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Ad-Hoc Query on 2023.15 Residence procedure specifically for unaccompanied minors (1)

Requested by EMN Belgium on 27 April 2023

Responses from Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden (24 in Total)

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## 1. BACKGROUND INFORMATION

The vulnerable group of unaccompanied minors needs additional protection. This is why, in addition to the international protection procedure, Belgium has a special residence procedure for unaccompanied foreign minors, known as the Best Interest Procedure, which is accessible regardless of other procedures initiated by the minor or his guardian, including an application for international protection. This procedure is based on the United Nation Convention on the Rights of the Child (UNCRC) and is characterised by the search for a durable solution for each minor according to his or her best interests.

The law determines 3 types of durable solution:

1. Family reunification with the parents in the country where they are legally entitled to stay;
2. A return to the country of origin with guarantees on adequate reception and protection, either by the parents or other adults, or by public authorities or non-governmental organisations;
3. A residence permit in Belgium;

The ultimate aim is to provide a stable and secure environment for the child in which his or her fundamental rights are respected and guaranteed. This secure environment must also allow for the educational and personal development of the minor into a balanced and independent adult.

Based on the information obtained during the investigation in the country of origin and after considering all the elements in the best interests of the minor, the Immigration Office will make a decision on the durable solution.

If it is considered that the durable solution is that the minor remains in Belgium, a temporary residence permit will be issued (this document is renewable annually under certain conditions and there is the possibility that it can be converted into a permanent residence permit).

If the durable solution is a return to the country of origin or another country, the UAM's guardian will be notified of the return order. The guardian should organise the minor's return.

According to return legislation and policy in Europe, in line with international law obligations, the EU Charter of Fundamental Rights, and the EU Return Directive, the return of an unaccompanied foreign minor to his or her country of origin or other country can only be considered if there are sufficient and appropriate guarantees of reception and care in the latter.

The Belgian authorities are looking to improve/review this procedure. In this context it would be very useful to obtain more information from other Member States who have a similar residence status, specifically for unaccompanied minors.

In order to collect the information we are organising the questions around three aspects: 1) the existence of a specific residence procedure for UAMs in the Member States (questions 1-6); 2) the procedure followed in case the durable solution is considered a return to the country of origin or another country, more specifically in relation to the specific residence procedure and with a focus on the assessment of adequate reception (questions 7-12); and 3) enquires for information on the implementation of a return decision (13-15).

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As the three sections are all around the topic of unaccompanied minors we have discussed with the co-chair of the ad-hoc query working group on the best way of launching the queries. As the same experts have to respond to all the questions we have agree to launch them in one questionnaire but that will count for three ad-hoc queries and with a deadline of six weeks.

**We would like to ask the following questions:**

**1. Does your member state provide a specific procedure (apart from the application for international protection) for the residence of unaccompanied foreign minors?**

*Available choices: Yes, No*

**2. If you answer YES to Q.1, should an application be submitted by the guardian of the minor, or can the procedure be initiated ex officio? Please explain.**

**3. If you answer YES to Q.1, does your Member State carry out an assessment in this procedure in order to grant a residence permit? YES/NO. If YES, can you please explain it.**

**4. If you answer YES to Q.1, how does this procedure relate to the international protection procedure or other residence procedures (suspension, parallel, automatically subsequent...)**

**5. If you answer YES to Q.1, what happens if the UAM comes of age during this procedure?**

We would very much appreciate your responses by **8 June 2023**.

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## 2. RESPONSES

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		Wider Dissemination	
	EMN NCP Belgium	Yes	<ol style="list-style-type: none"> <li>1.</li> <li>2. An application should always be submitted by the guardian (the minor's legal representative appointed by the Federal department for Justice)</li> <li>3. In order to determine the durable solution a thorough assessment will be carried out. The following topics will be investigated: reasons for migration; family network; life in Belgium and life in the country of origin; socio-economic conditions in the country of origin; schooling; integration; contacts maintained with the family network or with relatives; etc. The minor's position, his or her life plan and vision for the future will also be assessed. Factors such as age, maturity, gender, education level, cultural background, sexual orientation, mental and physical health and loyalty are also taken into account.</li> <li>4. Although the law allows the combination of different ongoing procedures, it should be noted that the 2 procedures (international protection and durable solution) are not compatible. After all, an application for international protection means that the person concerned fears persecution in his country of origin for reasons laid down in the Geneva Convention and cannot count on protection from the authorities in his own country. Where appropriate, contact with the local authorities or investigation in the country of origin should be avoided as this would pose a serious risk to the life and/or safety of the person concerned and his family.</li> </ol>

<sup>1</sup> If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

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			<p>In the context of de durable solution procedure however, contact with the local authorities may be useful or even necessary. Often a visit to the parental home and an interview with family members (and/or other parties involved) is necessary to conduct a thorough evaluation of the situation. Therefore the procedure durable solution will be put on hold for as long as there has not been a final decision on the international protection procedure.</p> <p>5. Since the procedure is exclusively provided for unaccompanied minors, once the minor turns 18, the procedure will be terminated, also when a final decision on the durable solutions has not been taken.</p>
	<p>EMN NCP Bulgaria</p>	<p><b>Yes</b></p>	<p>1. Yes</p> <p>2. When an unaccompanied minor is established at the border or in the interior of the country, the competent police authority shall notify the “Child Protection” department at the location of the unaccompanied minor. A social worker shall immediately visit the child to be present at his/her interview with the police authority. Following the interview, the child, accompanied by a social worker, shall be transferred to a Registration and Reception Centre of the State Agency for Refugees where he/she shall submit an application for international protection. It gives him/her the right to initiate proceedings as an international protection seeker in the Republic of Bulgaria, so that he/she can remain living in the country. With the submission of an application for international protection, the State Agency for Refugees shall send a request to the National Legal Aid Bureau for the appointment of a lawyer (listed in the legal aid register with endorsement to assist unaccompanied minors to enjoy their rights and to fulfil their obligations). It guarantees the unaccompanied minor’s access to the legal aid system.</p> <p>3. With the submission of an application for international protection by an unaccompanied minor, that initiates the procedure for determining the minor’s status, an interview shall be conducted with the assistance of an interpreter in a language the child can understand. During the interview, a social worker, an interpreter, the representative of the child and the interviewer shall participate. The procedure shall be conducted by an interviewer at a Registration and Reception Centre of the State Agency for Refugees at the place of residence</p>

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			<p>of the child.</p> <p>4. The procedure for obtaining international protection by minors corresponds to the national and international standards and legislation in this field adopted by the Republic of Bulgaria.</p> <p>5. When children reach the age of majority, if they attend school, they remain in the social service until reaching the age of 20. Provided that children are of legal age and have interrupted their studies, they should be transferred to a Registration and Reception Centre or, at their request, move to an external address until receiving an international protection status in Bulgaria.</p>
	EMN NCP Croatia	Yes	<p>1. Yes</p> <p>2. An application for temporary residence due to humanitarian reasons is submitted by a guardian, i.e. a person appointed by the Ministry of Labour, Pension System, Family and Social Policy, the competent Center for Social Welfare, to a third country national or an unaccompanied child who has been assigned accommodation in the Republic of Croatia for the purpose of representing the child and protecting his/her rights and interests. The guardian submits, on behalf of the unaccompanied child, an application for the approval of a temporary stay for humanitarian reasons at the competent Police Administration or station, takes care of the expiration of the period for which the humanitarian stay was approved and its extension, can also submit a request for a humanitarian stay later during the child's stay in the Republic of Croatia , regardless of whether the child received a decision on return, etc.</p> <p>3. After the guardian on behalf of the unaccompanied minor submits a request for approval of temporary residence for humanitarian reasons, the Ministry of the Interior decides on the request through the competent Police Administration or station. Temporary residence for humanitarian reasons may be granted to an unaccompanied minor if he has a valid foreign travel document and does not pose a threat to public order, national security or public health of the Republic of Croatia. If the unaccompanied minor does not have a foreign travel document, temporary residence can be approved in the form of a decision for up to one year,</p>

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			<p>which can be extended.</p> <p>4. Article 3 of the Act on International and Temporary Protection (Official Gazette, No. 70/15, 127/17, 33/23) stipulates that an applicant for international protection does not have the right to apply for a residence permit in accordance with the provisions of the Aliens Act . An asylum seeker and a foreigner under subsidiary protection do not have the right to submit an application for approval of temporary or autonomous residence in accordance with the provisions of the Aliens Act.</p> <p>5. Temporary residence for humanitarian reasons can be granted to an unaccompanied minor for a period until he/she reaches the age of 18 based on a request submitted by his guardian.If, during the procedure, the previously unaccompanied minor turns 18 years old, he/she is obliged to regulate his/her stay in the Republic of Croatia in such a way that he/she personally submits a request for approval of a temporary residence permit for one of the purposes provided for in the Aliens Act to the competent police department or station.</p>
	EMN NCP Cyprus	Yes	<p>1. No</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p> <p>5. N/A</p>
	EMN NCP Czech Republic	Yes	<p>1. Yes</p> <p>2. The national law (Foreigner's Act) provides special permanent residence permit for unaccompanied foreign minors. The only condition to obtain this special residence permit is the decision of the national court on the entrustment to the care of the natural person or the institution (i.e., institutional care).</p>

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		<p>The application should be submitted by the guardian of the minor.</p> <p>The Czech Republic considers UAMs equal to Czech minors who find themselves in a situation threatening their adequate development or is at some other risk. In case of unaccompanied minors, the Child Social and Legal Protection Authority is immediately informed, and, in the event that there is no legal representative or other person responsible for the care in the Czech Republic, submits a proposal for preliminary measures to the court. The court immediately issues decision whereby the child is placed in a specialized Facility for Children of Foreigner Nationals. Regardless of whether the child applied for international protection, this court decision ensures him/her a residence permit in the Czech Republic. This residence permit assures an address in the Czech Republic, access to health services, free education and gives him the same rights as to a Czech child placed in institutional care.</p> <p>3. NO.</p> <p>However the court decision mentioned in the answer no. 2 shall be submitted to the relevant authorities in order to issue the residence permit.</p> <p>The aforementioned court decision may be valid up to 18 years of age. Until the age of adulthood (in the Czech Republic 18 years of age), there are experts working with the client (minor) in the Facility for Children, providing him/her with full direct care, specialized services and education. These experts then issue a statement on the permanent residence permit or granting of international protection, which is requested before reaching the age of adulthood. The permanent residence permit is then issued by the Ministry of the Interior of the Czech Republic</p> <p>4. There is no relation. Regarding international protection, in case that the application is lodged, this residence permit according to Foreigner's Act cannot be issued. The foreigner, as a general rule, cannot hold more than one residence status at the same time.</p> <p>5. In this case, there is a possibility to ask for a general permanent residence permit under easier conditions, for example, there is no need to present financial means for living in the Czech Republic, no need to meet the time limit of 5 years of previous residence on the territory etc.</p>
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			On the other hand, it is necessary to hold the special permanent residence permit for UAMs (as described in the Q1).
	EMN NCP Estonia	Yes	<p>1. Yes</p> <p>2. An unaccompanied minor shall be appointed a representative for performance of procedural acts as soon as it has been identified that the applicant is a minor. A representative shall not be appointed if the minor shall probably attain the age of maturity before the Police and Border Guard Board (the PBGB) makes a decision on the application. In such case the unaccompanied minor may independently perform the acts provided for by law. An unaccompanied minor may be represented by a natural or legal person who is reliable and has the knowledge and skills needed for representing an unaccompanied minor. Usually, the representative is from the local municipality.</p> <p>3. Although, that during last ten years, we have had only a few such cases, firstly assessment on possibility to return a minor shall be made by the PBGB. In order to determine the durable solution for a child, a complex assessment (involving a child protection specialist) will be carried out, taken into account best interest of a child.</p> <p>4. All procedural decisions are made on the basis of individual circumstances, taking into account the best interests of the child.</p> <p>5. If a minor has been issued a residence permit to settle with a guardian who resides in Estonia and reaches an age of majority during the period of validity of the residence permit, his or her residence permit shall be valid until its expiry. Upon reaching the age of majority of a UAM who has been issued a temporary residence permit, may be issued a residence permit under the conditions and with the period of validity which are not related to the guardian. In that case the conditions and requirements for the issue of a residence permit that are to be met</p>

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			for the issue of a temporary residence permit on any basis shall be applied upon the issue of a new temporary residence permit to a person.
	EMN NCP Finland	Yes	<ol style="list-style-type: none"> <li>1. No</li> <li>2. -</li> <li>3. -</li> <li>4. Finland does not have a separate process for minors who came alone. In Finland the residence permit of unaccompanied foreign minors is assessed on compassionate grounds as part of the assessment of the international protection.</li> <li>5. -</li> </ol>
	EMN NCP France	Yes	<ol style="list-style-type: none"> <li>1. Yes</li> <li>2. According to Article L.411-1 of the French Code on the Entry and Residence of Foreign Nationals and the Right of Asylum (CESEDA), minors under the age of 18 are exempt from the obligation to apply for a residence permit in order to reside in France. As soon as the young person is recognised as a minor and unaccompanied, the third-country national under the age of 18 is covered by the common law child protection system, enabling them to benefit from care, socio-educational and legal support until they come of age. The task of protecting unaccompanied minors (UAMs) is entrusted to the Departmental Councils' Social child and youth care services (ASE). Under Article L.421-35 of the CESEDA, if an UAM wishes to work from the age of 16 as part of a vocational training programme, they may apply for a residence permit.</li> <li>3. See Q2. When an UAM, from the age of 16, wishes to apply for a residence permit to work as part of a vocational</li> </ol>

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			<p>training programme, the examination of the application concerns the fact that the minor has been recognised as a minor and unaccompanied, and the fact that they are following a vocational programme: it is therefore not an assessment as such.</p> <p>4. This procedure for recognising minority and isolation is different from the asylum application procedure. If the UAM wishes to apply for asylum, they must follow the common law procedure and address the prefecture of their place of residence to begin the process of applying for asylum in France. However, as minors, they cannot initiate legal or administrative proceedings without a legal representative. If the minors present themselves at the prefecture without a legal representative, prefecture authorities will inform the Public Prosecutor (Procureur de la République) so that an ad hoc administrator can be appointed. From then on, only the legal representative will be able to retrieve the asylum application form from the prefecture, and it will be up to them to carry out all the administrative processes concerning the UAM. If the UAM has been granted State guardianship by a judge, the ASE services in the department where they live will be responsible for taking all these steps. The asylum application form must be completed in French, signed by the legal representative and sent to the French Office for the Protection of Refugees and Stateless Persons (OFPRA) by post. If the application is complete, it will be registered by the OFPRA and a letter of introduction will be sent to the UAM and the legal representative. The UAM and their legal representative are then invited to an interview at the OFPRA's offices.</p> <p>5. As minors under the age of 18, UAMs are not required to hold a residence permit. Before their 18th birthday, the UAM has therefore to apply for a residence permit. Various provisions provide for the issuance of residence permits to this group depending on their situation with regards to their age, unaccompanied status and personal situation (studies, training, etc.). The law of 7 February 2022 on the protection of children supplements Articles L.423-22 and L.423-35 of the CESEDA in order to extend the provisions facilitating access to a “private and family life” or “employee” or “temporary worker” residence permit to UAMs in the care of the ASE. It also includes the case of UAMs assigned to the care of a trusted person.</p> <ul style="list-style-type: none"> <li>• For UAMs who were placed within the child welfare services or in the care of a trusted person before</li> </ul>
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			<p>the age of 16: In the year following their 18th birthday, UAMs who were placed within the child welfare services or in the care of a trusted person no later than on their 16th birthday may be issued a “private and family life” temporary residence permit. This residence permit is valid for one year and may be issued on condition of the real and serious nature of the training, the nature of the individual’s relationship with the family in the country of origin, and the opinion of the host structure on their integration into French society (Article L.423-22 of the CESEDA). It allows them to study or to exercise a professional activity.</p> <ul style="list-style-type: none"> <li>• For UAMs who were placed within the child welfare services or in the care of a trusted person after the age of 16: Exceptionally, in the year following their 18th birthday, a “employee” or “temporary worker” residence permit may be issued to UAMs who were placed within the child welfare services or in the care of a trusted person between the ages of 16 and 18. UAMs have to provide evidence that they have followed a training course for at least six months, designed to provide a vocational qualification. This residence permit may be granted on condition of the real and serious nature of the training, the nature of the individual’s relationship with the family in the country of origin, and the opinion of the host structure on their integration into French society (Article L.435-3 of the CESEDA).</li> <li>• The circular of 28 November 2012 on the conditions for the admission of residence of foreign nationals in an irregular situation specifies that compassionate considerations of the criteria of article L.435-3 of the CESEDA should be taken into account, if the UAMs who have reached the age of majority has met the conditions set out in this article and if the quality of their training path allows a sustainable integration into French society. The circular also specifies that it is possible, in exceptional circumstances under application of the Prefect's discretionary power, to issue a temporary “student” residence permit to young adults who, on condition of meeting the other criteria mentioned in Article L.435-3, seriously and conscientiously follow secondary or university education, which cannot be considered as “vocational training” in the sense of the Education Code.</li> <li>• For UAMs over the age of 16 who have obtained a work permit for vocational training, the order of 21 September 2020 further aims to generalise the early examination of the right to stay for foreign minors entrusted to the departmental ASE services in order to avoid breaks in rights when they become adults if they are involved in a vocational training path.</li> </ul>
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			Moreover, Article L.222-5-1 of the Code for social action and families, amended by article 16 of the law no.2022-140 of 7 February 2022 provides that the interview which takes place one year before the age of eighteen should enable UAMs to be informed that they benefit from support from the ASE in their procedures to obtain a residence permit or to file a request for asylum. Moreover, the law makes it compulsory to support young people entrusted previously to the ASE until the age of 21.
	EMN NCP Germany	Yes	<p>1. Yes</p> <p>2. The German Residence Act does not foresee a specific procedure for the residence of unaccompanied minors. However, asylum seekers under the age of 18 are considered incapable of acting as part of the asylum procedure. This means that unaccompanied minors cannot apply for asylum themselves. In these cases, the asylum application must be made in writing by the guardian or the youth welfare office. However, if the guardian chooses not to file an asylum application, the youth welfare office/guardian together with the local foreigners authority generally try to find a solution aside from the asylum procedure under the general provisions of the residence law.</p> <p>The youth welfare office is obliged by law to take various legal actions within the framework of the (temporary) taking into care of unaccompanied minors. Since July 29, 2017, the law for better enforcement of the obligation to leave the country has included, in particular, the immediate filing of an application for asylum for the child or young person in cases in which facts justify the assumption that the child or young person is eligible for international protection within the meaning of Section 1 subsection 1 number 2 Asylum Act required. Unaccompanied minors are among the most vulnerable people and need special help and support. The entire procedure is therefore based on the premise that the best interests of the child are taken into account at every step of the procedure. They require comprehensive monitoring and support for and during the implementation of the asylum procedure. Therefore, the youth welfare office represents the unaccompanied minor in the asylum procedure as part of its emergency representation or the appointed guardian. The hearing of the minor takes place in principle in the presence of the guardian. The guardian represents and supports the unaccompanied minor in the procedure and has the opportunity to ask questions and make comments at the hearing. The unaccompanied minors can also bring an advisor to the hearing. The</p>

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			<p>hearing of unaccompanied minors is always carried out by special officers. These are trained accordingly, i.e. hearings of unaccompanied minors are characterized by empathy and consideration. In the hearings, care is also taken to identify possible child-specific reasons for fleeing. After the hearing, the respective asylum application is decided and sent to the guardian as the legal representative of the unaccompanied minor, who informs the unaccompanied minor about it.</p> <p>3. All options under residence law are examined thoroughly and under permanent attention to the specific vulnerability of the minor. This includes options of the issuance of a residence permit as well as a temporary suspension of removal.</p> <p>4. The application for asylum may be followed by the expiry of a residence title and generally excludes the issuance of a residence title during the asylum procedure.</p> <p>5. If a residence title has been limited to the coming of age, the local foreigners authority needs to decide on the renewal or the issuance of another residence title.</p>
	<p>EMN NCP Greece</p>	<p><b>Yes</b></p>	<p>1. Yes</p> <p>2. According to migration legislation (article 19A, par.2a and 2d, of l.4251/14-Migration Code), a residence permit on humanitarian grounds may be granted to a) minors who are in need of protection measures and are accommodated in institutions or other legal entities with a public benefit purpose, provided that their return into a safe environment is impossible and b) minors accommodated in boarding houses that operate under the supervision of the competent greek Ministries. The above residence permit is valid for two years and can be renewed for up to two years each time, provided the same preconditions are met. In the above cases, (art. 19 par. 7 of l.251/2014), the legal representative of the public benefit purpose entity or legal entity, lodge the application for the issuance of residence permits for minors.</p> <p>Moreover, according to articles 50 and 52 of the above mentioned law, a residence permit (Directive 2004/81/EC) is granted to a third-country national who is characterised as a victim of trafficking in human</p>

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			<p>beings or smuggling, at his request to be filed in person or via the competent prosecutor. In case the victim is an unaccompanied minor, a special procedure is followed by the competent prosecuting authority (e.g. to establish his/her identity, nationality and the fact that he/she is unaccompanied, etc.)</p> <p>3. The above residence permits are issued and renewed if the above mentioned conditions are met.</p> <p>4. The two procedures are distinct. The legal basis for the two procedures is different: the one of international protection procedure refers to asylum, while the granting of a residence permit on humanitarian grounds refers to legal migration admission.</p> <p>5. According to migration legislation (art.79 of L. 4251/2014), a third-country national who, upon reaching the age of majority (18 years old), lawfully resides in Greece and is holders of a valid residence permit, may apply for an autonomous/independent residence permit, valid for three years (until the age of 21), which may be renewed until the age of 24 years and then further renewed for one of the reasons/purposes provided in the legislation (e.g. studies, employment, etc). Bottom of Form</p>
	<p>EMN NCP Hungary</p>	<p><b>Yes</b></p>	<p>1. Yes</p> <p>2. In aliens policing procedures, the aliens policing authority is obliged to examine whether the rules on unaccompanied minors set out in Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (hereinafter referred to as ARRTCN Act) and Government Decree 114/2007 (24 May 2007) on the implementation of the ARRTCN Act apply to the minor third-country national. If, when the procedure is initiated the available information suggests that the client is an unaccompanied minor, the aliens policing authority shall, in order to protect the interests of the unaccompanied minor, immediately contact the guardianship authority at the time of the initiation of the procedure in order to appoint an ad hoc guardian to act on behalf of the unaccompanied minor in the proceedings. Pending the appointment of an ad hoc guardian, the unaccompanied minor may be requested to undergo a medical examination in order to clarify his/her age and state of health in the procedure necessary to establish the facts, and may be asked to make a</p>

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			<p>statement concerning his/her name, place and date of birth, the name of his/her mother, place of residence, the natural identity of the person having parental authority over him/her, and contact details. For the placement of the unaccompanied minor, the aliens policing authority will contact the guardianship office and the consular representation of the state of the minor's nationality in Hungary. The place of compulsory residence for unaccompanied minors may be a reception centre for the separate accommodation of unaccompanied minors, or, in the lack of this, a child protection institution, other accommodation under contract or private accommodation. Unaccompanied minors shall be provided with a residence permit for humanitarian purposes in the absence of the residence conditions laid down by law. A residence permit for humanitarian purposes shall be issued or extended ex officio by the regional directorate competent for the place of accommodation of the unaccompanied minor at the initiative of the (capital) district office of the government office of the capital and county (hereinafter referred to as the 'guardianship office') acting in its child protection and guardianship functions.</p> <p>3. see point 2</p> <p>4. see point 2</p> <p>5. They may be covered by the rules on illegally staying third-country nationals.</p>
	<p>EMN NCP Ireland</p>	<p><b>Yes</b></p>	<p>1. Yes Immigration Permission: A process exists by which the Child and Family Agency (Tusla) may make an application on behalf of a minor in their care to the Children in the Care of the State scheme operated by the Immigration Service. Often such children do not come to the attention of the Immigration Service until they are legally required to register their immigration permission at the age of 16. When Tusla applies to the Immigration Service regarding the immigration permission of a child, permission is granted from the date of the care order. This permission is generally granted up to the child's 21st birthday.</p> <p>2. See clarification to Q1.</p>

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			<p>3. No</p> <p>4. The Child and Family Agency (Tusla) may make an application for international protection for an unaccompanied minor in their care under section 15(4) of the International Protection Act 2015. There is no relationship between the Children in the Care of the State scheme and an international protection application.</p> <p>5. As stated in the answer/clarification to Q1, a permission is generally granted up the child's 21st birthday.</p>
	EMN NCP Italy	Yes	<p>1. Yes UAMs cannot be rejected at the border under any circumstances. Thus, the prohibition of expulsion applies except for the law and order cases. However, the measure is adopted by the Juvenile Court only if there is no risk of serious injury to the child. The Questore (relevant authority) issues the residence permit:(a) for minors. In the case of an unaccompanied foreign minor who is located in the national territory and reported to the competent authorities, the residence permit for minor age is issued, upon the request of that child, either directly or through the holder of parental responsibility, even before the appointment of a guardian following Article 346 of the Civil Code. The permit is effective until the child reaches the age of majority; (b) for family purposes. It means, for a 14-year-old child in foster care, also according to Article 9, paragraph 4, of Law No. 184 of May 4, 1983, as amended; or for a child submitted to the guardianship of an Italian citizen co-habiting with the same. Or for a child over the age of 14 in foster care, also according to the aforementioned Article 9, paragraph 4, of Law No. 184 of 1983, as amended; or submitted to the guardianship of a foreigner legally residing in the national territory or an Italian citizen co-habiting with the same.</p> <p>2. In case of an UAM who is tracked down in the national territory and notified to the competent authorities, the residence permit for minor is issued, upon the request of the same minor, directly or through the exerciser of the parental responsibility, even before the appointment of a guardian in accordance with Article 346 of</p>

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			<p>the Civil Code, and is valid until the child reaches the age of majority. Until a guardian is appointed, responsibilities related to the application for a residence permit or international protection may be carried out by the person in charge of the primary care facility.</p> <p>3. Following relevant evaluations, the residence permit is issued by the Questura (competent office).</p> <p>4. Obtaining this residence permit does not prevent the minor from applying for international protection.</p> <p>5. Following the updating of the legislation, the current regulation on residence permits for unaccompanied foreign minors when they turn eighteen foresees the issue of a residence permit for reasons of study, access to work, employment or self-employment, for the maximum period of one year and, in any case, subordinate to the examination of the actual existence of the prerequisites and requirements provided by the current regulations. Concerning minors in foster care or subject to guardianship, the issuance of a residence permit upon reaching the age of eighteen is subordinate to the mandatory and binding opinion of the Ministry of Labor and Social Policy. In addition, if an unaccompanied foreign minor, upon reaching the age of eighteen, although having started a path of social integration, needs extended support aimed at the successful accomplishment of this path towards autonomy, the Juvenile Court may order by decree, also at the request of the social services, the fostering to the social services, but not later than the age of twenty-one.</p>
	EMN NCP Latvia	Yes	<p>1. No There is not any specific procedure for UAM; however, each case is considered individually, assessing the particular circumstances and the best interests of child. There are some grounds for issuance of a temporary residence permit that are general grounds but could be applied also in case of UAM, e.g., humanitarian grounds or if there has been a guardian appointed for a child.</p> <p>2. In cases where a possibility to issue a residence permit is considered, the procedure shall be initiated by the guardian of the minor.</p>

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			<p>3. Assessment is carried out in all residence permit cases, especially, if the humanitarian grounds are evoked. It shall be evaluated if the humanitarian grounds exist.</p> <p>4. International protection procedure would be suspended in case of decision on a residence permit.</p> <p>5. It depends on the ground for issuance of a residence permit. If it would be humanitarian grounds, coming of age would impact the procedure very little. In case if a guardian had been appointed – for persons who have reached an age of 18, this ground would not be applicable.</p>
	EMN NCP Lithuania	Yes	<p>1. Yes According to Article 40.1.8 the Law on the Legal Status of Foreigners, temporary residence permits can be issued to an unaccompanied foreign minor who cannot be returned to a foreign state. The procedure is as follows. Once it is determined that an unaccompanied minor is a foreigner, a guardian is appointed, a search for the minor's parents is carried out, and it is assessed, whether the unaccompanied minor can be returned. If it is determined that the unaccompanied minor cannot be returned, a temporary residence permit is issued.</p> <p>2. The application for the permit is submitted by the guardian.</p> <p>3. Since a temporary residence permit can be issued only after determining that the unaccompanied minor cannot be returned to a foreign state, the assessment of the circumstances takes place when deciding on the return.</p> <p>4. There have been no such cases in Lithuania so far. If it did take place, decisions would be made on the basis of individual circumstances, taking into account the best interests of the child.</p> <p>5. What happens depends on the assessment of the individual circumstances of the UAM, including any changes in the circumstances that led to the conclusion that the UAM cannot be returned.</p>

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	EMN NCP Luxembourg	Yes	<p>1. No No. In Luxembourg there is no specific procedure to grant a residence permit to unaccompanied minors outside the international protection procedure.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p> <p>5. N/A</p>
	EMN NCP Netherlands	Yes	<p>1. No</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p> <p>5. N/A</p>
	EMN NCP Poland	Yes	<p>1.</p> <p>2. In parallel to asylum framework, the Polish migration law provides for some legal tools to legalize the stay of unaccompanied minors that however applies in limited scope – only to those minors who were born in the territory of Poland. Pursuant to art. 186 paragraph 1 p. 2 of the Act of 12 Dec. 2013 on Foreigners, a temporary residence permit due to other circumstances shall be granted to a foreigner if he/she is a minor child of a foreigner (in the</p>

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		<p>meaning of TCN, so non-EU citizen, EEA citizen or CH citizen), born in the territory of the Republic of Poland and residing unattended in this territory. The application for the permit based on art. 186 para 1 p. 2 of the Act on foreigners has to be submitted on a form by a legal representative of a minor (custodian) established by a court to the voivodship office competent for a place of residence of the minor. The permit is granted whether the minor stays in Poland legally or not under only condition that his/her further stay is necessary for a more than 3 months. No special requirements concerning financial means, health insurance etc. are provided by the law. The permit is being granted for a period longer than 3 month but not longer than 3 years. Choice of the adequate path applied depends on the whole situation factors of the UAM –</p> <ul style="list-style-type: none"> <li>• it is possible to grant a temporary residence permit under general rules (e.g., due to the intention to take up or continue education), if at the time of application for a permit the minor has a residence title in Poland, or</li> <li>• if a minor is staying in Poland illegally and his/her departure from the territory of Poland would violate the rights of the child, as set forth in the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on November 20, 1989, to a degree that significantly endangers his/her psychophysical development, he/she may be granted a special temporary residence permit due to other circumstances.</li> </ul> <p>A residence permit for humanitarian reasons may be granted where it has been already assessed at the stage of the return procedure (following the asylum procedure) that it is impossible to determine the place of current stay of the parents or other legal guardians of the child in the country of origin and therefore the return to that country would breach his/her rights as a child, defined in the Convention on the Rights of a Child, adopted by the General Assembly of the United Nations on 20 November 1989, and thus substantially pose a threat to his/her psychophysical development.</p> <p>It may be as well a permit for tolerated stay. This form of protection applies where a return decision cannot be executed – when the return is impossible for reasons lying beyond the control of the authority competent to execute the decision on obliging the foreigner to return, and beyond the control of the foreigner (vide art. 351 (2) of the Act on Foreigners). The conditions determining possibility of the execution of the decision on the UAMs return are regulated under art. 332 of the Act on Foreigners. Pursuant to the provisions of art. 332, a decision on imposing the return obligation issued to a minor foreigner shall be executed, provided that in the</p>
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			<p>country to which it was obliged to return, the minor foreigner will be provided with care by its parents, other adults or care institutions as defined with the standards set out in the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989 (p. 1) and the return shall be conducted under the custody of a legal representative, or such a foreigner will be transferred to its legal representative or a representative of competent authorities of the country to which he/she will be returned (2).</p> <p>3. As for the temporary residence permit dedicated to the situation of unaccompanied minors, the requirements are being limited to demonstrating that:</p> <ul style="list-style-type: none"> <li>• a foreigner is a minor child of a third-country national/stateless person</li> <li>• a minor was born on the territory of Poland</li> <li>• a minor is staying in that territory unaccompanied and this circumstance justifies a stay of more than 3 months.</li> </ul> <p>4. Proceedings for the granting of a temporary residence permit shall not be initiated, and initiated proceedings shall be discontinued, if it is determined that proceedings for the granting of international protection are pending or a foreigner has been granted a refugee status or subsidiary protection.</p> <p>5. The authority conducting the proceedings in such a situation will call on the foreigner to indicate the circumstances justifying his further stay in Poland and to demonstrate that he/she meets the requirements for granting a temporary residence permit, in accordance with the indicated purpose of stay.</p>
	<p>EMN NCP Portugal</p>	<p><b>Yes</b></p>	<p>1. No. Portugal does not have a specific procedure for the residence of unaccompanied foreign minors. Being minors, the authorities have to notify immediately the court for promoting and protecting their rights, namely to nominate a legal guardian. The granting of a Residence Permit can be done based in the Asylum Law or the Immigration Law, in case they are not entitled to an International Protection status.</p> <p>2.</p> <p>3.</p>

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			4. 5.
	EMN NCP Slovakia	Yes	<p>1. Yes The police department shall immediately report the finding of a third country national minor on the territory of the Slovak Republic to the body for social legal protection of children and social guardianship. The body for social legal protection of children and social guardianship, in whose district the child is present, is obliged to immediately submit a proposal to the court for an urgent measure so that the minor is entrusted to the care of a natural person or a legal entity, which is specified in the resolution. UAM is placed to the Center for Children and Families (CCF). Together with the decision on placement to CCF or in most cases only after the decision is taken, a guardian is appointed to the UAM. The guardian, in the sense of ensuring the best interests of the child, consults in cooperation with the relevant auxiliary institutions (non-governmental or international organizations), other possibilities for UAM in his situation. As stated in the introduction to this AHQ, it can be, as in the case of Belgium, in addition to submitting an application for international protection - submitting an application for the so-called tolerated stay in Slovakia, family reunification or return. UAM found on the territory of the Slovak Republic has the right, if there are no reasons to reject the application, to be granted a tolerated stay in the Slovak Republic.</p> <p>2. According to Article 59 par. 1 of Act No. 404/2011 Coll. on Residence of Foreigners, for an unaccompanied minor who is placed in an institution of social legal protection of children and social guardianship and does not have an appointed guardian, the body for social legal protection of children and social guardianship may submit an application for a tolerated stay.</p> <p>3. The applicant must meet the conditions established by the Act on the Residence of Foreigners to be granted a tolerated stay. The police department will reject an application for the tolerated stay if the third country national provides false or misleading information or submits false or altered documents or a document of another person, does not meet the conditions for granting a tolerated stay or is an undesirable person.</p>

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			<p>4. Proceedings for the granting of international protection and the process of granting residence are excluded. These are offered as options to UAM, but he can only apply for one. At the same time, if he has been granted a tolerated stay, he still has the opportunity to apply for international protection. In that case, he becomes an applicant for international protection and his tolerated stay automatically expires.</p> <p>5. The police department will grant or extend a tolerated stay for the duration of reasons for granting it, for a maximum of 180 days. In other words, a tolerated stay is granted to UAM for a maximum of 180 days (even repeatedly), until reaching the age of majority. Therefore, before reaching the age of majority, it is necessary to discuss with UAM his other options for legal stay in the Slovak Republic (application for international protection, other types of residence) or reunification with his family or voluntary return to his country of origin, if this is in his interest.</p>
	EMN NCP Slovenia	Yes	<p>1. No</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p> <p>5. N/A</p>
	EMN NCP Spain	Yes	<p>1. Yes</p> <p>2. First, it should be borne in mind that an unaccompanied minor in Spain is always a legal resident whether or not he is documented; this is stated in article 35 of Organic Law 4/2000. Specifically, paragraph 7 states that “the residence of minors who are in Spain under guardianship of a Public Administration or, by virtue of a judicial decision, of any other entity, shall be considered regular for all purposes. At the request of the body</p>

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		<p>exercising the guardianship and once the impossibility of returning to their family or country of origin has been accredited, the minor will be granted a residence permit, the effects of which will go back to the moment in which the minor was placed at the disposal of the services for the protection of minors. The absence of residence permit will not prevent the recognition of all the rights that correspond to him/her by his/her condition of minor”.</p> <p>Both Organic Law 4/2000 and the Aliens Regulation (articles 196 et seq) regulate the procedure for documenting these minors in care and granting them a residence permit. This procedure may be initiated ex officio by the Aliens Office or may be initiated at the request of the guardianship body.</p> <p>3. Once the impossibility of repatriating the minor is proven (it is understood that it is not possible to repatriate after 90 days the minor has been placed at the disposal of the competent services for the protection of minors) he/she is documented without additional requirements. The residence permit granted allows the minor to work from the age of 16</p> <p>4. You can request this authorization and at the same time have the application for international protection in process. If both are granted, the person concerned shall be heard to renounce one of them.</p> <p>5. If the minor reaches the age of majority before being documented, he or she may apply for an authorization provided for in article 198 of the Aliens Regulation. In this case the requirements are:</p> <ul style="list-style-type: none"> <li>-to have participated in the training actions and activities programmed by the Child Protection Service to promote their social integration, which will be certified by it, or accredit their integration into Spanish society through reports issued by other public or private institutions related to the fulfillment of educational objectives or socio-labor inclusion</li> <li>-to have sufficient economic resources for his/her maintenance, being the income references equivalent to the minimum vital income and this support can be considered fulfilled if any entity takes charge of them</li> </ul>
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			<p>-Lack of criminal record (only taken into account from the age of majority)</p> <p>An authorization is granted that allows work with a validity of two years renewable for another two if the conditions are maintained.</p>
	EMN NCP Sweden	<b>Yes</b>	<p>1. No</p> <p>2. Explanation to question 1: Sweden does not provide a specific procedure for the residence of unaccompanied foreign minors.</p> <p>Sweden however, must consider the child's best interest in every aspect of the case. We must analyse what consequences the measure or decision may have for the child. It is the responsibility of each case officer to consider how an action or decision in an individual case affects the child concerned. What is the child's best interest may differ from case to case, even if external circumstances appear to be the same. It is particularly important to include what the child's opinions are in the analysis. The child's views must be taken into account based on the child's age and maturity. As maturity increases, the child's voice must be given greater importance. Opinions may also be obtained from adults who know the child or other professional actors. We must also have knowledge of legislation and other regulations that we are obliged to comply with, including the Convention on the Rights of the Child.</p> <p>The assessment of the child's best interest is an integrated part of the final decision regards if the child can or can not be granted international protection. An important aspect is that all the facts that are relevant in the decision should be collected and taken into consideration. It must be clear from the explanation in the decision whether there is room to consider the best interest of the child in the relevant legislation. In case where it is room, it must be stated which factors had an impact, what is the child's best interest and how the balance was made. For example, it is not enough only to state that the child's best interests has been taken into account, we must state what considerations have been made.</p>

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			<p>It is of great importance that the children who have contributed their opinions and who are affected by the decision receive feedback on what decisions has been made and how the process of examining the best interest of the child has been made. To ensure this, we have to write well-reasoned decisions and we have to adapt our language to the recipient of the decision. In this way, it will be easier for the child, or the child's parents or guardians, to understand the decision. In the case of decision notification to children without guardians, we must ensure that the child and his representative understand the decision. In the case with children with their family, we must ensure that the children get to hear the decision or that the parents understand that it is their job to tell the children about the decision in a way which is considered to be in the best interest of the child.</p> <p>3. Not applicable</p> <p>4. Not applicable</p> <p>5. Not applicable</p>
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