, gaps emerged in the territories surveyed with regard to the monitoring at the systemic level of the guardianship system. The management of the monitoring system is in the hands of the Office of the Regional Guarantor, which should try to maintain contact with the guardians and report periodically to the National Guarantor. At the monitoring level, a role is also played by the Court, which appoints the guardian and is therefore called upon to monitor the proper performance of their activities. In this regard, the decree appointing the guardian provides for the latter's duty to "report on the activities carried out on a bimonthly basis"<sup>62</sup>. Systematic procedures for monitoring the system are, however, often dependent on external projects and on the activation of funds at European level or on the activities of local authorities. In this regard, as far as the Emilia-Romagna Region is concerned, the SAI project, with the new three-year period and the new co-design, has structured a legal observatory including qualitative and quantitative data, published every four months on the website of the metropolitan communication service of the Protection System for Asylum Seekers and Refugees (SPRAR) of the city of Bologna. The observatory's data, currently only available in the reserved area, includes data on reception numbers but also specific focus on cases of administrative continuation, age assignments and ordinary projects. The Minors Information System (SIM) can also serve as a useful tool in this regard, allowing the monitoring of the presence of unaccompanied foreign minors present on the territory, tracking their movements throughout the country and managing data on MSNAs, their status and placement.

### 2.3 Independence & impartiality – The best interest of the child

Among the requirements that the candidate guardian must declare, under penalty of inadmissibility of the application, is the fact of "having 'irreproachable conduct', i.e. morally fit"<sup>63</sup>. This must be attested by self-certification, unless otherwise stated.

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<sup>62</sup> Appointment Decree as voluntary guardian sent by the Region of Tuscany

<sup>63</sup> Linee guida per la selezione, la formazione e l'iscrizione negli elenchi dei tutori volontari ex art 11 Law No.47 of April 7th 2017



There are guidelines drafted by the Association Tutori in Rete created to facilitate the implementation of Law 47 of 7 April 2017. The guidelines state that:

The principle of the best interests of the child, enshrined in the 1989 New York Convention on the Rights of the Child, as well as in Article 24 of the Charter of Fundamental Rights of the European Union<sup>64</sup>, translates into:

- Non-discrimination: all children are entitled to the same level of protection, regardless of age, immigration status, nationality, gender and ethnic origin, in accordance with Article 21 of the Charter of Fundamental Rights of the European Union.
- Independence and impartiality: guardians must decide independently and impartially and carry out actions and representation guided by the best interests of the child.
- Quality and appropriateness: guardians must have appropriate knowledge, skills and abilities in the field of child protection and promotion of child welfare. To this end, guardians must undertake initial and continuous training. Where guardians have to care for minors with special problems and needs, specific training will be necessary to understand and respond competently.
- Transparency and accountability: the guardian must be accountable with the utmost transparency and willingness to be monitored and subject to supervision and evaluation<sup>65</sup>.

At the regulatory and operational level, guardianship is therefore expected to be exercised independently and impartially with respect to other authorities. The guarantee of impartiality lies in the voluntary nature of the figure of the guardian. If it had been made a professional figure, in fact, the role of the voluntary guardian would have been traced back to that of the social service, whereas the idea was for it to be an external figure, therefore capable of supervising the proper performance of activities by the various actors involved in the guardianship system. From this point of view, the fact that several actors are involved in guardianship helps to ensure that there is mutual control between the parties.

There is no systemic monitoring or evaluation of the guardian's impartiality; if an incompatibility emerges in the course of his or her activities from this point of view, it is up to the Juvenile Court to intervene to revoke the appointment. In this case, the issue may be raised by: the host community, the social service, the Honorary Judge at the hearing or the Juvenile Court itself. As for monitoring the guardian's impartiality, in Tuscany, the regional guardian has required, in addition to sending the curriculum vitae as required by law, a brief cognitive interview with the aspiring guardian in order to access to the guardianship training course, but this represents the only filter available from this point of view.

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<sup>64</sup> Art. 24: Diritti del bambino

<sup>65</sup> Linee Guida per la selezione, la formazione e l'iscrizione negli elenchi dei tutori volontari, ex. art.11, Law No. 47 of April 7th 2017

With regard to the fact that guardianship is exercised in a financially independent manner from other authorities or responsibilities, an issue that has arisen in this regard several times at the national level has to do with the greater recognition of expense reimbursements and paid work leave and at the same time a simplification of the bureaucratic procedures to access them.

#### 2.4 Child Rights Centered – Respecting, protecting and fulfilling children’s rights

Paragraph 1 of Article 18 of Legislative Decree No.142/2015<sup>66</sup> states that:

*In the application of the reception measures provided for in this Decree, the best interests of the child shall take priority so as to ensure living conditions appropriate to the child's age, with regard to the child's protection, welfare and development, including social development, in accordance with the provisions of Article 3 of the Convention on the Rights of the Child of November 20, 1989, ratified by Law No. 176 of May 27, 1991.*

The legal guardian is therefore obliged to respect, protect and realize the rights of the child, safeguarding the child's best interests. In this sense, the guardian is obliged to monitor in terms of appropriateness the facility where the minor is, the appropriateness of the educational path chosen for him as well as the appropriateness of the choices made for him. Given the difficult definition of what is to be understood by the best interests of the minor, there must be a proximity relationship between the minor and their guardian in order to understand their real needs and requirements as well as a direct and constant relationship with the facility where the minor resides, so as to jointly establish a path for the minor towards autonomy.

Regarding the legal representation of the unaccompanied foreign minors, the guardian performs the functions of the minor's legal representative before institutions and public administration. Among the activities provided for by the guardian are:

- Support in choosing the most suitable legal path with respect to their personal situation.
- Support in the presentation of the application for a residence permit for minors and/or for the formalisation of the application for International Protection and support in the application for minors victims of trafficking in a specific programme.
- Participation in the identification phase of the minor and support during any age assessment.
- Request for initiation of any procedures for family investigations and subsequent family reunification.
- Legal representation in school/training procedures.
- Application for registration with the national health service.
- Monitoring and supporting the minor in the reception process.
- Support in the period of transition to majority<sup>67</sup>.

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<sup>66</sup> Legislative Decree No. 142 of August 18th 2015: Attuazione della direttiva 2013/33/UE

<sup>67</sup> Guida per i tutori volontari dei minori stranieri non accompagnati - Save the Children

Legal support and decisions are supported by the social services and the guardian. Among other activities, the guardian supports:

- Application for application of the EU Dublin III Regulation, if the conditions are met;
- Relations with the social services in charge of the minor, residential communities or foster families;
- Contact activities and legal representation in the framework of school/training procedures;
- Request for child victims of trafficking a specific programme pursuant to Article 17 of Law No. 47 of 2017.

The guardian is thus called upon to exercise parental capacity for the minor, but does not have criminal responsibility for them and is not expected to have any kind of involvement in the event of criminal proceedings in which the minor should become involved. The guardian may in some cases have civil liability to the minor, but since he or she does not live with the minor, it is not expected that he or she will have compensatory civil liability.

## 2.5 Child's participation – The right to be heard

The Italian guardianship system provides for a commitment on the part of the guardian to realize, protect and respect the rights of the minor, ensuring their best interests and physical and mental well-being. To guarantee this, a relationship of proximity between the guardian and the minor entrusted to them is provided for, in order to allow for an effective and constant listening to the minor's needs and thus verify that their natural inclinations, abilities and aspirations are taken into account and supervise on the appropriateness of the structure in which the minor is received and the path chosen for them. So that there can be an effective listening to the minor's point of view, in the case of the minor's language difficulties, the presence of a cultural mediator activated through the social service is provided. Regarding the minor's right to participate and be heard in matters that concern them, paragraph 2-ter of Article 15 of Law 47/2017 provides that:

“The unaccompanied foreign minor has the right to participate through his legal representative in all judicial and administrative proceedings concerning him and to be heard on the merits. To this end, the presence of a cultural mediator is ensured.”

At the normative level, the main reference regarding the child's participation is the right to be heard, starting with the judicial sphere, which was already sanctioned in Italy by Law 219/2012<sup>68</sup>. In this sense, paragraph 2 of Legislative Decree 142/2015 provides that:

“For the assessment of the best interests of the child, it is necessary to listen to the child, taking into account his or her age, maturity and personal development (...)

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<sup>68</sup> Law No. 219 of December 10th 2012: Disposizioni in materia di riconoscimento dei figli naturali.

At the normative level, the following aspects regarding the listening and participation of the child are also worth mentioning:

- the Convention on the Rights of the Child (CRC) approved by the United Nations General Assembly on November 20, 1989 and ratified by Italy with Law 176<sup>69</sup> of May 27, 1991. The Convention in Article 12 paragraph 2 speaks of the right to hear the views of the child by stating that children, boys and girls must have the opportunity to be heard in any judicial or administrative proceedings concerning them, either directly or through an appropriate representative or body.
- The European Convention on the Exercise of Children's Rights ratified in Strasbourg in 1996 and ratified by Italy through Law No. 77<sup>70</sup> of 2003, which provides for an “informed hearing” of the child.

Although there is a normative basis that provides for the listening and participation of the minor in the decisions that affect them, in practice much depends on the sensitivity of the court, the territory of reference, and the staffing available to the Public Prosecutor. In the meetings that have been held at the regional level in Emilia-Romagna, it has emerged that in recent years, with the change of presidency at the Juvenile Court, listening to minors does not seem to be a priority and that the tendency is to favor listening to the minor for certain cases that may be extremely vulnerable. Although there is no systemic provision for a listening system for the minor outside the guardian, the minor is given the opportunity to participate and possibly expose difficulties or complaints against the guardian's activities through the social service, the shelter workers and thus the Court itself. The Cartabia Reform seems to propose a positive normative basis in this respect by providing for the inclusion of the minor's right to be heard in the new Article 473-bis.4 of the Code of Civil Procedure.

At the level of monitoring, there are no cases that have seen the direct involvement of minors in the monitoring of guardianship activities, although there have been initiatives to listen and collect internal and external impressions within the framework of FAMI or AMIF projects or by the National Supervisory Authority:

- Mapping<sup>71</sup> on the current status of the Protection System carried out by Save the Children in partnership with UNHCR.
- Three-year Memorandum<sup>72</sup> of Understanding signed in 2024 between the Supervisory Authority and the UNHCR Representative for Italy to promote listening and participation of unaccompanied foreign minors.

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<sup>69</sup> Law No. 176 of May 27th 1991: Ratifica ed esecuzione della convenzione sui diritti del fanciullo, fatta a New York il 20 novembre 1989.

<sup>70</sup> Law No. 77 of March 20th 2003: Ratifica ed esecuzione della Convenzione europea sull'esercizio dei diritti dei fanciulli, fatta a Strasburgo il 25 gennaio 1996

<sup>71</sup> Mappatura sullo Stato attuale di implementazione del sistema di tutela volontaria - Save the Children

<sup>72</sup> Memorandum of understanding “Protezione dei minori stranieri separati e non accompagnati in Italia” tra l’Autorità Garante per l’Infanzia e l’Adolescenza e l’Alto Commissariato delle Nazioni Unite per i Rifugiati (UNHCR)

## 2.6 Quality - Qualifications and trainings/support for guardians from stakeholders

In order to become a voluntary guardian, no specific qualifications is required, however, it is necessary for the person intending to become a voluntary guardian to possess certain characteristics, defined by law 47/2017:

- Being an Italian citizen or a citizen of another EU country, being stateless or a citizen of a non-EU country as long as they comply with residence regulations and have a good knowledge of the Italian language
- Having legal residence in Italy
- Having reached the age of 25
- Enjoying civil and political rights
- Having no criminal convictions nor ongoing criminal proceedings
- Absence of disqualifying conditions provided by art. 350 of the Civil Code<sup>73</sup>. In particular, the candidate: must have free administration of their own assets must not have been subject to measures of disqualification, limitation or suspension of parental responsibility, must not have been removed from another guardianship must not be registered in bankruptcy register, must have "irreproachable conduct" i.e. morally suitable, must have the time and energy available to fulfill their role, must not be in a situation of conflict of interest with the minor

Training for voluntary guardians is mandatory and defined according to national guidelines. The course provides training both on the legal aspect of the profession, the reference regulatory basis, and on the socio-relational aspect, linked to the ability to recognise the needs of the minor and understand how to deal with them. The Office of the Regional Guarantor for Children and Adolescents is expected to take care of the publication of the calls to access to the training phase and its organisation. Once they have passed the training course (24/30 hours) the volunteer guardian must confirm their willingness to be appointed guardian and take an oath before the Juvenile Court. The Office of the Regional Guarantor must then take care of updating the list of voluntary guardians available by the Juvenile Courts. One of the problems identified with regard to the training of voluntary guardians in the regions surveyed has to do, on the one hand, with the content and methods of the training itself, which are considered to be excessively repetitive, technical and not particularly relevant to the operational practice of guardianship, and, on the other hand, with the small number of guardians. In fact, since it is necessary for the course to be organised by the Regional Guarantor in order for the certification to be issued, the number of guardians available to the Courts highly depends on how active the Regional Guarantor is in organising the training courses. In some cases, it is possible that the training is outsourced to training companies that manage the different phases. In the case of the Region of Tuscany, the training course is built together with the Garante, but concretely taken care of by other subjects that are part of the protection system in different ways, with a part of the training taken care of by the Court, represented by judges, honorary judges or the President. There is then a further collaboration in the Tuscan case that has to do with the operational organisation of the courses.

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<sup>73</sup> Art.350 of the Civil Code: Incapacità all'ufficio tutelare

In the case of the Emilia Romagna Region, on the other hand, although there is a Protocol<sup>74</sup> between the Regional Guarantor and the President of the Juvenile Court that provides for the organisation of training courses “in collaboration with local authorities and territorial bodies and institutions competent in the matter”<sup>75</sup>, the contribution of other subjects involved in the guardianship system in the organisation for the training modules was not foreseen. Once the training course is passed and the certificate is obtained, the voluntary guardian is registered on the list of voluntary guardians available at the Juvenile Court. There is no provision for monitoring the quality of the guardianship training or the guardians’ activity; from this point of view, the Juvenile Court, as the body responsible for appointing the guardian, is the body in charge of monitoring the proper performance of their activity. In the case of the Tuscany Region, it is not provided by an actual regulation, but rather in practice that the guardian and the social service send update reports to the Court at regular intervals that vary according to the Court and that, in any case, as foreseen by the Protocol, “the parties undertake to jointly conduct periodic monitoring of the agreed activities”<sup>76</sup>. The continuity of the guardians’ training significantly varies from territory to territory, depending on the activity and presence of the Guarantor and their ability to promote exchange and update meetings with guardians. From this perspective, the guardians’ associations themselves and external projects play a fundamental role in enriching and integrating the training received by guardians, through mutual aid platforms and through the organization of exchange and discussion meetings in the territory.

## 2.7 Sustainability and collaboration - Guardianship systems are an integral part of the national child protection system

At the national level, one of the main issues concerns the shortage of volunteer guardians, whose number is largely insufficient compared to the high demand and growing presence of unaccompanied foreign minors in the territory. This dissonance between the availability of human resources and the need for adequate care compromises the protection and well-being of these vulnerable minors, exposing them to risks of marginalization.

This disproportion between the number of guardians and the number of minors in the territory hinders compliance with the ratio of 3 minors per guardian provided for at the normative level and therefore the possibility that there is effective protection and an effective path of accompaniment and proximity with the minor. Given the uneven territorial distribution of minors and guardians, there are at the same time territories that are under numerical stress, particularly in Italian cities in the Northeast and Northwest.

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<sup>74</sup> Memorandum of understanding per lo svolgimento di attività in attuazione della Legge 7 aprile 2017, n. 47 “Disposizioni in materia di misure di protezione dei minori stranieri non accompagnati” e nello specifico dell’art. 11 “Elenco dei tutori volontari”. tra la Garante per l’infanzia e l’adolescenza della Regione Emilia-Romagna e la Presidente del Tribunale per i Minorenni di Bologna

<sup>75</sup> ibidem

<sup>76</sup> Art.5 of the Memorandum of understanding: Azioni coordinate per il supporto e la promozione della tutela volontaria dei Minori Stranieri Non Accompagnati (MSNA) e della tutela sociale dei neo maggiorenni. tra Regione Toscana, Tribunale per i Minorenni di Firenze Garante per l’Infanzia e l’Adolescenza della regione Toscana, ANCI Toscana, Associazione Tutori Volontari di Minori Stranieri Non Accompagnati Regione Toscana e Istituto degli Innocenti

At the same time, it was noted that in the regions surveyed there is a problem related to the staffing available to the juvenile courts, which struggle to keep up with requests for appointments and the various formal acts required in the area of guardianship, which results in very long waits and thus a general slowdown in the system. This situation depends a lot and also varies depending on the projects and therefore the funding that may be activated. As far as the Emilia-Romagna Region is concerned, one problem has to do with the fact that the Chancelleries are difficult to access, both in terms of consultation and in terms of requests for reminders or verification of progress. In the case of the Region of Tuscany, on the other hand, a problem was found related to the scarcity of places in the second reception centers, which results in minors staying in the first reception facilities for very long periods of time. Regarding the collaboration of guardians with other agencies or authorities, the Office of the Guarantor should try to maintain contact with guardians.

Regarding the Tuscany region, although there are examples of collaboration between the juvenile court and the regional guarantor, it has emerged that years after voluntary guardianship came into operation, child care facilities still struggle to accept a presence that is considered external and not supportive. In many cases, social services do not interface as they should with the guardian regarding decisions that affect the child's path. Thus, there is a great void related to making all the actors in the system aware of each other's functions and how one can support the other, which leads to great difficulties at the operational level and hinders the work of the voluntary guardian. Similarly, according to what emerged during the interviews that were conducted for the research, in Emilia-Romagna at the current state and with the change of the Presidency of the Juvenile Court, the guardianship system at the regional level does not see interaction between social services and competent authorities, between social services and the regional Guarantor, with a progressive loss of the involvement of social services in the phase of accompanying the guardian in carrying out his or her activities.

### Chapter 3: Gaps and Good practices of the guardianship system

In the following pages, we analyze the main critical issues, challenges and problems that emerged from the participatory consultations conducted with the stakeholders, institutions and key actors we interviewed. These contributions provided an in-depth overview of the perceived difficulties and opportunities, highlighting the most critical areas and the potential for intervention to improve existing processes and dynamics in the Tuscany and Emilia-Romagna regions. Through direct and constructive discussions, significant insights emerged to guide future policies and respond more effectively to the needs of all stakeholders.

- 1) The juvenile protection system ensures a child-centered approach that is based on the presence of various professional figures available for the child. For example, social workers, professional educators, mediators, psychologists, as well as personnel with specific skills in legal matters. These figures are the most immediate response that the system has structured to come to the attention of the child. Interviews conducted indicate that it would be preferable for there to be an office in charge of collecting statements or complaints from minors. To date,

there is no defined way for them to do so. The juvenile certainly has the possibility of turning to professional figures who guarantee multiple possibilities of listening, but the child does not have a real possibility, for example, to speak up without having to put an effort from a relational point of view and expose themselves - an effort that could put them in difficulty. Meriting only a mention is the recent Cartabia Reform inspired by the indications coming from supranational legislation and the 1989 New York Convention, considered as the first fundamental legal instrument aimed at protecting all children, girls and boys, which imposes obligations to promote and protect, through the strengthening of existing means of protection and the constant solicitation to work for a cultural change that sees all minors under 18 as the true subjects of the rights enshrined. The Cartabia Reform seeks to reemphasize the children's best interest and the right to be heard by including it in the Code of Civil Procedure and in particular in the new Article 473-bis.4. The right to be heard for unaccompanied foreign minors, as currently applied, unfortunately still does not find systematic application and regular enforceability, according to the evidence/results coming from the national reception system as a whole.

- 2) Training of volunteer mentors: significant heterogeneity in training courses emerged, both in terms of quality and content. The guardians interviewed reported that the training they received was often too generic and, in some cases, repetitive. In particular, when training is completely outsourced to external parties, there was found to be a poor level of personalization and little attention to the specific needs of the context in which the tutors work. This resulted in a perceived insufficiency in preparation, limiting the effectiveness of their intervention. Many emphasized the need for more focused and adapted training that not only addresses general issues, but also allows for the acquisition of practical skills, contextualized to the concrete situations in which guardians are called upon to act. In this way, it would be possible to ensure more qualified and efficient support for beneficiaries and strengthen the quality of the educational intervention.
- 3) Fragmentation of the Regional System of Guardianship: the guardianship system in Italy is characterized by significant fragmentation, which results in strong inhomogeneities between different territories, regions, and municipalities. This fragmentation affects both the quality of services offered and the management of the guardianship functions themselves, with substantial differences in the way regulations are enforced and citizens' rights guaranteed. One problematic aspect relates to the fact that although the law is national, its operational declination is entrusted to individual regions and municipalities, each of which is responsible for adapting and implementing the provisions according to their own territorial specificities. As a result, some geographical areas experience situations of greater efficiency, while others suffer from disorganization and deficiencies in services. In this context, a nationally coordinated intervention aimed at reducing these inequalities by creating common guidelines and uniform operational standards becomes urgent. Indeed, while the relevant institutions are responsible for the practical implementation of regulations, they should cooperate more

closely with each other, clearly defining who does what, how, and by what operational methods. This requires the creation of “bridges” between the different actors in the protection system—including the courts, local authorities, and professionals in order to improve the efficiency and consistency of actions. A key aspect of this cooperation concerns the establishment of operational relationships between the various levels of government to avoid overlap or confusion and to ensure that services are delivered in a timely and congruent manner. Another critical element concerns the overloading of juvenile courts, which cannot effectively handle the high number of requests, both in terms of the appointment of guardians and the administrative paperwork related to their work. The long timelines for appointment and procedural acts (such as meetings with honorary judges and administrative proceedings) are a significant obstacle to the effectiveness of the guardianship system, slowing down the entire process. As for the Tuscany region, one of the most obvious critical issues concerns the uneven distribution of guardianships across the territory. Approximately, 80 percent of the 120 trained guardians are concentrated in the Florence area, while in other parts of the region the availability of guardians is significantly lower. This imbalance creates disparities in access to guardianship services and undermines the effectiveness of the entire system, with some areas at risk of remaining underserved compared to others. The issue of the geographic distribution of guardianships should be urgently addressed to ensure that all citizens, regardless of their area of residence, have access to adequate and timely support. In sum, greater national coordination is essential to overcome the current fragmentation, ensure uniform operational standards, and improve the distribution of resources and expertise so that all unaccompanied foreign children are offered a more equitable and efficient guardianship service.

- 4) The organizational system and relationship dynamics between host communities and voluntary guardians for unaccompanied minors present several problems that hinder the proper functioning of the guardianship system. Five years after voluntary guardianship became fully operational, significant critical issues emerge related to the unevenness of resources and lack of coordination among the different actors involved. First, the ratio of numbers of guardians to minors is disproportionate. For example, in the Tuscany Region there are about 900 unaccompanied minors and 200 guardians, not all of whom are active. This disparity makes it difficult to ensure adequate guardianship for each minor, especially considering that, in many cases, a guardian is in charge of more than one minor, resulting in an overload of responsibilities and limited possibilities to offer individualized support. In addition, foster care facilities, which should be places of support and integration, still struggle to accept the presence of volunteer guardians, viewing them as external figures and not as allies in the care of minors. This difficulty in collaboration is reflected in poor communication between social services and guardians, with the result that the latter are often not as involved as they should be in decisions concerning the lives of minors. An emblematic example of this lack of coordination is the management of the transfer of children from one facility to another, or the decision to let them out without prior discussion with the guardian. Such fragmentation in

management and communication between the different entities involved creates an informational and operational “hole” that undermines the possibility of truly effective intervention. Guardians are not adequately informed about the conditions and needs of minors, and, at the same time, host communities are not always aware of the role and responsibilities of guardians. This leads to disorganized and dysfunctional functioning of the system, resulting in difficulties in ensuring the welfare and protection of minors. Operational difficulties are evident when, for example, the community where a child resides does not allow the guardian to carry out his or her role effectively, denying access to necessary information or limiting his or her participation in day-to-day decisions. Thus, the guardian finds himself operating in an environment that does not facilitate his intervention, reducing the positive impact he could have on the child's life. These issues are the result of a system that, while structured to ensure adequate support for unaccompanied minors, does not always function in an integrated and cohesive manner. Action is needed to improve communication, training and coordination among the various actors involved in order to create an environment conducive to the protection and well-being of minors. This is the only way to ensure a more efficient reception system and more effective protection for unaccompanied minors.

- 5) In some territories, due to the shortage of available guardians, there has been a worrying phenomenon: unaccompanied minors nearing the age of 18 are not assigned a guardian. This situation represents a deviation from regulatory provisions, which establish the obligation to provide legal guardianship for unaccompanied children (UACs) until they reach the age of majority. To address this “anomaly,” the legislation provides a mechanism that temporarily entrusts (pro-tempore guardian) guardianship functions to community leaders, who assume the role of temporary guardians. Although this solution is intended to avoid interruptions in child care, it can generate significant problems. As pointed out by numerous bodies and organizations working to protect the rights of minors, the role of provisional guardian may conflict with the economic and organizational management objectives of the care facilities, creating tensions between management efficiency and the specific interest of the individual child. It was also reported, especially in the Bologna area, that there has been a change in practice regarding the appointment of Guardians. In the past, the process of guardianship for unaccompanied minors followed an articulated procedure: starting with public protection guaranteed by the municipality, then moving on to “personalized” guardianship, studied on a case-by-case basis with the intervention of social services, and finally entrusted to volunteer guardians, after months of meetings and assessments. Today, however, the Juvenile Court of Bologna adopts a more direct approach: it consults the list of guardians registered in its offices, selects a guardian for each unaccompanied minor, and assigns them to deal with the case, without further intermediate steps.

### Good practices of the guardianship system

- 1) A first good practice we report concerns the Emilia-Romagna territory. As we were told by the office of the regional guarantor, it is important to emphasize the crucial function played by the activities and initiatives to promote the culture of guardianship, as envisaged by the law establishing the regional guarantor, and the information initiatives specifically aimed at aspiring guardianship citizens, conducted systematically in collaboration with the competent regional and territorial bodies and CSVs. In addition, since 2022 the professional orders of social workers, psychologists and lawyers and ANCI Emilia-Romagna have also been involved with particular attention. In this area, we were told in the interview, plays a fundamental role in the network of guardians, formal and informal, which also together with other associations and the third sector, carries out publicity, awareness-raising and approach to the experience of voluntary guardianship. The direct testimonies, stories and experiences of several guardians and the children they have had in guardianship were very incisive, especially in relation to the motivational components underlying a choice of sharing and solidarity. A methodological objective pursued by the Office of the Guarantor is encouraging and incentivizing the connection with the field of research, understood as an integrated best practice. In 2023, a collaboration was initiated with the CRID (Interdepartmental Research Center on Discrimination and Vulnerability) of the Department of Law of the University of Modena and Reggio Emilia, which included the activation of a training internship with the aim of deepening research themes related to the conditions of young people with a migration background and, more specifically, those of “unaccompanied foreign minors.” In addition, the collaboration, has been extended with the aim of qualifying the annual training action for aspiring volunteer guardians and continuing education for those already guardians as well as aimed at analyzing the social and regulatory complexities related to migration flows and “second generations,” specifically with promotion and documentation initiatives related to the implementation in our region of Law 47 of 2017, which redesigned the system of interventions to be implemented to accommodate unaccompanied foreign minors.
  
- 2) Social guardian in the administrative continuation: One good practice reported to us concerns the transition to the age of majority, a time when, in theory, the legal guardianship function lapses. In this context, one of the good practices adopted by the Region of Tuscany was the signing, at the “Istituto degli Innocenti”, of a protocol involving the Juvenile Court, the Region of Tuscany and other entities, with the aim of promoting, enhancing and recognizing the role of the social guardian. This protocol allows the voluntary guardian to continue to follow the child even after they reach the age of majority, when legal guardianship officially ceases. Although legal guardianship ceases, the figure of the social guardian assumes fundamental importance, providing ongoing support, particularly in the later stages of the young person's autonomy. According to the law, legal guardianship ceases when the young person reaches the age of majority, but the concept of “social guardianship” refers to ongoing support that can be crucial even after this transition. In this context, the Decree on administrative

continuation stipulates that, when granted, the social service has the mandate to continue taking care of the young person until they reach the age of 21. In this context, the voluntary guardian has official recognition to continue the accompaniment of the youth, maintaining a supportive role even during the transition to autonomy. As far as the guardianship system is concerned, the main normative reference is national in nature: Zampa Law (Law 47/2017) establishes the basic principles and modes of intervention. However, the concrete implementation of these regulations varies at the regional level, with each territory able to decline and adapt procedures according to its own specificities and resources.

## Chapter 4: Recommendations

The implementation of an effective and comprehensive national child protection system still requires significant efforts to ensure full implementation. Law 47/2017 represented a fundamental, innovative and unique turning point in Europe, introducing an advanced regulatory framework for the protection of minors. However, the fragmentation of the Italian system has not yet allowed the adoption of uniform practices at national level.

- Among the main critical issues emerging is the lack of economic resources and qualified personnel in the Juvenile Courts, the Regional Authorities and other institutions involved in child protection, which would need adequate support to operate efficiently. This resource gap is a major obstacle to guaranteeing homogeneous and adequate protection to all Unaccompanied Foreign Minors throughout the national territory, ensuring them equal rights and protection opportunities, regardless of their region of origin or residence.
- With regard to voluntary guardians, it is essential to work on more effective promotion of the institution, in order to make people aware of this opportunity and encourage them to apply for it. At the same time, it would be advisable to envisage or insist that specific training courses be organised every six months or at least annually. This would make it possible to keep the register of guardians up-to-date, thus creating a pool of qualified candidates ready to be involved when necessary.
- Training courses for volunteer guardians should not only provide adequate technical preparation, but also be enriched by a fundamental component: knowledge of the reception system. Each territory, in fact, has unique characteristics and specificities that affect how migrants and refugees are integrated and supported. It is essential that guardians, particularly those who do not come from the sector, have a clear and articulate understanding of the context in which they work. A good understanding of the local reception system allows them to better orient themselves among the different structures and resources available, but above all it helps them to get a clear picture of the dynamics at play. For instance, it is necessary for guardians to understand how reception centers work, what the differences are between the different types of facilities (first reception centers, transit centers, family homes, therapeutic communities, etc.) and how communities hosting beneficiaries operate. Furthermore, it is crucial that the distinctions between the responsibilities of professional operators and those

of host communities are clarified in order to avoid misunderstandings and foster more effective cooperation. In this context, a comprehensive and integrated training combining technical skills and knowledge of the reception system not only makes the guardian better prepared in their supporting role, but also contributes to a more harmonious and well-structured reception environment in which each actor knows their tasks and resources.

- In order to improve the current protection system, it is crucial to adopt a more integrated and systematic approach, involving all key actors in the management of protection and assistance of unaccompanied minors or those in need of legal guardianship. The current scenario requires in-depth reflection and a series of concrete interventions that can ensure greater efficiency and improvement of the conditions of the children and adults working in the protection system. A first step could be to create regular meeting spaces, where all the figures involved, from public institutions to non-governmental organisations, passing through voluntary guardianships, social services and law enforcement agencies, can meet. Such moments of sharing should not only allow better coordination and communication, but also promote a culture of shared responsibility, with the aim of improving decision-making and the management of everyday problems.

For example, bureaucratic slowness in issuing residence permits is one of the main obstacles encountered, often delaying minors' path to integration and creating a situation of uncertainty that has direct repercussions on their lives. Coordinated efforts between different agencies could speed up these practices, improving transparency and timeliness of responses. Furthermore, it is crucial to address the issue of transferring children between different facilities, a practice that often occurs without adequate shared consideration. Every transfer must be preceded by a thorough assessment of the children's individual needs and the risks that may arise from a sudden change of environment. More personalised and careful management is needed, taking into account the specific emotional, psychological and relational difficulties of the children involved. In this sense, decisions should not be taken automatically or purely logistically, but should involve all the competent figures and guardians, who are often those most in direct contact with the daily needs of minors. Moreover, the figure of the voluntary guardian, which was introduced several years ago, deserves revision and strengthening.

Although it represents an important step forward in child protection, it cannot be denied that guardians often face enormous challenges without adequate support or training. The lack of structured accompaniment and continuous exchange of information between volunteer guardians and other professionals can lead to inefficiencies or errors of judgement. This is why it would be advisable to create regular refresher courses, also involving experts in immigration law, psychologists, and social workers, in order to ensure that guardians have the appropriate tools to deal with the complex day-to-day issues. Finally, another key aspect is the adoption of more inclusive and forward-looking policies that involve the local community. Guardianship should not be limited only to the legal or institutional dimension, but must be accompanied by a constant commitment to raising awareness and creating solidarity networks. Only with the



active involvement of civil society is it possible to build a true culture of protection, which is not just a legal obligation, but a moral and civil duty of the entire community.

In summary, improving the guardianship system requires a collective effort to solve day-to-day problems, improve coordination between the various figures involved and enhance support for guardians. Only with a structured approach and integration between public, private and voluntary actors can we ensure a fairer, more efficient and humane system for those who are most vulnerable.

The importance of increasing the number of places in second reception centers for unaccompanied foreign minors: a central issue in guaranteeing effective protection for unaccompanied foreign minors concerns the creation of a reception network that is adequate and structured at all stages. The protection of minors, in fact, is not limited only to the initial reception phase, but must continue with a care pathway that ensures continuous and targeted assistance to the needs of each young person. This protection pathway should provide for a smooth and regular transition from the first to the second reception, as indicated by the regulations in force, with the aim of avoiding situations of precariousness or abandonment. To this end, it is essential to increase the number of places available in second reception centers, dedicated facilities that offer psycho-social and educational support, aimed at reintegrating the minor into the social, educational and work fabric of the host country. Second reception represents a crucial phase, as it allows minors to embark on a path of growth and inclusion, far from the emergency conditions that characterise the first phase. With a view to effective protection, the reception system must also be able to respond quickly to unforeseen situations, such as those that may arise in an emergency. In this regard, the recent Cutro Decree has introduced a significant change, stipulating that, in the event of an emergency / lack of places, the Prefect may decide that unaccompanied foreign minors over the age of 16 be placed in separate sectors within reception facilities intended for adults. This provision, while attempting to address situations of extraordinary need, raises questions as to its compatibility with the specific protection and psychological support needs of minors, who require facilities appropriate to their age and vulnerability. The recommendation, therefore, is to ensure that, in all circumstances, the protection of the child remains at the center of the reception and protection system, avoiding that emergency and lack of resources compromise the quality and continuity of the protection that every child, regardless of his or her origin, should receive.

## **National Action Plan – Poland**

### **Introduction**

The welfare and protection of unaccompanied migrant children in Poland present a complex and urgent challenge. Unaccompanied minors arriving in Poland encounter a fragmented system characterized by institutional and territorial decentralization, leading to inconsistent care and legal representation. The lack of a centralized registry or cohesive data collection mechanism further complicates efforts to understand and address the full scope of the phenomenon.



This National Action Plan aims to address the gaps in the current guardianship system, which often distributes elements of care and legal representation among multiple individuals and institutions. Such a fragmented approach leaves areas of representation and safeguarding unattended, failing to fully protect the best interests of the child. The plan focuses on all combinations of custody and representation applicable to unaccompanied migrant children in Poland, seeking to paint a comprehensive landscape of the system as well as proposing recommendations for necessary improvements.

## Methodology

The national plan is rooted in a comprehensive methodology combining desk research, experiential learning, and qualitative interviews. The desk research involved an extensive review of legal and non-legal frameworks governing guardianship systems, including national legislation and policies. This phase also incorporated analysis of academic publications and NGO reports to contextualize the findings and identify systemic gaps. This research provided a foundational understanding of the structural and procedural elements of guardianship in Poland, ensuring the plan aligns with both legal obligations and practical needs.

In addition, the methodology leveraged insights from a one-year guardianship program implemented by the Association for Legal Intervention, offering hands-on experience with current practices, challenges, and successes in the field. These observations were enriched by interviews with three key informants, including stakeholders from foster care (KI1), legal (KI2), and non-governmental domains (KI3). These interviews provided nuanced perspectives on the operational realities, highlighting gaps in policy implementation and suggesting actionable solutions. Together, these methodological elements ensured a holistic approach to developing the national plan, grounded in both theoretical and practical expertise.

### The challenge of assessing quantitative data

Available data is scattered and fails to provide the complete scale of the phenomenon. As will be explained below, the Polish system is characterized by institutional and territorial decentralization, which also impacts how data on unaccompanied minors is collected. There is no central registry of unaccompanied minors; rather, pieces of data are collected by numerous institutions. Data is collected by several authorities in varied ways. The Border Guard collects the number of return decisions (approximately 5–17 annually<sup>77</sup>) but not initiated procedures. The Office for Migration registers asylum applications—numbers increasing steadily from 105 in 2019 to 292 in 2023<sup>78</sup>—but not asylum decisions. Data on unaccompanied children who are documented or in the process of obtaining their documentation is not registered at all.

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<sup>77</sup> Border Guard Headquarters responses to the freedom of information requests.

<sup>78</sup> Office for Foreigners' responses to freedom of information requests.



## Definition of an unaccompanied minor

The definition of an unaccompanied minor, as used throughout this report, is derived from Polish law: an unaccompanied minor is a person under 18 years of age who arrives in the territory of the Republic of Poland or resides in this territory without the care of adults responsible for him or her according to Polish law.

## Chapter 1: National Framework

### Scope of the National Action Plan

In Poland, the institution of 'guardianship,' understood as a combination of day-to-day custody, protection of the child's best interests, and legal representation, is applied only to unaccompanied minor citizens of Ukraine who fled the Russian invasion. In every other case, elements of guardianship defined in such a way are distributed among several persons and institutions: a legal representative who represents a child in a particular migration or asylum procedure, and a caregiver (a public foster care institution or a foster parent). As will be shown below, this model leaves some areas of representation and safeguarding the best interests of a minor unattended.

This Action Plan covers all kinds of custody and representation combinations that apply to unaccompanied migrant children in Poland.

The Plan looks into:

1. The foster care system, which applies to all children deprived of care in the same manner regardless of their nationality or migration status.
2. Two types of legal representation, depending on the procedures in which one is represented.
3. A new model of temporary guardianship applicable only to unaccompanied minors—citizens of Ukraine who fled their country because of the Russian invasion.

**NOTE:** In this Plan, the term 'guardian' will be used to describe a child's legal representative appointed for the asylum (international protection) procedure, while a broader term "legal representative" encompasses both a guardian and any other legal representative appointed for the child in any other procedure.

### Legal framework

The legal framework concerning unaccompanied minors is visibly patchy, as issues of their custody and representation are addressed in at least five legal acts:

- The Aliens Act (2013)
- The Act on Granting Protection to Aliens (2003)
- The Family and Guardianship Code (1964)
- The Family Support and Foster Care System Act (2011)
- The Act on Assistance to Ukrainian Citizens in Connection with Armed Conflict on the Territory of That State—the “Special Act” (2022)
- The Law on Proceedings Before Administrative Courts (2002)

Other than that, Poland is a signatory to the Convention on the Rights of the Child, even though its 3rd Optional Protocol, which allows challenging state violations before the Committee on the Rights of the Child, has not been ratified.

### General Overview of the Scope of Protection and Safeguarding Available to Migrant Children Depending on Their Migration Status

- **Children seeking asylum** are placed in a foster care institution and appointed a guardian (PL: *kurator*) who represents them in matters of asylum, Dublin transfers, social protection during their asylum procedure, and their voluntary return.
- **Undocumented children or children in return procedures** are placed in a foster care institution and appointed a legal representative (PL: *reprezentant dziecka* or *kurator*). Children over 15 years old might be placed in a detention center instead of a foster care facility. *Note: The two procedures above may overlap.*
- **Children seeking to legalize their stay through a residence permit** are appointed a legal representative for the legalization procedure and are placed either in a foster care institution, with a foster family, or even temporarily with caregivers who do not meet the requirements to become a foster family.
- **Children with international protection** (refugee status or subsidiary protection) are placed either in a foster care institution, with a foster family, or even temporarily with caregivers who do not meet the requirements to become a state-certified foster family. They are not appointed a universal legal representative unless a particular judicial or administrative procedure is initiated in their case.
- **Minor citizens of Ukraine holding temporary protection** are appointed a temporary guardian who performs day-to-day custody and legal representation in all everyday matters, as well as holds custody over the child's property.

### Guardianship Authority

There is no central guardianship authority in Poland. Every decision about the placement of a minor (in foster care or in detention) and the appointment of their legal representative or temporary guardian is made by the regional family court (or by the criminal court in cases of detention). Bar associations keep registries of their members who are willing to perform the role of a return/detention

representative, but these registries do not cover representation in asylum procedures. While some courts have their own lists of potential candidates for this position from their local community, the majority of them require that the applicant provide a candidate's name.

### The scope of representation and care depending on an individual performing it

**Guardians (legal representatives in asylum proceedings).** The legal representation by a guardian covers solely<sup>79</sup>:

- proceedings for granting international protection, including the submission of an application for international protection on a child's behalf if the application was not submitted by any organization;
- proceedings for transfer to another Member State under Regulation 604/2013;
- proceedings for social assistance in connection with the asylum procedure;
- proceedings for providing assistance for voluntary return to the country of origin

Unless otherwise indicated by the court, the guardian's duty to act covers the entire administrative proceedings, i.e., both first and second instances—if there is a need to appeal a negative decision affecting an unaccompanied minor.

The legal powers of the guardian do not extend beyond abovementioned specific proceedings. In particular, they do not entitle the guardian to file a complaint to the administrative court against a negative decision in an international protection case once administrative proceedings are completed. Guardians are also not authorized to represent the child in return proceedings. In such cases, a separate legal representative must be appointed based on general provisions (see below). However, it is not explicitly stipulated who should perform this role. A guardian is also not entitled to make other decisions concerning the child, such as those regarding medical treatment, which may hinder the efficient realization of the child's basic needs in practice.

The law explicitly requires that the guardian inform the unaccompanied minor about the meaning and potential consequences of hearings, prepare the child for hearings, and participate in them. The guardian also has the right to ask questions and make comments during an interview<sup>80</sup>.

**Other legal representatives.** A legal representative represents a child in specific proceedings as outlined in the court's decision. The scope of this representation includes performing all actions connected to the case, including challenging and enforcing decisions.<sup>81</sup>

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<sup>79</sup> Art. 61(1)(3)(a) of the Act on Granting Protection to Foreigners.

<sup>80</sup> Art.64(1), 65(3), and 65(4) of the Act on Granting Protection to Foreigners.

<sup>81</sup> Art. 99 § 2 of the Family and Guardianship Code.

In practice, representatives are typically appointed for proceedings concerning unaccompanied minors where guardians are not provided by law. These include return proceedings, placement in a detention center, or proceedings related to the costs of enforcing a return decision, as handled by family courts. However, there are doubts about appointing a representative in cases where the court cannot be certain that the child remains under parental authority. According to the law, a representative can only be appointed for a child under parental authority if neither parent is able to represent them<sup>82</sup>.

**Temporary guardians of children who fled Ukraine.** A temporary guardian provides day-to-day care to a child and represents them in all judicial, administrative, and other proceedings concerning the child, as well as in other legal acts, such as concluding contracts<sup>83</sup>. However, the court may limit their powers. Temporary guardians are not allowed to make decisions independently on major issues concerning the child's person or property without family court permission.

**Foster caregivers.** An individual providing foster care (a foster parent or a head of a foster care facility) provides day-to-day care and represents the child exclusively in matters related to their daily care and upbringing<sup>84</sup>. This includes representing the child in claims for benefits intended to cover their needs, such as alimony, social benefits, and pensions. However, the court may modify the scope of foster care representation to include other proceedings concerning the child's affairs.

## Chapter 2: Assessment of the guardianship system

### 2.1. Non-discrimination

Polish law provides a general obligation to ensure daily care and legal representation for all minors, including unaccompanied migrant children. However, the guardianship framework is fragmented and highly dependent on the child's legal status.

For instance, while children under temporary protection are assigned temporary guardians with broader responsibilities and duty of day-to-day care, other UAMs experience a division of roles between foster carers and legal representatives, complicating coordination. While children whose return procedures are still pending may be only placed temporarily in a foster care institution<sup>85</sup>, asylum-seekers and children with a stabilized migration status may also be placed in a foster family, should there be one available.

Additionally, unaccompanied minors placed in detention centers face diminished access to consistent and comprehensive guardianship. An undocumented unaccompanied minor may be placed there if he

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<sup>82</sup> Art. 99(1) § 1 of the Family and Guardianship Code.

<sup>83</sup> Art. 25(2) of the "Special Act".

<sup>84</sup> Art. 112 (1) of the Family and Guardianship Code.

<sup>85</sup> Article 397(1)(2) of the Act on Foreigners, Art. 62 of the Act on Granting Protection to Foreigners.

or she is at least 15 years old and has neither declared a desire to apply for international protection nor has such an application been made on his or her behalf<sup>86</sup>. These minors have a guardian or a representative appointed for the duration of detention court proceedings, but they do not have any additional, independent caregiver appointed by the court who is responsible for taking care of them in daily matters, for contacts with Border Guards (for example, regarding the conditions, rights, and obligations connected to their stay in a detention center), or for making decisions on health issues.<sup>87</sup> It is the universal approach of human rights institutions and children's rights experts that placing a child in detention is always against their best interests and causes almost irreparable harm to children, which in the Polish case was criticized numerous times by the European Court of Human Rights<sup>88</sup>.

As legal representation varies depending on the migration status of the child, the quality of child's rights protection might also vary. Legal representatives of children in return and detention cases have higher thresholds when it comes to qualifications and expertise<sup>89</sup> as well as a more precise description of their duties. Still, none of the categories of legal representatives are required to have expertise in migration or asylum law, and therefore the difference in protection may not, in reality, be significant.

## 2.2. Accountability & Responsibility in Guardianship Systems

There is no common institution effectively managing the system of care and representation for unaccompanied foreign minors. The absence of a centralized authority results in fragmented services and inconsistent practices across different regions. Guardians and representatives operate in practice without cohesive oversight, which undermines the reliability of the guardianship system.

Foster care providers are supervised by the Poviats Family Centers (PL: *Powiatowe Centrum Pomocy Rodzinie*), however supervision is uneven across regions, with some areas conducting thorough

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<sup>86</sup> Article 397(3) of the Act on Foreigners.

<sup>87</sup> On rare occasions, courts issue decisions appointing a representative for a child in a detention center who is also responsible for activities beyond those related to pending proceedings. For example, the District Court in Biała Podlaska, in its ruling of 7 June 2023, ref. no. III Nsm 360/23, appointed a lawyer to represent the child's interests in matters related to the minor's stay in the detention center, including conducting medical examinations, undertaking outpatient treatment, disposing of financial means, prolonging the minor's stay in the center, and submitting an application for the minor's release from the center. However, it cannot be said that this is a well-established practice, and moreover, it is not clear on what legal basis the court issued this decision.

<sup>88</sup> *Nikoghosyan and others v. Poland*, no. 14743/17; *Bilalova and others v. Poland*, no. 23685/14; *R.M. and others v. Poland*, nr 11247/18; *Bistieva and others v. Poland*, no. 75157/14; *A.B. and others v. Poland*, no. 42907/17.

<sup>89</sup> See Chapter 2: Qualifications and Training.

inspections and others focusing solely on financial reporting<sup>90</sup>. Temporary guardians of Ukrainian children are supervised by the local social welfare services<sup>91</sup>.

Legal representatives in asylum cases are crucial for safeguarding the interests of unaccompanied minors, yet there are no specific requirements for their training and competencies. Consequently, there is no specific institution responsible for managing them, ensuring their training, or maintaining up-to-date lists of qualified candidates. The Border Guard's attempt in 2015 to create a list of willing individuals was not sustainable due to lack of funding and support, leading to an outdated list with only 11 legal representatives for 217 unaccompanied children as of 2023<sup>92</sup>.

Representatives in return and detention cases, ideally advocates or attorneys-at-law, are managed to some extent by bar associations, which are supposed to provide courts with updated lists of willing and trained individuals<sup>93</sup>.

According to the Family and Guardianship Code, the supervision of guardians and representatives should be exercised by the family court. It should supervise the activities of the child's representative by keeping itself acquainted with the activities of the child's representative. The child's representative should report to the family court on his or her activities in the case and the duties performed, within the prescribed time limits: at least every four months if it's a representative and at least once a year if it's a guardian<sup>94</sup>. A guardian and legal representative are only representing a child in a particular administrative procedure and is obliged to due diligence as regards the interest of a minor in this procedure but should also take into consideration public interest<sup>95</sup>. If the representative is an advocate or attorney-at-law, he or she is also responsible for performing his or her tasks in accordance with the rules of professional ethics. In case of its violation, the representative may be subject to disciplinary liability. The family court should also exercise supervision over the guardian by keeping itself acquainted with the guardian's activities and requesting him or her to provide explanations and documents relating to the exercise of the duties<sup>96</sup>.

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<sup>90</sup> K11

<sup>91</sup> Art. 25(3) of the "Special Act".

<sup>92</sup> Border Guard Headquarters response to the freedom of information request.

<sup>93</sup> See Chapter 2: Qualifications and Training.

<sup>94</sup> Art. 99<sup>2a</sup> and Art. 166 of the Family and Guardianship Code.

<sup>95</sup> Art. 154 of the Family and Guardianship Code.

<sup>96</sup> Article 165 in conjunction with Article 178(2) of the Family and Guardianship Code.

When the court notices that a child's welfare is at risk, it has the power to issue appropriate orders *ex officio*. However, it is not explicitly indicated whether the court can or is obliged to appoint another person as guardian or representative if the previous one fails to fulfill their duties<sup>97</sup>.

However, in practice, courts do not exercise this supervision effectively. This is indirectly indicated by analyses of how courts supervise guardians of partially incapacitated persons and legal guardians of children, which show that courts have limited knowledge of the child and the guardian, and that they are overburdened and do not have time to carry out supervisory tasks<sup>98</sup>.

### 2.3. Independence & impartiality

The law does not explicitly state that guardians, representatives, temporary guardians, or foster carers must be financially and institutionally independent from the authorities—particularly those responsible for identifying the child as an unaccompanied minor, providing care services, or issuing decisions related to return, residence, or international protection.

Moreover, neither law nor policy addresses the impartiality of guardians or legal representatives. If they are attorneys or legal counsels, their bar associations' codes of conduct would guide them in this role, emphasizing independence and the protection of their client's best interests<sup>99</sup>. However, in smaller, close-knit communities where border guards and legal professionals know each other, the impartiality of the latter could also be at risk.<sup>100</sup>

There is no mechanism of reviewing potential conflicts of interest. A worrying practice in some regions in this regard, is appointing Border Guard officers or their civil employees as guardians of minors subjected to procedures run by the Border Police<sup>101</sup>. This practice is not forbidden by law, nor the courts appointing guardians typically would have objections against it. Fortunately, this practice seems

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<sup>97</sup> Article 109 of the Family and Guardianship Code.

<sup>98</sup> K12, also see: Supreme Court, [Uwagi do poselskiego projektu ustawy „o zmianie niektórych ustaw – Kodeks rodzinny i opiekuńczy oraz niektórych innych ustaw \(druk Sejmu RP IX kadencji nr 3309\)](#), BSA.I.021.18.2023, p. 7.

<sup>99</sup> Art. 1 of the Legal Counsels' Ethics Code: "A legal counselor, exercising a profession of public trust in an independent and autonomous manner, serves the good of the persons whose rights and freedoms have been entrusted to him for the protection thereof", § 7 of the Attorney-at-law Ethics Code: "In the course of performing professional activities, an attorney-at-law shall enjoy full freedom

and independence. The attorney-at-law has a special duty of care not to exceed the limits of proper representation of the client's interests."

<sup>100</sup> Eg. in one court case analyzed by Klaus and Szulecka, an attorney-at-law appointed to represent a child in a detention case left the decision about placing a child in detention to the court; Witold Klaus, Monika Szulecka, Dominik Wzorek, *Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczenia cudzoziemców w ośrodkach strzeżonych*, (Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024), pp. 207-211.

<sup>101</sup> K13, also Ada Tymińska, *Kto opiekuje się dziećmi „bez opieki”? Rozproszenie opieki nad małoletnimi cudzoziemcami bez opieki w perspektywie krytyczno-prawnej* (Fundacja Dajemy Dzieciom Siłę, 2024), pp. 88, 94.

to be fading as lists of candidates for legal representatives are being submitted to the courts, giving them more choice in whom to appoint.

Temporary guardians are usually independent of the state structures and decision-makers, as in the vast majority of cases these are children's relatives, acquaintances and basically private persons who already know the child<sup>102</sup>. But there were cases in which, due to the impossibility of finding a suitable person to perform this function, it was entrusted to the employees of social welfare centres, i.e. a local government body whose task was to supervise the performance of this function by temporary guardians<sup>103</sup>.

#### 2.4. Child Rights Centered Guardianship

As mentioned above, a guardian or any other legal representative only represents a child in a particular administrative procedure and is obliged to exercise due diligence regarding the minor's interests in this procedure, but should also take into consideration the public interest. Neither law nor practice requires a representative's involvement in the identification and implementation of durable solutions.

In Polish law, the general obligation to ensure the protection of children's rights is provided for in Article 72 of the Polish Constitution.<sup>104</sup> It states that the Republic of Poland shall ensure the protection of the rights of the child; that everyone has the right to demand from public authorities the protection of the child against violence, cruelty, exploitation, and demoralization; and that a child deprived of parental care has the right to care and assistance from public authorities.

Poland is also bound by the provisions of the Convention on the Rights of the Child<sup>105</sup>. In particular, Article 3 of the Convention imposes an obligation on all public authorities and institutions to ensure that the best interests of the child are always a primary consideration in their actions. For this purpose, States are also obliged to take appropriate legislative and other steps to ensure the implementation of this obligation. However, these regulations do not directly impose specific duties on those exercising functions of care or representation on a child, but on the State, which is supposed to ensure that the best interest of the child is taken into account. There is no general, explicit provision of Polish law stating that all persons exercising representation or care functions over a child deprived of parental care have a duty to respect the rights of the child. However, references to the rights and best interests of the child have been made in the provisions relating to each of these institutions.

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<sup>102</sup> *Ibidem*, p. 51.

<sup>103</sup> Ada Tymińska, *Dzieci z pieczy zastępczej oraz matoletni bez opieki z Ukrainy: ocena ex-post regulacji i praktyki stosowania specustawy ukraińskiej*, (Helsinki Fundacja Praw Człowieka, 2022), p. 55.

<sup>104</sup> Constitution of the Republic of Poland of 2 April 1997.

<sup>105</sup> Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20th of November 1989.

Any legal representative has a duty to exercise their role with due diligence, as required by the best interests of the child they represent and the public interest<sup>106</sup>. Before making decisions on major matters concerning the child, a representative should listen to the child, if the child's mental development, state of health and degree of maturity so permits, and take the child's reasonable wishes into account as far as possible<sup>107</sup>. When appointing a temporary guardian for a Ukrainian citizen, the court is obliged to be guided by the best interests of the child. Interestingly, the due diligence standard does not apply to a temporary guardian<sup>108</sup>.

Foster care facilities and foster families are required to abide by national provisions that explicitly state the necessity of considering the subjectivity of the child and ensuring their fundamental rights.<sup>109</sup> These rights include:

- To be raised within the family, and, if it is necessary to raise the child outside the family, to be cared for and raised in family-based foster care, provided this is compatible with the child's best interests;
- To be reunited with their family;
- To maintain personal contact with their parents, except in cases where such contact has been prohibited by the court;
- To a stable educational environment;
- To education and the development of talents, interests, and beliefs, as well as opportunities for play and leisure;
- To receive assistance in preparing for independent living;
- To protection from arbitrary or unlawful interference in their life;
- To information and the ability to express opinions on matters that concern them, in accordance with their age and degree of maturity;
- To protection from degrading treatment and punishment;
- To respect for religious and cultural identity;
- To access information about their background.

Foster care facilities and foster families are also obligated to listen to the child, taking into account their age and level of maturity, and to appropriately consider the child's opinions in decision-making processes.

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<sup>106</sup> Guardians: art. 154 in conjunction with art. 178(2) of the Family and Guardianship Code, other legal representatives: art. 154 in conjunction with art. 99 § 2 of the Family and Guardianship Code.

<sup>107</sup> Guardians: art. 95 § 3 and 4 of the Family and Guardianship Code in conjunction with Article 155 § 2 of the Family and Guardianship Code in conjunction with Article 178 § 2 of the Family and Guardianship Code, other legal representatives: art. 99 § 2 in conjunction with Article 95 § 3 and 4 of the Family and Guardianship Code.

<sup>108</sup> Art. 25(5) of the "Special Act".

<sup>109</sup> Art. 4 of the Act on Family Support and the Foster Care System.

## 2.5. Child's participation

The obligation of the court to hear a minor in all matters concerning their person and assets applies in all family and guardianship cases brought in front of the court<sup>110</sup>. However, practice shows, that in matters of guardianship, legal representation and placement in foster care unaccompanied minors are not being heard, as these decisions are made by the court behind closed doors<sup>111</sup>. According to file surveys, both those conducted in 2014-2016 and the most recent survey of 2024<sup>112</sup>, as well as information provided by courts handling such cases,<sup>113</sup> minors are also not heard by the courts before being placed in detention centers.

While in foster care, a child is consulted on matters concerning their everyday life; however, language barriers are a significant obstacle, particularly in cases involving less commonly spoken languages. Neither legal representatives nor foster caregivers have budgets allocated to cover the costs of language support. Practice shows that, in some cases, a child may go long periods without anyone actually speaking to them in a comprehensible language.<sup>114</sup>

Prior to the appointment of a temporary guardian for a child who fled Ukraine, the court should interview the candidate, the person exercising actual care of the minor, and the minor if their mental development, state of health and degree of maturity so permit, while taking into account, as far as possible, the child's reasonable wishes.<sup>115</sup> However, in particularly justified cases, if the candidate for temporary guardian has *de facto* care of the minor and the circumstances of the case do not raise doubts as to the proper exercise of such care and the minor's best interests do not oppose it, the court may refrain from holding a hearing and listening to the parties<sup>116</sup>. The practice of the courts is not uniform and some courts, as a rule, never hold a hearing and interview the minor, appointing a temporary guardian only on the basis of documents submitted by the applicants<sup>117</sup>.

In migration procedures, a child is typically interviewed in the presence of their representative, unless the child's age or maturity level does not permit it.

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<sup>110</sup> Art. 576 of the Civil Procedures Code.

<sup>111</sup> KI2, KI3.

<sup>112</sup> Marta Górczyńska, Daniel Witko, *Research on the applicability of the best interests of the child principle as the primary consideration in detention decisions as well as the alternatives to detention*, (UNHCR 2018); Witold Klaus, Monika Szulecka, Dominik Wzorek, *Detencja i jej alternatywy. ...op.cit.*, pp. 207-211.

<sup>113</sup> Eg. response of the Head of the District Court in Grójec of 19 Feb 2024 to the freedom of information request, ref. Adm.0123.7.2024.

<sup>114</sup> KI1, KI2, KI3.

<sup>115</sup> Art. 25(12) of the "Special Act".

<sup>116</sup> *Ibidem*.

<sup>117</sup> Ada Tymińska, *Dzieci z pieczy zastępczej...*, *op. cit.*, p. 55.

## Qualifications & training

A legal representative as well as a temporary guardian for an Ukrainian child has to be an adult who has full legal capacity and full parental authority, no criminal record for certain offences<sup>118</sup>, and give a guarantee of the proper performance of their duties<sup>119</sup>. When appointing a temporary guardian for children who fled Ukraine, the court shall give priority to relatives and affinities.

There are additional requirements for the legal representatives who represent children in return procedures, detention, costs of deportation cases and any other administrative or judicial procedure that a minor may be subjected to whenever there are no specific laws stipulating representation regime in these cases. In principle, candidates should be attorneys-at-law or legal counsels (*adwokat* or *radca prawny*) and demonstrate special knowledge of cases involving the child, of the same type or of a type corresponding to the case in which representation of the child is required, or has completed training on the principles of child representation, the rights or needs of the child.<sup>120</sup> If the complexity of the case does not require it, another person with higher legal education and demonstrating knowledge of the child's needs may also be appointed to represent the child. If special circumstances warrant it, a person without higher legal education may also be appointed to represent the child<sup>121</sup>.

Apart from the aforementioned general training for practicing lawyers, no other training or additional support is universally offered to prospective representatives, temporary guardians, or foster caregivers that would prepare them for the particularities of working with migrant children. Occasionally, NGOs or international NGOs offer independent courses on this subject targeting specific professions.

### 2.6. Sustainability and collaboration

Neither law nor policy provides for a formally established, comprehensive system of collaboration between guardians, representatives, and other stakeholders. No significant informal collaborations are in place either, other than local de facto collaborations between border guards, foster care institutions, and guardians.

Since a guardian or representative only represents a child in one particular procedure, they rarely become the focal point for other stakeholders. More often, a foster care institution or foster family

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<sup>118</sup> The person cannot be convicted of a crime against sexual freedom or morality or an intentional crime of violence against the person or a crime committed to the detriment of or in cooperation with a minor, or a person who has been ordered by the court to refrain from activities related to the upbringing, treatment, education or care of minors, or an obligation to refrain from residing in certain environments or places, a prohibition on contacting specific persons or a prohibition on leaving a specific place of residence without the court's permission.

<sup>119</sup> Article 148 (1and 2) of the Family Code, art. 25 (5) of the "Special" Act.

<sup>120</sup> The trainings are organized by the Bar Associations and require at least 8 hours. The curriculum includes: legal aspects of child representation, psychological aspects of child representation, including the child's needs based on age and developmental capabilities, communication with the child, including a child with disabilities, a child with complex communication needs.

<sup>121</sup> Art. 99(1) of the Family Code, Regulation of the Ministry of Justice of 29 July 2024 on the manner of ensuring representation of a child by a child representative.

assumes this role, being in constant, everyday contact with the minor. They are also responsible for managing the child's daily life matters, such as education, social benefits, and basic medical care. Foster care facilities must also cooperate with the police and Border Guards to a certain extent, as these are the actors who usually bring a child to their facilities in the first place. If it is an intervention-type foster care facility, it is obliged to take in such a child and provide emergency care, even if it no longer has free places available. In practice, however, this is not always the case (see Chapter 3).

Foster care institutions also have the right to obtain and access all available documentation—including legal and medical records—concerning the child<sup>122</sup>. However, as foster facilities report, this is not always the case<sup>123</sup>.

A representative is also legally authorized to retrieve necessary information about a child—such as health condition, family situation, and environment—to the extent necessary for proper representation<sup>124</sup>. They may obtain this information from authorities, institutions, associations, social organizations, or other entities to which the child belongs, which provide assistance to the child or have information about them. These entities are obliged to provide the legal representative with this information. However, a guardian of an asylum-seeking child does not have such authority provided by law. In the case of the temporary guardian function, legal representation and daily care of the child are combined, and the temporary guardian is responsible for cooperation with various institutions. However, there is no formally structured systemic cooperation between temporary guardians and these institutions.

## Chapter 3: Gaps and good practices

### The complex issue of legal representation

The law is very unclear and patchy when it comes to legal representation of an unaccompanied minor. With the exception of a temporary guardian for Ukrainian children, the overarching rule is that a legal representative is appointed only for the particular administrative or judicial procedure and their role does not extend to safeguarding the child's best interest in any other aspect of their life. A legal representative is obliged to keep due diligence in the procedure they represent a child in, but they are not burdened with determining what the best interest of the child is in the situation they found themselves in, caring for their safety or wellbeing. A legal representative acts on their own: they are not obliged to coordinate with other actors or even with other legal representatives appointed for other procedures of the same child.

The laws introducing a legal representative for a migrant child are casuistic, meaning that for each migration procedure there's a separate legal basis for appointing a representative (e.g. asylum, Dublin transfer, residence permit). For some procedures there are no specific laws (return procedure,

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<sup>122</sup> Art. 38a, 47(3), 99a of the Act on Family Support and the Foster Care System.

<sup>123</sup> K11.

<sup>124</sup> Article 99 §§ 1–2 of the Family and Guardianship Code.

detention) and then general provisions on representation of a minor who remains under parental authority, but whom neither parent can represent apply<sup>125</sup>. This creates a mosaic of regimes under which a child might be represented depending on their individual situation, which is difficult to navigate not only by representatives but also by courts appointing them<sup>126</sup>.

### Multiple legal representatives do not equal quality

The duty of legal representation for unaccompanied minors and the scope of this duty varies depending on the function the appointed person performs. Where the representation is separate from the care of the child, multiple individuals may represent the child simultaneously in various proceedings.

For example, one representative may be appointed to handle return proceedings, while another is assigned to a case involving placement in a detention center. Later, a different person may represent the minor in a case for international protection, and yet another might apply on their behalf for integration assistance<sup>127</sup>. In theory, these functions can be performed by a single individual, but in practice, several representatives are usually involved, partly because different procedures often take place in various distant locations across Poland. The practice of courts is not uniform either—some courts appoint separate representatives for each matter, while others consolidate different scopes of representation into one decision<sup>128</sup>. The multiplicity of parties acting on behalf of an unaccompanied minor does not necessarily improve the quality of services provided. Instead, it often results in fragmentation and inefficiencies in the representation process.<sup>129</sup>

### Why is comprehensive legal guardianship not applied?

The institution of a legal guardian encompassing legal representation as well as day-to-day custody over a person and their property does exist in the Polish law<sup>130</sup>. Legal guardian is appointed for a child only if neither parent has parental authority (e.g., both parents have been deprived of parental authority, the parents are minors) or if the parents are unknown (e.g., neither the mother nor the father of the born child has been identified)<sup>131</sup>. In practice, the application of the institution of a legal

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<sup>125</sup> Article 99 et seq. of the Family and Guardianship Code.

<sup>126</sup> Eg. in the case ref. no. VII NSm 331/24, the District Court for Łódź-Śródmieście in Łódź appointed a representative instead of a guardian for international protection and related proceedings. On the other hand, in the case ref. III Nsm 179/24, the District Court in Grójec appointed a guardian for the proceedings on determination of costs of execution of the return decision, despite the fact that the regulations do not provide for the appointment of a guardian in such a case.

<sup>127</sup> Ada Tymińska, *Kto opiekuje się dziećmi „bez opieki”?*..., *op. cit.*, p. 85.

<sup>128</sup> *Ibidem*.

<sup>129</sup> *Ibidem*, p. 94-95.

<sup>130</sup> Article 145 et seq. of the Family and Guardianship Code.

<sup>131</sup> Article 94 § 3 of the Family Code.

guardian to foreign children is limited, due to actual and procedural difficulties in absolutely establishing that neither of the parents of an unaccompanied minor has parental authority or that they are unknown<sup>132</sup>, as well as international agreements binding Poland that exclude the jurisdiction of Polish courts in matters of custody and guardianship (e.g., Agreement between the Republic of Poland and Ukraine on legal assistance and legal relations in civil and criminal matters, done on May 24, 1993 in Kiev).

### The challenges of a foster care system in Poland

For unaccompanied minors, there is no special foster care facility established; they are placed in foster families or foster care facilities also available for Polish children. The foster care system, which in theory relies on foster families and smaller foster care facilities, has declined in recent years. The 2023 report of the Supreme Audit Office<sup>133</sup> revealed problems associated with too few family forms of foster care (with the numbers gradually decreasing in recent years) and the continuing primacy of large institutions, where care is provided by educators who change throughout the day, making it generally more difficult to establish relationships. By the end of 2023, there were approximately 1,500 court placement decisions that have not been executed because of the lack of places in the foster care system.

This crisis impacts unaccompanied migrant children as well. There is a visible problem with places in foster care facilities for foreign minors and a small number of foster families ready to accept them<sup>134</sup>. As mentioned above, emergency-care foster care facilities should in theory not refuse to accept a child brought by Border Guards or the Police on an intervention basis, but such cases have occurred quite often in the last two years.

In response to this crisis, in mid-2024, the Border Guard led to the establishment of an ad hoc facility for foreign unaccompanied minors in the small town of Augustów, at a retirement home for priests. The facility mainly hosts children who have crossed the Polish-Belarusian border seeking international protection, for whom there are no places in regular foster care facilities. However, there are doubts regarding the legal basis for unaccompanied minors staying there and whether the persons taking care of these children have the qualifications and actual competence to do so. The Children's Ombudsman has assessed that the placement of unaccompanied children in this facility has no legal basis.<sup>135</sup> There

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<sup>132</sup> Adam Chmura, [Challenges related to the reception of unaccompanied children from Ukraine in Poland – legal representation issues](#), (ICMPD 2023), p. 9-10; Anna Trylińska, *Małoletni bez opieki ubiegający się o ochronę międzynarodowo-wą. Rola kuratora*, in *Studia Prawnicze*, 2018, 1(213), p. 57.

<sup>133</sup> Supreme Audit Office, [Wsparcie systemu pieczy zastępczej w procesie deinstytucjonalizacji](#), 2023.

<sup>134</sup> Children Ombudsman, [Children need to be protected at the border](#), 2024.

<sup>135</sup> Radio TokFm, [Co dzieci z polsko-białoruskiej granicy robiły w domu księży? "Dowiedzieliśmy się po fakcie"](#), 2024.

are also problems reported by some activist groups about the lack of provision of children's basic needs, such as clothing, education, communication and language support<sup>136</sup>.

### **No system of support for caregivers**

Another reason why foster care facilities are very reluctant to accept minor migrants is that they receive virtually no support from the state or their community when they do. There is no budget allocated to provide language support, no training for the staff, and no communication with legal representatives. In practice, the staff struggles to communicate with the child, has barely any tools to help them with their legalization or asylum procedures, and lacks the intercultural competencies needed to figure out how to support them<sup>137</sup>.

### **A system designed for the child to disappear**

From the moment a child is apprehended, the Border Guards immediately initiate processes aimed at placing the child in foster care or detention and appointing them a legal representative<sup>138</sup>. However, due to significant shortages of available candidates willing to represent the child, the procedures are stalled from day one. While the child is temporarily placed in a foster care facility, without initiation of the asylum procedure—which is impossible without a guardian—they cannot access documentation and, as a consequence, neither health care nor education.<sup>139</sup> Appointing a guardian, which according to the law should take no more than three days<sup>140</sup>, may in practice last for many weeks<sup>141</sup>, during which a child remains in limbo. As a result, many children abscond and their whereabouts become unknown<sup>142</sup>.

### **Poor quality of representation in asylum proceedings**

In general, the poor quality of guardianship for unaccompanied minors in international protection and related proceedings has been identified. There are such problems as: a lack of personal contact between the guardian and the child, a lack of information about the child's legal situation, a lack of

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<sup>136</sup> K13.

<sup>137</sup> K11.

<sup>138</sup> Art. 397 (1) (2) of the Act on Foreigners, art. 62 of the Act on Granting Protection to Foreigners.

<sup>139</sup> K11.

<sup>140</sup> Article 61(2) of the Act on Granting Protection to Foreigners.

<sup>141</sup> K11, K12, K13.

<sup>142</sup> K11

age-appropriate sources of information for minors, and a lack of systematic interpreter support for guardians<sup>143</sup>.

The guardians are not required to demonstrate knowledge of either legal knowledge, asylum and migration law, or the ability to work with children. At the same time, the state does not organise any programmes to improve the level of knowledge and competence of such guardians working with unaccompanied foreign children. It also fails to provide interpretation assistance, which is essential for identifying the child's needs, building trust, and effectively representing the child's interests.<sup>144</sup> There are no financial resources to cover the costs of travelling to the minor or the costs of interpretation<sup>145</sup>. Guardians are also not provided with psychological support and must organize it for the child independently.<sup>146</sup>

In practice, a significant portion of legal support, including for guardians of unaccompanied minors, is provided by non-governmental organizations whose statutory activity is to support foreigners in Poland. However, training programs for guardians representing unaccompanied minors are rarely organized.

In theory, free legal aid is provided from the state budget in international protection cases, including the transfer of an applicant to another Member State under Regulation 604/2013<sup>147</sup>. This system is organized by the Head of the Office for Foreigners. The scope of this assistance includes only the preparation of an appeal and legal representation at the appeal stage. This means that, in the crucial first instance of the proceedings, the guardian must handle the case independently. Legal assistance is provided by a professional attorney who is an attorney-at-law or advocate, or by another person experienced in providing legal assistance to foreigners in Poland (e.g. lawyers at NGOs who are not attorneys-at-law or advocates).

### Good practices

**A designated foster care facility.** At least 10 years ago, when the number of unaccompanied minors in Poland was significantly smaller, there was just one designated foster care facility that accepted migrant children<sup>148</sup>. The staff had strong support from the community; they collaborated with universities and volunteer interpreters and had significant experience working with children from

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<sup>143</sup> [NGOs alternative report to the government report on implementation of the Convention of the Rights of the Child, submitted by UNICEF](#), UNICEF 2020, p. 34.

<sup>144</sup> Ada Tymińska, Kto opiekuje się dziećmi „bez opieki”?..., op. cit., p. 98.

<sup>145</sup> Anna Trylińska, op. cit., p. 60.

<sup>146</sup> *Ibidem*, p. 61.

<sup>147</sup> Art. 69c et seq. of the Act on Granting Protection to Foreigners.

<sup>148</sup> Maria Kolankiewicz. “Dzieci cudzoziemskie bez opieki w Polsce”. In *Dziecko krzywdzone. Teoria, badania, praktyka*, 4(3), 69–92, p.18.

varied backgrounds and cultures. Located in Warsaw, the facility was able to collaborate with various NGOs offering legal and psychosocial support. Migrant children placed in the facility did not feel isolated because there were always other migrant children in the building. Simultaneously, they had contact with Polish children, as the facility primarily hosted Polish residents.

**Training and mentoring programme for guardians, representatives and foster care institutions.** In 2023–2024, the Association for Legal Intervention implemented a project aimed at supporting guardians, representatives, and foster care facilities through training and mentoring. The project also focused on mapping and creating networks among various stakeholders active in the field of supporting unaccompanied minors. The results of the project were very promising: forty-four persons and eight institutions were trained and a list of persons willing to become guardians was created.

## Chapter 4: Recommendations

### Introduction to recommendations: challenges of proposing recommendations in times of crisis

As previously mentioned, the Polish foster care system appears to be in decline. The number of foster families willing to accept children is decreasing, while the number of unimplemented foster care placement decisions is rising. Additionally, societal attitudes in Poland toward migrants have shifted in recent years from benevolent indifference to reluctance, to say the least. While it is clear that deinstitutionalizing care and placing all migrant children with foster families would be the best option for most of them, achieving this goal in the near future seems unlikely. Bearing in mind the urgent need to improve the situation of unaccompanied migrant children, this National Plan focuses on more short-term solutions.

### Recommended Steps to Address Gaps in the Polish Guardianship System

#### Area of Care

- **Adapt Foster Care Facilities:** Modify 4–5 foster care facilities to receive migrant children. It is important that these facilities voluntarily agree to become designated centers for migrant children. A support system should be established around these facilities, including cooperation with the community, schools, volunteers, migrant communities, lawyers, and NGOs. Additional funding needs to be allocated for language support and regular staff training.
- **Case Management Programs:** Develop programs to support foster care facilities and guardians through holistic case management performed by NGOs or thoroughly trained local social services.
- **Child-Friendly Complaint Mechanisms:** Introduce accessible, child-friendly complaint mechanisms in foster care facilities for migrant children.

## Area of Guardianship

- **Develop a Unified Guardianship Framework:** Establish clear, nationwide standards for guardianship, including defined roles, responsibilities, and qualification requirements.
- **Strengthen Accountability:** Enhance the accountability of guardians and legal representatives by creating a central registry of candidates, with the possibility of removal from the registry due to lack of due diligence.
- **Enhance Guardians' Roles:** Expand the duties of guardians and legal representatives so they are also responsible for safeguarding the best interests of the child and working on durable solutions.
- **Enhanced Training Programs:** Implement mandatory, standardized training on child rights, cultural sensitivity, and legal procedures for all guardians.
- **Improved Support Structures:** Provide access to interpreters, psychological services, and professional support to ensure guardians can fulfill their roles effectively.
- **Foster Collaboration:** Establish formal mechanisms for cooperation among NGOs, the Office for Migration, international organizations, the Border Guard, and Poviats Family Centers to streamline guardianship services.

## Safeguarding Children's Rights

- **Strengthen Child Participation:** Develop tools and frameworks to facilitate meaningful participation of children in all decisions affecting them. This includes providing child-friendly information at every stage of procedures, accessible language support, and mandatory hearings of the child before placement and representation decisions are made.
- **Fast-Track Procedures:** From the moment a child is identified, all procedures should progress quickly with the aim of securing the child's safety and access to necessary services. This means promptly appointing a guardian or legal representative, initiating migration procedures, and issuing necessary documentation to open access to services.
- **Ban on Child Detention:** Introduce a prohibition on the detention of migrant children, regardless of their age and migration status.
- **Ensure Access to Health Care:** Guarantee access to health care for undocumented unaccompanied minors.



## Conclusion

In conclusion, the mapping and analysis of the guardianship systems in Greece, Italy, Poland, Cyprus, Croatia and Belgium in the context of the Guard Up project, has provided valuable insights into the strengths, challenges, and opportunities within each country's system for protecting unaccompanied minors. The findings underscore the importance of a well-defined, coordinated guardianship system that ensures the safety, well-being and rights of unaccompanied minors. In particular, the need for comprehensive training and ongoing support for guardians, clear procedural guidelines and enhanced collaboration among all relevant stakeholders, government bodies, NGOs, practitioners and other, are critical for improving outcomes.

Moreover, and despite significant developments and successes, there are still gaps in the systems, particularly in terms of consistency, accessibility and adequacy of guardianship support. The recommendations derived from the national plans of the six European countries regarding guardianship include the integration of guardianship systems within solid legal and social frameworks, enhanced collaboration among all involved actors, and the development of inclusive policies that engage local communities. Additionally, there is a call for the expansion of shelter capacity and the appointment of more guardians, alongside ongoing training for all stakeholders, including NGOs, guardians, and other relevant actors.

Ultimately, the goal is to create guardianship systems that not only meet the legal requirements but also foster an environment of safety, trust, and holistic care for the most vulnerable children. By addressing the challenges outlined in this report, these countries can continue to make significant strides in improving their guardianship systems, ensuring a better future for unaccompanied minors.

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- Art. 24: Diritti del bambino
- Art. 402 of the Civil Code: Poteri tutelari spettanti agli istituti di assistenza
- Art.343 of the Civil Code: Apertura della tutela
- Art.350 of the Civil Code: Incapacità all'ufficio tutelare
- Art.5 of the Memorandum of understanding: Azioni coordinate per il supporto e la promozione della tutela volontaria dei Minori Stranieri Non Accompagnati (MSNA) e della tutela sociale dei neo maggiorenni tra Regione Toscana, Tribunale per i Minorenni di Firenze Garante per l’Infanzia e l’Adolescenza della regione Toscana, ANCI Toscana, Associazione Tutori Volontari di Minori Stranieri Non Accompagnati Regione Toscana e Istituto degli Innocenti
- AVVISO PUBBLICO PER LA SELEZIONE DI SOGGETTI IDONEI A SVOLGERE LA FUNZIONE DI TUTORE DI MINORI STRANIERI NON ACCOMPAGNATI A TITOLO VOLONTARIO E GRATUITO (art. 11, Law No. 47 of April 7th 2017): “La persona che, a titolo gratuito e volontario, non solo voglia e sia in grado di rappresentare giuridicamente un minore straniero non accompagnato, ma sia anche una persona motivata e sensibile, attenta alla relazione con il minore, interprete dei suoi bisogni e dei suoi problemi”.
- Dashboard Ministero del Lavoro e delle Politiche Sociali <https://analytics.lavoro.gov.it/t/PublicSIM/views/HomePage/HomePage-SIM?%3Aembed=y&%3Aiid=1&%3AisGuestRedirectFromVizportal=y>
- Decree No. 219 of September 19th 2022: Disciplina delle modalità dei rimborsi e degli interventi in favore dei tutori volontari dei minori stranieri non accompagnati
- Guida per i tutori volontari dei minori stranieri non accompagnati-Save the Children
- Law No. 176 of December 1st 2023: Conversione in legge, con modificazioni, del decreto-legge 5 ottobre 2023, n. 133, recante disposizioni urgenti in materia di immigrazione e protezione internazionale, nonché per il supporto alle politiche di sicurezza e la funzionalità del Ministero dell'interno.
- Law No. 176 of May 27th 1991: Ratifica ed esecuzione della convenzione sui diritti del fanciullo, fatta a New York il 20 novembre 1989.
- Law No. 184 of May 4th 1983: Disciplina dell'adozione e dell'affidamento dei minori. (GU Serie Generale n.133 del 17-05-1983 - Suppl. Ordinario n. 28)
- Law No. 184 of May 4th 1983: Disciplina dell'adozione e dell'affidamento dei minori
- Law No. 219 of December 10th 2012: Disposizioni in materia di riconoscimento dei figli naturali.
- Law No. 47 of April 7th 2017: Disposizioni in materia di misure di protezione dei minori stranieri non accompagnati

- Law No. 77 of March 20th 2003: Ratifica ed esecuzione della Convenzione europea sull'esercizio dei diritti dei fanciulli, fatta a Strasburgo il 25 gennaio 1996
- Legislative Decree No. 142 of August 18th 2015: Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale.
- Legislative Decree No. 142 of August 18th 2015: Attuazione della direttiva 2013/33/UE
- Linee guida per la selezione, la formazione e l'iscrizione degli elenchi dei tutori volontari ex art.11, Law No.47 of April 7th 2017
- Linee guida per la selezione, la formazione e l'iscrizione negli elenchi dei tutori volontari ex art 11, Law No.47 of April 7th 2017
- Linee Guida per la selezione, la formazione e l'iscrizione negli elenchi dei tutori volontari, ex art.11 Law No.47 of April 7th 2017
- Mappatura sullo stato attuale di implementazione del sistema di tutela volontaria - Save the Children
- Memorandum of understanding "Protezione dei minori stranieri separati e non accompagnati in Italia" tra l'Autorità Garante per l'Infanzia e l'Adolescenza e l'Alto Commissariato delle Nazioni Unite per i Rifugiati (UNHCR)
- Memorandum of understanding per lo svolgimento di attività in attuazione della Legge 7 aprile 2017, n. 47 "Disposizioni in materia di misure di protezione dei minori stranieri non accompagnati" e nello specifico dell'art. 11 "Elenco dei tutori volontari" tra la Garante per l'infanzia e l'adolescenza della Regione Emilia-Romagna e la Presidente del Tribunale per i Minorenni di Bologna ibidem
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