



LT Ad-Hoc Query On foreigners who claim to be minors but whose age is not confirmed

Requested by LT NCP on 23rd October 2014

Compilation produced on 29th December 2015

Responses from Austria, Belgium, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Slovak Republic, Sweden and United Kingdom (19 in Total)

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1. Background Information

Lithuania faces a problem with foreigners who are apprehended without travel/identity documents and who claim to be unaccompanied minors but do not apply for asylum. Since they claim to be minors they are accommodated at the Refugees Reception Center (a social institution) without restricting their freedom of movement. They abscond from this institution in the first few days without having their age established. Responsible institutions have started consultations on appropriate measures to be introduced therefore experience of other MSs would be highly appreciated.


We would like to ask the following questions:

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1. Where do you accommodate unaccompanied minors who do not apply for asylum but whose age is not confirmed and there is doubt about his/her minority?
2. Have these foreigners the right to move freely to/from the institution?
3. Is it obligatory to do age assessment if there is doubt about the age of a foreigner who claims to be a minor?
4. If a foreigner who claims to be a minor refuses to do the age assessment test, does this have any consequences?
5. What is the legal status of the foreigner who does not apply for asylum but claim to be a minor until his/her age is confirmed?
6. Is absconding of such foreigners a problem in your country? If yes, are there any measures undertaken to address this problem?
7. If a foreigner is returned from another MS with a certificate confirming his/her majority, would you consider this document as sufficient or would you perform a new age assessment test?

We would very much appreciate your responses by **21st November 2014**.

2. Responses

		Wider Dissemination?	
	Austria	Yes	<p>Constellations as described in the Ad-hoc Query (unaccompanied minor non-nationals who do not apply for asylum) do not often occur in practice, as most of unaccompanied minors apply for asylum after a short time.</p> <p>As soon as a non-national claims that he or she is a minor and if this is not manifestly unfounded, the youth welfare authority in the area in which the minor stays has to be immediately contacted. Until it may be confirmed that the person is not a minor, legal representation and also partly guardianship of the minor are with the youth welfare authority. Accommodation is provided through the basic welfare for asylum-seekers.</p> <p>If there are doubts concerning the alleged minority of the person, and if the non-national cannot prove his or her minority through documents or other unobjectionable certifications, the police directorate of the Federal Province can order an age assessment. The cooperation of the non-national in conducting the assessment through radiologic examinations cannot be enforced by coercive means.</p> <p>Source: Federal Ministry of the Interior.</p>

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	Belgium	Yes	<p>1. FEDASIL, the federal agency for the reception of asylum seekers, is responsible for the reception of all UAMs regardless of their administrative status (asylum seekers as well as non-asylum seekers newcomers) during the 1st reception phase in the Fedasil Observation and Orientation Centres (OOC). These OOCs organise the reception of all newly arrived UAM to allow for their identification, the assignment to a guardian by the Guardianship Service (Federal Public Service of Justice), and a first observation and orientation. The UAM seeking asylum or vulnerable UAM not seeking asylum (girls, minors younger than 15 years, ...) will be accommodated in two OOC, each of them can accommodate 50 minors (in the towns of Neder-Over-Heembeek and Steenokkerzeel). The UAM not seeking asylum and not vulnerable (boys, minors above 15 years) will be orientated to a specific OOC in the town of Sugny (accommodation for 20 minors), opened in May 2012. This last centre can accommodate a minor from 1 up to 4 months. Since 28.01.2013 – protocol concerning the registration of UAM intercepted on the Belgian territory and not asking for asylum - UAMs who are not asking for asylum but for whom there is a doubt concerning their age minority, will be first oriented, for a two nights stay, to the OOC of Neder-Over-Heembeek. If they are declared minor after the age assessment, they will be transferred to the OOC of Sugny. The young victims of human trafficking (asylum seeker or not) are referred to specialised facilities for UAM victims of human trafficking. This takes place directly if it is clear that they are victims of human trafficking or after an initial stay in a OOC. The very young (< 13 years) or most vulnerable UAM (asylum seeker or not) are also referred to specialized facilities of the Youth Care Services. UAM arriving at the borders (airport) for which there is a doubt that they are underage, a medical examination for the age assessment is organized within three days of their arrival. During these 3 days (which can exceptionally be prolonged with another three days), the minor concerned will stay in the closed detention centre for adults and families near the airport until the results of the age assessment are known. In case the person is a minor, he will be transferred to an OOC. UAM encountered inland for which there is a doubt that they are underage, will be directly transferred to an OOC .</p> <p>2. Yes, except for the UAM arriving at the borders (airport) for which there is a doubt that they are underage. During 3 days, the minor concerned will stay in the closed detention centre for adults and families near the airport until the results of the age assessment are known and during this time they do not have the rights to move freely. The OOC are open facilities and the UAM has the right to move freely to/from the reception facility, but there are some restrictions. During the first week, the UAM cannot use their mobile phones, cannot receive visitors and cannot leave the centre unless they are accompanied. Afterwards they can only leave the centre if they have the permission of their social worker and their guardian. The presence of the UAM is checked several times a day. If the UAM is absent for more than 24h without permission the police is alerted. The centres also have other house rules the UAM have to adhere to. For example, they have to ask the permission if they want to spend a night at the house of a family member. Let us know if you would like the house rules of the OOC in more details.</p> <p>3. Yes, if the UAM doesn't possess any documents stating his age in a valid way, an age assessment test should occur as quickly as possible when the minor's age is doubtful.</p>

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		<p>4. If a foreigner who claims to be a minor, refuses twice to be registered (which includes an age assessment if doubt) the Guardianship Services takes the decision that the foreigner concerned has the age of legal majority and informs the Immigration Office of this decision. The youngster may always submit new data/information relating to his/her identity to the Guardianship Service. This Service can decide to conduct a new research concerning the minority of the youngster.</p> <p>5. GENERAL REMARK: the result of the age assessment is known very rapidly (from a few hours to three days). Non-asylum seeking UAMs at the border An extraterritorial status in the detention centre (max. 3days, in exceptional cases this period is once renewable). Non-asylum seeking UAMs within the territory Specifically for the non-asylum seeking UAMs who are intercepted within the territory, a new Protocol Agreement was developed at the end of 2012 by a working group consisting of representatives from the Cabinet of the State Secretary for Migration and Asylum Policy, the Immigration Office, the Guardianship Service, Fedasil and the Police. The purpose of this Protocol Agreement is to prevent illegally staying UAMs from living in the street where they could be the victims of exploitation or trafficking. The Protocol stipulates concrete steps to be followed for identification, age determination and reception. The protocol follows the principle that the registration of persons who claim to be non-asylum seeking unaccompanied minors is centralized at the Immigration Office. This implies that the UAM responds the invitation for registration at the Immigration Office in person, or that he or she is brought to the Immigration Office by the police or by the Guardianship Service. The protocol was evaluated on 3 September 2013 by the working group. One of the concerns presented during the evaluation by the working group was that the protocol states that the Guardianship Service is responsible for the organization and financing of the transport of the UAM (to a hospital, a housing center, the Immigration Office. In practice, the full implementation of the protocol is not achieved due to budgetary restrictions and practical obstacles; sometimes the minor doesn't want to go to the Immigration Office for registration and to be placed in a reception centre. Since only a minority of UAMs are actually transferred to the Immigration Office or the Observation and Orientation Centre, and most of them receive an invitation for registration (but do not respond to this), the risk on absconding – and also possible victimhood to exploitation or trafficking – increases. The protocol prescribes that when an UAM is apprehended, an age assessment test should occur as quickly as possible when the minor's age is doubtful. The evaluation report of the protocol indicates that the age assessments tests are indeed carried out very quickly for the UAMs who present themselves to the Immigration Office. If the foreigner whose age is not confirmed and there is doubt about his/her minority refuses the registration/age determination he can be declared an adult by the Guardianship Service.</p> <p>6. The disappearances of UAMs are a major concern in Belgium, because these vulnerable young people who disappear sometimes have a traumatic history, an uncertain residence status, lack a stable family framework and are in need of psychological support and practical assistance. They risk to become a victim of human trafficking and other forms of exploitation. Most disappearances occur within the first reception stage during the stay at the orientation and observation centre, even within the first days of arrival at the OOC. The OOCs are open reception centres without locked gates or fences - law also forbids the detention of UAMs – so UAMs are free to leave if they so desire. It is a challenge in this context to protect the UAM “against” himself or third parties. The reception centres Minor Ndako, Juna and Esperanto that accommodate the extremely vulnerable minors, such as victims of human</p>
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		<p>trafficking, have established a better balance between securing the centre on the one hand and the UAMs right to freedom. Although it is also in these centres not possible to fully secure the centre due to practical reasons such as fire safety, UAMs have to attend school, etc... The most important reason why a lot less UAMs disappear from the centres for victims of human trafficking compared to the OOCs lies in the fact that the OOCs are the first centres to accommodate UAMs, while Juna, Minor Ndako and Esperanto are in fact second-line reception centres and thus encounter a different profile of UAMs since most disappearances occur the first days. Another reason probably also lies in the fact that the assistance at the specialised centres for victims of human trafficking is much more intensive and personalised. Such staffing is for budgetary reasons not possible at the OOCs or in other refugee reception centre within the Fedasil network.</p> <p>Further, because of the relatively high numbers of UAMs disappearing from the reception centres, and in many cases the limited information available, one has decided to make a distinction between 'voluntary leavers' and 'worrying disappearances'. This means that it is left over to social workers and guardians to report missing UAMs to the competent (police) authorities, which might not exclude that also those considered as 'voluntary leavers' are in fact in vulnerable situations.</p> <p>The Task Force "Minors Travelling Alone" also indicated a number of elements which need improvement if we really want to prevent minors from falling into situations of trafficking or other abuses, such as a better sharing of information between migration authorities, police authorities and social services, an international follow-up of UAMs who disappeared, care structures with a closer follow-up, etcetera. Besides UAMs who go missing or abscond from guardianship and reception facilities there is <u>also a significant number of (self-declared) UAMs who abscond before a guardian was appointed, an age assessment test was performed and/or before they were accommodated in a reception centre.</u></p> <p>In the past years several measures were taken to address the problem of disappearances:</p> <ul style="list-style-type: none"> - The creation of secured reception centres for minor victims of trafficking (organised and funded by the Youth Care services) - The signing of a cooperation protocol between different actors (police, Observation and Orientation Centres, Child Focus,...) for what concerns 'worrying disappearances' of UAMs - training for relevant actors, including police, border guards and guardians, in order to detect (possible) victims of trafficking as fast as possible, and to act appropriately in cases of disappearances of UAMs - The creation of a Task Force "Minors Travelling Alone" (Ministerial Task Force) in order to enumerate and implement a range of actions to prevent and react to possible situations of abuse and trafficking in the group of minors travelling without parents or legal guardian (of which UAMs are a large part). Many of these recommendations were take forward during the Belgian Presidency of the EU (including discussing a range of these recommendations during an international conference related to this theme) - Establishing a national focal point within the European context in order to act as main contact point for other Member States in cases of international disappearances or missing children - Child Focus, also a partner of Missing Children Europe, acts as a national NGO coordinating actions and alerts in cases of missing and disappeared children, including UAMs - files of UAMs are completed as much as possible, through a nation-wide used registration document completed and shared by all relevant actors (police, Immigration authorities, Guardianship Service, reception centres); fingerprints are taken when legally allowed (>12 or >14 years of age), as also pictures are taken and a detailed description of the physical characteristics of the UAMs. <p>Overall, there is yet little knowledge on the impact of these measures onto the prevention and reaction to disappearances of UAMs.</p> <p>In November 2008, a cooperation protocol has been signed to manage disappearances from the Observation and Orientation Centre. The aim of this protocol was to align the activities of the various stakeholders in order to prevent the disappearance and to ensure the rapid return</p>
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			<p>of UAMs who disappear. In Belgium, an UAM is considered as having left a reception structure 24 hours after his absence has been noticed. After these 24 hours, the police is informed about the absence of the UAM as is the guardian or the Guardianship Service. There are also additional legal provisions detailing the measures that should be taken in the case of disappearances. These prescribe that the police should be informed as well as other competent authorities such as Child Focus (organisation working on missing children) in the case of a worrying disappearance. Child Focus has the objective to implement every possible action in order to find missing children and to fight against their exploitation. However, Child Focus doesn't open a file for all disappearances of UAMs. In the past this used to be the case but since 2006, Child Focus has a new modus operandi and will only open a file if there is a minimum of information available on the UAM and the circumstances of his disappearance; and if Child Focus's help can offer added value. This will in most cases be for "worrying disappearances". According to the criteria in the Ministerial Directive of 20 February 2002 for Child Focus, a disappearance is considered as worrying if one or more criteria apply: the missing person is under 13 years old; the missing person has a physical or mental disability; the missing person is dependent on medication or medical treatment; the missing person may be in a his / her life-threatening situation; the missing person may be in the company of others who threaten his wellbeing or is the victim of a crime; or the absence of the young person is in complete contrast to his normal behaviour.</p> <p>The police has its regular procedures to deal with missing persons, including the registration and sharing of information amongst police and other authorities.</p> <p>Further, a Task Force was commissioned under the authority of the State Secretary of Asylum and Migration in 2010-2011 to formulate recommendations towards the prevention and early detection of minors who are travelling alone and who are/might be of risk of being/becoming victims of trafficking.</p> <p>7. We would take this information into consideration (in most cases this information will be given to the Guardianship Service and Fedasil by the Immigration Office who receives this information by the other MS). But if there are doubts (expressed by the Immigration Office or the Guardianship Service) a new age assessment will be organized.</p>
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	Cyprus	Yes	<ol style="list-style-type: none"> 1. If unaccompanied minors live with relatives, the adult relatives are assessed as to their ability to protect and care for the minors. If they are suitable, the unaccompanied minors remain with them. If they are assessed as unsuitable the Director of Social Welfare Services may take the minor in care. The minors are then placed in foster care (if they are young) or in Children`s Homes. 2. Children have the right to move freely to and from the institution. There are no closed child protection institutions. 3. Age assessment is not obligatory. If there is reasonable doubt concerning the age of the person who claims to be a minor, an age assessment is proposed. The person has to be informed and give his/her consent for age assessment medical examinations. A person who enters the Republic of Cyprus and claims to be a minor is considered to be a minor until proven otherwise. 4. If a foreigner who claims to be a minor refuses to do the age assessment test, this does not have any consequences on the provision of services provided by the Social Welfare Services. 5. A person who does not apply for asylum but claims to be a minor, is considered to be an unaccompanied minor and is placed under the care of the Director of Social Welfare Services, if deemed necessary (see answer to Q.1). 6. There are a number of cases of absconding of such foreigners, but at present, it is not considered a major problem. Missing children are reported to the Police and to an NGO which is subsidized by the state to operate a 24 hour hotline as well as to network with other competent bodies in Cyprus and abroad to locate the missing children. 7. This document will be considered sufficient, unless there are serious reasons to believe otherwise.
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	Czech Republic	No	<p>This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.</p>
	Estonia	Yes	<ol style="list-style-type: none"> 1. The general regulation stipulates that if the person claims to be a minor he/she will be treated as such until proven otherwise and will be placed in the accommodation center for asylum seekers or referred to substitute home service or foster care. If the person turns out to be a minor after being detained – then the decision regarding referring to substitute home or foster care is made case by case depending on the best interest of minor. 2. If the person is detained, then the movement is limited, accommodation center and substitute homes are not closed institution and inhabitants are free to move. However general restrictions on the movement of minors applies (e.g. under 16 year olds are not allowed to be alone in the public place during night time).


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			<p>3. The refusal might impact on the application process. If the person is not obviously minor and authorities suspect that he/she is an adult and the person refuses of age assessment then the person will be treated as an adult.</p> <p>4. The person will be treated as an adult for procedural activities.</p> <p>5. If the person does not apply for international protection, he/she would be considered irregular, but would be still placed in substitute home until age is confirmed (e.g. victims of trafficking or minors with suspicion of trafficking would also be placed in the substitute home).</p> <p>6. The number of unaccompanied minors is very few in Estonia.</p> <p>7. No established practice.</p>
	Finland	Yes	<p>1. Practically all minors who arrive in Finland unaccompanied apply for asylum. Unaccompanied minors, who however do not seek asylum in Finland, are directed to the child welfare services and accommodated either at a child welfare facility or in family care. There is no special procedure for accommodating non-asylum seeking unaccompanied minors, whose minority is contested. Should the age of a non-asylum seeking unaccompanied minor be contested, efforts are made to assess the age of the child through interviews.</p> <p>2. N/A, see above: practically all minors who arrive in Finland unaccompanied apply for asylum. Accommodation of a non-asylum-seeking UAM would be decided on a case-by-case basis by child welfare services.</p> <p>3. Under Section 6a of the Finnish Aliens Act, a medical age assessment may be carried out to establish the age of a sponsor or an alien applying for a residence permit if there are reasonable grounds for suspecting the reliability of the information the person has given on his or her age. Medical age assessment can therefore not be performed on all foreigners; only those, who either seek asylum or apply for a residence permit for themselves or their family member. Carrying out a medical age assessment is not obligatory but discretionary. However, as long as an applicant whose age is contested has not been found to be an adult in a medical age assessment, he/she is treated as a minor.</p> <p>4. An applicant, who refuses to undergo an examination, is treated as an adult if there are no reasonable grounds for refusal.</p> <p>5. N/A, see above: practically all unaccompanied minors who arrive in Finland apply for asylum. Therefore in Finland there is no such group of foreigners, who do not apply for asylum and claim to be minors, but whose age is contested. Such a situation would be resolved on case-by-case basis.</p> <p>6. No, see above: practically all unaccompanied minors who arrive in Finland apply for asylum.</p>




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			<p>7. There is no difference if the applicant is a Dublin-returnee from another MS or not. The need for medical age assessment is decided based on Section 6a of the Aliens Act (see answer 3). Information concerning the majority that is received from another MS is taken into consideration and proper legal value is given to it depending on the type of information (e.g. a passport is sufficient proof of the majority, but a certificate of birth might not be). If question was of a certificate from another MS confirming the majority, proper legal value given to it would be decided on a case-by-case basis (for example, what was the certificate confirming the majority based on, and whether there was any other evidence available).</p>
	France	Yes	<p>1. Unaccompanied minors, who do not apply for asylum but whose age is not confirmed and there is a doubt about their minority, are usually accommodated in a hotel infrastructure, for a period of at least five days during which the age assessment is carried out.</p> <p>2. These foreigners have the right to move freely to/from the institution.</p> <p>3. Yes, it is obligatory to do age assessment, if there is a doubt about the age of a foreigner who claims to be a minor, because in order to be cared by the French Social Child and Youth care services (<i>Services de l'aidesociale à l'enfance</i>), third country nationals have to be formally recognized as minors and in a situation of isolation, that is to say that no one holds parental responsibility over them.</p> <p>4. If a foreigner who claims to be a minor refuses to do the age assessment test, it might jeopardize his/her possibility to be cared by the French Social Child and Youth care services. Age assessment in France is based on an interview led by a social worker and on the verification of the authenticity of the person's identity documents. If there is still a doubt about the minority, a medical age assessment test can be conducted, after a decision made by a prosecutor. The medical test cannot be conducted without the consent of the person concerned.</p> <p>5. The circular of the 31st May 2013 refers to 'young isolated foreign people' (<i>jeunesétrangersisolés</i>) to designate foreigners who do not apply for asylum but claim to be a minor until their age is confirmed. The most common term used in France is '<i>mineursisolésétrangers</i>' (literally 'isolated foreign minors'), which is equivalent to unaccompanied minors.</p> <p>6. No, absconding of foreigners who claim to be minors but whose age is not confirmed has not been identified as a problem in France because the number of people absconding is not significant. As a result, no measures were undertaken to address this problem. In practice, when an EU Member State asks for the readmission of a third country national to France, with a certificate confirming his/her majority, French authorities are qualified to accept this document and, as a result, another evaluation would not be carried out. Nevertheless, if serious doubts remain about his/her age (according to consistent evidence), French authorities may proceed to age assessment tests in order to ensure the French age of legal majority of the person concerned. As a conclusion, a case-by-case assessment is conducted, even if the certificate from the requesting Member State should be sufficient: a great margin of appreciation is granted to French authorities in this situation.</p>
	Germany	Yes	<p>1. Any foreign minor has to be entrusted into the care of the local responsible Youth Welfare Office immediately upon entry of the country and the Youth Welfare Office has to appoint a legal guardian for the minor. In order to comply with such an obligation, it is necessary to</p>


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			<p>ascertain the age of the minor as soon as possible should doubts have arisen with regards to the minority of age of the foreigner. Should it be established that the foreigner is a minor, the minor is placed as a rule in a youth welfare institution. Only then a so-called clearing procedure will begin during which it will be clarified inter alia if it makes sense to file an application for asylum. Should such an application actually be filed, nothing changes from the point of view of the initial accommodation as the placing of minors in an institution of the youth welfare is compulsory and does not depend on the fact whether an application for asylum has been filed or not.</p> <p>2. Depending on the support plan as established by the youth worker and the youth (e.g. language development courses, school attendance) and within the framework of the respective rules of the house, any free coming and going is possible.</p> <p>3. Yes, (please see item 1.).</p> <p>4. Any foreigner is obliged to give true and correct indications regarding his/her age. Should any doubts regarding his/her indications arise, the measures required for the assessment of the age of the foreigner can be taken. This includes a physical intervention on the part of a physician if this would not entail any disadvantages for the health of the foreigner. Seeing that x-rays have verifiable adverse effects on anyone's health, a foreigner may refuse to take part in an examination with x-rays without having to fear any consequences. A simple physical examination or an assessment of the age by means of a visual examination must be allowed for by the alleged adult.</p> <p>5. If an application for asylum is not filed, the unaccompanied minor normally receives a temporary exceptional leave to remain that will be issued to the foreigner by the competent public authority for foreigners and that has to be renewed at regular intervals. This does not entail a residence title but only the temporary suspension of deportation.</p> <p>6. In Germany, too, minors sometimes go into hiding immediately after the entry of the country or during the course of the clearing procedure. We have no information at the Federal Office regarding the measures taken in such instances as the Federal Office only processes applications for asylum.</p> <p>7. Should a foreigner be in possession of an age assessment document from another Member State from where he/she has been returned, such a document is recognized here unless in the opinion of Germany the age of the applicant is obviously that of a minor and therefore the necessary protective measures (e.g. entrusting into care of the minor through the Youth Welfare Office, appointment of a legal guardian, youth-friendly accommodation) are required. If necessary, a new assessment of age has to be carried out.</p>
	<p>Greece</p>	<p>Yes</p>	<p>1. At open Accommodation Centers but an age assessment procedure always takes place first.</p> <p>2. Yes they have the right to move freely to / from the institution.</p> <p>3. If there is doubt, an age assessment procedure is initiated.</p>


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			<p>4. In cases like this, the Court decides on the necessity of the age assessment test.</p> <p>5. They are considered to be unaccompanied minors and are protected by the State until they come of age.</p> <p>6. Yes, most of them leave the open accommodation centers within the first few days. The centers notify the police who are responsible for their safety. Amongst the thousands of people that cross the border daily, there has never been a case like this so far.</p>
	Hungary	Yes	<p>1. In the facilities of Szent Ágota Child Protection Service in Hódmezővásárhely.</p> <p>2. Yes.</p> <p>3. Yes.</p> <p>4. No such case has been reported in Hungary where the foreigner who claimed to be a minor refused to do the age assessment test.</p> <p>5. Such a person is considered to be an unaccompanied minor.</p> <p>6. Yes, absconding of such foreigners is a serious problem in Hungary.</p> <p>7. Hungary does not have experience in these cases.</p>
	Ireland	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Italy	Yes	<p>1. A UAM arriving at a land/sea border of the Italian State must be preliminarily identified by Police Authorities, also following a report by a public official. According to the law, Police Authorities must undertake an initial age assessment and should report the presence of the minor to the Ministerial Directorate, the Public Prosecutor's Office at the Juvenile Court, and the Guardianship Court. Police Authorities check the availability of reception facilities within that district. If there is no availability, they immediately inform the Public Prosecutor's Office at the Juvenile Court, and request the Ministerial Directorate to indicate which facilities they may contact for prompt reception. These reception facilities, called bridge facilities, are located all over Italy, and take care of the initial phase of reception only. The minors are later transferred to reception facilities that will host them until they come of age.</p> <p>Once the Police Authorities have been instructed on which bridge facility to use, they transfer the minor and report his/her name to the local Social Services of the Municipality in which the bridge facility is located, to the Public Prosecutor's Office at the Juvenile Court and to the Guardianship Court. As soon as possible, the Mayor, or a representative of the Mayor, takes the following action at the "bridge facility": i) requests the Police Authorities to fully identify the child and to ascertain that he/she is actually underage; ii) checks his/her unaccompanied status; iii) acquires information on parents (if any) present in Italy; iv) informs the minor on the possibility to apply for international</p>



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			<p>protection; and v) makes sure that a health check-up is arranged, which may be done in local health-care facilities, in order to protect both the minor and the community.</p> <p>Then, the Mayor, or one of his/her representative, reports the minor to the Ministerial Directorate. The Ministerial Directorate indicates the Municipalities in which there are reception facilities that have availabilities and best respond to the protection needs of the minor. The bridge facility will take care of the transfer, agreeing on the specifics (when and how) with the Municipality of destination.</p> <p>2. Each reception centre/facility follows its own internal rules and practices: these reflect the regional guidelines which, in turn, are different from each other. A national provision is contained in the SPRAR Manual, addressed to asylum-seeking UAMs only, that states that applicants must obtain a permission to move from/in an institution.</p> <p>3. 4. If there is uncertainty or doubt about the age, the presumed minor may undergo an anthropometric or other assessments provided for by law (Article 349, Code of Criminal Procedure 103; Circular of the Ministry of the Interior 9/7/2007; Article 19(2), Legislative Decree 25/2008; Article 8(1), Presidential Decree 448/1988). The law states that the assessment is undertaken with the consent of the minor or his/her legal representative (Article 19(2), Legislative Decree 25/2008), after the minor has been informed on the possibility that his/her age is assessed through a medical examination, specifying the kind of medical examination and its possible consequences. The Guardian is required to obtain the consent of the child to age assessment.</p> <p>5. Given the prohibition of expulsion of minors under Article 19 of the Consolidated Act on Immigration, their presence in Italy must be regularized with the issue of a residence permit by the competent Police headquarters. Article 28 (1) of Presidential Decree 394/99, amended by art. 22, co. 1, letter <i>a</i> and <i>a-bis</i> of Presidential Decree 334/04 - Residence permits for foreigners for which prohibited the expulsion or refoulement</p> <p><i>1. When the law provides for the prohibition of expulsion, the Commissioner (Questore) shall issue a residence permit:</i> <i>"a. for minors (underage), in the case of unaccompanied minors, intercepted on Italian territory and reported to the Committee for Foreign Minors, the residence permit for minors (underage) is issued following a report to the Committee and the same is valid for the whole period necessary for the completion of family tracing in countries of origin".</i></p> <p>6. For the year 2013 on 8,461 children reported to the Authorities, 25 percent of them was untraceable. The reception center have obligation to denounce the escape of minors to the Police, which immediately begins an investigation to track them down.</p> <p>7. According to Articles 19 and 33 of the Consolidated Act on Immigration, a UAM cannot be expelled, thus, he/she is accommodated in reception centres and if there are doubts about his/her minority, he/she always undergoes an age assessment test.</p>
	<p>Latvia</p>	<p>Yes</p>	<p>1. Immigration law defines that a minor foreigner, who has reached the age of 14 years can be detained, if there are grounds to believe that he or she will avoid the removal procedure or will impede the preparation thereof or there is a risk of absconding of the foreigner, and it is substantiated by any of the circumstances defined in the Immigration law.</p>


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			<p>A detained minor foreigner who is at the age of 14 to 18 years and is not accompanied by parents or his or her legal representative, up to the end of the time period of detention is accommodated in the State Border Guard Detained Foreigners' Accommodation Centre in Daugavpils or in the relevant State Police structural unit, where the appropriate food and medical care can be provided. Detention is applied as last resort measure. In case if there is an unaccompanied minor foreigner who is under the age of 14 on the territory of the Republic of Latvia, he /she is placed in child care center or with the guardian appointed.</p> <p>2. The detained minor foreigner does not have the right to move freely to/from the institution. A minor foreigner who is not detained can move freely.</p> <p>3. It is not defined in the Latvian national legislation that it is obligatory to make age assessment in case if there is a doubt about the age of a foreigner. The age assessment for foreigners can be designated in the following cases: - if a foreigner does not have any document that approves his/her age, - if there is a reasonable suspicion that a foreigner is claiming to be a minor with the aim to avoid the return procedure, or detention within the asylum procedure, - if there is a doubt about the age of a foreigner. There were no cases of age assessment of unaccompanied minor foreigners, who were in the status of illegal immigrants in Latvia.</p> <p>4. There were no such cases. As the age assessment is identification process, the detention period can be extended.</p> <p>5. Such minor is in the status of a foreigner, who is staying illegally on the territory of the Republic of Latvia.</p> <p>6. Taking into account that there was only 1 case in 2014 of unaccompanied minor foreigner who absconded from the child care center, no special measures were defined.</p> <p>7. No practice in Latvia. If the document issued by another MS is official such certificate will be considered as acceptable and sufficient and a new age assessment test will not be performed.</p>
	<p>Lithuania</p>	<p>Yes</p>	<p>1. At the Refugees Reception Center, a social institution, without restricting their freedom of movement.</p> <p>2. Yes. They can move freely to/from institution.</p> <p>3. No, relevant institutions <u>may</u> do age assessment if there is doubt about the age but this is not obligatory</p> <p>4. In such a case, a court decides on the necessity on the age assessment test or recognizes him/her as an unaccompanied minor.</p>

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			<p>5. Such a person is considered to be an unaccompanied minor.</p> <p>6. Yes. In Lithuania absolute majority of foreigners who claim to be minors but whose age is not confirmed leave the Refugees Reception Centre in the first few days. At the moment, responsible institutions are discussing on appropriate measures.</p> <p>7. There is no established practice at the moment in Lithuania.</p>
	Luxembourg	Yes	<p>1. Luxembourg has not been confronted with this problem yet, as in principle unaccompanied minors (UAM's) will file an application for international protection. UAMs are accommodated within reception facilities supervised by Caritas Luxembourg and the Luxembourgish Red Cross.</p> <p>2. Yes. They can move freely to/from institution.</p> <p>3. If the minor's age is doubtful the Minister in charge of Immigration can order a medical test (bone test) in order to determine the age.</p> <p>4. An UAM who will not file an application for international protection may be granted an authorisation of stay for private reasons based on humanitarian motives of exceptional gravity. If s/he refuses to do the age assessment test, this can be considered as a lack of cooperation.</p> <p>5. In accordance to the definition of the unaccompanied minor in the amended law of the 5th may 2006 on the Right of Asylum and Complementary Forms of Protection (a third country national or stateless person under the age of 18, who enters the country without being accompanied by an adult responsible for them by law or custom, and as long as they are not effectively taken in charge by such a person, the notion also covers minors who are left unaccompanied after entering the territory), a person will be considered to be an unaccompanied minor. As the reliability of the bone test had been questioned by the Administrative Court, since that judgment, the third country national claiming to be a minor will continue to be treated as such, even though the age test assesses him as being major and the ad-hoc administrator will continue to represent her/his interests during all the procedure until a decision is taken.</p> <p>6. Yes. In Luxembourg it happens regularly that foreigners who claim to be minors leave the Reception Centre at an early stage. There is no specific procedure that aims to avoid or prevent the absconding of UAMs. The NGOs that take care of the UAMs always try to get to know the network of the minors as much as possible in order to know whom they could address in case of them absconding.</p> <p>7. There is no established practice at the moment in Luxembourg.</p>
	Slovak Republic	Yes	<p>1. Persons whose age is not confirmed are not accommodated in any facilities. Until their age is confirmed, they stay under continual supervision of the Police. For illustration we provide description of the practice in the Slovak Republic: a UAM found in the territory of the Slovak Republic is taken to the respective Police department. At the Police department a written record is made with a presence of an</p>



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			<p>entrepreneur. If a UAM who does not apply for asylum claims to be a minor while the record is being made and his/her age is doubtful, a doctor from the respective radiology department is contacted in order to make an appointment for the migrant claiming to be a minor. The UAM is informed about the course of the medical examination for age assessment which he/she has to undergo, otherwise he/she shall be considered as an adult. Based on the medical examination – an X-ray image, the age of the migrant is assessed within several hours (usually one to three hours). If the migrant is considered a minor, a respective local social and legal protection of children and social guardianship authority is immediately contacted and the minor is consequently handed over to the employees of this authority. While waiting for the age assessment test, the migrant cannot move freely at the respective Police department.</p> <p>2. UAMs who do not apply for asylum are treated according to the provisions of the Act No 404/2011 on Residence of Aliens which concern age assessment (Article 111 (6)). According to these provisions, a foreigner who claims to be a minor is obliged to undergo a medical examination for age assessment. This shall not apply if it is quite obvious that s/he is a minor. A foreigner who is undergoing a medical examination may not enjoy the rights of the child and is treated as an adult person until it is proven that s/he is a minor. If it is impossible to find out by medical examination whether the third-country national is a minor or an adult, s/he is considered a minor in the procedure under the Act on Residence of Aliens. If a third country national rejects to undergo the medical examination, he/she is considered an adult. A third country national who does not apply for an asylum and claims to be a minor is considered an adult until his/her age is confirmed.</p> <p>3. No, currently there is no problem with absconding of such persons.</p> <p>4. In such cases, a new age assessment test would be carried out.</p>
	<p>Spain</p>	<p>Yes</p>	<p>1. They are referred to the social services for minors who provide them with the material and educational assistance that they require.</p> <p>2. The minor does not have the right to leave the protection centre. However, that centre lacks any physical barriers that would prevent the minor who decides to leave from actually doing so.</p> <p>3. A distinction should be made between two scenarios:</p> <p style="padding-left: 40px;">a. Determining if the person is of legal age or a minor:</p> <p style="padding-left: 40px;">- The General Prosecutor's Office is not under the obligation to order tests to be conducted to determine age, if it considers that the doubts that an institution raises concerning a person's status as a minor are not sufficient. In such cases, the person is considered to be a minor.</p> <p style="padding-left: 40px;">b. Determining the exact age when there is no doubt about the interested party's status as a minor.</p> <p style="padding-left: 40px;">- An exact date of birth must be established. The Spanish Constitutional Court has stated that it is mandatory to determine a minor's exact age as part of their civil status and identity.</p>

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			<p>4. If they refuse to do so, they will be brought before the Prosecutor, who, after hearing their statement and taking into consideration all the circumstances of the case, will be able to determine whether or not the person is a minor. If the Prosecutor considers that the interested party has refused to undergo the test because they are afraid to do so, they will be deemed to be a minor. If there are signs that the interested party may be a victim of human trafficking, the presumption that the person is a minor shall prevail, immediate protection measures will be adopted and the Police will be informed at the same time.</p> <p>5. They are considered to be a minor for all purposes and cannot therefore be removed or sent to a detention centre for foreign nationals. They are considered to have a legal administrative status.</p> <p>6. Yes. A framework protocol for unaccompanied foreign minors signed by the national authorities and the General Prosecutor's Office (published in Official State Gazette No. 251 of 16 October 2014). The objectives of this protocol are:</p> <ul style="list-style-type: none"> a. To establish an effective system of coordination between all public institutions and authorities, from finding the minor or presumed minor to his or her identification, determining his or her age, placing him or her under the care of the social services for the protection of minors and documentation. b. To offer a more precise definition of each and every one of the phases in the procedure to determine age. c. To give a standard and satisfactory response to questionable or contentious issues: <ul style="list-style-type: none"> - Set out and systematise the Supreme Court's doctrine on the assessment that any foreign documentation must undergo for the purposes of proving age (passports, foreign birth certificates, etc.). - Reorganise the system and nature of the medical tests according to the principles of specialisation, the possibility of multiple tests, and under the supervision of the General Prosecutor's Office. d. Apply the internal standards of the General Prosecutor's Office and the Constitutional Court's doctrine to the content and the effects of a Resolution from the Prosecutor on determining age issued by the General Prosecutor's Office and the conditions under which it may be amended. e. Establish a complete identification and summary record system by means of the foreign minor having their finger print taken by the Police. f. This makes the operation of the Registry of Unaccompanied Foreign Minors more effective. g. It provides for the detection and protection of Unaccompanied Foreign Minors at risk, asylum seekers or those who are assessed as having a certain risk of being a human trafficking victim. h. It contains necessary provisions in order for the foreign minor to be granted a residence authorisation fully in line with the content of General Comment Number 5 of the Committee on the Rights of the Child and the observations from the General Prosecutor's Office. <p>7. The existence of a certificate issued by the competent authorities from a European Union Member State on which a date of birth or parentage appears shall prevent them from having to undergo the medical tests. Doubts on the date of birth contained in the document must be resolved, by means of mechanisms for international legal cooperation, with the authorities which issued the document. The Police shall make all appropriate arrangements aimed at providing the General Prosecutor's Office with the relevant details from the case handled and the resolution agreed upon by the authorities from the other European Union Member State. Where applicable, appropriate arrangements shall be made with the aim of transferring the minor to the State where they are already under institutional protection.</p>
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	Sweden	Yes	<ol style="list-style-type: none"> 1. Unaccompanied minors who do not apply for international protection are rare in Sweden. Any unaccompanied minor detected on the territory or at the border will be taken into the care of the social services in the municipality where they are. A guardian should be appointed as soon as possible and the guardian is obliged to apply for a residence permit, on behalf of the minor, if it is not considered obviously unnecessary. Either way, the minor is accommodated in a foster family or an institution. The latter is more common now due to the large number of UAMs coming to Sweden. If there is doubt about the age, they are treated as minors until the contrary has been proven unless it is obvious that they are not minors. 2. Normally, yes, but the minor's guardian can restrict the minor's mobility and decide that the minor should not leave the premises. 3. No, they are offered to go through a medical age assessment and cannot be forced. An age assessment can however include other procedures than a medical assessment, e. g. interviews, documents etc. And the authorities are obliged to establish an identity of the minor, at least a probable identity, and that includes name, age, and nationality. 4. It is up to the asylum-seeker to give evidence on his or her identity, which includes age. If they fail to do so and do not concede to a medical age assessment, they run a risk of their application being rejected. When it comes to minors, the authorities have a greater responsibility to assist the minor to make out their case. 5. They are irregular migrants, but since they are minors they cannot be returned without first securing an organized reception for them in the country of origin. 6. Yes, it is a problem and the social services, the Swedish Migration Board and the police cooperate nationally and regionally to prevent this. If a minor is prone to running away, a decision on restrictions under the Care of Young Persons Act can be taken, which prohibits the minor from leaving the institution. 7. If you mean by the question that another MS has performed an age assessment and has issued a document confirming the person's age as over 18, we would not normally perform a new age assessment test. If the person is found in VIS, having shown their passport or similar to an authority in another MS, where an age is registered, that age would be registered in Sweden as well.
	United Kingdom	Yes	<ol style="list-style-type: none"> 1. If children were identified as not having a responsible adult to care for them or there was information suggesting that they risked harm or if they were homeless or otherwise vulnerable they would be referred to local authority children's services to assess their needs and arrange for their accommodation, care and support. Where Border Force suspects a child may be a potential victim of trafficking, that child's case will be referred to the National Referral Mechanism. If an unaccompanied child is thought to be significantly over 18 years of age, they would be treated as an adult and may be accommodated in a detention centre.

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			<p>2. If they are thought to be an adult and held in detention then they are not able to leave until they are released (if their application is successful). If thought to be a child at risk (see above) they will be provided with local authority care in accommodation provided by the local authority and will have the same support as any other child being cared for by the local authority. If there is evidence that the child is at risk, e.g. from traffickers, the day to day plan for their care should describe the steps necessary to keep them safe.</p> <p>3. Where there is little or no evidence to support the applicant’s claimed age and their claim to be a child is doubted, the applicant will be treated as an adult if their physical appearance/demeanour very strongly suggests that they are significantly over 18 years of age. Careful consideration must be given to assessing whether an applicant falls into this category as they would be considered under adult processes and could be liable for detention.</p> <p>4. There is no prescribed way that local authorities must carry out this assessment. However, the UK courts (in 2003) have provided general guidance. This identifies the need to not make a judgement only on appearance, the need to elicit details of the individual (which takes into account cultural and ethnic background) and adequate reasons must be given when making the provisional decision and give an opportunity to the applicant to respond before a final decision is made. Detailed Border Force guidance on age assessment is: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257462/assessing-age.pdf</p> <p>5. Where there is little or no evidence to support an applicant’s claimed age and their physical appearance / demeanour does not very strongly suggest that they are significantly over 18 years of age, applicants should be afforded the benefit of the doubt and treated as children, in accordance with the ‘Processing an asylum application from a child’ guidance (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257469/processingasylumapplication1.pdf), until a careful assessment of their age has been completed.</p> <p>6. Data not available for non-asylum seeking children.</p> <p>7. The documentary evidence presented by the individual will be assessed on a case by case basis.</p>
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