



International Organization for Migration (IOM)
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PROCEDURES AND GOOD PRACTICES ON FAMILY ASSESSMENT AND ASSISTED VOLUNTARY RETURN AND REINTEGRATION FOR UNACCOMPANIED MINORS

NATIONAL COUNTRY REPORTS (Austria, Afghanistan, Albania, Belgium, Hungary, Iraq, Italy, Kosovo, Pakistan, The Netherlands) AND RECOMMENDATIONS

In the framework of the project

**“ENHANCING CAPACITIES IN EUROPEAN UNION
MEMBER STATES AND THIRD COUNTRIES TO
PROMOTE DURABLE SOLUTIONS FOR
UNACCOMPANIED MINORS (THROUGH
IDENTIFICATION OF GOOD PRACTICES IN FAMILY
TRACING AND ASSESSMENTS AS WELL AS THE
PROVISION OF AN ENHANCED REINTEGRATION
APPROACH)”**

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ACRONYMS

AVRR: Assisted Voluntary Return and Reintegration
BIC: Best Interest of the Child
BID: Best Interest Determination
CoO: Countries of Origin
CRC: Convention on the Rights of the Child
EU MS: European Union Member States
EEA: European Economic Area
IOM: International Organisation for Migration
NGO: Non Governmental Organisation
UAM: Unaccompanied Minor
UMC: Unaccompanied Minor Children¹
UNHCR: United Nations High Commissariat for Refugees

¹ IOM, along with other stakeholders and partners is actively promoting referring to “Unaccompanied migrant children” (UMC) or “Unaccompanied Children”, terminology which the EU Fundamental Right Agency and DG Justice have adopted in their work. However, for the purpose of this report, the terminology “Unaccompanied Minors” (UAMs) will also be used when more relevant to national context or when referring to EU and national legislations”

INTRODUCTION

The number of minors (both unaccompanied and in families) returning from the EU Member States to their countries of origin significantly varies across EU MS but in some cases entails dozens of children. In this regard, determination of the best interest of the child (BID) is the most important underlying principle and needs to be taken into account in all stages of the process of establishing and implementing a durable solution for the unaccompanied minor. In case of unaccompanied minors requesting voluntary return the reunification with the family, where it is in the best interest of the child is a preferred option. In order to enable the reunification with the family, a family tracing and an assessment of the socio-economic situation of the family needs to be carried out.

The primary goal in dealing with unaccompanied migrant children is to find a durable solution in the best interest of the child as such, voluntary return is only one of the four possible long term solutions together with local integration, resettlement to a third country and adoption. In order to determine the best interest of the child it is necessary to carry out family tracings and establish through family assessments the socio-economic context of the family as well as to restore possible family links.

Within the EU, different family tracing systems are operating and while some arrangements of family tracing have been mentioned in the study on practices of return of minors , there is not always a clear view on how the system works within a given EU MS. Due to the involvement of a number of different stakeholders in the process this clarity on procedures and methodologies used in family tracing and assessments is a necessity in order for EU MS to build synergies in family tracing methodologies.

The project “Enhancing capacities in EU Member states and third countries to promote durable solutions for unaccompanied minors (through identification of good practices in family tracing and assessments as well as provision of an enhanced reintegration approach” had two phases: 1) a first phase in which good practices and existing methodologies in the field of family tracing and assessments were gathered and innovative methods for family tracing and assessments were explored with 5 selected EU member States and 5 selected countries of origin and 2) a second phase on the implementation of family tracings and assessments combined with an enhanced reintegration approach in order to further assist and support receiving families as well as to provide reintegration opportunities for the UAMs if voluntary return is deemed to be in the best interest of the child and as such the preferred option.

The project’s objective was to contribute to strengthening and building synergies within family tracing procedures and methodologies in the EU Member States and selected third countries and enhancing the sustainable reintegration of unaccompanied minors choosing to voluntarily return to their country of origin as one of the durable solutions envisaged and when it has been determined to be in the Best Interest of the Child (BIC).

Based on IOM’s extensive experience in assisted voluntary return and sustainable reintegration, the proposed enhanced reintegration approach also took into account the Life Project Recommendations from the Council of Europe CM/Rec(2007)9, a strengthened dialogue with countries of origin, exploration of reintegration possibilities in the countries of return and increased financial assistance for the UAMs who wish to return voluntarily and their families. The reintegration grant provided a resource to promote sustainable return. Through provision of this grant, and monitoring of its effectiveness, is apparent that the structure, timing, and scope of the reintegration assistance package are key to the chances of successful impact on the sustainability of return.

PART I – NATIONAL COUNTRY STUDIES

CHAPTER I – OVERVIEW OF INSTITUTIONAL AND LEGAL FRAMEWORKS RELATED TO UNACCOMPANIED MINORS AND FAMILY ASSESSMENTS

I. A– EUROPEAN UNION MEMBER STATES

I - Austria

This country-specific report illustrates how families are assessed in Austria in the case of unaccompanied minors who are considering returning voluntarily from Austria to their country of origin. It also describes the pre- and post-return procedures and presents the reintegration assistance that is presently available for unaccompanied minors who return voluntarily to their country of origin.

The report on Austria is partly based on desk research. However, through the review of literature and other published material it became apparent that publications on the topics of family tracing, family assessments and reintegration of unaccompanied minors in their countries of origin are very limited in Austria. Therefore, primary research was also carried out in order to present current practices and approaches as accurately as possible. The research consisted of qualitative face-to-face interviews with four stakeholders, namely representatives from the non-governmental organisation (NGO) asylkoordination Österreich, the Crisis Centre Drehscheibe (Youth Welfare of the City of Vienna), the Ludwig Boltzmann Institute for Human Rights and UNHCR in Austria.

Depending on the expertise of each interviewee, some interviews provided detailed information on specific issues, while others touched upon a variety of topics related to family tracing, family assessment, best interest determination and voluntary return and reintegration of unaccompanied minors and illustrated the situation in a broader context. In addition, a questionnaire covering the aforementioned topics was sent out via email to various actors, including the Austrian Federal Ministry of the Interior, Youth Welfare Authorities in all nine provinces of Austria, the office of the Child and Youth Advocacy (*Kinder- und Jugendanwaltschaft – KJJA*) in all nine provinces of Austria, the return counselling institutions Caritas, Verein Menschenrechte Österreich and ORS Service GmbH, and an accommodation facility which had recently dealt with a case of an unaccompanied minor who decided to return voluntarily to his country of origin. Altogether, nine questionnaires were filled in, returned and used for the report at hand.

1 – Institutions responsible for unaccompanied minors and family assessment

The Austrian **Federal Ministry of the Interior** is responsible for migration and asylum (international protection) issues. On January 1st 2014, the Federal Asylum Office (*Bundesasylamt*) was replaced by the Federal Office for Immigration and Asylum (*Bundesamt für Fremdenwesen und Asyl*), which is responsible for the first instance procedure following an application for international protection. The office is also endowed with other competencies, including the issuance of tolerated stay permit (*Duldung*) and residence permits for exceptional circumstances (*Aufenthaltstitel aus berücksichtigungswürdigen Gründen*), issuance of Austrian documents for foreign nationals, as well as return decisions and detention orders, combining responsibilities stated in the Asylum Act, Alien Police Act as well as Federal Welfare Act (Act Governing the Procedures before the Federal Office for Immigration and Asylum – *BFA-Verfahrensgesetz*, Art. 3 para 2).

Austria has a federal structure consisting of **nine federal provinces** that are vested with legislative and executive powers. While the legislation and implementation of the asylum and aliens policies are within the responsibility of the federal government, the competencies with regard to the basic welfare support for asylum seekers and foreigners in need (Art. 15a Federal Constitution - *Verfassung*) and youth welfare (Art. 12 Federal Constitution) are shared between the federal government and the federal provinces. Both the federal government and the provinces can outsource certain tasks to NGOs. Accommodation and care, for example, are currently also provided by institutions such as Caritas, Diakonie, Don Bosco Flüchtlingswerk, SOS Children's Villages and others.²

In Austria there is one **Youth Welfare Authority** in each of the nine federal provinces, and they are all governed by the provinces. Due to their federal character, each federal province has its own legal framework handling guardianship, assistance, etc. Only the general legal framework is set out by federal legislation. The Youth Welfare Authorities are established regionally at the municipalities (*Magistrate*) and district commissions (*Bezirkshauptmannschaften*). The federal government is responsible for the care of asylum-seeking unaccompanied minors when they arrive in Austria and during their stay in the Initial Reception Centre³ in Traiskirchen for asylum seekers (*Erstaufnahmestelle*). When an unaccompanied minor is admitted to the actual asylum procedure, they are assigned to a federal province (Art. 3 para 2 Basic Welfare Support Agreement - *Grundversorgungsvereinbarung*), which is then charged with the care of the minor at hand (Art. 4 para 1 Basic Welfare Support Agreement). The Youth Welfare Authorities are the main body

² IOM (2011): Best Practices for a Coordinated Approach to Assist Unaccompanied Minor Asylum Seekers and Former UAMs in EUMS - IOM-CAUAM (2011:14)

³ In Austria there are 3 Initial Reception Centres (Thalham, Traiskirchen and Airport Vienna) but UAMs are usually transferred to the initial reception centre in Traiskirchen which has special reception provisions for UAMs.

responsible for the care of unaccompanied minors. This can include issues such as accommodation and guardianship.

The **Crisis Centre Drehscheibe** is an institution of the Youth Welfare Authority of the City of Vienna. Among others, the crisis centre is responsible for the admission of unaccompanied minors who are apprehended in Vienna, the care of the minors (physically, psychologically, medically), protection and support, establishment of contact with the embassies of the countries of origin and responsible social services, safe return of minors as well as monitoring of their care in the country of origin.

UNHCR Austria undertakes different activities related to refugees and asylum seekers in Austria, such as the observation and monitoring of asylum-relevant laws in Austria according to the criteria of the Geneva Refugee Convention. UNHCR in Austria pays special attention to the situation of unaccompanied minors in Austria. Their overriding goal in this context is to raise awareness among the relevant actors of the asylum procedure for the special needs of unaccompanied minors, and to advocate for a child-friendly treatment during the minors' stay in Austria, for example regarding accommodation or education.

The **IOM Country Office for Austria** organizes assisted voluntary return of migrants on request of NGOs and public authorities. IOM ensures the safe return of the people concerned, including unaccompanied minors, to their country of origin by taking into consideration their special needs. In the case of unaccompanied minors, specific prerequisites are applied: the written consent of the legal guardian in Austria, mostly youth welfare institutions, confirming that voluntary return is in best interest of the child, the written consent of the legal guardian in the country of return, mostly family members, and relevant background information such as personal data (place of birth, date of birth, name of parents, place of

residence before leaving the country of origin etc.) must be obtained prior to initiating the voluntary return.

In addition, IOM Vienna offers a certain number of country-specific projects to assist voluntary returnees in their reintegration.

The **Austrian Red Cross** offers a tracing service of family members to persons who have been separated from each other due to wars, armed conflicts, catastrophes or migration.

Return counselling is currently provided by the following **return counselling institutions**: Caritas Österreich, Verein Menschenrechte Österreich, Verein Menschen.Leben, ORS Service GmbH, LEFÖ-IBF (Intervention Center for Trafficked Women) and the Refugee Department of the Office of the Provincial Government of Carinthia.

Embassies of the respective countries of origin located in Austria provide a travel certificate that allows persons to return voluntarily to their country of origin, including unaccompanied minors. Austrian Embassies abroad can be involved in the process of family tracing or the provision of information for the conduction of family assessments in the country of return.

2 – Overview of legal provisions concerning unaccompanied minors and family assessment

The legal framework specifically on family assessment of UAMs is limited in Austria, and is imbedded in various childcare legislations plus the legislation related to asylum, the aliens police and residence. Generally speaking, the term family assessment is not defined in the Austrian legal framework and the distribution of responsibilities among stakeholders depends on the interpretation of the term and the purpose of family assessments. Consequently, family assessment can have very different meanings: While it can be used for a) describing the sole act of collecting information on the situation of an

unaccompanied minor in terms of his/her family surroundings and their living conditions in the country of origin, it can also refer to b) the analysis of collected information, or c) evaluating /deciding on the family's capability of taking responsibility for the minor.

Depending on the different understanding and purpose of family assessment, several actors are involved in the process such as international organizations (which compile first-hand, on the ground information) or legal guardians (who are representing unaccompanied minors and their interests).

Concerning the **international framework for unaccompanied minors**, Austria has signed and ratified the most relevant international treaties and conventions relevant for children's rights: the Convention on the Rights of the Child and its supplementing Protocols, the Geneva Convention and Protocol Relating to the Status of Refugees 1951 (Protocol 1967), and the Hague Convention on the Protection of Children and the European Convention on Human Rights. Furthermore, the Charter of Fundamental Rights of the European Union that enshrines the rights of the child in its Article 24 is applicable in Austria as an EU Member State.

For the **national legal framework**, depending on the legal status of the unaccompanied minors in Austria, different legislative frameworks apply.

➤ **Definition of unaccompanied minors:**

In Austria, the Settlement and Residence Act defines an 'unaccompanied minor' as "a foreign minor who is non-accompanied by an adult person responsible for the legal representation of the former" (Austrian Settlement and Residence Act, Art. 2 para 1 (17) – *Niederlassungs- und Aufenthaltsgesetz*).

The Austrian definition of minority age, as stipulated in the Civil Code (Art. 21) (*Allgemeines Bürgerliches Gesetzbuch*), considers any person under the age of 18 years to be a minor. Moreover, it distinguishes

between ‘under-age minors’ (*unmündige Minderjährige*) who are under the age of 14 years and ‘minors of age’ (*mündige Minderjährige*) who are 14 years or older and who have limited contractual capabilities, such as for signing a work contract. This age differentiation is also relevant for unaccompanied minors seeking asylum, as according to Art. 10 para 3 of the Act Governing the Procedures before the Federal Office for Immigration and Asylum (*BFA-Verfahrensgesetz*) (only minors of age are allowed to file and submit applications in the absence of a legal representative. The provisions of the Aliens Police Act (*Fremdenpolizeigesetz*, Art. 12) view children above the age of 16 years as capable of representing themselves during aliens police procedures (entry procedures, detention, expulsion, visa, etc.).⁴

➤ ***Asylum and return of unaccompanied minors:***

Austrian asylum legislation divides the asylum procedure into two phases. Phase one is the admission procedure (*Zulassungsverfahren*), during which the competence of Austria is clarified (Dublin III Regulation, principle of safe third country, etc.). Phase two is the actual asylum procedure in which it is decided whether asylum according to the Geneva Convention, subsidiary protection or a residence permit for exceptional circumstances can be granted.

The Asylum Act (*Asylgesetz*) and the Act Governing the Procedures before the Federal Office for Immigration and Asylum regulate the admission to and the course of the asylum procedure. The latter defines also certain provisions regarding legal assistance; Art. 49 para 3 refers specifically to the legal assistance for unaccompanied minors in the admission procedure. The Act Governing the Procedures before the Federal Office for Immigration and Asylum foresees in its Art. 13 para 6 that UAMs are obliged to cooperate with authorities in measures that aim at finding family members in the country of origin if this lies in the best interest of the child. Minors under the age of 14 can request the authority to provide support in finding family

⁴ IOM-CAUAM 2011 : 9

members. This provision, which was strongly criticized by experts and NGOs – also regarding its compatibility with EU law – can be understood and was introduced in the light of Article 31 (5) of the Qualifications Directive and Article 19(3) of the Reception Conditions Directive (Article 24 (3) of the recast version).

With regard to forced return, the Aliens Police Act stipulates that the competent authority must ensure in advance that unaccompanied minors can be committed to the care of a family member, a legal guardian or an adequate reception facility in the destination country (Art. 46 para 3 Aliens Police Act). Such prerequisites are, however, not specifically determined by legislation in cases where unaccompanied minors return voluntarily.

➤ ***Care of unaccompanied minors:***

Relevant provisions specifically addressing the care of unaccompanied minors in Austria are set out in the Asylum Act, the Aliens Police Act, the Act Governing the Procedures before the Federal Office for Aliens Affairs and Asylum, the Settlement and Residence Act, the Basic Welfare Support Agreement (*Grundversorgungsvereinbarung*) and the Federal Basic Welfare Support Act (*Grundversorgungsgesetz*). Further provisions are set out in the nine Basic Welfare Support Acts of the nine federal provinces. Further general provisions regarding minors that are relevant in this context are, amongst others, contained in the Federal Child and Youth Welfare Act (*Bundes-Kinder- und Jugendhilfegesetz*) and the Child and Youth Welfare Acts of the provinces.

In general, a differentiation is made between asylum seeking unaccompanied minors and those who do not apply for asylum and are in most cases irregularly present in Austria. In particular, the provisions of the Asylum Act and of the Basic Welfare Acts, as described below, apply to minors in the asylum procedure, while the provisions of the Child and Youth Welfare Acts, the Civil Code as well as the Federal Child and Youth Welfare Act apply to both.

The provisions on basic welfare support and on youth welfare mainly focus on the care of unaccompanied minors in Austria. Provisions that are of particular interest for the subject of this report are contained in the Basic Welfare Support Acts and in the Basic Welfare Support Agreement, which regulate the basic care of asylum seekers and other foreigners in need including nutrition, accommodation and health. Art. 7 para 3 of the Basic Welfare Support Agreement determines that care shall include the clarification of questions related to age, identity, origin and residence of family members of unaccompanied minors, the clarification of future perspectives together with authorities, and the possibility for arranging for family reunification where appropriate.⁵ The Basic Welfare Support Agreement also determines that special assistance has to be offered to unaccompanied minors in their attempt to trace family members (Art. 7 para 3 (4) Basic Welfare Support Agreement).⁶

In spring 2013, a new legislation related to all minors living in Austria entered into force when the Federal Child and Youth Welfare Act replaced the former Youth Welfare Act. The nine federal provinces were required to implement its provisions by 1 May 2014; by the end of the deadline new provincial Child and Youth Welfare Acts were adopted and came into force in eight provinces. Currently the implementation of the federal act's provisions is still pending in Salzburg.

The new law includes provisions on the adoption of a risk assessment, including the development of an emergency plan, the restatement of the obligation of notification if children are presumed at risk, detailed definitions of obligations and standards in various working areas regarding children as well as a detailed provision on discreetness, the right to information, documentation and data protection. The law also provides a general definition of the best interest determination for children; however, it does not specifically

⁵ IOM-CAUAM (2011:13-14)

⁶ IOM-CAUAM (2011: 25)

mention unaccompanied minors and/or guidelines to follow when an unaccompanied minor wants to return to his/her country of origin.

A more comprehensive description of a best interest determination for minors can be found in the new provision (Art. 138) of the Civil Code. The provision lists specific indicators on how to determine the best interest of the child, such as accommodation, welfare, appreciation, fostering, prevention of harm and danger as well as in relation to protection of interests and rights. The explanatory remarks to the draft legislation state that measures for the best interest of the child may vary from case to case and that they must be assessed by the courts. Furthermore, the definition of the best interest determination is not seen as a fixed term, but rather as a “flexible attribute” that can be adapted from case to case, as the constellation (risks factors) may change. Finally, the aforementioned indicators are not listed in any specific order. Sometimes some indicators might be more relevant than others. Each case must be assessed individually.⁷

➤ ***Guardianship and representation of unaccompanied minors:***

Guardianship for unaccompanied minors is not regulated explicitly under Austrian law. According to normal practice, the Youth Welfare Authority must be appointed by the courts as a legal guardian if no suitable person, such as a close relative, can be found. In such cases, the Youth Welfare Authorities become the legal guardian for the unaccompanied minors, following the case law of the Supreme Court (*Oberster Gerichtshof*) from 2005 (OGH 7 Ob 209/05v).

The appointment of legal guardians is not immediately addressed after arrival of the UAM in Austria. During the admission procedure to the asylum procedure, UAMs only have the right to a legal representative, who does not have any particular responsibility under the asylum law to defend or to ensure the best interest of the child.

⁷<http://www.justiz.gv.at/internet/file/2c948485398b9b2a013a4a63767d0759.de.0/vorblatt+und+erl%C3%A4uterungen.pdf> (acc. June 2013)

There are also cases where no legal guardian is appointed after the admission of the minor to the actual asylum procedure.⁸

Guardianship generally includes the responsibility for care, education, property administration and legal representation. According to the case law of the Supreme Court of Austria, this goes beyond the services provided in the framework of the basic welfare support for asylum seekers and other foreigners in need.

Although legal guardians are in charge of the legal representation of unaccompanied minors, the Asylum Act contains specific provisions concerning legal representation in the asylum procedure: During the admission procedure, the legal representation of unaccompanied minors is carried out by a specialized legal adviser at the Initial Reception Centre for asylum seekers in Traiskirchen. Upon admission to the regular asylum procedure, a specialized legal adviser is responsible for all legal matters related to the asylum procedure, while the legal guardian (in most cases the Youth Welfare Authority) is in charge of all other legal issues, such as for example, consent to a medical intervention.⁹ In Upper Austria and Tyrol specialized lawyers from the Child and Youth Welfare (legal guardianship institution) represent UAMs at all stages of the asylum procedure.¹⁰

2- Belgium

1 – Institutions responsible for unaccompanied minors and family assessment

⁸ Interview H. Sax, 17.06.2013; Interview B. Einzenberger, 12.6.2013

⁹ EMN (2010.S 32f) and interview H. Sax, 18.6.2013

¹⁰ Presentation by F. Gstöttenmair given on 30.4.2014 in Vienna during the Seminar “Unbegleitete minderjährige Flüchtlinge im Asylverfahren” (Unaccompanied minor refugees in asylum procedure) organized by Asylkoordination; Information provided by Child and Youth Welfare in Tirol during a meeting with IOM on 20.1.2014.

Before we go into the detail on family assessment, it is important to point out the different important actors surrounding the UAM. The guardian, the Guardianship Service and the Immigration Office are the central actors in the decision-making process, while Fedasil, IOM, Caritas International and, possibly, the Red Cross are central to the execution of the voluntary return.

Once identified, UAMs receive a **guardian** who will be their legal representative for the duration of their stay in Belgium. This guardianship system was installed nearly ten years ago, in 2004, following the Guardianship Act of 24 December 2002. The Act prescribes that the guardian “takes care of the unaccompanied minor”¹¹. In addition, the guardian plays an important role in the determination of the future of his pupil, as he will determine, in collaboration with a lawyer and the minor, which residency procedure to start and play a vital role in these procedures (see below). With regards to return and family assessment, his important tasks are the following¹²:

- Legally represent and accompany the minor in all administrative or judicial procedures (relative to asylum claim, the immigration status or any other procedure),
- Ensuring that all decisions are in the best interest of the child,
- Contributing to and making proposals for a durable solution in coherence with the child’s best interest,
- Exploring the possibility of family tracing and reunification with the child,
- Appointing, without delay, a lawyer,
- Being present at every hearing or interview,

¹¹ Art. 10§1 of the Guardianship Act; own translation from French.

¹² As defined in the Guardianship Act, Section V. The Guardian also has other tasks relating to education, health care, asset administration, etc. Please consult the Act as well as K. Fournier (2010) for more information on guardianship in Belgium.

- Building a relationship of trust with the UAM and consult the minor to know his or her point of view before taking any decision in his name.

Guardians are appointed by the **Guardianship Service** (GS; Dienst Voogdij/Service des Tutelles), which is part of the Federal Public Service (meaning the Ministry) of Justice¹³. It essentially has the following tasks¹⁴, of which especially the last is important in the framework of (voluntary) return of UAM:

- Taking charge of the UAM as soon as they are informed of his presence in the territory or at the border; finding initial accommodation until the appointment of a guardian,
- Identifying the UAM, which includes age assessment if a doubt is expressed regarding his age,
- Appointing a guardian,
- Selecting the guardians and coordinating and controlling their work,
- Coordinating the contacts with other authorities, such as immigration and asylum authorities in Belgium and the authorities in the country of origin.

Residency and, subsequently, decisions regarding return of UAM is also a responsibility of the Belgian **Immigration Office** (Dienst Vreemdelingenzaken/Office des Etrangers). The Immigration Office falls under the Federal Public Service of Home Affairs. It's charged with controlling the access to, stay, residency on and removal of aliens from the Belgian territory. With regards to residency

¹³ Art.3 of the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI "Unaccompanied minors" of the Guardianship Act (Programme law of 24 December 2002).

¹⁴ Art. 4, 6, 17-21 of the Guardianship Act, Title XIII, Chapter VI of the Programme law of 24 December 2002. It was modified by the Programme law of 22 December 2003 and the Programme law of 27 December 2004-Articles 1-8, 13, 14, 19, 22 of the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI of the Programme law of 24 December 2002.

procedures, the Immigration Office plays a role in evaluating the admissibility of asylum claims and requests for regularization on medical or humanitarian grounds. Specifically for UAM, the Immigration Office determines their durable solution in the framework of the specific UAM residency procedure (see below). As they are charged with the return of aliens to countries of origin, the law stipulates that they should argue how return is in the minor's best interest.¹⁵ The Immigration Office can use the Belgian **diplomatic instances** in family tracing (not assessment). These are, however, not often trained for such work. They also collaborate with **non-governmental organisations**, such as IOM, Caritas International and the Red Cross.

It is the Federal Agency for the Reception of Asylum Seekers, **Fedasil**, which administers the voluntary return programme. This programme, dubbed the Return and Emigration of Asylum Seekers from Belgium (REAB) programme, assists people who wish to voluntarily return to their country of origin. It specifically aims to assist (i) asylum-seekers who withdrew their asylum applications, or (ii) whose asylum applications have been rejected, and (iii) all foreign migrants (except recognised refugees, citizens of the EU or of a country in the Schengen area) who may fall under the Belgian Government's financial support and who request to return to their own countries. Former UAM under the age of 21 can apply, as well as former UAM until the age of 25 whose guardianship was prolonged. Although administered by Fedasil, it is implemented by IOM.¹⁶ Caritas International proposes a supplement to the REAB programme, counselling returnees towards a durable re-integration. The project targets vulnerable returnees, amongst which UAM.¹⁷

¹⁵ A.o. Law of 19 January 2012 changing the Aliens Act of 1980.

¹⁶ For more information, see www.fedasil.be, <http://belgium.iom.int> and Fedasil, n.d., *Vrijwillige terugkeer van niet-begeleide minderjarigen. Een duurzame oplossing*. Fedasil leaflet.

¹⁷ For more information on Caritas International's assistance, see www.caritas-int.be

The Red Cross (or, International Committee of the Red Cross, to be exact) can assist in family tracing if the UAM wishes to be reunited with his family. In short, the organisation uses its sister delegations in order to track lost family members while keeping in mind confidentiality and security of the concerned people.¹⁸

It's important to note that since late 2011, the Guardianship Service, Immigration Office and Fedasil have moved closer towards each other. In December of that year, a Secretary of State was appointed for asylum, migration, housing and social integration. Although this has resulted in a somewhat more streamlined system, concerns exist regarding which, how and why information is shared between the administrations. Also, the Secretary of State reports to the Minister of Justice, while the Immigration Office (in theory) belongs to the Ministry of Interior Affairs. What's more, there is a clear *rapprochement* between the Immigration Office and the Guardianship Service, which is exemplified by an agreement¹⁹ concerning non-asylum seeking UAM. While these administrations were initially put under different Ministries to ensure their independence, the Guardianship Service now effectively transfers all information to the Immigration Office, which fulfils the identification, age assessment, etc.

2 – Overview of legal provisions concerning unaccompanied minors and family assessment

¹⁸ For more information, see www.tracing.rodekruis.be

¹⁹ Samenwerkingsprotocol betreffende de registratie van personen die verklaren niet-begeleide minderjarige vreemdeling (NBMV) te zijn en die geen asielzoeker zijn en op het Belgische grondgebied zijn gesignaleerd; entered into force on 28 January 2013

According to Belgian law in article 5 of the Guardianship Act or Programme law of 24 December 2002, an **unaccompanied minor**²⁰ is any person who meets the following four criteria:

He or she is (i) under 18 years old, (ii) without the guidance of a person with parental authority or a person who has legal guardianship over him/her, (iii) originates from a country that does not belong to the European Economic Area²¹ (EEA) and (iv) applies for asylum or does not fulfill the conditions to enter or reside on the Belgian territory.

This means that the Guardianship Act excludes two groups of unaccompanied minors (UAM). Firstly, UAMs who enter Belgium legally and do not apply for asylum only become UAMs when their visa expires and their stay becomes irregular. Secondly, UAMs originating from member countries of the EEA are excluded, which is particularly problematic for the UAM coming from Romania. UAM from within the EEA are considered as “European UAM in a vulnerable situation” and do not have access to the same residency procedures as UAM, do not receive a legal guardian and only a limited access to housing is foreseen.

2.1. Return of UAM?

Although the number of voluntary returns has risen in recent years²², it is unclear how many unaccompanied minors voluntarily return every year, as the Fedasil statistics do not differentiate between adults, UAM and former UAM returnees. Whether or not he will receive financial or material assistance in returning depends on several factors, amongst which his country of origin (see below).

²⁰ In Dutch: ‘niet-begeleide minderjarige vreemdeling’; in French: ‘mineur étranger non-accompagné’

²¹ The EEA members states are the 27 EU member states plus Iceland, Liechtenstein and Norway.

²² Total number of voluntary returns: 2006 – 2811; 2007 – 2593; 2008 – 2669; 2009 – 2659; 2010 – 2957, 2011 – 3358, 2012 – 5656. Sources: Fedasil, 2012, *Vrijwillige terugkeer. Jaarverslag 2011*. Fedasil. and <http://www.fedasil.be/nl/home/cijfers>

Forced return of UAM is neither prohibited nor explicitly allowed by Belgian law. However, Belgian immigration authorities *do not forcibly return* UAM to their country of origin (CO). This policy is the consequence of past scandals²³ in which very young UAM were forcibly returned to their CO without proper accompaniment or insurance of their safety and dignity.

Like for all asylum seekers or migrants in irregular stay, *voluntary return* is always possible if the UAM – whatever his administrative status²⁴ – explicitly chooses it. After having informed the Immigration Office of his wish in writing, he will be enrolled in the voluntary return programme (see below). Besides this option, voluntary return often takes place after a failed residency procedure or within the framework of the UAM-specific residency procedure.

a- Return after a failed residency procedure

UAM have access to several residency procedures, most of which are also accessible for adults. The residency procedures that are not linked to their status as a UAM are (i) claiming asylum (including subsidiary protection), (ii) regularization for medical or humanitarian reasons²⁵, and (iii) requesting protection as a victim of human trafficking. We will not go into detail here on how these procedures operate. Suffice to say that, once the UAM's residency claim is rejected, his guardian will receive an Annex 38 ordering him to bring back the minor to his country of origin²⁶. Although theoretically enforceable, guardians often ignore it when they feel returning the

²³ Such as the “Tabitha case” which also led to the development of the current guardianship system.

²⁴ E.g. in the process of claiming asylum, in irregular stay, etc.

²⁵ Respectively articles 9ter (medical) and 9 bis (humanitarian) of the Aliens Act of 15 December 1980.

²⁶ This order is better known as the “Bevel tot terugbrenging” (Dutch) or “Ordre de reconduire” (French). It differs from the “Order to leave the Territory” (Bevel Grondgebied Verlaten/Ordre de Quitter le Territoire) which is given to adults and orders them to leave Belgium within 30 days.

minor to his country of origin will put him in danger and is not in his best interest. Until recently (spring 2013), the Immigration Office did not pursue this further, but let the minor reside (illegally) on the territory until they reached adulthood. Once 18, the Annex 38 would then become an “Order to leave the territory”, followed by the detention of the former minor and his subsequent forcible return. Although this is by no means a durable or productive situation, it gave the UAM the possibility to go to school before returning to his country of origin or choosing a life in irregularity in Belgium. However, guardians are now (sometimes) asked by the Immigration Office to sign the Annex 38. If the guardian refuses to do so, he is summoned by the police to explain why he did not sign the order and bring back his pupil to his country of origin²⁷.

As said, if a UAM decides to return to his CO after a failed residency procedure, he is free to do so. Once he applied in writing for voluntary return, the conditions for the return should be assessed by the competent instances (see below).

b- Return as a durable solution within the ‘UAM residency procedure’

Because of their specific vulnerability, UAM also have access to a specific procedure called “residency UAM”²⁸. This procedure is engrained in Belgian law by virtue of the law of 12 September 2011, which introduced Chapter VII ‘Unaccompanied Minors’ in the Aliens Act of 1980 (Art. 61/14 to 61/25). The procedure used to be known as the ‘Circular 15 September 2005 procedure’.

The procedure cannot be initiated in parallel with other residency procedures, but can be initiated after a failed residency claim. Its objective is simple: to find a durable solution for the minor. This can be one of three options: (i) reunification with his parent(s) in their country of legal residence, (ii) return to the country of origin or to a country where the minor has a legal residency permit, with

²⁷ Based on information given to Platform Minors in Exile by guardians.

²⁸ In Dutch “aanvraag verblijf NBMV”; in French “demande de séjour MENA”.

guarantees of adequate care in relation to his development and maturity, offered either by his parents, other adults or a state institution²⁹; (iii) residency in Belgium. It's the UAM's guardian that proposes a durable solution to the Immigration Office, keeping in mind his situation in both, Belgium and his home country as well as his best interest. The Immigration Office will then invite the minor for a hearing, after which they decide which option would be best for the minor. If the durable solution cannot be determined yet, the Office will deliver a short-term residency permit (6 months) to the minor. If a durable solution is not determined after these 6 months, the permit can be extended once, possibly after interviewing the minor again. If the solution remains undetermined after this period of time *and* on the condition that the minor can present a passport, a 1-year residency permit will be delivered. This permit can be extended thrice if the durable solution determination is still pending, after which the UAM can apply for an indefinite residency permit.

Before going further into detail, some remarks. Firstly, as an administration, the Immigration Office has the obligation to motivate their decisions³⁰, i.e. how their decision is in the best interest of the child. However, they rarely do this other than a formal, very succinct mention of the best interests of the child.

Secondly, the law stipulates clearly that, when determining the durable solution, prejudice is given to family unity, "in line with articles 9 and 10 of the International Convention on the Rights of the Child and the child's best interests".³¹ It is then not surprising that the preferred option for the Immigration Office is return to the country of origin, preferably reunification with the minor's family. If reunification with his parents or return to the country of origin is deemed to be in the best interest of the child, the Immigration Office will deliver an Annex 38 to his guardian and ask him to return the

²⁹ Please notice the clear link with the European Return Directive here.

³⁰ Act of 29 July 1991 on the explicit motivation of administrative acts

³¹ Art. 61/17 of the Aliens Act of 1980, as introduced by the Law of 12 September 2011.

child to his country of origin. The new above-mentioned practice of asking the guardian to sign the Annex 38 applies here as well.

This focus on family reunification brings us to our third point. Assuming that a child's best interest always amounts to reunification with his parents is dangerous, as it disregards the individual socio-economic and psychological situation. Moreover, the UAM may well have migrated because of reasons linked to his parents. Furthermore, the necessary conditions for a safe and dignified return are not always in place (see below).

Fourthly, the Immigration Office tends to delay the determination of the durable solution. The decision is continually postponed as the Immigration Office is not required by law to make a decision before the minor's 18th birthday. His residency permit is then continually prolonged³², as described above, until he reaches adulthood and is subsequently forcibly returned. This means that, keeping in mind the above-mentioned deadlines, UAM arriving after their 15th birthday have little effective access to an indefinite residency permit by means of this residency procedure.

2.2. Safeguards concerning returning UAM

Firstly, as UAM are not forcibly returned, UAM have to make the deliberate and informed decision to return. With regards to return, the law of 19 January 2012³³ prescribes that the Minister has to take into account the best interest of the child, the family and medical situation when removing someone from the territory³⁴. Moreover, it³⁵ stipulates that the Minister (i.e. Immigration Office) has to make sure that several guarantees are fulfilled when returning an UAM to his country of origin – either to his parents, a legal guardian or other

³² Although cases are known where this did not happen and the UAM's stay became irregular.

³³ This law introduces Chapter VI, Titel IIIquater (art. 74/10 to 74/19) to the Aliens Act of 1980. Art. 74/16 specifically treats the return of UAM / the decision to remove UAM residing illegally on the territory.

³⁴ Art. 74/13 of the Aliens Act.

³⁵ Art. 74/16 of the Aliens Act.

member of his family or a governmental or non-governmental institution (i.e. orphanage, etc):

- That guarantees with regards to care are in place in the country of origin or third country. These guarantees should be linked to the minor's needs, age and maturity.
- That there is no danger of human trafficking or smuggling,
- That the return to the family is desirable and appropriate in light of the family's situation and their ability to handle the reintegration, support, education and protection of the minor;
- That the reception structure is adapted and that it's in the minor's best interest to be placed in the reception structure upon his return to his country of origin or third country.

It also stipulates that the UAM and his guardian are informed who will take care of them in the country of origin and what their relation with the UAM is.

As said, the Immigration Office prefers reunification with the UAM's parents in the country of origin above permanent residency in Belgium. This is highlighted by the fact that the Office tends to deliver the Annex 38 when it is merely known that the minor's parents are still alive – without evaluating their socio-economic situation and capabilities to take care of the minor.³⁶ Subsequently, the Immigration Office has been condemned because they did not fulfil their obligation to motivate³⁷ or because the minimal guarantees of support in the country of origin were absent or insufficiently researched.³⁸

³⁶ For a similar observation, see also J. Ryngaert, I. Derluyn & W. Vandenhoele (n.d.) and L. Tawfik (2011)

³⁷ E.g. CCE - 23 February 2012 n° 75.677

³⁸ E.g. CCE - 23 April 2010 n° 42.241; C.E. – 1 March 2005

The assessment of the impact of return on the minor and the conditions of a safe return are, unfortunately, generally not sufficiently assessed by the Immigration Office. This is linked to several factors, amongst which the fact that there is no set methodology for social enquiries, best interest assessment or determination. Another problem is training. Although the Immigration Office is allowed to enroll Belgian diplomats in family tracing, embassy personnel is not trained to fulfill this task. Several ethical questions subsequently arise. Will the family's and minor's safety and identity not be compromised, especially when using government contacts to trace families of minors who claimed asylum? How will they trace the family? How will they assess the family's situation and their willingness and possibility to take care of the minor?

What's more, a conflict of interest exists when it comes to the Immigration Office and return decisions. The Office's mission is to control the access to, stay, residency on and removal of aliens from the Belgian territory. It is then the question if an administration poised on return can determine and assess a minor's best interest without being biased, as the best interest can directly oppose the political emphasis on return.

Belgian law, in line with the European Return Directive, gives the possibility to return a UAM to a governmental or non-governmental institution in the country of origin, such as an orphanage. This is, not surprisingly, contested by civil society and children's specialists, who question how governments will ensure the returned UAM's human rights are protected and whether or not return to an institution is in a child's best interest.

3- Hungary

Foreign minors without a parent or adult who is responsible for them are a particularly vulnerable group that needs increased attention and care to be able to handle this special situation and to access adequate protection.

Under Article 2 (1) of the Convention on the Rights of the Child (CRC) of 20 November 1989, the best interests of the child shall be a primary consideration in all actions taken concerning children whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies. On the one hand, legal guardianship and support during the procedure are crucial for an effective protection of these children; on the other hand, authorities must always make sure that the child has the right to express his/her views freely in all matters affecting him/her either directly or through a representative.

In accordance with the CRC, ratified by Hungary in 1991, all state agencies working with unaccompanied minors in Hungary and all relevant Hungarian legal provisions highlight that every proceeding authority shall bear in mind the best interest of the child when taking any action or applying any legal provision. These principles are usually found in the list of basic principles or introductory provisions of laws. However, legal instruments regulating procedures affecting foreign unaccompanied minors consist of limited provisions determining concrete actions that must be carried out in order to promote the principle of the best interest of the child.

Hungarian law does not define any special legal act or institution with the sole purpose of assessing the situation of the family the child left behind in his/her country of origin or the possibility of uniting with other relatives elsewhere. These circumstances are usually considered together with other relevant questions in the main proceedings by the case worker who decides on the asylum claim or issues an expulsion order etc. Various institutions hosting and assisting the child can also provide the case worker information

gained during their work relating to the family's circumstances and of the surroundings that the child comes from.

Family tracing and family assessment in favour of an unaccompanied minor are relevant in the following four procedures in Hungary:

1. Dublin procedure
2. Return procedure (either of failed asylum seekers or non-asylum seekers)
3. Readmission procedure at the border
4. Repatriation of foreign national children born in Hungary

1 – Institutions responsible for unaccompanied minors and family assessment

Institutions involved in family assessment vary with the main procedures in which it is carried out.

The **Dublin procedure** is conducted by the **Refugee Affairs Directorate and the Dublin Coordination Unit of the Office of Immigration and Nationality** (hereafter referred as OIN).³⁹ The family assessment is made by the appointed officer of the Refugee Affairs Directorate who deals with the refugee status determination procedure (hereinafter referred to as “RSD procedure”). In case there is a known family member residing in another member States of the European Union, the Dublin Coordination Unit is in charge of inquiring at the relevant authority of that Member State to gain information also about the family member residing there.

In the **return procedures** more authorities are involved. If the return procedure is a result of an unsuccessful asylum claim, the OIN Refugee Affairs Directorate already gained detailed information on

³⁹ http://www.bmbah.hu/szervezeti_egysegek.php

the family during the RSD Procedure. The **Aliens Policing Directorate** receives all relevant documents resulting from the RSD procedure which contain detailed information on the family as well. If the unaccompanied minor did not apply for asylum, the Aliens Policing Directorate is obliged to obtain all relevant information.

The **Budapest Office of IOM** and the **Guardianship Agency of Budapest 5th District** (hereinafter referred to as “Guardianship Office”) are also able to help in finding the best solution for the minor and in organising the return of the unaccompanied minor.

In case of **repatriation of foreign national children born in Hungary**, the Guardianship Office deals with the whole procedure and the OIN is not involved.

Whenever it is necessary to trace the family, the key actor is the Tracing Unit of the **Hungarian Red Cross** which can get in contact with various institutions and use different tools in tracing.

Asylum-seeking unaccompanied minors are placed in **Istvan Karolyi Children's Centre** in Fót, about 20 kilometres north of Budapest. As a children's home, it supports minors in child protection care, including unaccompanied children both in the asylum procedure and recognised refugees.

The non-asylum seeking foreign unaccompanied minors are placed in **childcare homes** by the Police where they are provided with accommodation and protection services. Childcare homes are run in the framework of the **Child Protection Methodological Services (TEGYESZ)**, which is responsible for providing accommodation and care to children falling within its geographical competence, regardless on their nationality. These institutions are financially supported by the **local municipalities**. A study on non-asylum unaccompanied minors in 2012 found 4 counties where a significant number of foreign unaccompanied minors that do not seek asylum

are placed (Bács-Kiskun County, Csongrád County, Győr-Moson-Sopron County, Szabolcs-Szatmár-Bereg County).⁴⁰

As of 1 February 2013 the facilities in Ópusztaszer and Hódmezővásárhely (in southern Hungary) have 30 places available for accommodating unaccompanied minors based on the agreement between the Szent Ágota Childprotection Service⁴¹ and the Human Resources Ministry (EMMI).

Regardless of the type of the procedure a **legal guardian** is appointed to all unaccompanied minors by the Guardianship Office.

All these actors gain important information regarding the circumstances of the minor's family during their work which can be important for the authority during the decision-making in the underlying procedure.

2 – Overview of legal provisions concerning unaccompanied minors and family assessment

All main legal instruments regulating the above procedures highlight the best interest of the child principle as a basic principle that has to be respected during the whole procedure.

The **Dublin procedure** as part of the asylum procedure is regulated in the Act LXXX of 2007 on Asylum (hereinafter referred to as "the Asylum Act") and Government Decree no. 301/2007 (XI.9.) implementing the Asylum Act. The Dublin II Regulation⁴² is also a

⁴⁰ Cazenave P. and Savai R., National background research on non-asylum seeking foreign unaccompanied minors in Hungary, Project Mario, April 2012, p. 11.

⁴¹ <http://szentagota.hu/index.php>

⁴² Council Regulation (EC) No. 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

relevant legal instrument as it is directly applicable. The basic principles of the Asylum Act underline that the best interest and special needs of the child as well as family unity shall be a primary consideration when implementing the provisions of the Act.⁴³ One of the criteria of determining the Member State responsible for examining the application of an unaccompanied minor listed in the Dublin II Regulation is whether there is a State where a member of his or her family is legally present, provided that this is in the best interest of the minor.⁴⁴

The Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (hereafter referred to as “TCN Act”) and Government Decree no. 114/2007. (V.24.) implementing the TCN Act contain the most important rules regarding return procedures. These legal instruments have no introductory sections or list of basic principles. However, the detailed provisions of the TCN Act oblige the proceeding authority to examine the circumstances of the minor’s family.

The scope of the work of TEGYESZ and the Guardianship Office is defined in the Act XXXI of 1997 on the Child Welfare and Guardianship Administration (hereinafter referred to as “Child Protection Act”). As mentioned above, TEGYESZ provides care and measures to promote the enforcement of the rights of children.⁴⁵ All the authorities who make decisions in proceedings that affect children shall act in the best interest of the child and respect their rights during the proceedings.⁴⁶ The Child Protection Act is also applicable in cases affecting foreign minors regardless of their legal status.⁴⁷

⁴³ Section 4 (1) and (2) of the Asylum Act.

⁴⁴ Article 6 of the Dublin II Regulation.

⁴⁵ Section 1 (1) of Child Protection Act.

⁴⁶ Ibid. Section 2 (1)

⁴⁷ Ibid. Section 4 (1)

4- Italy

1 – Overview of legal provisions concerning unaccompanied minors and family assessment

The relevant legal framework related to the family assessment of UAMs in Italy firstly involves international legislation. The fundamental text, on which the entire system of UAMs' protection is based, it is the **United Nation Convention on the Rights of the Child (CRC)** of 1989, which has been ratified by Italy with Law n. 176/1991. Particularly relevant, in relation to family assessment, is article 9 of the CRC, defining the minor's right to family unity.

Being member of the European Union, Italy is also subjected to a number of **EU provisions**. Beside those generally stating children's rights, particularly relevant is the Council Resolution of 26 June 1997 "on unaccompanied minors who are nationals of third countries". Specifically, article 3 of the Resolution states that "*...Member States should, with a view to reunification, endeavour trace the members of the family of an unaccompanied minor as soon as possible, or identify the place of residence of the members of the family, regardless of their legal status and without prejudice of the merits of any application for residence*". It is also relevant the letter of article 5, according to which, if conditions of adequate reception and care are not available, "*Member States should in principle make it possible for the minor to remain in their territory*".

Additionally, the development of national policies in Italy is subjected to the provisions of the "Action Plan un Unaccompanied Minors (2010-2014)" and its "Mid-term Report", adopted by the European Commission. In the Commission's document it is stated that "*Family-tracing is a key element of the principle of ensuring family unity. It is*

also linked to obligations set out in the relevant EU instruments” (paragraph 4.2).

Looking at the **Italian legal framework** on unaccompanied minors (UAMs), the first element that emerges is the fragmentation of law defining relevant procedures. This element is strictly related to the peculiar definition of unaccompanied minors given by the national legislation. Indeed, four different macro-categories of UAMs can be identified:

- Unaccompanied minors not seeking asylum;
- Unaccompanied minors asylum seekers;
- Unaccompanied minors victims of trafficking;
- Unaccompanied minors who are in the penal system.

For each one of these macro-categories, the Italian legislation defines rules and procedures concerning reception and integration. As a consequence, family assessment measures are differently conceived by the law with regard to the different groups of UAMs.

Specifically, the first category – **unaccompanied minors not seeking asylum** – is the only one for which precise rules are in place. Indeed the Italian law, which regulates family tracing, is the **Decree n.535/99. Article 2, paragraph 2**; its letter F establishes that the General Directorate of Immigration and Integration Policies (at the Ministry of Labour and Social Policies) *“performs tasks including the support to the research in order to promote the identification of the family members of unaccompanied minors in Italy, also in their Countries of origin or in Third Countries, by availing itself to this end of the collaboration of the competent public administrations, national and international organizations, and may sign ad hoc conventions with the aforementioned bodies”*.

Moreover, Article 2, paragraph 2, letter G states that *“on the basis of the information collected, [the General Directorate] may adopt – for the purposes of protection and guarantee of the right to family unity*

as per article 1 paragraph 4 – the provision as per article 7 involving the assisted repatriation of unaccompanied present minors”.

According to the definition by article 1, paragraph 4, “Assisted repatriation” means the set of measures adopted in order to guarantee minors involved the necessary support until the reunification with their family members or the fostering to the Authorities in charge in the Country of origin, in compliance with international conventions, with the law, with the provisions of the judicial authority and with these Regulations. Assisted repatriation shall be aimed to guarantee the right to the family unity for the minor and to adopt the subsequent protection.

In the law’s interpretation, “assisted repatriation” has been conceived not merely as reunification with family members but, more broadly, as the possibility to support the social reintegration in the Country of origin. Additionally, as article 7 specifies *“repatriation shall be performed on such conditions as to constantly ensure the respect for the rights guaranteed to minors by international conventions, by the law and by the measures of the judicial authority, and able to ensure the respect and the integrity of the psychological conditions of minors, until fostering them back to their families or to the relevant authorities, [...] guaranteeing that during the procedure such minors have been pre-emptively heard by the reception authorities”*. Thus, the assisted repatriation is organized only in accordance with the minor’s willingness and consent.

Moving from these assumptions, the procedures concerning family tracing have been developed by Italian authorities.

Concerning the other three categories of minors envisaged by the Italian legal framework, specific family tracing procedures have yet to be developed. In certain cases, when peculiar conditions are fulfilled, family tracing can be developed for minors of these categories on a case-by-case basis. In such situations, family tracings are conducted

according to the above mentioned legislative framework, with additional protective perspectives.

Concerning **unaccompanied minors seeking asylum** – the Italian Dublin Department (at the Ministry of Interior) can implement the Dublin rules in developing family tracing in European Countries.

Furthermore, based on Decision 2007/575/CE, **victims of trafficking, asylum seekers, beneficiaries of international protection and humanitarian assistance** can benefit of Voluntary Assisted Repatriation programs. These programs are co-funded by the European Fund for Repatriation, which is administered by the Italian Ministry of Interior.

2 – Institutions responsible for unaccompanied minors and family assessment

Moving from the four categories above mentioned, different procedures are in place falling under the remit of different competent institutions.

With regard to **unaccompanied minors not seeking asylum**, the main actor is the **General Directorate of Immigration and Integration Policies** at the Ministry of Labour and Social Policies. It has the task to register the minors in Italy through a national database, being in touch with all institutions involved, especially municipalities (in charge of the minors hosted in specific facilities) that, through social services, inform minors about the Italian law and related procedures, and develop individual integration paths.

Municipalities are in charge of initiating the family tracing, submitting a specific request to the General Directorate, after collecting information concerning the minor's family and his/her migratory experience.

Starting from March 2008, IOM has been tasked by the General Directorate, through a notice to the public procedure, with carrying out family assessment and assisted voluntary return and reintegration for unaccompanied minors who are not asylum seekers. When the family tracing is done, the General Directorate sends the report to the municipality, to the Juvenile Court and the guardian of the minor. In case assisted voluntary return is requested by the minor on the basis of a positive family assessment, the Directorate in coordination with IOM would contact the municipality, the police authorities, the consulate and the juvenile prosecutor's office to carry out "assisted repatriation" measure.

In February 2013, in order to strengthen the cooperation among all institutions involved in the procedures concerning UAMs' reception and care, the Ministry of Labour and Social Policies has established an "Inter-institutional Committee" with the participation of the Ministry of Interior (responsible for UAMs seeking asylum and those victims of trafficking), the Ministry of Justice (responsible for UAMs in the penal system) and the representatives of Regions, Provinces and Municipalities.

5- The Netherlands

The Dutch policy on unaccompanied children was reviewed recently in order to make the procedures for UMCs more transparent and faster. The policy review re-enforced the priority of the Dutch government to quickly provide UMCs clarity about their situation, after an asylum request has been brought forward. The policy review also focusses on the return of UMCs who are not eligible to remain in the Netherlands. According to the Dutch government, these UMCs need to return to their country of origin given the pre-condition of adequate reception. In the first instance, the Dutch government considers the families of the child as adequate reception and

therefore prioritizes reunification with them. If the family can not be traced alternatives, such as reception houses can be considered as adequate reception in the country of origin.

To be considered as an alternative adequate reception, the following points need to be fulfilled;

- Reception until the minor turns 18, unless the reception is only of temporary nature and the family will be reunited with the child
- Availability of food, clothes and hygiene according to local standards
- Availability of education according to local standards
- Availability of medical care according to local standards

The Dutch government is investing in alternative adequate reception for UMCs in countries of origin. The Netherlands are part of the European initiative, the so called ERPUM project that is working on the realization of reception for UMCs from Afghanistan. Furthermore, the government relies on the country reports of the Ministry of Foreign Affairs when determining if adequate reception is available in a respective country of origin.

There are no provisions in the Dutch law on the practical implementation of family tracing. Different than in other EU member states (e.g. Italy), family tracing is not pursued automatically when an UMC is remaining in the Netherlands. Often, family tracing is only put into practice once an UMC has or wants to leave the Netherlands. However, the legal guardianship agency NIDOS, who is usually appointed as guardian of foreign UMCs, attempts to restore contact with the family at an earlier stage in order to inform the family on the whereabouts and condition of the child. However, they also rely on the information that is given to them by the child, and in many cases children received instructions about the story they are supposed to tell in order to receive a residence permit by parents and/or smugglers.

I. B- COUNTRIES/REGIONS OF ORIGIN

I - Afghanistan

On the legislative side, the major challenge in the field of assistance to Unaccompanied Migrant Children (UMCs) in Afghanistan is the lack of legislation that governs the situation of UMCs. However, the high number of UMCs in European countries has raised concerns on the Afghan side. As a result, the Ministry of Labour, Social Affairs, Disabled and Martyrs (MOLSAMD) has taken steps to address these concerns and has been working on a draft legislation which could lead to a legal framework/policy governing the situation of UMCs. This draft legislation is aiming to address issues such as: how best to negotiate UMC's interests, how to respond to their needs after return as well as the issue of legal guardianship after return. The finalization of such legislation and its implementation will take time. Furthermore, given the upcoming change in government it is unlikely that this issue will be deemed a priority for some months to come. Presidential elections were held in June 2014. With a new government in power, it is anticipated that a minimum of a few months will pass before attention is given to the issue of legal guardianship and that this will largely be dependent on how much the donor community emphasizes the issue with the new government.

Given the absence of a legal framework for the designation of legal guardianship for UMC, current practice and understanding indicates that legal guardianship can be assumed by parents, siblings, or paternal (if no paternal uncles are available- maternal uncles; in other words the immediate family who are in position to make decisions regarding the well-being of the child).

2- Albania

1 – Institutional framework responsible for unaccompanied minors

The Ministry of Labour, Social Affairs and Equal Opportunities (MOLSAEO) is responsible for developing policies and legislation on social protection, for providing social services, for developing the norms and standards of services, and for monitoring their implementation at all the levels. In order to discharge its functions, the Ministry coordinates with other Ministries and institutions at the central level that contribute to the development of social policies concerning children's rights. The Ministry is also responsible for the management and oversight of public institutions, the development of their rules of procedure, staff training, and supervision of the contracts between the state and non-state agencies for the administration of social care institutions. **The Technical Secretariat for Children** hosted by the Ministry of Labour, is an administrative body proposing policies that relate to children's rights. It monitors the progress of implementation of the National Strategy for Children and its action plan and raises awareness of duty bearers on challenges faced by children, especially by those suffering social exclusion. It identifies problems and institutional weaknesses that impede implementation of the legal provisions. Since 2008, the Secretariat has undertaken a number of initiatives to prepare an adequate child legal framework and to define relevant referral and protection mechanisms and responsibilities of actors involved.

In virtue of the law "On the protection of Children's Rights" no 10347, dated 04 .11.2010 and Prime Minister's Instruction no. 30, dated 18.3.2011, **the State Agency for the Children's Rights Protection** has now been established. The Agency is an executive institution under the auspices of the Minister of Labour with the mission to monitor the implementation of the law "On the protection of Children's

Rights" and to guarantee cooperation with the respective authorities on local and central level as well as with the non-profit making organizations in children's rights area, so that to ensure an efficient protection of their rights and their care. The agency will offer technical support to the non-profit making organizations that focus their activity in the children's rights protection through meetings, workshops and joint initiatives.

The State Social Service established by Decision no. 52, dated 8 January 1996, of the Council of Ministers, is responsible for the implementation of policies that the Ministry of Labour, Social Affairs and Equal Opportunities pursues in the area of economic assistance and social care services. The Service is responsible for:

- Planning of state budget expenditures for social services, and monitoring their use;
- Developing service standards, and proposals for new services;
- Identifying the documentation required for the applicants and beneficiaries of social services;
- Collecting and analysing information on the delivery and use of social services, and the beneficiaries;
- Analysing the needs for social services, including the needs of excluded social groups.

The regional offices across the country (12 in total) support the State Social Service in its functions.

At the county level the functions of the Social Service Sectors are well defined by Decision of Council of Ministers No 563. These functions relate to the establishment of a monitoring and evaluation system for poverty at the county level, creation of a database for children in need, poor families and individuals in need of social services , typology of services provided by judicial individuals, public and private institutions and NPOs operating at the county level. This system will enable assessment of needs and the establishment of

new services in accordance with these needs and resources available. (MPCSSHB, 2010:24) Yet, information on needs and services at Tirana county level are difficult to obtain because of lack of information from various municipalities.

Under the Law “For the Organisation and Functioning of the Local Government,” the Local government (municipality/commune) is responsible for the delivery of economic assistance to families and individuals in need, and for developing community development plans based on local needs. **The Social Administrator** is a key function in each local government unit (municipality/commune) for coordinating and supervising the delivery of social care services for categories in need, within the Unit. Yet, the role of Social Administrator is in practice usually limited to the administration of economic assistance and disability entitlement.

In addition to the post of Social Administrator at the municipal/commune level, two structures relevant to the child protection system presently exist in a number of municipalities across the country. The first structure consists of UNICEF-supported municipal **Child Protection Units**, whilst the second is the ILO/IPEC-supported municipal **Child Labour Monitoring Committees** structure. Another civil society structure that cooperates with the national authorities is **Child Rights Observatory**, established with the support of UNICEF and Children Alliance and functioning in 12 regions of the country.

2 – Overview of legal provisions concerning unaccompanied minors

National child protection policies (and institutions)

The National Strategy for Children (2005-2010) represents a key policy document on child protection issues in Albania. The implementation period for the Strategy is now overdue but the

Ministry of Labour, Social Affairs and Equal Opportunities (MOLSAEO) is in the process of elaborating a new strategy.

The Strategy aimed at:

- Creating and strengthening institutional capacities for law enforcement and policy implementation for realising children's rights in Albania.
- Defined the institutional mechanisms at central and local level, on child protection issues and cooperation with relevant duty bearers.

The National Strategy of Social Services (2005-2010) has been the main policy instrument for the deinstitutionalisation process of social services in Albania.

The Strategy aimed to achieve the following:

- Guided the country reform in offering integrated services to children by strengthening coordination and cooperation among the central and local government, and the non-profit organisation networks.
- Defined the core role to the local government in identifying persons "in need" or "at risk" in taking a decision on the best service options;
- Established social service centres in the major cities and towns of Albania
- Improved social services legislation with a view to ensuring the protection and respect of the rights of children in need.

The Sectorial Social Protection Strategy (2007-2013) aims to

- Establish family-oriented alternative care services for children without parental care targeting children living in poverty, in deprived communities, remote villages, and suburban areas of major cities, children without parental care, disabled children, trafficked children, and children working in the streets.
- Cover issues such as poverty reduction, improvement of payment in cash for families, extension of community-based

services, piloting of foster care and consolidation of the services of home family type.

The strategy recognises:

- Policies for alternative care for children who do not live in their biological families are very few.
- The lack of mechanisms for identification and collection of field statistics on children at risk and those abandoned who do not live in residential institutions.

The National Foster Care Strategy (2008-2010) as a follow up policy document to the National Strategy for Children, Social Protection Strategy and Strategy of Social Services:

- Provides the policy framework for implementing alternative care models in Albania, such as foster care. This model is currently being piloted in two Municipalities of the country (Tirana and Durrës) and until 2013 it is aimed to expand these models in other local government units in accordance with the needs and financial resources.

The National Youth Strategy (2007-2011)

- Includes provisions for developing recreational activities for marginalised children, children from minorities, children without parental care as well as for providing free vocational training for youngsters.

The Sectorial Strategy of Employment 2007 -2013

- Addresses the issue of children working to bring money home.
- Provides specific recommendations on how to engage children in vocational training courses in order to increase their capacities for better integration in the labour market in the future.

National Strategy for Development and Integration 2009-2013 through which the government has set itself the objective of

deepening the legislative and institutional reforms, to create a protective and comprehensive environment for children. The reform process has so far culminated in the adoption of Law no. 10347 of 4.11.2010, “On the protection of the rights of the child” and the establishment of the State Agency for the Protection of Children’s Rights, through DCM no. 30 of 21.3.2011.

The law will considerably improve the functioning of child’s rights protection system in Albania by establishing Units for Children’s Rights at regional level to coordinate and implement services designed to protect children’s rights in cooperation with a number of stakeholders from various fields. In addition, the law sets the legal obligation for institutional cooperation and coordination of work by responsible institutions at central at local level, regulated by secondary laws.

The **Guidelines for Alternative Care of Children** intends to enhance the implementation of the Convention on the Rights of the Child and other international instruments regarding the protection and well-being of children who are deprived of parental care or at risk of losing parental care.

- The guidelines recommend that States establish care standards to ensure the quality and conditions that are conducive to the child’s development, such as individualised and small-group care, and to evaluate existing facilities against these standards.

The National Plan of Action for Children 2012-2015 adopted by the government, addresses the legislative and institutional reform aimed at the strengthening of a **protective and inclusive environment for children**.

On particular it emphasizes:

- Building the capacity of state institutions to implement and monitor child-rights sensitive policies at both levels of governance,

- Development of appropriate government policy and legal frameworks, busting a comprehensive, integrated and inclusive approach in the provision of social care services for children.

The child protection institutions

In an effort to establish and strengthen institutions for the promotion and protection of children rights at different levels of government, the following institutions have been set up:

- The National Council for Protection of children rights, which consists of nine ministers, representatives of the Ombudsman and representatives of local government and civil society
- The State Agency for the Protection of Children's Rights, a legal entity dependent on the minister who coordinates national child rights policies
- The Minister who coordinates the work related to child rights protection issues
- The Commissioner for Children at the People's Advocate Office;
- Child Rights Units (CRUs) as mechanisms for surveillance, monitoring and realization of national and regional policies for children's rights, which presently function in regional level;
- Child Protection Units (CPUs) as mechanisms of case referent and service providers, which presently function in 38 local administrative units.

The educational institutions

- **Basic education**

The basic education provides pupils with intellectual, creative, practical and physical skills, as well as develops their personality and offer fundamental principles of general culture and civic education. It

starts at the age of six and lasts no less than nine years. Basic education attendance (till the age of 16) is mandatory across the country. Teenagers, who have not yet completed their basic education by the time they reach the age of 16, may attend part-time schools. Basic education consists of two levels: the lower level (grades I-IV) and the middle level (grades VI-IX). The education of pupils with disabilities is conducted in specialised schools or in specialised classes within mainstream schools. There are also integrated in mainstream classes. All pre-trial detainees or juvenile prisoners held in institutions for committing felonies are entitled to education, by virtue of the Memorandum of Understanding between the Ministry of Education and Sports and the Ministry of Justice, dated 05.12.2008.

- **General Secondary education**

Secondary education is not compulsory. It consists of secondary schools (full-time and part-time) and secondary Vocational Schools. **Full-time secondary schools** are of 3 years duration. The new secondary school structure and teaching curricula were implemented for the first time during the academic year 2009-2010. **Part-time Secondary schools** are also available to adults. Studies in part-time secondary schools last for four years and upon completion students take the State Matura exams (SM). **Vocational Education** follows right after the 9-year basic education track and has as its main goal to enable students to develop vocational skills and practical knowledge. Since the academic year 2009-2010, vocational training is organised around a new structure, comprising levels and timelines compliant with the educational structure in the country. The new vocational education structure (41 VET schools in total), is based on the vocational qualifications platform, as recommended by the national Albanian Qualification Framework (AQF).

The responsibilities for managing the education system lie both, with the Ministry of Education and Science which defines the education structure, school curricula, evaluation system, and leads the process

of preparation of school texts and human resource development, and the Regional Directorates of Education) located in 12 counties of the country. In the framework of decentralisation of education services the Regional Councils are in charge of allocation of investments funds in education area at the relevant local units. Municipalities and Communes are responsible for the implementation of investments funds in the education area within their administrative territory, of funds transferred by the central government or other forms for school maintenance.

Children rights instruments

International Instruments

The International Convention on the Rights of the Child (CRC) was ratified by the Albanian Government in February 1992, and entered into force in March 1992. Under the CRC, a child is entitled to enjoy an acceptable standard of living, the provision of which is the responsibility of the State and the parents. CRC implementation calls for the enactment of specific laws and by-laws, as well as the establishment of institutions at the political, executive, and auditing/monitoring level. The first progress report of Albania on CRC was completed in June 2005 and submitted to the UN Children's Rights Committee. The Committee considered it an achievement that such progress had been made on legislative reform relating to human rights in Albania in general, and children's rights, in particular. However, the Government of Albania did not meet the deadline for the second report scheduled in 2009, which resulted in postponing the date for Albania into 2012.

The European Social Charter Revised with Decision no. 458, dated 27 April 1998 of the Albanian Council of Ministers, recognises and protects the right of people to enjoy social services. However, citizens know little about what their benefits are, because ratification has not

been associated with the enactment of several laws and instructions enabling implementation.

The Convention of the International Labour Organisation (ILO) **no. 138 “Concerning Minimum Age for Admission to Employment,”** was ratified in 1998, and the **Convention no. 182 “Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour,”** was ratified in 2001.

The Hague Convention (1993) “On Protection of Children and Cooperation in Respect of Inter-country Adoption,” was ratified by Law no. 8624, dated 15 June 2000.

National Instruments

The Constitution of the Republic of Albania (adopted under Law no. 8417, dated 21 October 1998, and promulgated by Decree no. 2260, dated 28 November 1998), is the fundamental law sanctioning the protection of children’s rights in general, and of those without parental care, specifically. It contains a chapter on social objectives which sanction the State’s obligation to provide children without parental care with care and help throughout the process of their upbringing, development and education (Article 59/e). In furtherance of the Constitution, several laws and decisions underlying the social care policy for protection of children without parental care have been adopted, or are under consideration.

The new Family Code adopted by Law no. 9062, dated 8 May 2003 pays special attention to treatment and care of minors and obligations of parents in this respect. It also specifies the State’s institutional obligations towards children without parental care, and the manner in which they are met. In particular Article 263 of this law specifies the conditions for placing a child in alternative care. The guiding principle of such placement is always “the best interest of the child”.

The Civil Procedure Code, adopted by Law no. 8116, dated 29 March 1996, in its Articles 351/1 and 352 stipulates the criteria applied for the allocation of custody, and the exercise of this right by the child when he/she attains the age of sixteen years.

Law no. 7650, dated 17 December 1992, “For the Adoption of Minors by Foreign Citizens and several amendments to the Family Code” provides for conditions of the adoption of Albanian children by foreign citizens. Under this law, adoption is only allowed when it is in the best interests of the child.

Law no 8153 dated 31.10.1996 “For the Status of the Orphan” establishes the criteria of eligibility and benefits of the status of orphans in Albania (including accommodation in national or private institutions of social care, scholarship entitlements, housing, and employment). Yet, this law limits its provisions to biological orphans only. Changes in this law have become necessary in order to enable provisions for social orphans, which constitute now, the majority of children placed in alternative care in Tirana.

Law no 10347, dated 04 .11.2010 "On the protection of Children's Rights", determines the rights and protection that each child enjoys, responsible mechanisms that guarantee the efficient realisation of protection of these rights, as well as special care for the child. The law foresees measures to ensure that children exercise their rights, to guarantee their living, survival and development, as well as to ensure coordination among structures and authorities at the central and local level, and organisations that protect children's rights. Article 29 of this law envisions circumstances in which a child is placed in alternative care. The law also envisions the establishment of the State Agency for the Children's Rights Protection, which has now been realised by Instruction of Prime Minister's no. 30, date 18.3.2011.

Guaranteeing social protection for children in Albania

Law no. 9355, dated 10 March 2005, “On Aid and Social Services,” as amended, determines the system for the economic assistance and social care of Albanian citizens, including children without parental care. A number of amendments to the law were effected on 17.03.2011, (Article 5) in compliance with the Strategy for Social Protection 2007–2013 and the government commitment to continue to reform economic aid or cash transfers to ensure prevention of transmission of poverty from one generation to the next, thereby interrupting the poverty cycle. The proposed amendments of the Economic Aid Law consisted in expansion of the categories of “female headed households” eligible for economic aid including: victims of trafficking after leaving the institutions of social care up to the moment of their employment; victims of domestic violence for the period of the validity of the protection order or the order of immediate protection; all spouses, when in a process of marriage dissolution and when there is yet no final formal court decision and families in blood feud.

The law 9355 includes important provisions with respect to the decentralisation and modernisation of special social services too. In particular, it provides for social services to be decentralised, thus enhancing *the participation of local government and social society in planning, funding and delivery*. This is specified in the article addressing the “manner of funding”. In order to support new social care services and development of social policies, the law envisions the establishment of the Social Fund. However, 6 years after the law came in force; this fund has not yet been established. **The Social Fund shall contain a part of the funds earmarked for social care services; extra budgetary funds from organizations, natural or juridical persons, other individuals and other types of income. The rules for administering this fund will be set through a Decision of the Council of Ministers.**

Law no. 8652, dated 31 July 2000, “For the organisation and functioning of local government”, creates the necessary conditions for the decentralisation of social services. It should however be highlighted that due to limited local financial resources, financial decentralisation has not yet been realised in each and every unit of the local government in the country.

Law no. 8872 date 29.03.2002 “For education and vocational training in Albania” foresees that all citizens despite their social status or their health problems have the right for vocational training (included here disabled children and people coming from very poor families)

On 25 May 2001, the State Social Service prepared the **Rules of Procedure of the Development Centres**. These rules are the normative act governing the conduct of the social care institutions for children with physical and mental disabilities. Their development marks an important step in improving quality of services in social care institutions in Albania.

The recent legislative act concerns the **Decision of the Council of Ministers, No. 752, dated 08.09.2010** on the approval of “**Standards of Foster Care for Children in Need**”.

The legal framework relating to the protection of the rights of children without parental care in Albania is considered as relatively comprehensive and contemporary. The present challenges rely in reinforcing institutional capacities for implementation while overseeing and reporting on implementation.

Changes in the law No 8153, dated 31.10.1996 “For the Status of the Orphan” are becoming a necessity in order to enable provisions for social orphans, which constitute now the majority of children placed in alternative care in Tirana. A recent report of the Coalition “United for Child Care” recommends changes in the Family Code in order to envision the elements of the UN Guidelines on Alternative Care for

defining the “best interest of the child”. Furthermore, it highlights that present legislation does not provide for special and extra treatment for those children who are both disabled and without parental care. The legal framework also does not comprehensively address the risk of ill- treatment and abuse of children without parental care.

The Law ‘On Aid and Social Services’ further exacerbates the situation, as it does not include the provision of services to address the needs of abused children. However, it does include the obligation of social administrators in municipalities and communes to assess the needs of individuals and families who seek social services, in accordance with the resources available and established national priorities. Preventive and rehabilitative programmes for child abuse should therefore be established.

List of legal provisions

The legal framework for the child welfare system can be generally categorised in two areas, rights of the children and social protection of children. Below is a brief summary of the legal framework on children’s rights and social protection, prepared on the basis of existing legal reviews and institutional reports.

Summary of legal provisions on children rights and social protection

Domain	Right according to domain	International legislation	National legislation

Provision of services	1. Health and nutrition	CRC (article 23, 24,27) European Social Charter	Law no 8876 , date 04.04.2002 "On reproductive health" foreseeing issues of health for children aged 0-6. Law No 9952 , date, 14.07.2000 "On prevention and control of HIV/AIDS" DCM No. 419 , date 16.06.2000 "On prevention and control of HIV/AIDS"
	2. Education	CRC (article 28, 29) European Social Charter	Law no 7952 , date 21.06.1995 "On pre-university education", amended by Law No 8387, date 30,07.1998 Law no. 8872 date 29.03.2002 "For education and vocational training in pre-university education"
	3. Information	CRC (article17)	Law no. 8410 date 30.09.1998 "On public and private radio and television in Republic of Albania".

	4. Social protection	CRC (article 26) European Social Charter	<p>Law no 10347, dated 04.11.2010 "On the protection of Children's Rights"</p> <p>Law no 7703 dated 11.05.1993 "On social insurance system in Republic of Albania"</p> <p>Law 8153 date 31.10.1996 "On the status of orphan"</p> <p>Law 9062, date 08.05.2003 "Family code"</p> <p>Law no 9355, date 10.03.2005 "On the economic support and social services"</p> <p>DCM o. 307, date 24 May 1994, "For the Social Care Services"</p> <p>DCM no.658 dated 17.10.2005, For the standards of social services</p> <p>DCM no.659 dated 17.10.2005 "For the standards of social care services for children in residential institutions"</p> <p>DCM 822, date 06.12.2006 on "Standards of social care"</p>
	5. Housing	CRC (article 27)	<p>Law no. 9232 "On social housing", date 13.05.2004. Children without parental care who enjoy the status of the orphan and are under the age of 30 benefit of</p>

Protection	1. Name, identity and family environment	CRC (article 5, 7, 8, 9, 10, 16, 18, 20, 22, 25) Hague convention	Law no. 9695 dated 19.03.2007 "On child adoption procedure and Albanian Committee of Adoption" Law no 8166 , date
	2. Protection, violence and neglect	CRC (article 19)	Law no.9669 dated 18.2.2006 "On measures against domestic violence"
	3. Protection from financial exploitation	CRC (article 32) European Social Charter	DCM 205 date 09.05.2002 on "High risk working conditions" for children

Article 122 of the Constitution of Albania provides that ratified international agreements, including the Convention on the Rights of the Child, are part of domestic law. Directly applicable treaties can be applied by the courts, but international agreements that are not self-executing require national legislation to be passed to give them effect. Only certain provisions of the Convention are considered to be sufficiently defined to be applied directly. International agreements have superior force to domestic legislation, and so where the Convention contradicts national law, the Convention must be applied.

Constitution: Part II of the Albanian Constitution includes a large number of rights provisions that apply regardless of age, but also a small number that specifically address the rights of children:

- Art. 54(1): requires the State to provide special protection for children, the young, pregnant women and new mothers
- Art. 54(2): provides that children born out of wedlock have equal rights to those born within marriage
- Art. 54(3): provides that every child has the right to protection from violence, ill-treatment, exploitation and his or her use for work, especially under the minimum age for

work, which could damage their health and morals or endanger his or her life or normal development

- Art. 59(1)(d): in setting out the State's social objectives requires the State to "supplement private initiative" with education and qualification according to the ability of children and the young, as well as unemployed persons

Legislation: there is no comprehensive or consolidated Albanian Children's Law, though much of the legislation relevant to children's rights is found in the Law on the Protection of the Rights of the Child. Legislation of particular relevance to children includes, but is by no means limited to:

- Law No. 7895, dated 27 January 1995 "the Penal Code"
- Law No. 7905, dated 21 March 1995 "the Code of Penal Procedure"
- Law No. 7850, dated 29 July 1994 "the Civil Code"
- Law No. 9062, dated 8 May 2003 "the Family Code"
- Law No. 7961, dated 12 July 1995 "the Labour Code"
- Law No. 10347, dated 4 November 2010 "Protection of the Rights of the Child"
- Law No. 10221, dated 4 February 2010 "Protection against Discrimination"
- Law No. 9669, dated 18 December 2006 "Measures against Domestic Violence"
- Law No. 7952, dated 21 June 1995 "Pre-University Education"
- Law No. 8876, dated 4 April 2002 "Reproductive Health"
- Law No. 9695, dated 19 March 2007 "Adoption Procedures and the Albanian Adoption Committee"
- Decision of the Council of Ministers No. 384, dated 20 May 1996 "Protection of Working Minors"
- Penal Code, Penal Procedure Code
- Civil Code and Civil Procedure Code
- Family Code
- Law no. 9695, dated 19.03.2007 "On adoption procedures and the Albanian Adoption Committee," amended, which envisions

regulations on the successful conduct of child adoption procedures, thus leading to avoiding cases of child trafficking;

- Law No.10193, dated 3.12.2009 “On jurisdictional relations with foreign authorities in penal cases,” which envisions regulations on strengthening judicial cooperation on penal cases, including trafficking cases;
- Law No.8677, dated 02.11.2000 “On the organization and functioning of Judicial Police,” amended recently by Law No. 10 301, dated 15.07.2010, which seeks to strengthen the judicial police – prosecutor’s office relationship with a view to achieving efficiency in the fight against organized crime, including trafficking;
- New mediation law - Law No.10385, dated 24.2.2011 “On mediation in conflict resolution,” which envisions that the court or the pertinent state body, within competencies envisioned by law, necessarily invite the parties to resolve a conflict by mediation, particularly in civil and family disputes involving the interests of children.

Particular attention has been paid to the following in domestic legislation:

- Penal Code, Article 110/a “Trafficking of human beings”
- Penal Code, Article 128/b “Trafficking of children”
- Penal Code, Article 124/b “Maltreatment of Children,”
- Penal Code, Article 117 “Pornography”
- Law No.8920, date 11.07.2002, “On the ratification of the United Nations Convention against Transnational Organized Crime and the two optional protocols”
- Law No.9669, dated 18.12.2006 “On measures against violence in family relations.
- Law No. 9749, dated 11.04. 2007, “On state police”
- Law No. 9095, dated 3.07. 2003 “On the foreign service of the Republic of Albania”

- Law No.10192, dated 3.12.2009 “On the prevention and fight of organized crime and trafficking through preventive measures on assets.”
- Law No.10039, dated 22.12.2008 “On juridical assistance”
- Law No.10252, dated 11.03.2010 “On some additions to Law No. 9355, dated 10.03.2005 “On social welfare and services,” amended.
- Law No.10347, dated 4.11.2010, “On the protection of the rights of the child”
- Joint Order of the Minister of Interior, Minister of Foreign Affairs, and Minister of Labor, Social Affairs, and Equal Opportunities “For the establishment of the Responsible Authority for the protection of and assistance to victims of trafficking and the definition of duties of institutions involved in this process” of 19.05.2006.
- Decision No. 195, dated 11.04.2007 “Standards of Social Care Services for Trafficked Persons or Persons at Risk of Trafficking in Residential Centers.”
- Instructions of the Minister of Labour, Social Affairs, and Equal Opportunities No. 316, dated 10.2.2010, “On the implementation of social care service standards at residential centers for trafficked persons or persons at risk of trafficking.”
- Instruction Service of the General Director of State Police No. 871, dated 27.12.2007 “On procedures conducted at the border for the interviewing of foreign citizens and Albanian citizens repatriated from other countries”
- Cooperation Agreement for the Creation of a National Referral Mechanism for the Identification of and Improved Assistance to Victims of Trafficking in Human Beings (NRM), signed on July 18, 2005.
- Memorandum of Understanding of the Ministry of Interior, Ministry of Tourism, Culture, and Sports, and the Presence of the Organization for Security and Cooperation in Europe (OSCE) “On the promotion and enforcement of the Code of Conduct for the protection of children against sexual exploitation in tourism.”

List available facilities provided by the governmental institutions

Depending on the children that they host, care institutions in Albania are divided in two categories:

- Social Care institutions for children without parental care (all categories of children as defined by government decision No 209 (2006))
- Development and rehabilitation centres, to treat disabled children, some of whom are orphans.

Public Care institutions of residential form, which offer 24 hour services, are structured as follows:

- Homes for pre-school children, (aged 0-3), located in five cities of the country
- Homes for school age children, (aged 6-14), located in three locations;
- Rehabilitation and Development Centres for children with disabilities located in six locations

The structure and typology of private services is more dynamic and includes residential institutions, family homes, day care centres and community social services.

3- Iraq

Iraq is still ways behind when it comes to the establishment of the proper legal framework for the case of vulnerable minors and children in general. The practice of law is far from the international

standard and there is no specific and well-defined law that covers the issue of the child and their protection in its implementation phase.

- National Family laws

In the context of family assessment, there is no specific law in the Iraqi Constitution. However, there are few stances that can be considered as the basic concept for family assessment. For example, since the children's rights are mainly defined within the frame of the family, the law focuses more on the family. In the Iraqi Constitution, article 29, section one, memorandum one, it is stated that "Family is the foundation of society; the state shall preserve it, and its religious, moral and national values." Also, the same article, section two, states that "Children have the right to upbringing, care and education from their parents." When it comes to the economic exploitation, the Constitution states "economic exploitation of children in all of its forms shall be prohibited, and the State shall take the necessary measures for their protection." In the fourth section, it refers to the violence and states "all forms of violence and abuse in the family, school, and society shall be prohibited." So within the framework of article 29, the family assessment can be considered.

- National child protection policies (and institutions)

As mentioned above, the Iraqi Constitution clearly indicates the protection of children and the issue is rather legalized. The article 29 covers some general issues, so it can be said that the overall policy towards child protection is defined by the law. Therefore, according to the current system, most of the responsibilities are given to the family. For instance, in a typical family, parents/guardians are expected to protect their children from danger, provide them with food, clothes, shelter, not exploit them for unsuitable work, and register them in a public school to receive standard education. However, when the upbringing does not happen in a normal way, the role of the authority is to interfere. There are different scenarios where the authority needs to intervene as the level and time of the intervention depends on the moment the authority receives the

information. Firstly, when the child is orphaned or becomes an orphan and he has no any caretaker to look after him/her. Secondly when the child has suffered from excessive domestic violence and the authority is aware of. Thirdly, when there is a divorce and none of the parents are ready to look after the child. Fourthly, when the child cannot be looked after because of extreme poverty (or when the family's breadwinner has a chronic/fatal disease). However, the quality of the protection and its overall impact remains unimproved. For example, a report on Human Rights in Iraq, published by the United Mission Assistance Mission for Iraq (UNAMI) in 2011, quite clearly indicates that "children suffer from domestic and other forms of violence, although the exact extent of the problem is difficult to ascertain"⁴⁸.

Overall, the situation is much better for the children in the Kurdistan Region compared to the other parts of Iraq. An orphanage house in Erbil (capital of the Kurdistan Region) receives vulnerable minors who are usually placed through the judicial order, individual request, or through the referrals, particularly by civic society groups that deal with children. Apart from this, the Kurdistan Regional Government (KRG), through the Ministry of Labour and Social Affairs (MoLSA), allows for foster care where a guardian can raise a child and receive a monthly allowance in return. Moreover, the social workers can also be available to provide counselling and report on the status of the children raised through foster care.

In the KRG region, the authority has also introduced a free hotline "116*" as a very valuable tool that provides the children with an additional opportunity to seek help, and counselling and advice. This is extremely useful for protecting the children from extreme violence; however it is still not widely used even though there has also been a promotion campaign to be sure that the newly introduced tool was well-known by the general public.

⁴⁸ "Report on Human Rights in Iraq: 2011", UNAMI Human Rights Office and Office of the High Commissioner for Human Rights, May 2012, Baghdad.

Another development in the KRG area is related to the minimum age of criminal responsibility. Any child who commits any crime but has less than 11 years of age cannot be made responsible. While in other parts of Iraq it is still 9 years. Teenage minors are still largely vulnerable throughout Iraq and are subject of honour killings. Although authorities acknowledge the issue and keep promising the public for the elimination of it, its occurrence exists with no sign of disappearance. The KRG's policy towards honour killings is clear and, in many occasions, local leaders and officials announced that they do not tolerate such killings and regard it as murder case in the court. In fact, the authority now has a so-called women shelter (protective institution) that can be used for women and teenage girls in the case of extreme threat. The condition of such shelters is usually very poor in terms of service, but it is a good temporary solution to save the life of women and girls.

There are also many children begging on the streets in the cities of KRG. Such children are mostly from the internally displaced families and are forced by their family members to engage in such activities at the expense of leaving school. Furthermore, although the law in Iraq clarifies that children under the age of 15 should not be involved or forced in any physical work, the general trend is that, most of the time, they are requested to work. In some cases, they are forced to work for long hours.

Children rights instruments

There are the following two instruments in Iraqi law:

- a. The Minor's Supervision Law: the general aim of this law is to protect the child from the deviation and provide them with rehabilitation services to promote the healthy society.
- b. The Minor's Custody law: the general aim of this law is to protect the social culture and financial rights of the child.

List of legal provisions

The legal services provided usually falls under the above mentioned instruments, when it comes to the Minor's Custody Law, the following can be provided:

- a. The child is entitled to be provided with a trustee.
- b. The management of the property of the minor. Legal guardians cannot sell the property.
- c. The appointment of social workers to assess the situation of the child and report back to the court.
- d. Solving the issue of inheritance. For example, if a minor has the right to inherit a wealth, the authority will make sure the minor receives his/her right. At the same time, they coordinate with tax office to deduct the tax.
- e. Overall the child has the right to be represented by a lawyer in the court in case there is any issue that needs to be solved through the legal system.

The services provided through the Minor's Supervision Law can be summarized as the following:

- a. Providing psychological counselling sessions for the children.
- b. General check-up for assuring the well-beings of the children physically and mentally.
- c. Provision of social workers.
- d. Taking away the child from the parents/guardians and conditions for such occurrence.
- e. Fostering service
- f. Interrogation with the minors who are suspects of conducting crimes.
- g. Judging process and court decisions
- h. Provision of rehabilitation service

- Available facilities provided by the governmental institutions (access to accommodation facilities, health care system, education etc.)

Education

Every child in Iraq has the right to receive free education in public nurseries and schools. The education offered through public schools is good, however the private schools provide much better services but it is not for free. In some occasions, the medium of study is English and the curriculum is well-advanced. In the KRG, there are number of special public schools for talented children, but the admission to such schools is based on a very strong competition. In order to tackle the illiteracy issue, nowadays there are many evening schools that target the school leavers, so citizens can work during normal day and then study during evening hours. There is also system called “fast study” where each year of study is calculated as two in order to catch up with the normal education and reach the stage of national exam taken at the end of the high school stage. Furthermore, in Dahok governorate, the education ministry has opened a special school for the children who have received part of their education in Europe and are willing to continue their education in KRG. This school is particular important for the children that do not speak Kurdish, as the curriculum are in English and the education is also free there.

Health Care System

Iraq has a free health care system where everyone is entitled to receive the treatment and basic medicine. However, when it comes to the quality, the services provides in the private hospitals, which is usually very expensive, are much better compared to the services provided in the public hospitals. Worth to mention, in KRG, the health sector has seen continuous improvement, and there are numerous new hospitals in Erbil, Sulaimaniya and Dahok, and some additional emergency hospitals have been built in recent years throughout the region. With the existence of specialists and doctors from the south the region has gained a good reputation for health issues. For example, in recent years some very complex medical operations were done in Erbil with the help of doctors from the surrounding countries. Still, the dominance of private clinics and

hospitals are well noticed in Iraq, as doctors are allowed to work during evening time in their private clinics where they usually charge 15-30 USD for each check-up. When it comes to the medicine availability, the quality is usually very bad and despite the existence of quality assurance unit within the health ministry; there is clear exploitation of the medicine and the way it is imported to the country.

Access to the accommodation facilities

In KRG, there are some shelters for hosting minors. In fact, governmental shelters exist in Erbil, Sulaimaniya and Dahok. Similar shelters exist in other parts of Iraq but with much less quality. They accept children from the age of 4 until 18 and from both genders. The following services are provided:

- One single room for each minor for all ages.
- Three meals per day
- The shelter is guarded 24 hours.
- Daily allowance of 1 USD
- Free school
- The shelter purchases clothes for the minors three times per year.
- In Sulaimaniya, the Kurdistan Save the Children Organization/Kurdistan Children's Fund gives each child an additional 20 USD per month.
- Usually there are social workers for 8 hours per day to offer counselling and stay with the children. The IOM staff was told that each child has his/her own file for recording personal data and other regular updates.
- Minors are provided with summer vacation, activities among them are painting, sewing, swimming and IT courses.
- The shelter has divided the minors into three groups and in three cells (children from 5 to 10 years of age, from 10 to 14 and from 14-18 years of age).
- When it comes to the female minors, they can stay in the shelter until they complete university or get married.

- The shelter has additional teachers to help minors to do their home works.
- The transportation to/from school is also provided by the shelter.

Children who are convicted of a crime are held in detention centers where they receive psychological counselling and education. The rehabilitation period varies from a case to another.

4- Kosovo/UNSC 1244

Authorities in the countries of return are often in a unique position to provide information on the child's environment and more general information about the situation on the ground that other actors cannot access without facing serious restrictions. For this reason, sometimes (and if available) national youth welfare authorities in the countries of origin are tasked with conducting a family assessment, and sometimes they need to be consulted when the legal guardian in the country of return needs to be identified and confirmed. At the same time, it must be considered that authorities of the country of origin – including youth welfare authorities – theoretically cannot be involved if the unaccompanied minor is an asylum seeker in order to ensure his/her right to be protected from potential repercussions by the home country.

Upon request, IOM can conduct family assessments in individual cases through its IOM missions in the respective countries of return, for example in the framework of country-specific

Kosovo has developed advanced **legal framework related to children's rights** in general and in the context of return and reintegration of unaccompanied minors. This legal framework is comparable with those of developed countries and in acquiescence with the international conventions and laws. Furthermore,

institutional mechanisms for children's rights are established at the appropriate level. However, major challenge in this context remains insufficient implementation capacities at the both levels, central and local institutions, which is mostly due to financial, technical and infrastructure limitations.

The following are the most important legislation regarding the children's rights and situation of unaccompanied minors:

- Law nr. 03/L-208 for Readmission
- Law no. 2004/32 for Family in Kosovo
- Law nr.04/L-081 on amending and supplementing the Law no. 02/L-17 for Social and Family Services
- Law nr.04/L-096 on amending and supplementing the Law no. 2003/15 on Social Assistance Scheme in Kosovo
- Law no. 04/L-032 for Undergraduate Education in the Republic of Kosovo
- Law no. 04/L-125 on Health

For the detailed list of legal framework please see Annex B.

Based on the interviewees statements one can conclude that **institutional understanding of the child's welfare** is well defined and it is focused on promoting permanency and safety of children and families by helping and strengthening families to care for their children successfully or, when that is not possible, helping children to find permanency within alternative forms of care such as adoption or foster care, but always excluding alternative of placing the child into residential care. Yet, there is a considerable gap between well-established understanding on child's welfare and capacities to provide comprehensive and qualitative services that will fully ensure child's wellbeing, in particular for the vulnerable groups of children such as unaccompanied minors that are being returned to Kosovo.

Centres for Social Work at the municipal level, supported and monitored by the Department for Social Policy and Family/Ministry of Labour and Social Welfare, are the leading government institutions

responsible for **improving child's wellbeing** in collaboration with the child's family and other relevant actors from health, education, employment, justice, youth and sports, etc. sectors. In addition, social services from the public sector have established a very good partnership with many international and local NGOs and intergovernmental organisations such as IOM that are working in this field.

In the process of determining child's welfare Kosovo institutions are obligated by law to **involve parents and/or caregivers**. In case of child with no parental care⁴⁹ and/or unaccompanied minor, Kosovo has a Guardianship Authority under the CSW umbrella that takes over the responsibility for the child protection and care, and as such this authority must be involved in the process of determining child's wellbeing in the best interest of the child. When child becomes 10 years and in some cases 14 years old, his/her views are also taken into consideration during this process. In terms of communications between above actors, Guardianship Authority being an administrative institution will appoint one case manager and one legal guardian for each child with no parental care and/or unaccompanied minor, and these two persons work closely and also communicate and coordinate as needed with other actors that are relevant for provision of different services in favour of child's welfare. Information about the child's welfare is usually obtained primarily from the family environment and/or Guardianship Authority, as well from school, community, health institutions, justice, etc.

With respect to methods and approaches used in **determining and assessing child's welfare**, each child is assessed by the Guardianship

⁴⁹ Definition Unaccompanied Minor's are not mentioned specifically as vulnerable group of children in the legislation for social welfare sector. The reason for this might be inadequate representation of this vulnerably group of children within the social welfare service provision. Thus based on existing legislation the author has used definition Children with no Parental Care which includes unaccompanied minors as a vulnerable group of children in need of social and other services.

Authority which has professional, multidisciplinary and trained teams for managing these cases and after they conduct assessment and develop individual plan for the child's protection, they make sure to implement it in the best interest of the child. **Aspects of child welfare** that are assessed include the needs for parental care, education, health, shelter, recreational/leisure, and all other needs that are related to child's normal development. Assessment which is carried out by the Guardianship Authority is subject to **monitoring and inspection** by the DSPF/MLSW. In addition to laws Kosovo has also developed minimum standards for social and familial services that must be implemented by the Guardianship Authority. Appealing procedures are also guaranteed in Kosovo.

Main **recommendation on optimizing** the process of child welfare assessment has derived from the DSPF/MLSW, which recommends municipal authorities to provide as much as possible support to the Guardianship Authority/CSWs, to develop professional staff through training, and to improve working conditions, in order to increase the efficiency of their performance.

5- Pakistan

- National Family laws

According to Islamic law, adopting a child essentially entails treating him/her as one's own and offering them love, protection, food, clothing and education, but without changing the child's lineal identity and denying parenthood to the natural parents. The adopted child cannot partake in inheritance of the adoptee parents, just as the adoptee parents cannot inherit the property of the adopted. They can marry their foster siblings. It is also permissible for a foster father to marry the divorced wife of an adopted son. He or she can inherit property from their natural parents and their rights will

subsist even after adoption by the other family. The adopter, can however, make out a will bequeathing one-third of their estate to the adopted child, as indeed to any stranger. They can also, during their lifetime, gift property to their adopted child.

The above cited explicit Islamic code explains the lack of solid legislation in the existing laws regarding adoption in Pakistan. However, transfer of custody of a child is allowed by courts of law under the Guardians and Wards Act of 1890 to private individuals, humanitarian and welfare organizations, orphanages, etc. Some of these institutions raise orphans and deserted children themselves, while others make placements in suitable foster homes.

There are many laws falling in the domain of Family Laws, some important enactments are listed below:

- Dissolution of Muslim Marriages Act 1939
- Family Court Act, 1964
- Family Court Rules, 1965
- Family Courts (Amendment) Ordinance, 2002
- Guardian And Wards Act, 1890
- Majority Act, 1875
- Muslim Family Laws Ordinance, 1962

- National child protection policies (and institutions)

National Plan of Action for Children/Children rights instruments

Pakistan was one of the six initiators of the World Summit for Children 1990 which gave the “first call for children” and set goals for the development of children. In the end decade review process, progress on the achievement of these goals was assessed and a brief report on the achievements was present to the UN Secretary General in 2001. On the basis of these progress reports presented by the nations of the world considered in the UN Special Session for Children held on 8-10 May 2002, an Out-come document “A World

Fit for Children” comprising declaration, follow up action and Guide lines for plan of action for children was adopted. The nations of the world have shown their commitment for following this out-come document to accomplish the un-met agenda of World Summit 1990. The NPA for children 2005 is the Second Plan of Action for Children. The first National Plan of Action for Children received criticism for being un-participative. The process of NPA formulation was quite limited. It was completed in a relatively short period by a small team of people without much consultation, provincial participation was virtually nil, because of which people workings with children at various levels in the state were unable to contribute towards developing the action plan, why no provincial level Plan of Actions was formulated”. The National Plan of Action 2005 is a comprehensive document papered in consultation of all the relevant stakeholders from grass roots to the top, and the main parties to the plan of action I mean children from deferent walk of life were consulted. Requirements of all regional and international commitments are given space in this NPA. The child protection issues specially recommendations of Second World Congress against Child Abuse and Commercial sexual Exploitation “Yokohama Global Commitments” are also covered in the NPA.

National Plan of Action and Policy for the Elimination of Child Labour

The main theme of the Plan is to provide a strategy to promote rehabilitation child care and child education. The achievement of this goal cannot be made possible unless there is a will and partnership on the part of parents and community vis-h-vis the government. Parents should have the conviction that the future of their children can be protected by collective efforts. Society should realize that children have a place it schools and not at workplaces. They have a right to their childhood that should not be impaired in any case. Childhood becomes enjoyable in the process of learning and is painful when it is subjected to hazards, abuse and exploitation. The state has obligation to ensure that its sanctity is not violated. It is in

this spirit and belief that the Action Plan and the Policy, futuristic in approach, has been developed.

The National Plan of Action (NPA) for Education for All (2001-15) and Education Sector Reforms (ESR) Action Plan 2001-05

The National Plan of Action (NPA 2001-2015) formulated by the Federal Education Ministry has defined national-level targets for key education indicators in three EFA sectors: (1) early childhood education; (2) primary education; and (3) adult literacy; and identified the corresponding physical infrastructure required to achieve these respective targets. According to the UNESCO, Pakistan is behind its targets. Some of the district governments started the District Education Plans (DEP) aiming to include child labour concerns like provision of education to children withdrawn from hazardous work and safe working conditions in the work place. These interventions have somehow not been effectively resulted in making a difference and child labour continues to increase.

FATA Child Protection Policy

The Child Protection Policy for Federally Administered Tribal Areas were approved in Jan 2012.

List of legal provisions/laws

The Child Marriage Restraint Act 1929

Child Marriage and Restraint Act 1929 specifies age of marriage as 16 for girls and 18 for boys. If a marriage takes place below these ages, the parties are to be punished with imprisonment or with fine or with both. Persons performing the contract or directing it are to be punished in the same way. Where the marriage of a young girl is arranged by her guardian, she can repudiate the marriage on the attainment of puberty. This provision of Islamic law is called the option of puberty and is incorporated in the Dissolution of Muslim Marriages Act, 1939 and provides an additional ground to a woman on the basis of which she can have her marriage dissolved.

The harmful traditional practices of Vani, Swara and Walwar are also un-Islamic and there have been steps to ensure these practices are illegal. On January 4, 2005, PPC Section 310 was amended to outlaw exchange marriages. The accompanying sentencing guidelines for those found guilty is a minimum of 3 years and a maximum of ten year imprisonment. The ratio of Vani cases decreased after the coming into force of the PPC's Section 310A.

Juvenile Justice System Ordinance 2000

The formal system of juvenile justice in Pakistan is still at an infantile stage. The Juvenile Justice System Ordinance 2000 (JJSO 2000) was promulgated in 2000 with the intention of setting up the juvenile justice system in the country. The highlights of Juvenile Justice System 2000 are as follows: it defines a child up to 18 years of age, children cannot be handcuffed, separate juvenile courts for trials, borstal homes for detentions, free legal aid for juveniles and establishment of panel of lawyers, children should be released on probation, children should not be detained over four months, children cannot be given death penalty, etc. Unfortunately, Federally-Administered Tribal Areas (FATA) and Provincially-Administered Tribal Areas (PATA) still remain under the traditional criminal justice system. Then, there are a number of special legislations, which undermine and override the implementation of the JJSO in all the provinces of Pakistan including Islamabad Capital Territory. Firstly, juvenile offenders charged under the Anti-Terrorism Act (Second Amendment) 1997 (ATA), does not come under the purview of the JJSO, which makes them vulnerable to death penalty. Secondly, the Hudood Laws of 1979, which apply to specific offenses including rape, adultery, use of alcohol and drugs, theft, armed robbery and slander, override the JJSO, including the minimum age provisions. Thirdly, under the Frontier Crimes Regulation (FCR) 1901, children as young as three years have been charged under its collective responsibility clause. The laws relating to vagrants in Pakistan are discriminatory in nature. The Punjab Vagrancy Ordinance 1958 (PVO) says, "Any police officer may without an order from a magistrate and

without a warrant, can arrest and search any person who appears to him to be a vagrant and may seize anything found on or about such a person which he has reason to believe to be liable to confiscation under this Ordinance.” This law is used against street children without discrimination and with impunity.

The Abolition of the Punishment of Whipping Act was enacted in 1996. Section 3 of the Act provides: “Except in cases where the punishment of whipping is provided for as Hadd, no court shall award a sentence of whipping under any law for the time being in force.” By section 4 of the new Act, the 1909 old Whipping Act is repealed. The Abolition of the Punishment of Whipping Act explicitly preserves whipping provided for as hadd. A hadd (plural hudood) is an offence laid down in the Quran, for which the penalty is also laid down in the Quran or the Sunnah. The Abolition of the Punishment of Whipping Act has not touched the provisions of the Pakistan Prisons Act, 1894 and the Pakistan Prison Rules. These provide that the superintendent of the jail may award up to 30 lashes (up to 15 lashes for children under 16 years old) for serious prison offences committed by male criminal prisoners.

Birth Registration

The Birth, Marriage and Death Registration Act 1886 states that Provincial Governments shall establish general registry office for keeping such certified copies of registers of birth and deaths registered under this act. The Cantonments Act 1924 deals with registration of children in cantonments. The Local Government Ordinance 2001 makes the Union administration responsible for registration of births, deaths and marriages and to issues certificates. National Database Registration Authority Ordinance 2000 also provides for the registration of a citizen under 18 years by his/her guardian/ parent, not later than one month after his/her birth.

The National Registration 1973 was promulgated by the Bhutto government and introduced the concept of issuance of a national identity to every citizen of Pakistan above the age of 18 years. Under the Act, all citizens of Pakistan, regardless of whether they are in

Pakistan or abroad, are required to register the births and deaths of their children with the concerned officer.

Legal Protection against Child Labour

Constitutional Protection Article 11(3) of Pakistan provides protection of children against employment; states that no child labour should be employed in factories, mines and hazardous occupations.

Employment of Children Act 1991

Employment of Children Act 1991 is the national law dealing with employment of children in Pakistan. It contains the following features: (a) It regulates as well as prohibits employment of children in certain Occupations and Processes. Four (4) occupations and thirty four (34) processes are banned where children under 14 years of age are not permitted/ allowed to work. (b) Regulation means that children will get special concession comparing the adults. The employer should be responsible to provide safe and secure working environment, follow work time/ hours for children which will not be over seven hours per day (including one hour break), no over-time, reporting to the labour inspector, etc. (c) Any person can report to First Magistrate and file a complaint without registering an FIR with police.

Upon violation of ECA, the employer or any person who employs any child or permits any child to work in contravention of its conditions, is punishable with imprisonment for a term extending up to one year, or with fine extending up to Rs 20,000, or with both. Repeating the same offence means that the offense is punishable with imprisonment for a term extending up to two years but which shall not be less than six months.

There are major issues with its implementation. The law is not enforced and there is hardly any implementation of the said law. No prosecutions are reported against offenders (employers) under this law in a review done by SPARC (NGO). This law is not applicable on the establishment where the process is carried on by the occupier

with the help of his or her family. This means that if a person is working on brick kiln and if he and his sons are also working, the employer can take the defence that children are only working for their families.

The domestic child labour is not covered by the law and there is no other law which provide protection for children employed as domestic workers. In many countries, child domestic labour is considered to be hazardous occupation because it is difficult to regulate and monitor each house. Therefore no child should be employed under 14, and for children above 14, the employer must make sure that children are given opportunities of education. Traditionally where families take responsibilities of Kafalat of families, it is important they respect rights of children which include survival, education, health, etc. Children as domestic servants are in huge number and all over Pakistan. It is difficult to assess the prevalence because they are among the most invisible workforce of children. It is an extremely difficult group to deal with but one of the ways to begin with is to raise the profile of the problem. Sometimes it is important to prioritize the most harmful, invisible forms of child labor.

Pakistan has ratified the ILO Conventions No. 138 (Minimum age of Admission to Employment) and No 182 (Worst Forms of Child Labour). The Convention 138 demands that no child labour should be employed under 14 years of age (for developing countries) and no child under 18 years of age should be employed under any hazardous occupations. However the age defined for children under Employment of Children Act 1991 is 14 for hazardous occupations/ processes. This should be raised to 18 in accordance with labour policy 2002.

The Act provides for the formulation of a National Committee on the Rights of the Child. TORs are not defined and this Committee is not functional.

Shops & Establishments Ordinance 1969

The Shops & Establishments Ordinance 1969 prohibits employment of a child below 14 years in any establishment. The term 'establishment' is defined under this Law to mean a shop, commercial or industrial establishment, private dispensary, hotel, restaurant, cafe, cinema and such other places as are notified by the concerned provincial governments. The Shops and Establishments Ordinance 1969 also regulates the working hours of children between the ages of 14 and 17.

Road Transport Workers Ordinance 1961

The Road Transport Workers Ordinance 1961 remains the only law that bans employment of children below 18 years of age in the road transport sector. For employment of drivers, the minimum age is fixed at 21 years.

Factories Act 1934

The Factories Act 1934 prohibits employment of children below the age of 14 years in any factory. It allows employment of children between the ages of 14 and 17 years provided that they have a certificate of fitness obtained from a certifying surgeon.

Mines Act 1923

The Mines Act 1923, which applies to all mines and oilfields in Pakistan, prohibits the employment of children below the age of 14 years; and disallows even their presence in an underground mine. Children between the ages of 14 and 17 years are allowed to work provided they obtain a certificate of fitness from a qualified medical practitioner. However, their hours of employment are restricted.

Merchant Shipping Act 1923

The Merchant Shipping Act 1923 states that no child below the age of 14 years is to be engaged or carried to sea to work in any capacity in any ship registered in Pakistan, or in any foreign ship, except in a school ship, or training ship; or in a ship in which all persons employed are members of one family.

The Bonded Labor System (Abolition) Act 1992

The hazardous forms by definition also include children who are forced or bonded to work. Pakistan, being a feudal country, still has a large number of bonded children, i.e., those who have either been pledged by their parents for paltry sums of money, or those working to pay off the inherited debts of their parents. The Bonded Labour System (Abolition) Act, 1992 declares all customs, traditions, practices, contracts or agreements concerning bonded labour, whether entered into or in operation before or after the effective date of the legislation, void and inoperative. In April 2000, funds were earmarked, with an initial amount of Rs.100 million, for working children's education and rehabilitation of bonded labourers. In 2001, the Government launched a National Policy and Plan of Action to combat Bonded Labour in Pakistan.

The Bonded Labour System (Abolition) Act 1992 is in line with Pakistan's commitments of ILO conventions No. 29 Forced Labour Convention and No. 105 Abolition of Forced Labour Convention. However, the issue remains the same with BLLA 1992 implementation and the activation of District Vigilance Committees. The law needs to be amended in the light of new local government structure. ILO is already working and reviewing the law but it might be important for SCUK to look into building capacity of Vigilance Committees and monitoring system.

Prevention and Control of Human Trafficking Ordinance 2002

This ordinance partially covers the problem because it includes inter-state trafficking and administered by FIA. The Government brought this in 2002 on the threat of economic sanctions and rules were notified in 2005. This Ordinance applies to all children aged less than 18 years. A bill soon to be tabled in parliament is introducing amendments in Pakistan Penal Code (PPC) to cover internal trafficking comprehensively.

- **National List of WFCL**

- During the year 2001 and 2002, the Government of Pakistan carried out a series of consultation with tripartite partners and stakeholders which include relevant government departments (Labour, Social Welfare), Employers, Trade Unions and NGOs. In the process various occupations and categories of work were identified which were considered to be hazardous under the provision of the ILO Convention on the Worst Forms of Child Labour No 182. As a result, a list of hazardous occupations was prepared. Initially 29 occupations were listed as hazardous but in Dec 2005, five more were added.
- **Child protection and welfare Bureau** is an autonomous body of Government of the Punjab mandated to protect and rehabilitate destitute and neglected children through provision of an environment that maximizes opportunities and for childhood development and promotes access to education, health care and psychological well being. A complete detail of the services available through them is available at

- **List of legal provisions**

The government of Pakistan ratified the Convention on the Rights of the Child in 1990 with the reservation that its provisions will be expressed due according to Islamic values and principles. The national commission for child welfare and development is responsible for monitoring the implementation of CRC in the country. Key achievements so far had been as follows:

- Ratification of the Optional Protocol to the UNCRC on the Sale of Children, Child
- Prostitution and Child Pornography.
- The Criminal Law (Amendment) Bill, 2013 was drafted and processed while keeping in mind the international commitments and legal requirements. The Bill proposed amendments in the Pakistan Penal Code (PPC) and Code of Criminal Procedure (CrPC) to harmonize these with the UNCRC. The Bill was approved by the Cabinet Division and further

- Ministry of Law, Justice and Parliamentary Affairs has been requested to present the same in the Senate.
- The Honourable Prime Minister has announced establishment of National Commission on the Rights of the Child Bill 2013 during the concluding session of National Conference on Child Rights on 12th October, 2012. Accordingly, the Government has drafted National Commission on the Rights of the Child Bill which covers all aspects of child rights. In this regard, National and provincial consultations with the stakeholders have been conducted. The said Bill has been shared with the stake holders to get their feed back before submitting it to the Cabinet.
 - **List available facilities provided by the governmental institutions (access to accommodation facilities, health care system, education etc.)**
 - **Punjab Vocational Training Council (PVTC)** is an autonomous corporate body established by the Punjab Government through the PVTC Act of 1998. Its mission is to alleviate poverty through Muslim charity (Zakat) and private sector participation by imparting demand driven skill training and enhancing employability for disadvantaged youth. It has a vast network of vocational training institutes being run in different part of the country.
 - **Technical Education and Vocational training authority (TEVTA)** in Punjab has also opened up a number of institutes in Punjab area for vocational trainings.

CHAPTER 2 – OVERVIEW OF THE EXISTING PRACTICES AND METHODOLOGIES IN FAMILY ASSESSMENTS CURRENTLY IMPLEMENTED IN EACH COUNTRY/REGION

2. A– EUROPEAN UNION MEMBER STATES

I - Austria

Currently, there is no institutionalized procedure in place for family assessments in the framework of voluntary returns of unaccompanied minors in Austria.⁵⁰ Accordingly, the questionnaires filled out in the framework of this report indicate that various actors have different perceptions and expectations regarding the meaning and content of a family assessment, and that the distribution of responsibilities in this context is unclear.

1 – Who are the counterparts involved?

As a clear definition of the term ‘family assessment’ is missing in the Austrian context, the interpretations of its purpose are diverse and lead to different expectations regarding the distribution of responsibilities among stakeholders.

According to the Austrian Federal Ministry of the Interior, there are no specific actors appointed formally to carry out a family assessment. In principle, the legal guardian is responsible for the child’s best interest determination. Liaison officers of the Austrian Federal Ministry of the Interior in a number of countries of origin

⁵⁰ Questionnaire Austrian Federal Ministry of the Interior

may be contacted to assist in the assessment of the family situation and/or to provide documents.⁵¹

Authorities in the countries of return are often in a unique position to provide information on the child's environment and more general information about the situation on the ground that other actors cannot access without facing serious restrictions. For this reason, sometimes (and if available) national youth welfare authorities in the countries of origin are tasked with conducting a family assessment, and sometimes they need to be consulted when the legal guardian in the country of return needs to be identified and confirmed. At the same time, it must be considered that authorities of the country of origin – including youth welfare authorities – theoretically cannot be involved if the unaccompanied minor is an asylum seeker in order to ensure his/her right to be protected from potential repercussions by the country of origin.

Upon request, IOM can conduct family assessments in individual cases through its IOM missions in the respective countries of return, for example in the framework of country-specific reintegration projects, which are co-funded by the Austrian Federal Ministry of the Interior and the European Return Fund. Currently the IOM Country Office for Austria implements reintegration projects for voluntary returnees to Afghanistan, Nigeria, Pakistan and the Russian Federation/ the Chechen Republic. However, family assessments are not carried out by IOM on a regular basis for unaccompanied minors who wish to return from Austria.

2 – Which approaches are used in case of lack of relevant information by the minor and/or by the family?

As stated above under chapter 1, most of the stakeholders who completed the questionnaire distributed in the framework of the

⁵¹ Questionnaire Austrian Federal Ministry of the Interior

production of this report view the minor and his/her family as the main provider of information in the context of a family assessment. However, also in cases where information is provided by the minor and his/her family, it is considered important at least by some stakeholders to also access other actors, such as the institution responsible for guardianship and the immigration authorities.⁵² In addition, international organizations such as UNHCR and IOM are considered to be important sources of information, for example by the Youth Welfare of the provinces of Upper Austria and Tyrol.⁵³

Referring to two cases of unaccompanied minors who wanted to return to Mongolia and where UNHCR was approached by IOM to conduct a family assessment due to the absence of an IOM country mission UNHCR explained: *“There were two cases where our colleagues went to the families, spoke to the parents, spoke to other relatives, had to get information from a variety of sources, [...]”*.

3 – Which agencies are conducting a family assessment?

In the past, various institutions in Austria have conducted or initiated family assessments. However, there have been only few cases so far. In cases of minors under the custody of the Crisis Centre Drehscheibe, their institutional counterpart in the respective country of origin (such as the youth welfare), is tasked with this responsibility, as Mr. Ceipek explained in an interview.⁵⁴ IOM Vienna has also tasked IOM missions in countries of origin with the conduction of a family assessment upon specific request of the appointed legal guardians. In two cases where an IOM field mission was not present, IOM Vienna approached UNHCR in Austria who, in turn, requested UNHCR in the respective country of origin to conduct a family assessment.

⁵² Interview N. Ceipek, 6.6.2013; Questionnaire Verein Menschenrechte Österreich; Questionnaire Youth Welfare Upper Austria, F. Gstöttenmair

⁵³ Questionnaire Youth Welfare Upper Austria, F. Gstöttenmair; Questionnaire Youth Welfare Tyrol, M. Mülleder

⁵⁴ Interview N. Ceipek 6.6.2013

The duration of family assessments varies depending on the time it takes to collect the relevant information.⁵⁵ There is no special budget available as such; in the past, this was solved on a case by case basis. IOM Vienna reported a case where a family assessment was conducted in an African country, and where the costs were covered by the General Humanitarian Return Programme funded by the Austrian Federal Ministry of the Interior. There are no specific budget lines foreseen for conducting family assessments.

4 – What are the relevant supporting tools?

As the completed questionnaires and the interviews conducted with different stakeholders suggest, the most important tools for the conduction of a proper family assessment are a pool of experts, preferably from the child protection and social service sector, including national institutions in the country of origin and a functioning network so that different sources for the provision of information can easily be accessed. The UNHCR Guidelines on Determining the Best Interests of the Child, published in 2008 are currently being revised and are expected to be a further important tool for the Austrian context once they are available.

5 – What are the definitions of relevant terms/concepts (as terminology can differ among countries)?

Family

In the Austrian context, various definitions of families are available, many of which focus on the locally most frequent models: a nuclear family consisting of parent/s and child/ren or spouses (in the case of migrants, proof of legal marriage conducted in the country of origin).⁵⁶ The Austrian Civil Code defines the term family more broadly and includes progenitors and all their descendants. This,

⁵⁵ Questionnaire Youth Welfare Upper Austria, F. Gstöttenmair

⁵⁶ § 2 Asylum Act and § 2 Settlement and Residence Act

however, is not very relevant for unaccompanied minors in Austria who want to return to their country of origin. Instead, it seems that the concept of caretaker and legal guardian is much more significant. It is usually the returning minor who informs his/her legal guardian in Austria and IOM about which person he/she plans to return to. It is then assessed on a case by case basis whether the respective person can be considered as capable to take on the care and guardianship of the returning minor. Thus, it appears that the key criterion is not the degree of relationship between the family members, but rather the ability and suitability of the chosen person to assume responsibility of the minor until he/she reaches adulthood.

Family assessment

The term is mentioned in the recently adopted Federal Child and Youth Welfare Act (2013), but not clearly defined, and the distribution of responsibilities among stakeholders depends on the interpretation of the purpose of family assessments.

While it can be used for a) describing the sole act of collecting information on the situation of an unaccompanied minor in terms of his/her family surroundings and their living conditions in the country of origin, it can also refer to b) the analysis of collected information, or c) evaluating/deciding on the family's capability of taking responsibility for the minor. Depending on how this procedure is understood, different actors are in charge of it, such as international organizations, which compile first-hand information on the ground, or legal guardians who represent unaccompanied minors and their interests.

From the perspective of the Youth Welfare in Upper Austria, the family assessment is conducted with the aim to explore the relations within the family and their socio-economic situation.⁵⁷

Guardianship

Austrian law does not provide an explicit regulation for the guardianship of unaccompanied minors. If no adult, such as a close

⁵⁷ Questionnaire Youth Welfare Upper Austria, F. Gstöttenmair

relative, can be found to care for the child, the Youth Welfare Authority is appointed as guardian by the courts (Art. 213 Civil Code). However, this process can currently take up to several months and is in some cases never done. In practice, most unaccompanied minors are assigned a guardian only after they have been admitted to the actual asylum procedure. Only unaccompanied minors under the age of 14 years are provided with a guardian during the admission procedure (CAUAM 2011:22-23).

6 – To what extent is the guardian, case worker, legal representative or social worker involved in the family assessment process?

As family assessments for unaccompanied minors who wish to return are not standardized in Austria, the involvement of stakeholders responsible for the care and representation of unaccompanied minors differs from case to case. However, the legal guardian in Austria, once appointed, is usually involved. Furthermore, Caritas Österreich reported that they collect information from various actors, including the family assessment in the country of origin. These actors are mainly previous legal representatives of the minor (Youth Welfare Authority, legal representative in the admission procedure), social workers in the care facilities, therapists, psychologists or medical doctors if they are/have been in a medical therapy as well as legal guardians and parents.⁵⁸

7 – How are family assessments carried-out, monitored or supervised?

The concrete implementation, monitoring and supervision as well as duration differs from case to case. Mr. Ceipek explained in an interview⁵⁹ that the local youth welfare authorities that the Crisis Centre Drehscheibe cooperates with in the countries of return and

⁵⁸ Questionnaire Caritas Austria

⁵⁹ Interview N. Ceipek, 6.6.2013

which provide accommodation and care to the returned minors upon arrival usually evaluate the desire and possibility for the child to be reintegrated into his/her family. As the necessary information is sometimes collected in the framework of various assessments, a steady monitoring of previous findings takes place. In the case of unaccompanied minors who returned from the Crisis Centre Drehscheibe with the assistance of IOM, regular monitoring reports assessing the family situation among other factors are provided to the Crisis Centre Drehscheibe by the local IOM mission.

In the cases where IOM Vienna asked its IOM counterparts in the countries of return to provide information required to assist an UAM in his/her voluntary return (namely whether the parents agree to their child returning and whether they take responsibility until adulthood), requested information could be obtained within a few days.

8 – What are the elements of a family assessment report?

The elements of respective reports also differ from case to case. In a previous case of an unaccompanied minor who wanted to return to an African country, the local IOM mission only examined the willingness of the parents to take responsibility of the returning child, and whether they agreed with the minor's wish to return voluntarily. In cases where IOM in Austria was approached by the Crisis Centre Drehscheibe with the request to conduct family assessments for minors staying at this institution, the Crisis Centre Drehscheibe asked for a medical history of the family, the incidents prior to the emigration of the minor, and the current family situation. The youth welfare institutions in the countries of return the Crisis Centre Drehscheibe cooperates with usually examine the socio-economic situation and capacity of the family to receive the minor.⁶⁰

⁶⁰ Interview N. Ceipek, 6.6.2013

9 – How is confidentiality upheld in the process?

The safeguarding of confidentiality differs from case to case. The Federal Child and Youth Welfare Act concretely obliges legal guardians to treat the data of the children for whom they are responsible confidentially. The Act states that the legal guardian or the responsible child care institution must undertake the necessary precautions to ensure confidentiality according to the Data Protection Law (*Datenschutzgesetz*) of 2000 and are only allowed to inform relevant stakeholders (youth welfare authority, court, prosecutors) upon request or when the safety of the child is at risk. Additionally, in the case of asylum-seeking unaccompanied minors, who constitute the majority of unaccompanied minors in Austria, their data cannot be shared with authorities in the country of return.

2- Belgium

Similarly as for Austria, an institutionalized procedure for family assessments for UAMs does not yet exist in Belgium. Caritas International and IOM Country Office in Belgium have been implementing their own methodologies through various projects targeting UAMs but these methodologies are not automatically implemented at a national level.

IOM Belgium has been working on projects focusing specifically on UAMs since 2008 with the project entitled “Exchange of information and best practices on first reception, protection and treatment of unaccompanied minors”. More recently, IOM Belgium implemented a “Pilot project for an enhanced reintegration approach as durable solution for Moroccan Unaccompanied Minors – and former Unaccompanied Minors - identified in Belgium” (01/01/2012 – 30/06/2013) and is currently implementing a similar project with “An enhanced reintegration approach as durable solution for

Unaccompanied Minors and former Unaccompanied Minors from Afghanistan and Democratic Republic Congo (DRC) identified in Belgium” (01/01/2013 – 30/06/2014). Both these projects had/have a family assessment component included in their activities. During the pilot initiative in Morocco family assessment tools and methodology were further developed and adapted to the Belgian and Moroccan context. These tools were then used, and adapted when needed, for the project targeting UAMs from Afghanistan and DRC. Apart from these three specifically targeted countries, IOM’s REAB program include vulnerable cases and is thus accessible to UAMs from other countries of origin.

A similar situation is applicable with Caritas International who also has specific projects focusing on UAMs from specific countries (Cameroon, Guinea and Pakistan) and other general projects where UAMs are integrated as part of the vulnerable category. Caritas’ practices and methodologies in family assessments are being implemented in the framework of the following projects: “Assessment voluntary return and reintegration for Unaccompanied Minors” in cooperation with the ERSO-network, especially with the Netherlands (Maatwerk bij Terugkeer) and the UK (Refugee Action)⁶¹.

1 – Who are the counterparts involved?

- The legal guardian: In **Belgium** guardians must be appointed to all unaccompanied children. The purpose is to find a durable solution for the children. There is no exact definition of the concept sustainable solution, which may include a family reunification, a return to the country of origin or to the country in which he/she is authorized to reside or where a stay was granted, and authorization for permanent

⁶¹ For more information, please visit <http://www.erso-project.eu/>

residence in Belgium. Eventually the immigration department is authorized to decide on the durable solution for the minor.⁶²

- Social assistant: from the reception centers
- Relatives in Belgium and /or in the Country of Return (origin)
- Return counsellor of the REAB-partner⁶³ and the Reintegration Service of Caritas:

Within the reintegration service of Caritas each counsellor is responsible for a specific region(s).

The reintegration counsellor is the intermediary between the social assistant, the (potential) returnee and the local partner, the reintegration counsellor (specialized per region) and can ensure necessary country information, individual feedback about the reintegration plans, and feedback after return.

5) Local partner (local Caritas or other NGO's) of the CoO: Since 2004 Caritas is active in the field of reintegration support after return and has developed a network of local partner NGO's in 50 countries, most of them Caritas organisations (structural partners or service fee based).

2 – What are the main objectives of the procedure?

→ Gathering “information” during the pre-return procedure

If an unaccompanied minor expresses his/her will to return (or thinking about return to) his/her home country, he or she (or the guardian) can take contact with the reintegration service of Caritas

⁶² Federale Overheidsdienst Justitie,
http://justitie.belgium.be/nl/themas_en_dossiers/kinderen_en_jongeren/niet-begeleide_minderjarige_vreemdelingen/voogd/duurzame_oplossing/, 21/06/2013

⁶³ To perform the necessary REAB activities and ensure the possibility of migrants to easily access the programme at each stage of their stay in Belgium, IOM has developed an extensive network of partners covering the whole territory of Belgium. The REAB network consists of a combination of non-governmental organisations (NGOs), local authorities (some cities and communes), and governmental structures for reception of asylum seekers such as Fedasil and Red Cross reception centres (Flemish Red Cross, French speaking Red Cross), migrant associations and Immigration Office.

International (directly or through a REAB-partner). Depending on the needs the UAM/guardian can take with the local partner, the local partner can take contact with the family; examine the reintegration possibilities after return etc. (*see further*)

→ The assessment is an ongoing process: see the role of the guardian (durable solution) and the determination of the best interest of the child. In Belgium restoring/maintaining of contact with the family is one of the prime responsibilities of the guardian. CIB is convinced that family involvement is necessary to be able to work with migrant children for several reasons. Usually family involvement is linked to voluntary return. However, restoring or maintaining family links does not necessarily mean return or reunification.⁶⁴

3 – Who is conducting the family assessment (including duration and budget)?

- The assessment is done by the local partner (local Caritas or other NGO) in the respective Country of Origin in cooperation with the guardian, UAM, social assistant, return and/or reintegration counsellor, and family.
- The duration of the family assessment depends on the case, it even can take some months: if an UAM finally decide to return he/she wants to return as soon as possible, but a family assessment and the gathering of all documents can take a long time.

⁶⁴ Caritas Internationalis, Caritas International Belgium and the US Conference of Catholic Bishops Migration and Refugee Services contribution to the Day of General Discussion on “The Rights of All Children in the Context of International Migration” of the United Nations Committee on the Rights of the Child September 2012

4 – Brief description of the project within which the family assessment is conducted

- National reintegration project and “STAVR”

The family assessment is conducted in the frame of the **"Strengthening Tailor-made Assisted Voluntary Return"- STAVR-project**, funded by the European Return Fund as well of **the national reintegration project**, funded by the Federal Agency. Through the STAVR-project Caritas seeks to increase the chances of successful reintegration for people returning voluntarily to their country of origin after their stay in Belgium.

We do this by providing a substantial reintegration budget as well as professional and individual counselling and assistance both before departure and after their arrival in the country of origin. The local partner organizations develop a network in their respective countries to ensure professional and individual social assistance as well as business counselling in all important areas of the country. In cooperation with our local partners, we want to assist people who return from Belgium for minimum one year after their return in order to look for individual solutions for the specific difficulties they might encounter.

We can offer extra intensive assistance for three specific target groups: to returnees who like to start up a micro-business, to people who wants to do job placement, and vulnerable returnees.

- Regarding the UAM:

An unaccompanied minor needs an adequate and tailor-made offer of assistance before and after return. The preparation of a voluntary return acquires an essential role in the sustainability of the reintegration. To carry out this preparation as complete as possible, it will take place on two levels: the preparation of the minor returnee

and, at the same time, the awareness rising of the family in the country of return.

In 2013 the focus lies on three countries Guinea, Pakistan and Cameroun. But the reintegration service can be provided in all the countries where Caritas is active in the field of voluntary return and reintegration.

(For more information please visit <http://www.reintegrationcaritas.be/>)

- SURE-VD

ERSO-SURE stands for ***Sustainable Return of Vulnerable and Disabled persons***. The partners' main objective is to strengthen links between returning asylum seekers and migrants, and available socio-economic structures in the countries of origin and at developing vulnerability criteria, drafting a guiding manual for the reintegration of vulnerable groups, and publishing lessons learnt and good practices. Reintegration counsellors in Europe are trained on the assessment of vulnerability and how to respond appropriately.

A person meeting these vulnerability criteria, such as minors, (single and/or pregnant) women, elderly, victim of trafficking, persons suffering from a physical or mental illness, and families, returning to Iraq, Mongolia and Pakistan receives tailor-made sustainable reintegration packages with an additional focus on medical assistance based on his/her/their needs.

(For more information please visit <http://www.erso-project.eu/>)

5 – What is the duration of the family assessment?

- The duration of the family assessment depends from one case to another, it can take some months: if an UAM finally decide to return he/she wants to return as soon as possible, but a family assessment

and the gathering of all documents can take a long time. (So it is important to see the assessment as an **“ongoing”** process)

6 – What are the elements of a family assessment report?

- To check the family and living situation in the CoO (socio-economic situation, housing)
- To know what is the opinion/vision of the family regarding the return of the youngster? The role of the family cannot be underestimated in certain procedures (e.g. voluntary return is not possible without authorization of the parents). In a lot of the cases the minor has been sent by the family with a specific mandate, pushed to migrate for the benefit of the family: find work and sending money, study, the European dream, etc. The dream of a family to become a little more prosperous as well as the extreme poverty of many families might have pushed them to collect all possible savings or to borrow plenty of money in order to support the travel. So he needs the mandate of the family to go back because as long as the family does not agree with his/her return, the minor has very limited changes to reintegrate. So looking at the reasons why a youngster left the country as well as the reasons for return (push and pull factors).
- To gather Country Information (country-specific risks that would face the young person returning to a particular part of the country)
- To look at other risks (e.g. evidence of physical, emotional, sexual abuse, neglect, trafficking)

3- Hungary

1 – Procedures conducted by the OIN - Dublin procedure, return procedure

As previously mentioned, there are no special procedures for family assessment or special institutions whose main task would be to conduct such an assessment.

Although the Dublin procedure and the return procedure are carried out by different departments of the Office of Immigration and Nationality (OIN), the Refugee Affairs Directorate as well as the Aliens Policing Directorate both use the same tool to collect information about the family background. In the majority of the cases the only tool is the personal interview. Most unaccompanied children cannot present valid documents or other materials to confirm the statements given during the interviews with different authorities. Therefore, the personal interview is the crucial instrument to provide adequate and sufficient information. The authorities usually share with each other the written records of the interviews made with the same client. In the Dublin procedure, the OIN already has a copy of the report written during the first interview with the Police upon arrival in Hungary. If the return procedure was preceded by a refugee status determination procedure (RSD procedure), several records are available for the competent authority, which all contain relevant information about the family.

According to the Guardianship Office,⁶⁵ the basic problem is that generally there is insufficient information. Very often even the limited information is inaccurate due to language differences, non-existence of identification documents, proof of origin, birth, etc. Information gained from a written record of the interview often consists only of a summary of the information given by the minor.

Besides the statements of the minor, the proceeding authority has the opportunity to ask for a report from a psychiatrist who is specialised in working with traumatized asylum seekers, refugees and their family members. These reports also summarize the information

⁶⁵ Based on the information provided by the head of the Guardianship Agency of Budapest 5th District on 10 June 2012

given by the client about his/her circumstances. The officer can also refer to a country of origin expert working within the OIN in order to get information about the situation of public childcare institutions or children's rights in the country of origin.

If necessary, the Karolyi Istvan Children's Center, the childcare homes, the Hungarian Red Cross, the Guardianship Office, IOM Budapest and the IOM Mission in the country of origin, Interpol and SIRENE⁶⁶ can be contacted in the proceedings in order to obtain adequate information on the subject.

Both the Act LXXX of 2007 on Asylum ("the Asylum Act") and the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals ("the TCN Act") operate with similar definitions. Since the Dublin procedure, as a part of the RSD procedure, usually precedes the return procedures, the officers in the different procedures operate with similar definitions. The two legal instruments define an unaccompanied minor as a third country national under the age of 18 who either entered the territory of Hungary without an adult responsible for his/her supervision or remained without supervision upon entry.⁶⁷

There is a slight difference between the definitions of the concept of family. The Asylum Act lists as family members the foreigner's minor

⁶⁶ Supplementary Information Request at the National Entry. The main task of the "SIRENE Bureaux" established in all Schengen States is the exchange of additional or supplementary information on alerts between the States;

⁶⁷ Section 2 f) of the Asylum Act: unaccompanied minor: a foreigner not having completed the age of 18 years who entered the territory of Hungary without the company of an adult of age responsible for his/her supervision on the basis of a rule of law or custom, or remained without supervision following entry; as long as s/he is not transferred under the supervision of such a person.

Section 2 e) of the TCN Act: unaccompanied minor: shall mean third country nationals below the age of eighteen, who arrive on the territory of Hungary unaccompanied by an adult responsible by law or custom or minors who are left unaccompanied after they entered the territory of Hungary, as long as they are not effectively taken into the care of such a person.

child (including adopted and foster child), parent(s) if the person seeking recognition is a minor, and the spouse in case the family connection existed prior entering Hungary.⁶⁸ The TCN Act adds the minor child of the spouse as a family member.⁶⁹ In both procedures unaccompanied minors should be treated as vulnerable persons with special needs because of their individual situations.⁷⁰

All migrants who claim to be under 18 are subject to an age assessment procedure when their age is in question. The age assessment conducted in Hungary is often unreliable. It was reported that the procedure lasts between 10 and 15 minutes and mostly consists of examinations of the alleged minor's teeth and bones. Since this type of examination cannot provide accurate information, it is very often concluded that the age of a child whose age is disputed ranges between 17 and 19. According to the Hungarian Commission for Fundamental Rights (Ombudsperson), this practice is in breach of the best interest of the child principle⁷¹. Only an independent and multidisciplinary age assessment should serve as a basis to refuse a child to benefit from the protection afforded by the child protection system. The benefit of the doubt should apply and

⁶⁸ Section 2 j) of the Asylum Act: family member is:
a foreigner's

- ja) minor child (including adopted and foster child);
- jb) parent(s) if the person seeking recognition is a minor;
- jc) spouse in case the family connection existed prior entering Hungary.

⁶⁹ Section 2 d) of the TCN Act: family member' shall mean:

- da) the spouse;
- db) the minor child (including adopted children) of a third-country national and his/her spouse;
- dc) the minor child, including adopted and foster children, of a third-country national where this third-country national has parental custody and the children are dependent on him/her;
- dd) the minor child, including adopted and foster children, of the spouse of a third-country national where the spouse has parental custody and the children are dependent on him/her;

⁷⁰ Section 2 k) of the Asylum Act and Section 2 t) of the TCN Act.

⁷¹ Supplementary Report by the Parliamentary Commissioner for Civil Rights in the case number AJB 497/2010

the concerned individual should therefore have the right to gain the protection of the child protection system.

1.1 – Dublin procedure

The first interview with the unaccompanied minor is carried out by the officer of the OIN Refugee Affairs Directorate in the framework of the preliminary procedure of the RSD procedure. These interviews are usually very brief and focus on the elements of the persecution therefore there is no opportunity to map the circumstances of the family in details.

The Refugee Affairs Directorate also makes the decision on interim care arrangements and the appointment of a guardian.⁷² These care arrangements include the placement in a special facility, Karolyi Istvan Children's Centre, which accommodates unaccompanied minors and which employs the guardian. The Guardianship Office is responsible for the appointment of the guardian and controls the activity of the guardian.

If necessary, the OIN initiates family tracing, which is carried out by the Hungarian Red Cross. When trying to trace the family members of the minor and to make an assessment, the authorities generally have to rely on the information that they receive from the minor in his/her verbal statements. When conducting a family assessment, it is very important to establish whether the child is registered and has come into contact with any unit or organization within Hungary in order to get all the information needed.

A legal guardian is appointed for every unaccompanied minor by the Refugee Affairs Directorate in the RSD procedure.⁷³ The legal guardians are responsible for assisting the minor in all proceedings. There are no special requirements for the appointed legal guardians;

⁷² Sections 48 (1a) and 56 of the Asylum Act.

⁷³ Section 35 (6) of the Asylum Act.

the selection is solely a choice of the proceeding authority. Due to the lack of special training and experience, most legal guardians cannot provide effective assistance in protecting the child's best interest. They mostly pay attention to the formalities, participate at the hearings and do not examine the further conditions of the minor. The Hungarian Helsinki Committee (HHC) has found that it depends solely on the OIN officer in charge of the particular case to what extent the child's best interest is respected.

Contact between the unaccompanied minor and the legal guardian is very important. The May 2011 amendments to the Asylum Act ensure daily and regular contact between the minor and the guardian. In Hungary, the child protection practitioners at the Karolyi Istvan Children's Center in Fót have the closest contact with the minors, their lives and their cases and the guardians are involved in the family assessment. The case guardian, who is appointed by the Guardianship Office and employed by the Karolyi Istvan Children's Center, is responsible for the representation of the child in the RSD procedure. A guardian is appointed following status determination of the minor. As the guardian is the carer, the legal representative of the child and in charge of the child's property, his/her involvement and role in the family assessment and in the gathering of information regarding the minor's case is very important.

The length of a family assessment may depend on numerous factors, such as the availability of necessary documents and other personal information of the unaccompanied minor, information and details of the parents or relatives in the country of origin, the determination of whether or not family tracing and unification with the family is in the best interest of the child, etc. Since these processes, as already mentioned, involve communication and exchange of information among a network of bodies and organizations and guardians and depend on a number of factors, the entire process can take several months.

1.2 – Return procedure

The TCN Act contains further conditions if an expulsion order is issued in a case involving an unaccompanied minor. In addition to the general conditions, in the case of an unaccompanied minor the prohibition of refoulement also prevails and he/she cannot be expelled if adequate protection is not ensured in his/her country of origin or in a third country by means of reuniting him/her with other members of his/her family or by state or by other institutional care.⁷⁴ When applying the provisions regarding expulsion, voluntary return and deportation the authority shall proceed with special attention to the needs of unaccompanied children.⁷⁵

The return procedure is carried out by the Aliens Policing Directorate of the OIN, either as a consequence of a failed asylum claim or in case of non-asylum seekers. In case the Aliens Policing Directorate could not obtain all relevant information from interviews conducted either by itself or by another authority in previous proceedings, it uses all channels and tools available to obtain the necessary information. Therefore, the case officer works together with the childcare home that accommodates the minor and also with the legal guardian appointed by the Guardianship Office. To ensure a safe return to the country of origin, the Directorate also contacts the relevant embassies in Hungary as well as the competent ministries in the country of origin. If feasible, local media or social network could be also used in order to gain all relevant information about the family and their circumstances. In a special case even 'Facebook' was used to establish contact with the family members.⁷⁶

As part of the assessment, the Hungarian Ministry of Foreign Affairs is approached by the OIN to provide an assessment of the current

⁷⁴ Section 45 (2) of the Asylum Act and Section 45 (5) of the TCN Act.

⁷⁵ Sections 42 (8) and 65 (10) of TCN Act.

⁷⁶ Based on the information provided by the Aliens Policing Directorate of the OIN on 18 June 2012

situation in the specific country of origin and whether it is safe for the child to return. As part of the communication exchange and gathering of information, the Hungarian Red Cross, who is responsible for tracing through its Tracing Service (hereinafter referred to as “HRCTS”) upon request of the OIN, contacts the Guardianship Office for information regarding the child and its case in order to facilitate the tracing procedure.

The IOM can provide assistance in case of a voluntary return. If the minor has no information about the whereabouts of his/her family, the proceeding authority cooperates with the HRCTS and provides the Red Cross all the necessary information in order to find the family. The duration of the process depends on the destination country's willingness to provide information. In case of nationals from Kosovo/UNSC 1244 the procedure can end in two months, but some other countries are reluctant to reply on time.

When the return procedure is based on a failed asylum claim, the Aliens Policing Directorate can rely on the information the Refugee Affairs Directorate already gained during the RSD procedure. After finishing a detailed in-merit examination of the asylum claim, the authority usually has detailed information on the family situation as well; although they are still based on the information given by the unaccompanied minor during the personal hearings. There are no special tools or guidelines regarding the family assessment. Besides the grounds of persecution, the officer in charge of the case has to ascertain also the minor's circumstances prior to the flight from the country of origin. The officer has to examine the future situation of the family that remained in the country of origin or if the minor lost his/her family, the conditions of the childcare system. The examination has to cover the socio-economic situation of the family, the relationship among the family members, their whereabouts, and capacity and willingness to take the minor. The information gained through the personal hearings is also used by the proceeding authority in the return procedure. According to the Asylum Act, cases

of unaccompanied minors should have priority.⁷⁷ The refugee authority should run a prioritized procedure, but according to the experience of the HHC, these procedures last equally long as in case of adult asylum seekers. That means the refugee authority has 30 days to decide in the preliminary procedure about accepting the claim, and an additional 60 days to decide on its merits.

There are no special legal provisions regulating confidentiality but it is a basic principle which should be respected during the whole asylum procedure. It applies for the family assessment as well. If the family tracing serves the best interest of the child and he/she agrees on finding the family members, the refugee authority contacts the HRCTS. The social workers usually help to fill out the relevant forms for HRCTS.

There is no special supervisory body for family assessment. Supervision of the family assessment takes place in the framework of the judicial review of the decision rejecting the asylum claim. The court has to review every action that was taken in the RSD procedure, including whether the authority respected the best interest of the child. Based on the request for a judicial review, the Litigation Unit of the OIN also has a power to withdraw the decision if it violates the law and order the acting authority to renew the procedure.

As the family assessment is carried out in the framework of the relevant OIN procedure, there is no separate budget for it. The family tracing of the Hungarian Red Cross Tracing Service is free of charge.

2 – Special situation of non-asylum seeker foreign unaccompanied minors

⁷⁷ Section 35 (7) of the Asylum Act.

According to the CRC, the child's citizenship, asylum or alien status should be of secondary importance, the minor must be treated primarily as a child, regardless of his/her status.

The Child Protection Act does not distinguish between Hungarian and foreign national children. It includes foreign unaccompanied minors in its scope when a minor has no adult to be responsible for her/him. As foreign unaccompanied minors are also at risk or might suffer inevitable physical or psychological damage they should be taken in temporary placement.

Foreign non-asylum seeking unaccompanied minors are placed in regular childcare homes by the Police where they are provided with accommodation and protection services.⁷⁸ The directors of the childcare homes have the duty to report new arrivals to the Guardianship Office, while the OIN Aliens Policing Directorate remains the institution in charge of the child's repatriation. When the child is involved in a criminal or administrative procedure, the Guardianship Office appoints a guardian, if the presence of a responsible adult is necessary. To those minors who are not involved in any other legal procedure, the Guardianship Office appoints a temporary guardian⁷⁹ who is usually the director of the childcare home. Based on the experience of the HHC and other organisations working with foreign unaccompanied minors, in most of the cases the directors have no time or capacity to meet the needs of the foreign unaccompanied minors.

⁷⁸ Section 72 (1) b) of the Child Protection Act.

⁷⁹ Section 64 of the Child Protection Act says:

a) The temporary guardian's mandate is to be the responsible person for the child, if a permanent guardian is not entitled for that – or in cases when special expertise is needed- or if the temporary guardian is not able to perform its mandate as a guardian.

b) The temporary guardian accomplishes property management task, when the Guardianship Office does not authorize the permanent guardian to be the property manager of the minor"

The rules on appointing the legal guardians do not comply with the principle of the best interest of the child. The UN Committee on the Rights of the Child's⁸⁰ emphasises that a guardian should be appointed to a foreign unaccompanied child as expeditiously as possible. In the current Hungarian practice, there is a waiting period of 30 days before the official appointment of a suitable guardian by the Guardianship Office takes place. That is rather the result of a flaw in the current procedures established by law that should be revised.⁸¹

The main problems in the system are lack of information exchange between institutions dealing with the minors and work overload. Capacity and expertise of the child protection workers are not sufficient even to meet the needs of the Hungarian national children. As the foreign children are placed in the regular child care homes, language barriers prevent them to express their needs and understand the situation they are in.

According to the Aliens Policing Directorate, they have a very low number of cases compared to the total number of non-asylum seeking foreign unaccompanied minors, as most children leave the childcare homes to unknown destinations before the repatriation process even begins. The Police, responsible for organising the child's repatriation, can hardly tell the childcare homes the current status and potential outcome of the procedures in which children are involved, while children are always eager to know about their status and future. The research team in the Mario project noticed that professionals working with the minors on a day-to-day basis usually become frustrated because they are not always able to follow up on cases. Child protection workers, when children do not disappear, are neither informed of when the child will be taken by the Aliens

⁸⁰ General Comment number 6 (2005), Treatment of unaccompanied and separated children outside their country of origin, Committee on the Rights of the Child, CRC/GC/2005/6, 1st September 2005 accessed on March 2nd, 2012.

⁸¹ Cazenave P. and Savai R., National background research on non-asylum seeking foreign unaccompanied minors in Hungary, Project Mario, April 2012.

Policing Directorate nor of what will happen to them.⁸² It is arguably one of the reasons that also lead children to leave the home and continue their path. Childcare home directors also have the duty to report to the Guardianship Office, both upon the child's arrival and after a disappearance.

The authorities do not consider the best interest of the child when applying the readmission agreements, and there are no agreements or rules specific to children. As a consequence, there is a risk that the use of the readmission agreements in the cases of foreign unaccompanied minors is contrary to the provisions of the CRC as well as European Union Law. For example, the Return Directive provides that 'before removing an unaccompanied minor from the territory of a Member State, the authorities of that Member State shall be satisfied that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return'.⁸³

In several instances, professionals noted that the placement in childcare homes and their withdrawal from it by the Aliens Policing Directorate for the purpose of return happened within two days. This raises some serious doubts as to the capacity of authorities to verify with their international counterparts that the child will indeed be returned to his/her family, or to a nominated guardian or to an appropriate reception facility. Aware of the difficulties of transnational referral between countries of origin and transit or destination, it is questionable whether authorities have the time to conduct such assessment leading them to be satisfied with the situation, resulting in a return that does not take into account the best interests of the child.

⁸² Ibid.

⁸³ Directive 2008/115/EC of the European Parliament and of the council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

3 – The role of the Guardianship Office in the procedures

Guardianship cases of non-Hungarian citizen minors staying in the territory of the Republic of Hungary are within the exclusive competence of the Guardianship Agency of Budapest 5th District which provides assistance in the Dublin procedure and return procedures.

The Guardianship Office welcomes all new good ideas supporting and facilitating these processes but currently there is no special supporting tool.

The office works with both Hungarian legal terminology and the terminology based on the CRC. In the national law, minors are persons under the age of 18 unless they are married.⁸⁴ From the aspect of the responsibility for offenses and crimes, a minor is a person who is over 14 years old but not older than 18 years. According to the Act IV of 1952 on marriage, family and guardianship, a minor must be under either parental supervision or guardianship.⁸⁵

The Child Protection Act operates with a much broader definition of the family as the legal instruments regulating processes affecting foreign nationals. The family consists of close relatives. Unless otherwise stated, parents, the spouse of the parent, brothers and sisters of the parents, grandmothers and grandfathers, brothers and sisters and own children are all part of the family.⁸⁶

There is no formal mechanism in place to monitor these procedures. Each actor involved in these processes must monitor their work and the decisions that they make. It could be said that the relevant

⁸⁴ Section 12 (1) of the Act IV of 1959 on Civil Code of the Republic of Hungary (hereinafter referred as to Civil Code).

⁸⁵ Section 70.

⁸⁶ Section 5 e) of the Child Protection Act.

organizations and agencies control and monitor one another in the process. When it comes to children's rights and other issues relating to the assessments, the monitoring role is generally taken on by members of the civil society.⁸⁷ Administrative tasks of the guardians and the child protection system in Hungary is supervised by the State, through municipalities and guardianship offices.⁸⁸ The Guardianship Office receives biannual reports from all guardians in which they report on their activities.

Personal information and details obtained from the unaccompanied minor and his/her family members or caretakers should be handled with particular care. Moreover, all the actors involved in handling and exchanging personal information should respect confidentiality in order to protect both the minor and his/her family members and caretaker. Confidentiality is difficult to maintain with such communication and information exchanges among the actors involved. Moreover, in certain instances, publicity of a case and information regarding the minor can facilitate the process and case of the minor. All of the actors and authorities are guided by the law on administrative procedures, in terms of which they must ensure that data which is protected by law does not become public and come to the knowledge of unauthorized persons. According to the Guardianship Office, all of the actors involved hold and protect information individually and public searches with personal information are rarely undertaken. The Child Protection Act has strict provisions on the management of data and the tasks of the institutions relating data protection.⁸⁹

4- Italy

⁸⁷ Information provided by the head of the Guardianship Office of the 5th District Budapest on 10 June 2012

⁸⁸ Section 105 (1) and (2) of the Child Protection Act.

⁸⁹ Sections 134 – 136 A of the Child Protection Act

Based on the DPCM 1999/355 the Ministry of Labour and Social Policies is entrusted with the responsibility to identify an organization, including an international one, for the performance of the family tracing activities in the countries of origin of the unaccompanied minors residing in Italy, who are not asylum seekers.

The current official scheme is in place since July 2012, when the formal agreement between the Ministry and IOM entered into force, following the public tender launched in November 2011. It is known with the official name of the project: **“Family tracing and assisted voluntary return for those unaccompanied migrant children hosted in Italy, in support to the Italian Government”**.

While the main responsibility for unaccompanied migrant children – non asylum seekers – resides with the Directorate for Immigration and Integration Policies of the **Ministry of Labour and Social Policies**, **IOM** has been entrusted with the implementation of the family tracing-assessment in the countries of origin and/or of residence of the minors concerned, as well as of the assisted voluntary return when necessary circumstances exist.

It is worth mentioning that in the complex endeavour of keeping with the census and overseeing the welfare of UAMs, the Ministry avail itself of the collaboration of an in-house independent institution, namely **Italia Lavoro** and of **other contracted entities (currently Ernst & Young)**, that take care of the support services for the data base and the other coordinating services with the social services all around Italy.

The social services of the **municipalities** play a key role, not only as they are directly responsible for the accommodation and welfare of unaccompanied migrant children, but also as they are the entity initiating the request for the actual procedure of family tracing and

assessment. Furthermore, the tracing itself is based on the quality of the data that the social services have collected with the minors themselves.

The procedure was introduced by Law⁹⁰ to respond to International obligations. It was at first, mainly linked to the return of minors; now, the objectives have shifted so to include also collecting information for the social workers, guardians, juvenile courts, and other relevant stakeholders to base the integration paths in Italy.

The main objective is therefore to provide all competent stakeholders with sound background information on the migratory project of the minor concerned – and often of his/ her family – including push and pull factors, identified vulnerabilities and risks linked to the context of origin, together with the socio economic context at large. This involves not only direct contact and observation of the context of the family but also a more extended analysis of the broader milieu, including through contacts with community leaders, local authorities, etc.

The only official procedure existing so far – the IOM project “Family tracing and Assisted Voluntary Return for Unaccompanied Migrant Children hosted in Italy, in support to the Italian Government” - does refer exclusively to **those unaccompanied migrant children who are not asylum seekers** and fall within the remit of the Ministry of Labour and Social Policies.

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- ⁹⁰ Leg. Decree 140/2005 regarding “Implementation of the Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers”, art. 8 on special reception programmes for UAMs and family tracing in cooperation with IOM and Red Cross;
 - Leg. Decree 251/2007 regarding “Implementation of the Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted”, art. 28 on guardianship for UAMs, their accommodation in one of the facilities of the reception system (SPRAR) and family tracing.

Through the collaboration of the social services, UNHCR, the Ministry of Labour and Social Policies, and IOM, also for some border line cases, who had not asked for asylum hoping to be reunited with their relatives residing in other countries in Europe, the procedure of family tracing has been supporting the final aim of assessing the existence of effective family ties, the availability to take care of the minor residing in Italy, and better identifying the interlocutors and steps necessary for the reunification to take place.

The transposition of the EU Directive on the reception conditions also envisages the possibility for the Ministry of Interior to entrust the Red Cross or IOM with the task for carrying out the family tracing for those unaccompanied migrant children who are asylum seekers or refugees. To this respect IOM had conducted a feasibility study on a sample of Afghani minors. Up to now, however, no such experience has been carried out.

The current family tracing procedure is based on the information provided by the minor when interviewed by competent authorities, namely, social workers, policemen, caregivers and educators in the accommodation centers. The lack of reliable information provided by the minors is often the sign of some kind of discomfort on their side. It is normally through intensified and ad hoc dialogues with the social worker-s or caregiver-s that the reasons underling the reluctance can be unveiled. Based on the nature of these reasons further actions can be taken. Normally, the minors are given a more detailed explanation of the aim of the family tracing, so to ensure that this is not the precondition for returning them, nor to punish them for any specific behaviour.

The same type of information is shared with the family when they are reticent. This, at times, requires for the interviewers to contact, and visit, the family more than once. Their participation can only be

voluntary and conscious of the underlining reasons for such an exercise.

As mentioned above, IOM has been awarded for the third time in a row, through public tender, the task of conducting family tracing and when considered as representing the most suitable, durable solution to support the family reunification of unaccompanied migrant children so requiring.

The agreement signed between IOM and the Ministry of Labour and Social Policies lays down the most relevant administrative rules for the implementation of the procedure, including the statutory timing in which, starting from the official request, the Organization has to send back a complete report to the competent authorities, that is to say: 28 natural days from the official request. This timeframe can be extended upon official information by IOM, indicating the reasons for the delay it. It is worth mentioning that the timing when the request is actually started depends on the social services, holding the care of the minor concerned. They may decide to start the procedure immediately, upon arrival, or at a later stage.

With respect to the budget allocation for each family tracing/assessment, the budget amounts to a maximum of Euro 406 per case, accounting for exclusively direct costs needed for its implementation in the countries where the tracing/assessment takes place.

To this end, a percentage of staff and office costs in Italy taking care of the translation of the information from/to Italian and compilation of the final report should also be accounted for.

The main supporting document is made of an interview protocol; this is built on seven main areas, covering the information on the respondents, basic information on the family, on the conditions of the minor prior to migration, the actual migration, including the journey, the situation of the minor in Italy, based on his contacts with

the family, if any, the consideration of the possible reunification, the housing and the socio-economic context. A final section is devoted to remarks and comments by the interviewer-s; these also include the development potentials of the area, to be taken into account in case a reintegration project is to be defined.

The interview protocol has been developed based on a first draft prepared by IOM Rome on the basis of the inputs of the Ministry of Labour and Social Policies and the social services; then refined with the inputs by the interviewers and other colleagues with sound experience in dealing with vulnerable situations.

Since its first draft in April 2008, the interview protocol has been refined several times; in several occasions as a consequence of a joint meeting between most representatives of social services and interviewers from main countries of origin.

- For the procedure being described it is important to stress that unaccompanied migrant children are only those who are strictly non asylum seekers.
- As to family, the main distinguishing element is the need for meeting and discussing with the person-s who has-have the legal guardianship over the minor concerned. At times this also includes those who can exercise the guardianship in view of customary law, rather than written codes. In general, one can say that relatives interviewed include: parents, spouses of parents, sisters, brothers, uncles, aunts, nephews, grandparents, brothers and sisters in law.
- Family tracing in this specific scheme, is rarely aimed at re-establishing the family ties or links that are normally in existence.

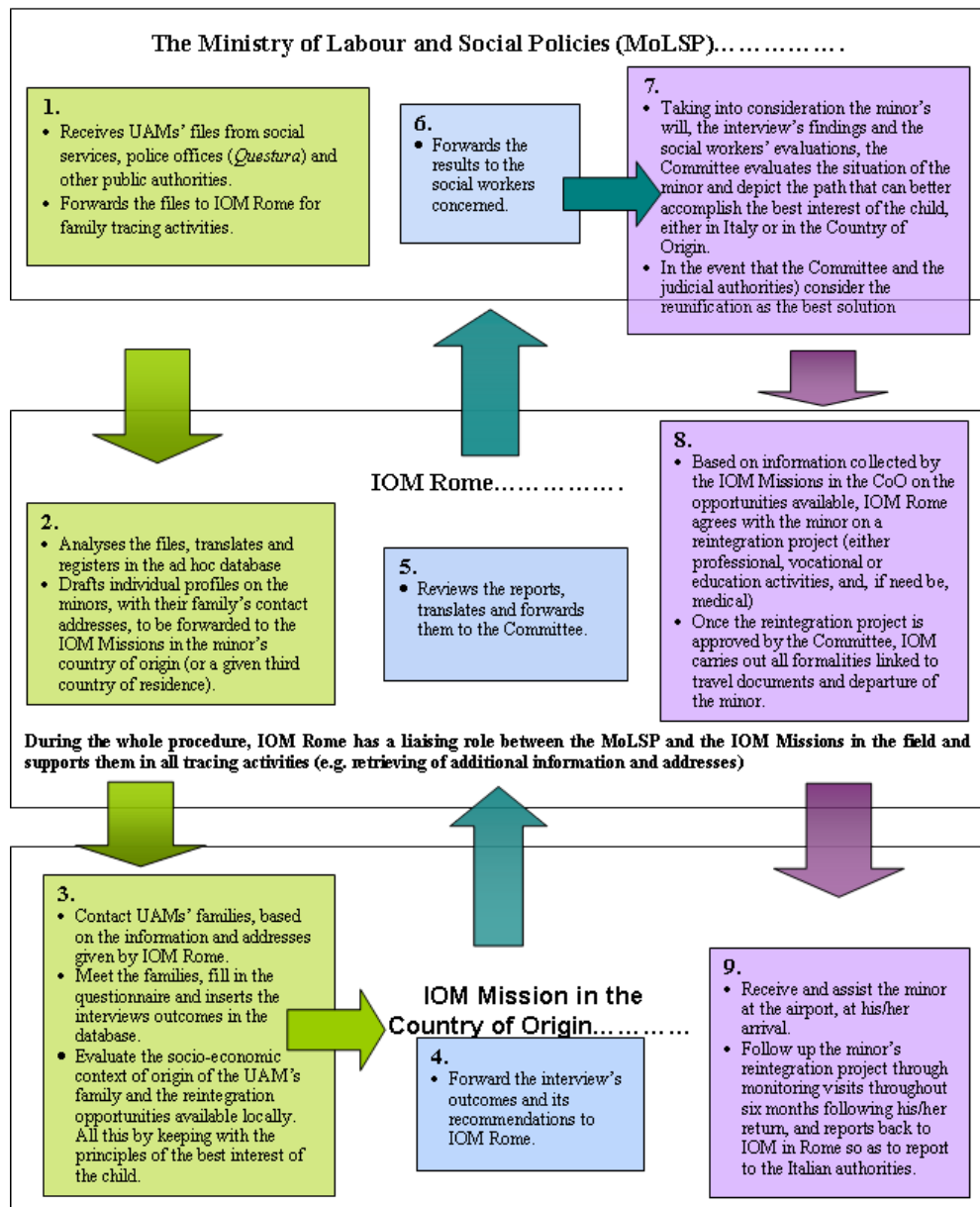
The whole process of family tracing and assessment is initiated by the social services, who have the responsibility and care of the UAMs. The requests are then processed by the “Support Service” to the

Ministry of Labour and Social Policies, which in turn forwards the request to IOM. The latter has the task to create a file based on the reports by the social services that is summarized and translated in relevant language (English, French, Serbian) encoded and transferred to the IOM Mission in the country of origin or of residence of the family. Whenever the tracing/assessment is not feasible for IOM, but nevertheless possible for other agencies-organizations, a specific agreement is signed and the actual tracing-assessment is carried out by the other subject.

Case workers, guardians are involved in such a way that it is through them that the family assessment actually starts and they are the ones receiving the feedback, whatsoever, deriving from this exercise. There are particularly vulnerable cases where their involvement is necessary throughout the whole procedure.

Family tracing and assessment is initiated, as a general rule, by the social services that have the care of the concerned minor. They function as catalyser also in case when the Juvenile Courts or other public authorities request for such a process to take place. The process is described in the chart no. 1 below. Whereby the Ministry of Labour and Social Policies remains the key actor, holding the overall responsibility on the whole process, a number of other stakeholders play an important role.

Chart no 1. The process of family tracing and Assisted Voluntary Return & Reintegration by steps



The quality management for the family tracing phase is ensured by both the Ministry of Labour and Social Policies and IOM. The first stage is taken care of by IOM, while the Ministry performs the final evaluation.

While experience shows that duration of family tracing and assessment may vary according to a number of objective and subjective circumstances – such as natural conditions of the area, difficulties in contacting the family, reticence by the family, huge caseload, security reasons – the agreement signed between IOM and the Ministry of Labour and Social Policies indicates 28 natural days as normal term within which to complete the exercise. No specific timeframe is there for the starting up of the tracing upon minors entering in the care of the social services. There is an underlining principle indicating to start the process as soon as possible. As a matter of fact, information on the family is usually requested and collected during the first contact with the minors.

The family assessment interview and related report are based on a semi-structured questionnaire, which looks at different aspects of the psychosocial and economic context of origin of the minors concerned and their families. The interview protocol that is currently in use in Italy is made of several interlinked sections, looking at the different aspects of the minor's migratory process as well his/her previous life and experiences. In total there are eight sections addressing the following topics:

1. Details of family assessment respondents
2. Details, including bio data of the family members, including components of the extended family
3. Activities the minor was carrying out prior to leaving; problems, expectations
4. The migration process to reach Italy
5. The situation of the minor in Italy based on the knowledge of the family back home

6. Type of contacts with the family back home
7. Housing and context of origin
8. Final remarks deriving from the observation of the interviewers and contacts with local stakeholders

Data confidentiality and protection are safeguarded throughout the whole process by applying the IOM specific principles as well as the Italian legislation in this field. To this end, a form is showed and explained to all interviewees clarifying the purposes of the meeting and observations conducted; this also includes a thorough explanation on the use of the data collected. IOM interviewers make sure all this information is understood and that interviewees consent – in writing - to the use of such information as described to them.

5- The Netherlands

Family Tracing as integral part of voluntary Return and reintegration with IOM in the Netherlands

IOM in the Netherlands has been implementing AVRR projects for unaccompanied children since 2003. Initially, the focus lay on children from Angola and the Democratic Republic of Congo, who represented the majority of unaccompanied minors coming to the Netherlands in the beginning of the new millennium. It was also in those years, that IOM signed the first covenant with NIDOS, agreeing on procedures to be followed with regard to the voluntary return and reintegration of unaccompanied children. In 2007, the first self-standing project for unaccompanied children (UAM+) was introduced and available for unaccompanied minors as well as aged out unaccompanied minors who turned 18+ during their stay in the Netherlands but had applied for asylum before. This first project was followed by UAM 2, 3 and is now in the 4th phase.

IOM in the Netherlands has 21 counsellors who are working throughout the whole country in order to inform migrants about the possibilities of return and reintegration with IOM. In order to meet the special needs of unaccompanied children and legal guardians in informing them about the possibilities and pre-conditions of return with IOM, four designated UAM focal points have been trained to counsel unaccompanied minors.

The pre-departure phase is mainly characterized by the decision making process of the child to return voluntarily to the country of origin. This decision can be influenced by many factors and the legal guardian plays an important role at this stage of the process. Most of the times a rejected asylum application leaves the child with the decision to stay in the Netherlands until he or she turns 18 and an uncertain future as irregular migrant or the return to the country of origin. As NIDOS describes in its note on the sustainable return of UMCs⁹¹, the topic of return needs to be addressed as an integral part of the attendance of the legal guardian.

The return process with IOM thus starts with conversations between the legal guardian and the child on return as a future perspective. IOM can be contacted in order to provide more information on the procedures and already give some individual information depending on the situation of the child in order to support the child as well as the legal guardian during the decision making process. IOM offers to attempt to restore contact with the family in the country of origin, already at this stage.

This is also done due to the fact that before return with IOM can be realized, three essential preconditions need to be fulfilled:

1. The child wants to return and expresses this wish towards IOM him/herself

⁹¹ Een duurzaam (terugkeer) perspectief voor ama's. Commitment van het kind en commitment van de familie. De dubbel C benadering. NIDOS (2013, draft version)

2. NIDOS agrees that return is in the best interest of the child
3. The family (legal guardian) in the country of origin gives consent for the return and agrees to take care of the child at least until he/she turns 18

Apart from the fact that the legal guardian plays an essential role in the decision making process, the social worker in the reception facilities as well as foster families have influence on the decision of the child. Therefore, IOM offers information sessions for them about the possibilities and services IOM can offer with regard to voluntary return & reintegration, so that they are informed about the procedures, pre-conditions and possibilities in order to support the child to make a well-informed decision.

Once the decision is made by the child and the legal guardian an official application form will be signed, indicating that the child wishes to return with IOM. Part of the application is the consent for exchange of data with governmental bodies, such as the Immigration and Naturalization Service of the Netherlands, in order to determine if the child is indeed eligible to depart from the Netherlands with the assistance of IOM. All forms are to be signed by the child and the legal guardian. Once the application form is signed, IOM in the Netherlands requests the mission in the country of origin to have the consent form for return signed by the family accompanied by a copy of an official identification.

In cases where children are not in touch with their family anymore, the IOM counselor in the Netherlands attempts to gather as much information as possible in order to trace the family. This includes information about the last whereabouts, addresses, names, family members, last school the child attended, churches, mosques or other relevant places that were visited by the family on a regular basis. This information is then shared with the IOM mission in the country of origin. The mission can advice if tracing with the information provided is possible or if more information is needed. In recent cases

IOM also made use of phone interviews between the child and the IOM mission in the country of origin in order to make information exchange between the missions more efficient.

The child as well as the legal guardian will be informed about the outcome of the tracing and whether or not the family gives consent for the return of the child. In some cases children have requested that they want to trace family without the knowledge of anyone in order to make a well-informed decision. This is possible prior to signing an application; however, the IOM counsellor always addresses the fact that a tracing might also have a negative outcome and that they advise the child to inform a person they trust about the tracing request.

In cases where tracing is impossible and where no other solution for the reception and legal guardianship of the child can be found, the application for return with IOM has to be rejected. In case the contact with the family is restored and the consent form is signed, this will be shared with the child and the legal guardian. IOM will share factual information about the family (e.g. occupation, size of housing etc) in order to support the legal guardian during the best interest of the child determination and will request the legal guardian in the Netherlands to sign a consent form for return. Once this triangle of agreement about the return between the child, legal guardian in the Netherlands and the family in the country of origin is established, IOM will continue to organize the necessary operational steps.

Obtaining valid travel documents is first and foremost the responsibility of the child together with the legal guardian. If an UMC is in need of a travel document, IOM can assist during the procedure at the relevant consular representation of the country of origin. IOM in the Netherlands has a special unit in the office in The Hague that is solely focusing on the diplomatic relations. They can advise what

documents are needed in order to be able to request a LP and can accompany the UMC to interviews if necessary.

Once a UMC is in the possession of valid travel documents, the IOM department at Amsterdam Schiphol Airport will arrange the booking of a suitable flight. UMCs below the age of 16 will always be accompanied by a social escort during the journey. Ideally, a social escort should be a person that already has a good relationship with the child (e.g. legal guardian, social worker). The child always has the right to express the wish who should accompany him. In cases where UMCs are older than 16, the legal guardian together with the child can decide whether a social escort is needed. All UMCs will receive departure, transit and arrival assistance at the airport.

The family of the UMC will be informed about the arrival date and time and are requested to be present at the airport at the time of arrival. If the family can not be present for valid reasons, IOM will arrange the onward transportation of the UMC to his/her final destination. IOM will always be present during the handover to the family.

Reintegration assistance provided by IOM

IOM in the Netherlands has a variety of reintegration projects that are all available for UMCs as well⁹². However, as mentioned before, the UAM 4 project was specifically designed to meet the needs of UMCs. Apart from the actual counselling and return assistance as described above the project offers:

- Reimbursement for vaccinations

⁹² For more information on the different reintegration projects IOM in the Netherlands can offer please go to: <http://www.iom-nederland.nl/en/vrijwillig-vertrek/2013-03-25-16-23-21>

- Translation and legalization of diplomas obtained in the Netherlands
- In-kind reintegration assistance of € 4000
- First-hand counselling and information provision by IOM reintegration officers from CoO in the Netherlands (IOM reintegration officers will be invited to the Netherlands)
- Empowerment training offered by the project partner Beyond Borders

The reintegration activities are already discussed with the child and legal guardian before departure. Together with the IOM counsellor a reintegration plan will be developed that will already be shared with the IOM mission in the country of origin prior to return in order to receive feedback about feasibility and costs. Reintegration plans are not set in stone and can be altered after return, taking into account the individual needs and wishes that might be different once an UMC is back in the CoO. In the past activities ranged from small business set-up to education and vocational training. The money for the activities is not provided in cash but will only be made available in-kind. Thus, children will not be left to deal with considerable amounts of cash money. IOM will pay suppliers directly or reimburse costs that were made after receiving proofs of payment by the child and his/her family.

The IOM mission in the country of origin monitors the reintegration activities. The monitoring is usually carried out in three phases. A first monitoring relatively early after the return where the reintegration activities are discussed and organized, an interim monitoring where bottlenecks can be identified and addressed and a final monitoring IOM is a project driven organization, which means that monitoring of reintegration activities can only be carried out as long as a project is running.

In order to evaluate the assistance given, IOM the Netherlands visits countries of origin and returnees to hear about their experiences and

recommendations. Furthermore, the IOM missions in the CoO are requested to compile a monitoring report in order to inform IOM the Netherlands about the effect of the reintegration activities.

Return and tracing procedures for UMCs by the Dutch Repatriation and Departure Service (R&DS)

The R&DS is a governmental body that is part of the Ministry of Security and Justice, and is in charge of the departure of migrants who are not allowed to remain in the Netherlands. The mission of the R&DS is "Working together, humanely and respectfully, on a dignified departure. Focus is on voluntary departure, if necessary forced return." It is the task of the R&DS to organize the actual departure of foreign nationals, who are not entitled to a residence permit in the Netherlands. This includes UMCs who were not able to obtain a residence permit.

The R&DS works on the basis of case management. Therefore, special case-managers are appointed, who are responsible for cases considering UMC's. The case-manager interviews the UMC in order to collect information about the family in his or her country of origin. If the UMC does not cooperate with these interviews, the R&DS has to rely on the information the UMC provided about his family and the address where they used to live in his country of origin during the asylum application interviews with the Immigration and Naturalization Service. After collecting this information the case-manager sends the information to the division special departure, where a tracing procedure will be started.

The RD&S case-manager is also in close contact with the legal guardian from NIDOS. During conversations with the legal guardian the case manager collects relevant information about the child and discusses the return strategy. The R&DS and NIDOS agreed that the legal guardian will be present during all conversations with children below the age of 12. If a child is older than 12 years old the R&DS

case worker together with the legal guardian decide if it is desirable to have a legal guardian present.

Furthermore, the case worker will refer the UMC and the legal guardian to IOM to receive more information about voluntary return and the reintegration assistance that can be provided.

Family tracing and reunification are the cornerstone of the return policy towards UMC's. Tracing requests are made, provided that the person concerned is younger than 18 years old. If the family cannot be traced - usually because the UMC's does not provide the required information - and there are general reception facilities in the countries of origin (e.g. Mulemba in Angola), the casemanager arranges the travel to the country of origin and informs the relevant authorities about the arrival. The minor is accompanied during the flight.

There are a number of ways the casemanager can start up a tracing request:

1. Through the Netherlands Ministry of Foreign Affairs (MFA):
 - The casemanager writes a formal request with all the relevant information (possibly with a picture of the UAM) and sends this to the MFA. MFA sends this request to the embassy responsible for the targeted country.
2. Through International Liaison Officer (ILO) of the INS or the Dutch Royal Marechaussee:
 - The casemanager writes a formal request with all the relevant information (possibly with a picture of the UAM) and sends this to the ILO, who uses his local network to trace family.

R&DS experience with family tracing in Afghanistan

Since December 2010 the Unit Special Departures has been focusing on investigating possibilities for the return of UMCs to Afghanistan. Via the Dutch Embassy the Unit Special Departures has been brought in contact with the Identity Checking Unit (IDCU) of the Afghan Ministry of Interior.

The Department agreed with the IDCU to send a Tracing Request for every Afghan UMC under the age of 17,5. The IDCU will then respond with an expected timeframe and cost overview.

There is standard form (see attachment 1) that is used for enquiring information for tracing families of unaccompanied minors.

R&DS experience with family tracing in Iraq (KRG region)

Another country that the Unit Special Departures has been focusing on since mid- 2011, is Iraq and specifically its northern region KRG. The UMC case-manager can send a request to the KRG authorities containing the following info:

- Identity details of the minor
- birth details
- information about the education of the minor
- contact details; (mobile)phone numbers of family/friends
- family data; comprehensive (identity)information of the (grand)father, (grand)mother, brothers and sisters and other relatives
- national identity details of the minor

Furthermore, all copies of documents that proves or demonstrates that the minor is born in or from the Kurdish Region need to be added to the tracing request (see attachment 2).The tracing- result will be known in 5-10 days. If the family is traced, the KRG authorities will make sure that the parents will await the UAM at the airport, and if they are not able or willing to travel to the airport, the KRG

authorities will arrange transport and an escort to bring the UAM to his family home.

So far the R&DS had 2 successful cases of UAM's from Northern Iraq. There are no costs involved in these tracing requests

2. B- COUNTRIES/REGIONS OF ORIGIN

1- Afghanistan

2- Albania

1 – Who are the counterparts involved?

The IOM office in Tirana was initially carrying out the family tracing process on its own as, despite efforts to liaise with the Ministry of Labour, Social Affairs and Equal Opportunities, there was no response which could have rendered possible the cooperation in the field, at least. However, the situation has improved as State Social Services and Responsible Authority have expressed willingness to assist IOM with family tracing especially when cases required delicate interventions with high indicators of minors sent abroad against their will or in risk of being trafficked. The IOM Tirana team conducting the process is composed of two staff and is organized with a gender balanced approach. The team establishes the initial contacts with the families of the minors upon request and indication of correct contact details from the mission in the country of destination.

2 – Which approaches are used in case of lack of relevant information by the minor and/or by the family?

The information provided by the minor in the country of destination is checked during the interview with the family members; if the

family has been reluctant to provide information during the interview or if the given information seems contradictory, other sources, such as the family relatives, can also be contacted following the request and further indications of the sending mission. At times, IOM Tirana has also been consulting the Responsible Authority in the Ministry of Interior or the State Social Services to collect more information on IOM's behalf.

3 – Brief description of the project within which the family assessment is conducted

Most family assessments carried out for Albanian UAMs have been conducted within the framework of an IOM Rome project which started in 2008. It is a family tracing programme for Unaccompanied Minors conducted in the countries of origin in close cooperation with the local authorities and with the support of the IOM missions. The results of family tracing do not necessarily lead to return and reunification with the family but can as well provide guidance for an integration process in Italy. Activities of awareness-raising and presentation of services offered through the project are addressed to authorities working with migrant minors and, when feasible, to Unaccompanied Minors. In addition, the project also supports – through assisted voluntary return – the reunification of minors with their families in the countries of origin following the decision of the Italian Committee for Foreign Minors and relevant judicial authorities on entrusting the minors to competent foster care authorities. These programmes involve origin, transit and destination countries.

4 – What are the relevant supporting tools?

The main supporting tools used for the assessment of the UAM's family are the questionnaire form (described further below) and the Personal Identification Form (or profile) which is composed of

information given by the minor through his interview with the Italian Social Services. Based upon this information, the meeting with the parents/relatives is carried out. The data and picture authorization forms are part of the process to receive the consent of the minor's legal custodian for the use of these data and pictures by the mission and other relevant authorities in the country of destination.

5 – How are family assessments carried-out, monitored or supervised?

The family tracing/assessment is carried out by a team of two interviewers in order to provide more accuracy and impartiality in its report as compared to a single staff interviewer. Similarly, the team being composed of a male and female staff, this gender balance is supposed to make the atmosphere prior to the interview more relaxed. In some parts of the country, mainly the North, the prevalent patriarchal mentality can easily deter a woman, even though she might be the mother of the minor abroad, to take part in an interview, let alone inviting home “unknown male guests” when her husband is away. In this aspect, the presence of a female staff in the interviewing team is seen as having a calming impact prior to the interview. In terms of duration, the family tracing/assessment interview can last from thirty minutes to a full hour.

6 – What are the elements of a family assessment report?

Basically, the information on a report has to do with the following elements: family composition (with current family members, their activity, education, residence), their means of living with information on the family's income generating resources and their living conditions, the situation of the minor prior to his migration (his main worries and reasons why he migrated) and details on the migration pattern (the family's role in the migration plan, the funding of the journey, the route and means used to reach the country of destination). The interviewers also ask about the main worries of the

parents concerning their child and their willingness to have him back or not. As the possibility of a return is also approached, the exchange includes also potential development opportunities in the area to be considered in case of return.

7 – How is confidentiality upheld in the process?

The whole process of interviewing is restricted to the minor's family members only, unless otherwise requested by the sending mission. The family members agree to authorize IOM to deliver the data collected during the interview to the sending missions by signing data and picture authorization forms.

3- Iraq

1 – Who are the counterparts involved?

When the family assessment case is straightforward, namely the parents/guardians in the Country of Origin are aware of it and cooperative, the assessment process can be relatively easier. IOM staff can directly contact the family and fix an appointment to visit the family and do the assessment. In such cases, IOM will be the main actor and there is no need for the involvement of the local authority. However, when there is an obstacle related to the family's unwillingness to receive the minor, representative of the Bureau of Migration and Displacement (in the Kurdistan Regional Government) can also be present to assist IOM in the overall procedure. IOM Iraq also believes that the assessment process will be more effective if it includes the involvement of its governmental partner.

2 – Which approaches are used in case of lack of relevant information by the minor and/or by the family?

As mentioned above, the process of assessment is more difficult and time consuming when the applicant or his/her parents do not provide accurate information. In such cases, IOM Iraq prefers to conduct more than one interview to cross check the provided information. For instance, the first interview could be conducted in the field when IOM staff visits the family to obtain some basic information. Later on, in a timeframe of usually a week, one of the family members can be invited to the IOM office so that more details can be obtained through updates on the overall situation of the family. The information obtained from both interviews can then be compared to the information provided by the minor in the host country. In any case, building trust between IOM staff and the family is the key for a successful outcome of the assessment, as it might persuade the family to release more information and eventually facilitate the case.

3 – Brief description of the project within which the family assessment is conducted

IOM Iraq has not implemented a specific project for family assessment. However, within current AVRR programs, it has received various requests from sending missions to conduct family assessments.

4 – What are the relevant supporting tools?

Each sending mission has its own template based on the requirements of the host country. As a receiving mission, IOM Iraq usually depends on the tools received from the sending missions. However, to be able to obtain a unified approach in the tools used, there should be a standard form that all the missions follow. Still, the nature of the assessment may permit a more flexible approach: for example, in some cases, IOM is allowed to take photos of the house and the family members to assess the housing situation. Some cases may allow for a detailed report to be included where sufficient information is shared with IOM staff.

5 – How are family assessments carried-out, monitored or supervised?

Once a request for a family assessment is received from a sending mission, IOM Iraq identifies the location and assesses the safety issue. If the location is in a remote or in an unsecure area, the IOM staff, instead of doing the visit by himself/herself, may ask the assistance of IOM monitors and data collectors who have a strong presence in all parts of Iraq. With the contact number and address provided by the minor, the staff initiates a phone call in order to introduce himself/herself as IOM personnel and to present the reason of the call. During this first exchange over the phone, the minor's parents or guardian are briefed on the minor's situation in order to build trust between the family and IOM, so that the family will have no objection to be visited. An appointment will then be made to visit the family and carry out the assessment.

Regarding the duration, the assessment usually takes two weeks but this will also depend on the nature of the assessment and especially the location of the family (whether it is easy to reach or not) as more time and effort are needed when a case is located in a remote area. In addition to the location, the security situation also causes considerable delay. A third factor affecting the assessment's duration will then be related to the availability of the parents and relatives to cooperate with the IOM team.

6 – What are the elements of a family assessment report?

In the context of Iraq, various elements should be considered to have a proper understanding of how a family functions. First of all, the income and the source of income should be considered: when the income of a family is sufficient there will be less concern for the

minor to be exploited and forced to work against his will, and when the family's source of income is stable, the minor will most likely lead a healthy and sustainable upbringing and a smooth transition to adulthood.

Next is the housing: for a family to lead a normal life, they need to have the housing issue solved. Therefore, sustainable return of the minor is somehow also linked to the housing situation as families who live in rented houses usually need to spend most of their income to pay the rent.

Another important element is to see whether the family has an ill person. Families who have a member with chronic disease usually cause more pressure on the other family members, especially the minors. Such families usually suffer from psychological unrest and may not be well-prepared to take care of the minor and hence they may not be willing to accept their child back. Lastly the overall structure of the family and the interconnections among family members are also to be considered. In Iraq most families are led by the male character meaning that the child can easily be subject to abusive acts from other dominant members indoors. All in all, depending on what the minor shares with the caseworker and his/her concerns, the elements composing the family assessment may change and some of the elements may be given more priority.

7 – How is confidentiality upheld in the process?

The confidentiality can be upheld by specifically involving the family member suggested by the minor in his/her interview. Only if necessary should the other family members and second degree relatives be informed, for example, when the assessment requires more information concerning the overall family situation and the interaction among its members. Secondly, the main questions and topics for a family assessment should be prepared beforehand so that the information obtained can be accurate. IOM staff will then be

able to avoid asking unrelated questions that may raise the parents' or relatives' doubts about the entire process. Thirdly, if there is a need for a re-assessment, IOM should maintain a low profile in conducting the case and, if suitable, meet the concerned family member in a separate place. Only in extreme cases should the information be obtained over the phone.

4- Kosovo/UNSC 1244

I. Family Tracing

Centre for Social Work with its Guardianship Authority at the municipal level is the **main actor** for researching and tracing family members of an unaccompanied minor. CSW coordinates closely family tracing process with the Department of Citizenship, Asylum and Migration (DCAM) and Department for Reintegration of Repatriated Persons (DRRP), and in specific cases and when there is a need for assistance involves Kosovo Police and any other relevant actor. Entire procedure of family tracing is carried out with the **involvement of the legal guardians and social workers**, and depending from each individual case, other professionals and/or institutions may be involved. In this context, CSW leads and finishes the tracing of family members, with the support mainly from Kosovo Police regarding the home address of the minor's family.

Regarding the **networking**, worth mentioning that recently (April 2014) Ministry of Labour and Social Welfare (MLSW) and Ministry of Interior Affairs (MIA) have signed an Memorandum of Understanding (MoU) by which among other MIA and its relevant departments will support MLSW during the family tracing process through provision of accurate information regarding the place of living of minor's family, as well as, through assistance during the field visits. Additional helpful resource in finding home of the minor's family is also neighbouring community. Communication between actors involved

in the family tracing process is usually made through official meetings and letters/memos.

On the whole the **process of family tracing**, including methods and approaches used can be summarised as following:

- Sending or host country contacts the Kosovo institutions to verify the origin or nationality of the person;
- The request is directed to the Ministry of Internal Affairs (MIA), and the case is processed further by the Department of Citizenship, Asylum and Migration (DCAM), respectively Division for Readmission (DR) and Department for Reintegration of Repatriated Persons (DRRP);
- Family tracing is initiated and conducted by the DCAM/DR in cooperation with the MLSW/CSW and Kosovo Police. In case of unaccompanied minors, MLSW/DSPF in collaboration with CSW is **leading the family tracing process** upon receiving relevant contact information for the repatriated child (family name, address, phone, etc.) from MIA/police;
- Based on international agreements for readmission, Kosovo authorities should complete family tracing and verification within maximum of 30 days;

In a case of lack of information about the exact address, the relevant authorities in the requesting country are consulted in order to get the correct contact information for the minor's family.

Each institution is responsible to protect **confidentiality** of information in accordance with respective national Laws. In addition, social workers and other professionals are bound by the ethical code of work.

From the information received during the interviews, it is rather unclear if there is in place formal **evaluation, review or examination of the family tracing processes**, though it was cited by the

interviewees that if information is available, evaluation of the family tracing process can be performed.

In terms of successful and **optimized process of family tracing**, main factor stated were availability of the correct data on the minor's family and home address.

II. Assessment of the child's welfare/wellbeing – Assessment of the family situation

Similarly to the family tracing, Centre for Social Work in its capacity of Guardianship Authority is the **main actor for carrying out family assessment** in case the unaccompanied minor wishes to return to Kosovo. During this process CSW closely cooperates with the relevant actors at central and local level including MLSW/DSPF, MIA/DACM and DRRP, MEST, and municipal directorates for health, social welfare, education, and office for communities and return. Based on the findings of the assessment, CSW gives its opinion for the possibility of return and condition of the return.

Regarding the **budget**, CSW has its own budget for carrying out usual activities, but there is no specific budget dedicated specifically for the expenses related to returned unaccompanied minors.

Social workers as employees of the CSW are directly involved in the family assessment as this is their mandate. Legal guardian is appointed if a child has no parental care or when parents cannot exercise parental care due to different reasons. Consequently, for the cases of return of the unaccompanied minors, **legal guardian** will be appointed by the CWS in order to be directly involved in the family assessment process.

Family assessment process is initiated by the Department for Reintegration of Repatriated Persons (DRRP) by sending formal request for the family assessment to the MLSW. Decision for

continuation or discontinuation of the family assessment process, is also under the mandate of the DRRP.

Upon receiving formal request for initiation of the family assessment, MLSW/DSPF refers the case to the respective CSW depending from the minor's municipality of origin. CSW has well prepared professionals for carrying out family assessment. Initially a **case manager** will be appointed with the mandate to establish assessment team. Family assessment is carried out further as following:

- The Centre for Social Work staff in the respective municipalities is responsible for contacting the family and arranging and conducting the family assessment, taking in consideration the best interest for the child;
- Depending from the needs of the specific child/family, CSW will include other actors during family assessment, i.e. legal guardian, education, health, etc.;
- The family assessment is monitored and supervised by the Municipal Directorate for Health and Social Welfare as well as the MLSW/DSPF staff;
- When it comes to the actual return, CSW will inform the family and request their presence at the airport. In case of the family absence at the airport, CSW staff in cooperation with the DCAM and DRRP will organize reception and escort of the child to his/her family;
- If repatriated person fulfils criteria, he/she will benefit from the assistance of the Reintegration Programme (which is elaborated in further text).

Aspects that are taken into consideration during the family assessment exercise include socio-economic conditions, housing, care for the minor, and other aspects relevant to the welfare of the child. More specifically family assessment team strives to obtain accurate information about the following:

- General information about the child and the family;

- Information on the level of education of the child and family members;
- Parents profession and working place;
- Physical and psychological health of the child and of family members;
- Relationships within the family (mode of communication, conflict resolution skills of the family, presence of family violence/abuse, divorce, etc.);
- Housing and property;
- Incomes and expenditures of the family
- Socio-culture aspects, relationships with neighbours, friendships, extended family, leisure,

Methods used for the family assessment are based on the **case study method**, including visit to the family for the purpose of interviewing of family members and observation of conditions. In this context, a semi-structured and standardized questionnaire is used for the family assessment. During the assessment process particular attention is given to the safety of child

According to the Law, administrative time limit for completing the family assessment is 30 days. However, assessment can and usually is completed within shorter period of time

Confidentiality of the family assessment process is guaranteed by the Low on Protection of the Personal Information. In addition, social workers are bound by the ethical code of work, according to which confidentiality is the basic principal.

Regarding **the evaluation and verification** of the findings obtained during the family assessment process, it is the responsibility of the director of the CSW jointly with the social service leader to ensure that information collected and results of the family assessment process are correct. Furthermore, CSWs are mandated to provide services and to make decisions, In case of disagreement with this

decision, based on article 15.4 of the Law no 02/L-17, the party can appeal to the Director of the respective CSW and should receive written decision within seven days. If not satisfied with this decision too, next appeal should go the MLSW/DSPF within 30 days. After this level any dispute will be treated by the court.

According to the representatives of the DSPF/MLSW, family assessment is always **reliable** until it is not disputed by someone. If there are complaints about the assessment, the verification is conducted as explained above.

In order to **develop capacities** for assessing and counselling families, considerable number of trainings have been organised in the Centres for Social Welfare. The most important was the training on modern case management, a three year project supported by the World Bank. Furthermore, MLSW is continuing to organise training for improving performance. From April, 2014 new EC project has started and will last for 30 months, with the aim to support further development of the professional and managerial capacities of the municipalities in provision of social services.

5- Pakistan

1 – Who are the counterparts involved?

It would first be important to understand the social dynamics of Pakistan's economy prior to undergoing the family assessments. The economy of Pakistan is facing low growth, falling investment, excessive fiscal deficits, high inflation, and a deteriorating external position for the fifth consecutive year. While problematic security and natural disasters are endemic, a difficult political situation stalled effective policy response to macroeconomic and structural problems, especially regarding energy. These factors, coupled with the pressing issue of low levels of education, form the basis for certain families to

send their kids abroad in the hope of better prospects. At times, the major factor is just following the trend of the area where one family has sent the kid abroad and the others will follow. This has been observed as a common practice especially in certain areas of Punjab.

The IOM mission in Pakistan is currently engaged with the family assessments according to requests received from the missions in Greece and Italy. These requests are received from the mission with a brief background of the minor and with at least one contact number available for a relative or a family member. The phone contact is established with the family by an IOM staff member to ascertain if the information provided is correct. Upon receiving the family's consent for the visit, IOM plans the trip to go in the field to conduct the family assessment. The IOM staff gets the address details from the family and reaches the residence. The identities are verified through the IDs. So far all the family assessments received are being carried out in villages and not cities. Therefore, in order to locate the families if not easily identified, IOM staff approaches the village post office or the elder of the village for address confirmation. This simple network of going through post offices and village elders has so far been very helpful in tracing the families.

2 – Which approaches are used in case of lack of relevant information by the minor and/or by the family?

The mission in Pakistan has not come across such a scenario so far. All the families have so far been traceable through establishing initial contact over the phone and then taking help from post office and village elders.

3 – Brief description of the project within which the family assessment is conducted

The mission in Pakistan is implementing the two projects from Greece and Italy in terms of family assessments leading to voluntary return and reintegration.

4 – What are the relevant supporting tools?

Both projects use a comprehensive questionnaire to cover the gathering of information related to the characteristics of the area where the minor's family resides, family backgrounds, relations within the family, background leading to the minor's migration, push and pull factors, socioeconomic factors in case reintegration is envisaged and general observation by the interviewer if not covered in through questions.

5 – How are family assessments carried-out, monitored or supervised?

Family assessments are carried out under the direct supervision of the national operations officer who is responsible for delegating them to staff with relevant skills. The interview consent is received in advance by the family explaining to them the reasons for the family assessment. Once completed the interview questionnaires are screened by the supervisor to check how the information gathered is reflected so as to ensure that authentic and relevant information is mentioned on the questionnaire.

The maximum duration for completing a family assessment is within a month but subject to the family's availability and consent received. Any factors, like security concern or non-availability of staff to carry out an assessment, is coordinated with the sending mission

6 – What are the elements of a family assessment report?

The following sections are covered in the family assessment reports:

- Basic information of the family

- Economic situation of the family
- Conditions before the minor's migration
- Actual migration: how it was planned or took place and the family's role in it
- The minor's situation in the country where he migrated
- Various possibilities concerning reunification with the family
- Situation of the residential details where the minor's family lives
- Sustainable reintegration activities available within the area
- Exclusive remarks and observations by the interviewer

7 – How is confidentiality upheld in the process?

The issue of confidentiality is dealt as required by the sending missions' request as to the extent to which information is shared with family members. This is a sensitive issue and the staff is extra vigilant with the need of taking care of classified information. Consent forms serve an important role here and IOM tries to ensure to the maximum that a written consent is obtained by the relevant people before sharing any information. The mission sending the request is constantly kept updated on relevant information.

CHAPTER 3 – Procedures and practices surrounding AVRR for UAMs when the AVRR is considered as a durable solution in the best interest determination of the UAM

3. A– EUROPEAN UNION MEMBER STATES

I- Austria

1 – Pre-return procedures

1.1 – What are the prerequisites for the voluntary return of a minor?

Depending on the actors involved in the voluntary return of an unaccompanied minor, different prerequisites are applied. Prior to the return, Austrian authorities must make sure that no criminal proceedings or legal measures are pending; otherwise the minor is not allowed to leave Austria.

In the assisted voluntary return of unaccompanied minors, IOM Vienna follows an agreement with the Austrian Federal Ministry of the Interior according to which certain principles and standards according to Art.3 (1) of the United Nations Convention on the rights of the Child (CRC, 1989), the guidelines for repatriation of UNHCR and the IOM Handbook on Voluntary Return are to be applied.⁹³

In accordance with the IOM Handbook on Voluntary Return and Reintegration (2010), IOM Vienna sets the following prerequisites for assisting the voluntary return of an unaccompanied minor, which are supported by the AT Mol:⁹⁴

⁹³ See Austrian Federal Ministry of the Interior, European Return Fund: Multi-Annual Programme 2008-2013

⁹⁴ Questionnaire Federal Ministry of the Interior

- The written consent has been obtained from the legal guardian in Austria, which in most cases is assumed by the youth welfare of the province where the minor is accommodated. The legal guardian is requested to confirm that a careful best interest determination has been conducted prior to giving consent to the voluntary return of the minor concerned; however, it is unclear if and how legal guardians carry out a best interest determination before consenting to the possibility of voluntary return.
- The written confirmation has been obtained from the legal guardian in the country of return, which is usually a family member or, if reunification with the family member is not in the best interest of the child, a specialized institution dedicated to the provision of care to minors that they will take responsibility for the minor concerned upon his/her return and that sufficient resources are available to do so.
- Background information and data on the unaccompanied minor are available, such as date of birth, place of birth, nationality, legal guardians in Austria and the country of return and relations to legal guardians in Austria and the country of return.

Another prerequisite for IOM Vienna to assist in the voluntary return of an unaccompanied minor is that reception assistance at the airport in the country of return is clarified prior to departure. To this end, the legal guardian in the country of return needs to provide written confirmation in the declaration of responsibility form that he/she will meet the returning minor at the airport.

For the Crisis Centre Drehscheibe, which is responsible for supporting unaccompanied minors who stay at their accommodation facility and who wish to return to their country of origin, a reliable partner in the country of origin is a prerequisite. This is due to the fact that the minors supported by the Crisis Centre Drehscheibe are almost always referred to specialized institutions providing care to underage

persons – usually facilities of the youth welfare authority in the respective country of origin – and not to family members. When the minor is handed over to the youth welfare in the country of return, the latter is in charge of taking further decisions regarding a possible reintegration into the minor's family and assessing the overall situation. Another prerequisite is that the security of the minor is ensured. In this regard, the Crisis Centre Drehscheibe also investigates the reasons for the minor's stay in Austria – for example, was he/she trafficked? – and the social background of the family. In terms of documents, the Crisis Centre Drehscheibe needs a travel certificate, a proof of identity and a confirmation by the country of return that the secured entry of the minor is guaranteed and that no security forces will apprehend him/her at the border.⁹⁵

Further prerequisites mentioned by different stakeholders who responded to the questionnaires include the clear wish of the respective minor to return to his/her country of origin, that his/her safety in the respective country of return is ensured, and that a child-friendly development is possible.⁹⁶ The Austrian authorities must make sure prior to return that no criminal proceedings or legal measures are pending.⁹⁷

1.2 – What are the criteria for a safe return of an UAM?

The main criteria for a safe return of an unaccompanied minor as mentioned by the stakeholders who returned the questionnaire or who gave an interview are the existence of a legal guardian and/or a reliable partner, such as the youth welfare in the country of return; a safe,⁹⁸ conflict-free and child-friendly environment that allows the

⁹⁵ Interview N. Ceipek, 6.6.2013

⁹⁶ Questionnaire Verein Menschenrechte Österreich; Questionnaire Caritas Austria; Questionnaire Youth Welfare Upper Austria, F. Gstöttenmair

⁹⁷ Questionnaire Federal Ministry of the Interior

⁹⁸ As mentioned by Verein Menschenrechte Österreich, safety issues can be assessed on the basis of the results of the asylum and the aliens police procedures, the

development of the minor; and clear evidence that the minor wants to return. A safe return is also closely related to the organization of proper reception of the minor at the airport, whether offered by family members or an external organisation such as IOM.⁹⁹

1.3 – How far are parents and/ or guardians in CoO involved in a process of voluntary return of an UAM? Do they agree on the return?

The youth welfare in Upper Austria,¹⁰⁰ IOM and the Crisis Centre Drehscheibe agree that the consent of parents and legal guardians is an important aspect in the process of the voluntary return of an unaccompanied minor. The return counselling institution Verein Menschenrechte Österreich specified further aspects of cooperation with parents and legal guardians in the countries of origin: Besides being included in the decision-making process, they provide documents that are necessary for receiving travel documents, they act as contact person for IOM missions on the ground to assess the family situation and they receive the minors at the airport.¹⁰¹

1.4 – Are there mechanisms to prove family ties in the context of the voluntary return of an UAM?

Only in the framework of family reunifications *in Austria*, Austrian authorities request accredited documents, recommend DNA-analyses and in some cases age assessments in order to prove that the family members in question are indeed eligible for reunification¹⁰².

country-specific knowledge of the return counsellor, and internet research including country reports.

⁹⁹ Interview N. Ceipek, 6.6.2013; Questionnaire Youth Welfare Upper Austria, F. Gstöttenmair, Questionnaire Verein Menschenrechte Österreich

¹⁰⁰ Questionnaire Youth Welfare Upper Austria, F. Gstöttenmair

¹⁰¹ Questionnaire Verein Menschenrechte Österreich

¹⁰² IOM-CAUAM 2011: 29

The return counselling institution Verein Menschenrechte Österreich reported that it usually is in direct contact with the family of unaccompanied minors who wish to return. In telephone conversations, the return counsellors double-check the information provided by the minor with the declarations of the respective family members.¹⁰³

For UAMs assisted by IOM, claimed family ties in the country of return are usually not investigated, mostly due to practical reasons such as non-existence of official birth documents in various countries of origin of unaccompanied minors.

1.5 – How is the family assessment conducted and by whom?

To date, no institutionalized family assessment procedure is in place for unaccompanied minors who return voluntarily from Austria. In the case of unaccompanied minors who return voluntarily with the assistance of IOM, IOM Vienna usually contacts the IOM mission in the country of return to initiate contact with family members on the ground, if this is not already being done by the return counselling institution or the minor himself/herself.

In this context, the family situation is not investigated in detail. In the case of unaccompanied minors who return with the assistance of the Crisis Centre Drehscheibe, a family assessment is conducted by the partner (such as the youth welfare) in the country of return.¹⁰⁴

1.6 – Who are the actors involved in the return/ reintegration process for an UAM? Who is in charge of BID, family assessment, collection of necessary documents?

There are various stakeholders involved in the voluntary return of an unaccompanied minor from Austria to his/her country of origin.

¹⁰³ Questionnaire Verein Menschenrechte Österreich

¹⁰⁴ Interview N. Ceipek, 6.6.2013

Return counselling institutions assigned by the Austrian Federal Ministry of the Interior (for example, Caritas, ORS Service GmbH, Verein Menschenrechte Österreich, Verein Menschen.Leben) as well as the federal province Carinthia inform interested foreign nationals about the possibility to return voluntarily to their country of origin. If a reintegration project exists for the country concerned, the return counselling institution also provides information on the types of assistance, such as in-kind assistance for business start-ups or training possibilities. The assistance is available to people whose participation has been approved by the Austrian Federal Ministry of the Interior. The return counselling institutions also support their clients in their return preparation process, such as the collection of necessary documents (travel documents such as passports or emergency travel documents).

Youth welfare authorities which are often in charge of legal guardianship comprising care, accommodation, legal representation in cases other than the asylum procedure and property administration, are responsible for deciding on the voluntary return of an unaccompanied minor under their custody.

In Vienna, the Crisis Centre Drehscheibe of the City of Vienna is strongly involved in the voluntary return of unaccompanied minors apprehended by the police in Vienna. It provides accommodation and care to unaccompanied minors in Vienna, and organizes their voluntary return if it is in the best interest of the child. To this end, the centre cooperates with institutions active in the field of return, accommodation, care for and/or reintegration in the country of return. (EMN 2010: 63-64). As reported by Mr. Ceipek, head of the Crisis Centre Drehscheibe, the most important partner in the countries of origin are the respective youth welfare organizations. In countries where such structures are not available, the Crisis Centre Drehscheibe cooperates with IOM missions on the ground and requests them to conduct a family assessment and provide information on relevant accommodation facilities where the minor

can be placed upon return. To date, the Crisis Centre Drehscheibe does not have an institutionalized cooperation with NGOs, but in one country of origin – Mongolia –, they have received reports from a local NGO on the reintegration of a returned minor.¹⁰⁵

If IOM Vienna is asked to organize the voluntary return of unaccompanied minors, the team is tasked with booking flights and the provision of assistance at the Vienna International Airport.

1.7 – Is there reintegration assistance available for UAM in CoO? Are there eligibility conditions for the reintegration assistance?

There are no specific projects focusing on reintegration assistance for UAMs in Austria; however, there are a number of reintegration assistance projects that include UAMs in their target group, some of which also have the possibility to address the needs of particularly vulnerable groups. Some federal provinces in Austria (for example, Vorarlberg) provide financial support to returnees, including unaccompanied minors, for their reintegration in the country of origin.¹⁰⁶

Reintegration assistance for unaccompanied minors returning voluntarily from Austria is currently also available in the framework of several country-specific AVRR (Assisted Voluntary Return and Reintegration) projects funded by the Austrian Federal Ministry of the Interior and the European Return Fund and implemented by IOM. Currently reintegration assistance comprising in-kind assistance for a business start-up and/or training possibilities as well as vulnerability assistance (such as for medical needs, for temporary housing) by IOM Vienna is available for returnees to Afghanistan, Nigeria, Pakistan and the Russian Federation/the Chechen Republic. Between June 2012

¹⁰⁵ Interview N. Ceipek, 6.6.2013

¹⁰⁶ EMN 2010: 65-66

and December 2013 IOM provided tailored reintegration assistance to minors and young adults voluntarily returning to Moldova at risk of being (re-)trafficked within the framework of the project “Assistance for the Voluntary Return and Reintegration of minors and young adults from Moldova with emphasis on the prevention of (re-)trafficking”.

Caritas Vorarlberg together with the Government of Liechtenstein provides reintegration support to persons who return from all over Europe to Armenia.¹⁰⁷ Until recently Caritas Österreich within the framework of a network called European Return Support Organizations (ERSO) provided assistance for economic and social reintegration to returnees from Austria in five West African countries: Senegal, Morocco, Togo, Sierra Leone and Cameroon (until December 2013) as well as in Iraq, Mongolia and Pakistan (until April 2014).

The International Centre for Migration Policy Development (ICMPD) carries out the project “Reintegration in Kosovo/UNSC 1244 – Cooperation with Micro-credit Institutions” (ReKoKo), which is co-funded by the European Return Fund and the Austrian Federal Ministry of the Interior and supports Kosovars returning from two Austrian provinces in their reintegration¹⁰⁸.

While in most of the projects funded by the Austrian Federal Ministry of the Interior, the duration of stay in Austria, cooperation in the asylum procedure and criminal record are assessed as participation criteria by the Ministry, the support by the federal provinces only takes into consideration the minimum length of inclusion in the basic welfare support system of the respective province¹⁰⁹.

¹⁰⁷ Caritas Return Assistance and Return Counselling: <http://www.caritas.at/hilfe-einrichtungen/fluechtlinge/beratung-und-vertretung/rueckkehrhilfe-und-rueckkehrberatung-irma/> (acc. May 2014)

¹⁰⁸ ReKoKo: <http://www.rekoko.org/index.php?id=2061> (acc May 2014)

¹⁰⁹ EMN 2010: 65

Apart from the assistance available in country-specific reintegration projects and the financial support from different Austrian federal provinces, no other specific reintegration support is provided to unaccompanied minors. Reintegration assistance for minors who return with the support of the Crisis Centre Drehscheibe is provided by the youth welfare in the country of origin. It is their responsibility to ensure child-friendly and secure accommodation and care, nutrition as well as education and schooling and development of future plans and perspectives. They also bear the respective costs¹¹⁰.

2 – Return procedures

2.1 – Which documents are needed?

For the logistical organization of the voluntary return, a valid travel document (passport or emergency travel certificate) is needed. The Crisis Centre Drehscheibe additionally needs confirmation from the country of return that the minor's safe entry is guaranteed and that he/she will not be apprehended at the border by security forces such as the police¹¹¹. Consent forms and declarations of responsibility are required by the legal guardians in Austria and the country of return in cases assisted by IOM.

2.2 – How is the voluntary return of an UAM organized?

The return counselling institutions usually provide an official request to IOM Vienna to book a flight for the respective unaccompanied minor. IOM Vienna also needs information from the return counselling institution on the payment of the flight; costs are usually covered by the Austrian Federal Ministry of the Interior on the basis of the Memorandum of Understanding concluded with IOM in 2000, but some returnees bear the costs of travel themselves (self-payers).

¹¹⁰ Interview N. Ceipek, 6.6.2013

¹¹¹ Interview N. Ceipek, 6.6.2013

IOM Vienna shares the flight details with the return counsellor, who is responsible for informing the unaccompanied minor and/or the legal guardian in Austria about the departure date. If the IOM mission in the country of return has been involved in the process of contacting family members on the ground to receive their declaration of responsibility to care for the minor upon return, IOM Vienna also informs IOM colleagues in the country of return about the return date and the flight details.

On the day of departure, the return counselling institution brings the unaccompanied minor to the airport. There, IOM Vienna may provide support including provision of relevant information as well as guidance at the check-in counter and the passport control. The Crisis Centre Drehscheibe organizes the flights for the child and if possible a staff member accompanies the minor to the country of origin.

2.3 – Who is accompanying the UAM when returning home?

Verein Menschenrechte Österreich reported that most of the minors they counsel are older than 16 years of age and therefore do not need to be accompanied during the flight.¹¹²

It is possible for IOM to accompany unaccompanied minors during the journey in case of special requests and where costs are covered. They are assisted by the staff of the IOM Vienna Operations Department at the airport in Vienna and during transit.

In contrast, unaccompanied minors returning from the Crisis Centre Drehscheibe are often accompanied by staff of the institution until the final destination, unless the minor returns to a neighbouring country where he/she is handed over to a designated person at the border.¹¹³

¹¹² Questionnaire Verein Menschenrechte Österreich

¹¹³ Interview N. Ceipek, 17.3.2010

2.4 – Who is welcoming the UAM in his country origin (who provides assistance upon arrival)?

Minors who return with the support of the Crisis Centre Drehscheibe are received by a representative of the youth welfare in the country of return, and the names of the specific person are communicated to the Crisis Centre Drehscheibe in advance. If minors return to a neighbouring country, it is sometimes the youth welfare together with family members who receive him/her at the border.¹¹⁴

In cases assisted by IOM, IOM Vienna, sometimes in cooperation with the IOM mission on the ground, requests the legal guardian in the country of return to receive the unaccompanied minor at the airport. This is also supported by different return counselling institutions, such as Verein Menschenrechte Österreich.¹¹⁵ If the legal guardian cannot meet the unaccompanied minor at the airport of the final destination, IOM Vienna contacts IOM colleagues in the countries of return to find out whether they can provide reception assistance. Before booking a flight, it is necessary to clarify who will receive the minor and to ensure that he/she is handed over to a designated person.

3 – Post-return procedures

3.1 – What are the types of assistance to the UAM/family/guardian provided in the post arrival phase?

As mentioned under section 1 of this chapter, reintegration assistance is available to unaccompanied minors who participate in one of the available projects or who receive financial support from the federal province they return from. In some cases, the provided

¹¹⁴ Interview N. Ceipek, 6.6.2013

¹¹⁵ Questionnaire Verein Menschenrechte Österreich

assistance can be extended to family members, for example when temporary accommodation is provided to the minor and his/her family.

In cases where unaccompanied minors return to child care facilities, the latter are responsible for providing support and assistance such as care and food. This is the case for most of the minors who return with the support of the Crisis Centre Drehscheibe.

The Austrian Federal Ministry of the Interior provides approximately 350 EUR per person who returns voluntarily for reintegration measures (in any country of origin). In exceptional cases more funding can be granted.¹¹⁶

3.2 – What are the re-integration activities implemented in CoO (education, trainings, etc.)?

The reintegration assistance offered in the framework of the initiatives as described in section 1 of this chapter covers various measures that contribute to the capability of voluntary returnees to support themselves and to live independently. Among others, it includes the provision of micro-credits, counselling and assistance with job-seeking, formation and vocational trainings (for example as mechanic, computer engineer, electrician, hairdresser, farmer etc.), business trainings as well as in-kind assistance for business start-ups through the purchase of necessary tools and equipment (for example in the field of agriculture, welding, tailoring, small shops, timbering, beauty salons, car services, Internet-café).

In some projects (for instance, the projects “Assistance for the Voluntary Return and Reintegration of Returnees to the Russian Federation / the Chechen Republic”, which is co-funded by the Austrian Federal Ministry of the Interior and the European Return Fund), small cash grants are provided to beneficiaries in order to be able to cover immediate needs shortly after return. On top of the

¹¹⁶ Questionnaire Federal Ministry of the Interior

reintegration assistance for education and/or income generation, additional assistance is available to particularly vulnerable returnees and can be used for temporary housing, medical treatment, etc. Capacity building measures that contribute to the appropriate reception and care of (vulnerable) returnees are also implemented in the framework of some of the above mentioned projects.¹¹⁷

3.3 – Monitoring of the reintegration activity (who, for how long, who reports to whom...)?

Standardized monitoring procedures have not been established. However, different types of monitoring activities are carried out by a variety of Austrian stakeholders in the framework of their respective return assistance projects. Among them are return counselling institutions, such as Verein Menschenrechte Österreich, which call previous clients by telephone upon return, or Caritas which carries out monitoring missions from time to time in order to liaise with stakeholders and visit returnees personally.¹¹⁸

The Crisis Centre Drehscheibe, which hosts unaccompanied minors and can organize their voluntary return if it is in the best interest of the child, also undertakes monitoring activities. Mr. Ceipek explained that he receives bimonthly monitoring reports for a usual total duration of six months from the institutions he cooperates with in the countries of return, which are usually the national youth welfare organizations. In cases where minors testify against potential traffickers or perpetrators, the monitoring procedures can be extended up to one year. These reports detail where the minor is

¹¹⁷ IOM Vienna, Project Fact Sheets AVRR Projects, 2012/2013, Caritas Return Assistance and Return Counselling: <http://www.caritas.at/hilfe-einrichtungen/fluechtlinge/beratung-und-vertretung/rueckkehrhilfe-und-rueckkehrberatung-irma/> (acc. June 2013), ICMPD: ReKoKo – About the project: <http://www.rekoko.org/index.php?id=2056> (acc. June 2013)

¹¹⁸ Kratzmann/Petzl/Temesvári 2010: 71

accommodated, what has been done so far for him/her, what is being planned for him/her for the future and who can provide further information if needed. In addition, professionals from the Crisis Centre Drehscheibe carry out on-site visits in the countries of return in order to meet the minors personally and see how their reintegration is proceeding.

IOM Vienna monitors the reintegration of unaccompanied minors, if they participate in one of the AVRR projects described in section 1 of this chapter. In the framework of these projects, one to two monitoring sessions are conducted by the project partner (the IOM mission or external implementing partners), in the country of return: the first monitoring is conducted as an initial assessment immediately upon return during the first counselling session, and the second monitoring is carried out three to six months after the implementation of the reintegration measure. In selected cases, an additional monitoring is conducted shortly before the end of the project, which usually lasts for one year, in order to see how the personal and professional situation of the participant has evolved since the last visit. In addition, IOM Vienna also carries out monitoring missions in the framework of the AVRR projects. During these missions, IOM Vienna meets project participants discusses the strengths and weaknesses of the project with them. In some of the projects, IOM Vienna implements telephone monitoring in addition to the other monitoring measures.

3.4 – Evaluation, if any (who, what activities, who reports to whom ...)?

Institutions that implement reintegration measures, such as ICMPD or IOM, have evaluated some of their AVRR projects in the past, partly through an internal, and partly through an external evaluation. The main objective was to assess the impact and sustainability of the reintegration assistance as well as the satisfaction of returnees with the support received. In order to analyse the projects in a

comprehensive manner, not only return counsellors or donors, but also selected participants were interviewed, and their opinions are given due consideration.

2- Belgium

1 – Pre-return procedures

- What are prerequisites for the voluntary return of a minor, including documents?

Prior to deciding whether or not to pursue a voluntary return for an UAM, the minor's legal guardian in Belgium, IOM's REAB partners or a third party (reception centres and youth services) can contact IOM to request information on the procedure. At this stage, this is only an information request that does not entail the completion of a REAB application form which is often done when it is decided that an AVRR will be pursued.

Before starting the return procedure, the following points must be confirmed:

- A legal guardian has been designated in Belgium and he agrees with the return of the minor
- The minor has formally expressed his/her wish to return and for it has been decided that return is in the best interest of the child;
- The parent/family members of the minor in the country of origin have formally agreed to take the minor back and to help him/her to reintegrate
- Monitoring by IOM or Caritas in the country of origin can be ensured

A social report must be completed: the partner, the guardian or the social assistant in the centre hosting the UAM, should set up a social report for the UAM, using the IOM Form specifically designed for that

purpose. The information needed include the UAM's background information (country of origin and citizenship, full name and age), his/her contact information (the address in the country of return and the residence in Belgium - contact details of the centre hosting the UAM if this is the case), the UAM's contacts with the parents/family of origin (if parents and child are in contact, information includes full coordinates of the parents - address and phone number in the country of origin) and the legal guardian's contact details in Belgium. Other information includes the legal status of the UAM in Belgium (asylum seeker – declaration of arrival – VoT – illegal – lost child – intervention of Federal police...); circumstances of arrival in Belgium (narrative report stating when, how, why, with whom the UAM arrived in Belgium) and the assessment of specific needs in terms of return and reintegration (e.g. VoT – protection; medical/psychological assistance; etc.).

- What are criteria for a safe return of an UAM ?

At international level, the voluntary return assistance is being provided in line with the principle of “the best interest of the child”¹¹⁹, the UNHCR guidelines for repatriation of minors¹²⁰ and the Council Resolution on unaccompanied minors who are nationals of third countries¹²¹.

- How far are parents and/ or guardians in CoO involved in a process of voluntary return of an UAM? Do they agree on the return?

Both the UAM's parents in the country of origin and the legal appointed guardian in Belgium must agree on the return. A UAM will not return to his country of origin if his/her parents do not approve

¹¹⁹ “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”. Art 3(1), UN Convention on the Right of the Child, September 1990.

¹²⁰ UNHCR “Guidelines on Policies and procedures in dealing with Unaccompanied Children Seeking Asylum”, February 1997.

¹²¹ Council Resolution of 26 June 1997 on unaccompanied minors who are nationals of third countries, (97/C 221/03) OJ C221, 19.07.1997, p. 0023-0027

on their child's return, even if it is the child's wish to return and even if the return has been judged as being in the best interest of the child.

- Are there mechanisms to prove family ties in the context of the voluntary return of an UAM?

The documents requested during the return procedure include documents proving the family ties between the parents and the UAM. These documents include the birth certificate of the UAM where the parent's names are mentioned and, if one of the parents' are deceased, the attestation on his/her death.

- How is the family assessment conducted and by whom? (socio-economic situation of the family in CoO, access for UAM to accommodation, health care, education and/or work in the CoO etc.?)

In order to help assessing whether return is in the best interest of the child, family tracing and the assessment of the socio-economic situation of the family are of particular importance. Effective assessment should be conducted in the country of origin. Hence, IOM will closely co-operate with IOM Missions, local NGOs and governmental Organizations in the different countries of origin in order to gather information on the feasibility of return and appropriate reintegration services available in the respective countries.

Specific attention will be given to assess the family background of the minor as family reunification is another critical element dealing with the return of UAMs. This entails clarifying the family situation, by, for example, making an assessment of the will and ability of the child's family in the country of origin to receive the child and to provide appropriate care upon his/her arrival.

In individual cases where the family situation of the child does not allow a family reunification in the country of origin, alternative

reliable organizations or adult care-taker in the country of origin who are able to take responsibility of the child should be identified. Appropriate protection for individual cases must be identified.

- Who are the actors involved in the return/ reintegration process for an UAM? Who is in charge of BID, family assessment, collection of necessary documents, etc.)

Apart from the main actors usually involved in the process (IOM offices, minors, legal guardians), other actors can include partners

- Is there a reintegration assistance available for UAM in CoO? Are there eligibility conditions for the reintegration assistance?

2 – Return procedures

- Which documents are needed?

It is the duty of the partner, the guardian or the social assistant in the centre hosting the UAM to collect all required documents. The sooner the required documents are collected, the better IOM will be able to proceed with the request. Should there be problems in collecting one or other document, IOM Missions in the country of origin can provide assistance. The purpose is to verify the family links to make sure the UAM returns safely to his family. The following documents are therefore required: copy of Travel documents of UAM; of Birth Certificate of UAM; of ID of both Parents. If divorced or if one deceased, attestation should be sent. If ID card of parents does not contain a signature, the signature must be legalised by an official instance.

Other documents are the Parental authorisation for the UAM to travel with the Parental declaration (letter) to take charge of the UAM upon arrival (IOM Form). It should be signed by both parents. If the person receiving the child at the airport is a third person, a copy of his/her ID card is required as well as full address + phone number.

In Belgium, the following documents are needed: a Letter from Ministry of Justice designating the appointed Guardian as being the legal guardian in Belgium; a Written Authorisation of the legal Guardian (s/he should also be the one signing the REAB Form and the social report form) and a Social Report completed by the partner/guardian

In case of Reintegration, specific forms must be filled in (please see below, information linked to the Reintegration Guidelines).

- How is the voluntary return of an UAM organized?

The assistance provided during the procedure includes:

- Organising return procedures including handling of documents related to the return; transport arrangements; overnight accommodation when requested; provision of medical and non medical escorts; specific local transportation in Belgium and in the country of origin (such as hiring an ambulance); providing airport assistance and arranging financial assistance.
- Coordinating return assistance in cooperation with project partners in Belgium (REAB partners, doctors, hospitals, social assistants and nurses, legal guardians) and with IOM offices in concerned countries of origin.
- Providing direct financial assistance (reinstallation grant).
- Providing specific financial assistance to cover possible costs of excess of luggage.
- Providing reintegration assistance to returnees (education, medical, legal, family mediation, housing, micro business, etc.) in collaboration with local partners according to needs and profile of the returnee. This assistance is provided in the frame of the Reintegration and Vulnerable Cases Funds.

- How is the voluntary return of an UAM carried out?

- Who is accompanying the UAM when returning home?

IOM checks whether an escort is needed. If yes, IOM identifies an appropriate escort. UAMs under 15 years old will systematically be escorted. Above 15 years old, the decision must be made collegially based on the capacity of the minor to travel alone and on the routing. IOM makes practical arrangements in coordination with AVR Counsellor and with IOM Field Mission (see REAB Procedure). IOM Brussels shall request that IOM colleagues in Country of Origin provide airport assistance. Upon meeting the UAM, the parents or designated person who is meeting the UAM must sign the UAM Handover Notification. IOM asks the escort for a Mission Report.

- Who is welcoming the UAM in country X? (who provides assistance upon arrival)?

It will normally be the officer in charge from the IOM Office in the country of origin. But this can depend on the country of return and on the travel plan.

3 – Post-return procedures

In accordance with the *Guidelines on the Reintegration Assistance for Vulnerable Cases*, IOM Brussels liaises with the IOM Field Mission for follow up (including monitoring, evaluation, and reporting).

- What are the types of assistance to the UAM/family/guardian provided in the post arrival phase?

Concerning the reintegration assistance, the types of assistance provided to the UAM in the post arrival phase will depend on the status and the country of the minor.

- Re-integration activity implemented in CoO (education, trainings, etc.)

During the pre-departure counseling sessions, the minor and his/her guardian, with IOM and other partners, define a reintegration plan based on the minor's skills and wishes and based on the local situation in the minor's community in his/her country of origin.

- Monitoring of the reintegration activity (who, for how long, who reports to whom, ..)

Once the UAM has settled back with his family (or with the legal guardian in the CoO), the IOM colleagues in charge will either meet with the minor or will monitor the situation through phone discussions, depending on the location of the minor and his family.

3- Hungary

1 – Pre-return procedures

1.1 – What are the prerequisites for the voluntary return of an UAM and criteria for safe return?

Assisting the voluntary returns of unaccompanied minors can be a complex and sensitive issue. Assisted Voluntary Return and Reintegration (AVRR) applies when an unaccompanied minor, regardless of his or her status, expresses a wish to, or agrees freely with the recommendation of a guardian, to be assisted in returning home.

The inclusion of unaccompanied minors in the return process requires additional and specific measures and considerations for assistance. The principle of the best interests of the child should always be the primary consideration during the whole AVRR process.

To provide AVRR support to an unaccompanied minor, the following is necessary:

- written consent obtained from the guardian;
- written consent obtained from the family or from the care provider taking care of the minor upon his/her return if family reunification has not been possible or is not in the best interests of the child;
- arranging an escort for the entire return journey (such as a reference person or a family member);
- arranging the reception of the returning child at the border and the handover to the family/care provider onward transport if required.

1.2 – Persons involved in the process?

In order to ensure a safe return, it is necessary to seek confirmation from the guardian and the other partners involved. It has to be assessed if it is in the best interests of the child to return, it is safe for him/her to return home (it is appropriate and that the necessary requirements and conditions for safe return have been met).

The involvement of the parents or guardians in the country of origin is very important. Assurance must be sought in advance that the parent (relative) agrees to the reunification and that the family is capable of caring for the child. Assisted return of an unaccompanied minor cannot be implemented if the necessary conditions are not met and the family or the adult responsible for the child did not agree with the return.

1.3 – Are there mechanisms to prove family ties in the context of the voluntary return of an UAM?

The verification of the relationship between the unaccompanied minor and the adults claiming to be parents is very important,

especially in cases when there is little evidence of identity. The Red Cross, which is the main unit responsible for family tracing in Hungary, runs identity checks. As part of its verification process, the Red Cross runs checks on different levels. First they check the verification of identity documents if available. They conduct interviews with alleged parents and/or relatives and question the neighbours and other acquaintances. They also promote the exchange of messages and photographs between the parents and the child as well as a private memories or family stories. In certain cases, the guardian of the child or the OIN establishes contacts with the parents.

Although it is not responsible for family assessment, IOM supports the process through the collection of relevant information as requested by guardians and the responsible authorities/agencies. If family reunification in the country of return is not considered as being in the best interests of the child, alternative care and safeguard options are sought (such as extended family members and children's home).

1.4 – Who are the actors involved in the return/reintegration process for an UAM?

The return and reintegration process of an unaccompanied minor involves interagency cooperation between IOM, the Guardianship Office, the Hungarian Red Cross and the OIN.

As explained above, all institutions must respect the principle of the best interest of the child, which appears in the Child Protection Act. The legislation and policies regulating the return and reintegration procedures do not define the principle in detail, and since there are no legally regulated formal mechanisms to determine the best interests of the child, the authorities responsible for protecting the child's best interests must act as they consider appropriate.

To some extent, this practice ensures the enforcement of the principle relating to the best interests of the child, as it serves as a tool for a thorough assessment of the different stages of a child's life and as a basis for the annual interagency placement reviews.

In Hungary, tracing is initiated by the OIN but undertaken by the Hungarian Red Cross. IOM facilitates the process and organizes the return and reintegration of the unaccompanied minor to his/her country of origin.

1.5 – Is there reintegration assistance available for UAM in the CoO?

Unaccompanied minors returning within IOM's AVRR programme are eligible to receive reintegration assistance within the reintegration component of the AVRR programme, which focuses on providing returnees with assistance in finding and supporting the reintegration opportunities in their country of origin/return, contributing therefore to the long term sustainability of return.

There are two types of possible reintegration assistance provided within the AVRR programme. The reintegration assistance is directed either to educational support through education plans or financial and practical help through a business plan. The education plan and business plan application forms can be completed by the AVRR beneficiaries in Hungary before departure or in the country of origin. Usually, the latter is the preferred option, as it gives the beneficiary the opportunity to consult on the business or education plan. Reintegration counselling is then also provided to the AVRR beneficiaries in the country of origin in order to help them to complete the application forms.

The grant provided to the selected AVRR beneficiary is up to a maximum of EUR 2,000. This type of support is available to 5-10% of all AVRR beneficiaries. In addition, each AVRR beneficiary receives a

financial assistance of 100 EUR prior to departure. It should be noted that the reintegration assistance provided within the AVRR programme (education and business support grants) is limited, and the reintegration assistance can only be provided to a certain percentage of beneficiaries.

2 – Return procedures

In order to apply for IOM's assistance during the return procedure, the unaccompanied minor has to meet all the necessary requirements listed in the previous chapter.

To participate in the AVRR programme, an application form for the AVRR programme must be filled out. Once completed, the application form is then forwarded to the OIN. If the applicant does not possess a valid travel document, IOM can also facilitate in the procedure of obtaining the necessary travel documentation.

When necessary, voluntary returns of minors by IOM in Hungary are organized within IOM's Assisted Voluntary Return and Reintegration Programme. The AVRR programme facilitates the voluntary return upon expulsion order of failed asylum seekers, return of beneficiaries of subsidiary protection, beneficiaries of temporary protection, and all third country nationals who do not or no longer fulfil the conditions for entry or stay in Hungary. The programme consists of two components: an operational return component where beneficiaries are provided assistance in arranging their voluntary return (obtaining travel documentation, purchasing travel tickets, departure, transit and arrival assistance) and a reintegration component, which focuses on providing returnees with assistance in finding and supporting the reintegration opportunities in their country of origin/return.

Various actors are involved in the decision-making process with respect to the return of the minor (guardian, authorities, families, etc). IOM facilitates and supports the multilateral/inter-agency approach in order to ensure effective assistance. Sufficient information and counselling should be given to the child and/or the guardian, as applicable (usually, the guardian counsels the child).

If it has been established that the return to the country of origin is in the best interest of the unaccompanied minor, necessary travel documentation will be obtained and the IOM will make the appropriate flight arrangements (purchasing of travel tickets).

Voluntary return of an unaccompanied minor may commence if and once that family reunification and return to the country of origin have been determined as being in the best interest of the child. Documents listed above (written consent) and travel documents should be obtained and travel arrangements (including escort) made to the country of origin. Moreover, appropriate arrival assistance should be ensured.

An escort should be arranged to accompany the minor for the entire return journey. Non-medical escorts have the function of ensuring the safety and well-being of migrants when en route from the host country to the country of origin. The escort assists the migrant in unfamiliar surroundings and translates the migrants' needs for the crew of the carrier, when necessary.

For migrants with health conditions and needs, health evaluations must be sought and appropriate assistance must be made available. A medical escort should be arranged to accompany the returnee during the return travel. IOM Budapest provides medical assistance within AVRR through a new project titled "Measures to Enhance the Assisted Voluntary Return and Reintegration of Migrants with a Chronic Medical Condition Residing in the EU (AVRR-MC)". This

project aims to enhance sustainable return and reintegration of migrants with a chronic medical condition residing in the EU.

As in the case with other return beneficiaries who are assisted within IOM AVRR programme, the minor is provided with reception assistance at the airport/point of arrival by an IOM representative in the country of return. Onward transportation may be provided if necessary. If a child will be assisted by a childcare agency upon return, an assessment should be made of its capacity to provide adequate accommodation, basic care, education arrangements and medical care.

Throughout the entire assistance process, the child, his/her guardians and partner agencies must be kept informed of preparations, including on the provision of information and counselling upon return. IOM offices in the respective countries should work closely together throughout the assistance process.

3 – Post-return procedures

As mentioned above, returnees within IOM Budapest's AVRR programme are eligible to receive reintegration assistance. The beneficiary may apply for reintegration assistance by submitting an education plan or business plan in Hungary before departure or in the country of origin.

In order to ensure transparency in the selection process of reintegration assistance beneficiaries, the IOM mission in the country of return is requested to provide its assessment regarding the feasibility of the education plan or business plan.

When it is necessary, IOM mission in the country of origin is also requested to translate the reintegration assistance application forms to English. Based on the feedback from the IOM mission and the

availability of the funding, applications are approved or rejected by the IOM.

The implementation of all activities carried out within the AVRR programme (both return and reintegration component) is regularly monitored and reported to the responsible authority.

IOM prepares bimonthly progress reports as well as yearly narrative and financial reports. The implementation of the reintegration activity is covered within these reports and demonstrates the progress achieved.

The AVRR programme is a European Commission-funded programme under the shared management of the Ministry of Interior and the European Commission and IOM is required to report to the donor and provide hard copy of documentation of each and every cost item. The IOM missions in the countries of origin are required to provide IOM Budapest with specific documentation, which is inevitable to prove eligibility of particular expenses charged in the programme.

Evaluation of the use of reintegration assistance has not been implemented as part of IOM Budapest's AVRR programme thus far. However, evaluations of reintegration assistance are now being included within a new project entitled "Reintegration Assistance for Assisted Voluntary Returnees to Kosovo/UNSC 1244)".

4- Italy

1 – Pre-return procedures

Under the current circumstances, the main prerequisite is the expressed willingness by the minor concerned to be reunited with his/her family. In addition, normally for a return to take place safely, the following conditions need to be met:

- a. A family assessment report completed and shared with relevant social workers/guardians
- b. An evaluation on the best possible solution for the future of the minor is undertaken by all involved stakeholders, including judicial authorities
- c. A specific decision is taken by the Directorate General for Immigration and Integration Policies at the Ministry of Labour and Social Policies, including approving the reintegration project of the minor concerned, which is currently implemented by IOM.

Through the assessment carried out with the family, at their place of residence, and whenever necessary, with the local authorities, the conditions for the return are ascertained. In the current procedure, IOM is responsible for collecting this information and sharing it through the assessment report with relevant stakeholders. Through this assessment it has to be verified that no danger for the life and wellbeing of the minor and the family are related to the actual return and that the psychological and humane development of the minor concerned can take place. Apart from objective criteria of the socio-economic context, it has to be ascertained, if necessary with the support of the local social services and authorities, the non-existence in the family of harmful conditions.

Furthermore, the position of family members, who are also the minors' legal guardians, is taken into account when organizing the return process: they are constantly consulted and the different steps of the procedure are shared and agreed upon with them. At times, when receiving the information of the willingness of the minors to go back home, family members are at first reluctant; however, based on the experience of the project Italy has been implementing for the last five years, counselling sessions with them are useful to explain the position of the minors and to make sure the conditions for the return are adequate. Upon arrival, the family members/guardians do sign a

form through which they discharge IOM and the Italian authorities of the responsibility on the minor.

Family ties are usually proved through documentary supports; these also include evidences, such as: school certificates, pictures, medical certificates, and so on; failing this approach, in particular circumstances, especially for those families fleeing from war torn zones, or from persecution, the authorities can ask for the DNA proof, in case family reunification is a real perspective.

The assessment, prior to the return is currently conducted by IOM, in the framework of the programme carried out on behalf of the Ministry of Labour and Social Policies. This activity is conducted, whenever feasible, in cooperation with local authorities, more specifically Social Services.

The interview protocol used by IOM looks at the socio economic situation of the family and of the broader context in which the family lives. In different sections of the questionnaire details on the services, infrastructures as well as main economic activities and future development perspectives of the area/region where the minor's family lies are collected. Whenever possible this analysis is extended to next, most important urban area, so to provide alternatives, particularly when the minor has expressed his-her willingness to go back home and when in those areas exist options that can better fulfil his-her desires and skills.

For its very nature, the return process of unaccompanied migrant children involves a number of different actors, all having different roles and responsibilities towards this specific group. These are the social services and legal guardians, who deal directly with the minors, the Juvenile Judges and the Tutelary Judges, but there are also authorities at central level such as the Ministry of Labour and Social Policies, with its Directorate for Immigration and Integration Policies that is responsible for coordinating the inputs of the different

stakeholders involved and ensure that the best possible option is offered to the minors concerned.

In the case of return of the minors, the documents necessary for such a travel to happen according to the law, are collected both by the Directorate for Immigration and Integration Policies, that asks the necessary go ahead from the judicial authorities, and by IOM that directly takes care of the issuance of travel documents, if not already available.

In the assisted voluntary return scheme set up by IOM, for the Directorate General for Immigration and Integration Policies, minors reunifying with their families and returning home are entitled to in-kind reintegration assistance. This can be used for different purposes according to the aspirations, skills and needs of the returning minors coupled with the actual possibilities existing in the return area, or its surroundings. Normally, the packages for educational reintegration projects do not exceed the value of 2.000 Euro, whereas for projects aimed at supporting the setting up or strengthening of labour activities the packages is of 3.000 Euro. An amount of 1.000 Euro, in addition to the above mentioned ones, is also envisaged in case of specific medical needs of the returning minor.

It is however worth mentioning, that as great relevance is given to the peculiarities of every single case, IOM may ask the Directorate General for Immigration and Integration Policies to implement reintegration projects with higher amounts available, by providing grounds to substantiate this request.

2 – Return procedures

When it comes to the procedure of the Assisted Voluntary Return, this is part of the system action currently implemented by IOM on

behalf of the Directorate General for Immigration and Integration Policies that is tasked with it by Law.

In order for the return to take place, the request by the minor is necessary, together with the evaluation by the social services, the authorization by the guardians, the analytical report included in the family assessment. The go ahead by the Juvenile Court as well as the decision by the Directorate General for immigration and Integration Policies are also necessary.

As mentioned above, in the current scheme, IOM is tasked with taking care of the logistics of the return. In addition to liaising with the social services and guardians to device the reintegration project, IOM is also responsible for organizing and escorting, whenever necessary, the minor from his/her residence to the closest international airport, to assist him/her in all procedures related to the departure (purchasing of tickets, clearance with border police authorities), organizing and assisting the minor at transit and upon arrival. Whenever necessary, IOM is also escorting the minor during the entire trip. IOM can appoint also medical or non-medical escorts. Special consideration is given to the age, maturity, health and mental conditions of the returning minor, as well as any specific requirements.

Upon arrival, whenever feasible, the family of the minor is also present. In any circumstance, IOM will escort the minor home and hand over the minor to the family, who will in turn sign a document to discharge IOM and the Italian authorities from the responsibility on the minor. Whenever possible and needed, local social services and other assistance associations or institutions are involved by IOM.

3 – Post-return procedures

As mentioned above, the reintegration assistance envisaged in the current scheme is tailor made on the characteristics, skills, aspirations of the returning minor, coupled with the options available in the returning area. The reintegration project, be it focused on education, labour insertion, apprenticeship, a combination of both, is monitored every three months. The reports, based on a pre-defined model, are prepared by IOM in the country of return and shared by the IOM Mission in Rome with the Directorate General for Immigration and Integration Policies.

In particular circumstances, the implementation of the reintegration project may vary from the original plan. This change has to be communicated and approved by the above mentioned Directorate. This flexibility is envisaged in order to ensure to the extent possible the sustainability of the project.

No overall external evaluation has been carried out till now.

5- The Netherlands

3. B– COUNTRIES/REGIONS OF ORIGIN

I- Afghanistan

In terms of **documentation**, the issuing of travel documents for the UMCs has to be supported by a consent form (Annex I) from the UMCs family who agree with the return. Furthermore, the application of UMC for obtaining travel document must be supported by the written consent of the family that clearly states and confirm that the family agrees with the voluntary return of the minor and can offer financial support to the UMC. The legal guardian of the UMC in the host country must also sign a consent form for the return of the UMC.

In addition to the consent form other supporting documentation for the issuance of a travel document includes an Afghan identification card (Afghan government issued, known as “Tazkera” card). The Afghan Embassy in the host country (the Consular) is the only authority which decides where a travel document can be issued or not. If the family does not agree to voluntary return then the return is postponed until the minor becomes 18 years of age. This is due to the fact that minors cannot be returned when family reunification is not possible because of the lack of legal framework for the designation of legal guardianship.

At the operational level, IOM has only dealt with voluntary return of UMCs where family reunification has been possible. This de facto means that the UMCs family agrees with the return and will enable provision of travel documentation. In such cases, IOM’s role involves providing them with **reception assistance** at the airport upon arrival, after which IOM which hands them over to their family. In terms of provision of **adequate shelter**, the MoLSAMD would be the entity most likely to have the authorisation to provide shelter in the absence of adequate shelter upon the return of UMC to the country of origin (e.g. parents have deceased or cannot be traced). There are orphanages and shelters run by local governments entities. These facilitates have been deemed weak and/or inadequate based on the findings of an evaluation conducted by IOM. These conclusions were based on evaluation findings which found existing orphanages and shelter to have limited or deteriorated facilities and infrastructure, lack of educational and vocational programs, and limited trained staff. To date, IOM has only dealt with UMCs who have families in Afghanistan and hence, a place to stay. No minors have been returned without family support and reunification. IOM is the only IGO which has dealt with cases of the return of UMC to Afghanistan.

In terms of **reintegration** of UMCs who return to Afghanistan from Europe, when IOM is involved with voluntary return of UMCs, it also takes care of their reintegration needs. As mentioned above, this has

only occurred with UMCs who are able to be reunified with their families.

2- Albania

1 – Pre-return procedures

1.1 – How is the collaboration with IOM sending missions performed?

The IOM receiving mission is duly informed of the exact date and hour of return of the minor. This information is then passed on to the minor's legal guardian so that his/her presence at the airport is guaranteed for a safe and smooth hand over.

1.2 – What are the criteria for a safe return of an UAM?

The first and foremost criterion for the safe return of an UAM is the presence of a legal guardian in the home country who will take care of the minor and guarantee his upbringing and education in the proper way. The best interests of the child should be taken into account prior to departure. Specific circumstances of each individual case, such as the length of stay, children attending school and the existence of other family and social links should be taken into account before a return takes place.

1.3 – How far are parents and/ or guardians in CoO involved in a process of voluntary return of an UAM? Do they agree on the return?

The parents or other legal guardians of the minor are summoned by IOM Tirana to discuss the voluntary return process of the minor. In view of the minor's willingness to return home, the parents are asked to be cooperative and are invited to provide reintegration ideas on what would best fit the family and the minor's needs. They are asked

to sign a form of presence at the airport on the scheduled day of the minor's arrival.

1.4 – Are there mechanisms to prove family ties in the context of the voluntary return of an UAM?

A family certificate issued by the local government authority is indispensable in verifying the authenticity of the family ties.

1.5 – How is the family assessment conducted and by whom?

As previously stated, a preliminary family assessment has been made during the family tracing process. Upon request from the sending IOM missions, IOM Tirana conducts additional interviews with the parents or legal guardians of the minor. They assess the economic status of the family, the income generating activities, the working and educational opportunities in the area, the network of social services that could provide assistance to the minor returning home. As of recently, IOM Tirana has been joined in such family assessment interviews by staff of social services in the respective towns/villages.

1.6 – Who are the actors involved in the return/ reintegration process for an UAM? Who is in charge of BID, family assessment, collection of necessary documents?

IOM is the only entity involved into that process, so far.

1.7 – Is there reintegration assistance available for UAM in CoO? Are there eligibility conditions for the reintegration assistance?

The hitherto experience of IOM Tirana indicates that IOM has been the only provider of reintegration assistance for the returned minors. The local social services could only provide a minimum assistance in financial terms to the minor's family in case they are unemployed or

lack sufficient land in the village. In case the minor accomplishes excellent scores, the local authority can also grant him/her some scholarship allowance.

2 – Return procedures

2.1 – How is the assistance upon arrival on an UAM organised and carried out?

IOM Tirana cooperates closely with the Tirana Airport authority in informing them of the minor's arrival. The Albanian Border and Migration police authority would require a check of their effective records and ID, once the returnees set foot in Albania, irrespective of the authority issuing the travel document. While IOM Tirana would not interfere with this checking procedure, IOM can help in speeding up the processing time for the returnees by advising the Department of Border and Migration in advance of the arrival and especially, of the voluntary nature of the return. IOM staff is present at the airport to assist with the proper hand over of the minor to the legal guardian.

2.2 – How is the handover between IOM staff and parents/or guardian carried out?

Prior to the hand over process, the IOM staff checks the identity of the minor's legal custodian. Once the documentation supports her/his claim and identity as the minor's legal custodian, the latter is asked to sign the handover note along with the IOM staff present at the process. In all UAM cases, IOM Tirana is always present at the handover location, considering the very delicate and sensitive nature of the process.

2.3 – Are there any additional criteria applied when providing assistance upon arrival for UAMs?

Considering the best interests of the child, IOM Tirana tries, in cooperation with the border authority, to minimize the waiting time for UAM returning without passports (lost or destroyed) by properly liaising with the border authority.

3 – Post-return procedures

3.1 – What are the types of reintegration assistance for the UAM/family/guardian that are provided in the post arrival phase?

The IOM AVRR projects implemented currently in Albania are:

- Reintegration Assistance for Individual Returnees from Switzerland (RAS) & Return Information Fund (RIF)
- Return and Emigration of Asylum Seekers ex Belgium – REAB Programme
- Programme for the Assistance to Voluntary Return from Italy and Reintegration– PARTIR
- Facilitated Reintegration Scheme FRS – Post arrival assistance to the returnees from UK
- Reintegration Cash Grant to the returnees from Norway/Finland
- Family Tracing Activities and Assisted Voluntary Return of Unaccompanied Foreign Minors – Italy
- Centre for the Provision of Information on Return Support (ZIRF)

The adult returnees mainly opt for the business start-up option considering it as having direct and quicker impact on their household economy through increased incomes. Hence, better living standards. With a minor, the reintegration team discusses with him/her and the legal custodians the best options of using the reintegration grant for the minor's future sustainability by selecting education or vocational

training as the first choices, as that would provide them with necessary skills for their future job placements.

3.2 – What are the existing mechanisms available for the reintegration assistance for UAMs?

IOM Tirana has identified a number of schools and vocational training centers which are well reputed for the quality they offer and with whom the mission has had a successful working experience.

3.3 – Are there opportunities for inclusion of parents into the reintegration process?

The parents are an inseparable part of the reintegration process, either in support of the minor's wish or by making relevant suggestions to focus the process on what the minor and the family as a whole would be mostly interested in at that given moment.

3.4 – Are there projects that provide support to the wider community in the CoO?

In some cases, the returnees have opted for activities such as internet café in areas where there is no such service at all. This has benefited the area students and not only.

3.5 – Monitoring of the reintegration activity (who, for how long, who reports to whom...)?

The monitoring process varies from three to six months in the wake of the return with the aim of pointing out the success and constraints in the reintegration process. It is the IOM staff who has dealt with the reintegration process since the very beginning who will do the monitoring.

3.6 – Evaluation, if any (who, what activities, who reports to whom ...)?

Not any so far.

3- Iraq

1 – Pre-return procedures

1.1 – How is the collaboration with IOM sending missions performed?

Both the sending and receiving missions exchange certain information as a starting process of AVRR for UAMs. IOM Iraq receives a brief history of the UAM from the sending mission. This includes the personal details of the UAM and his/her family, contact details and address of the family. Whenever there is a need to have feedback from the UAM, IOM sending mission provides assistance by contacting the UAM and updating him/her.

1.2 – What are the criteria for a safe return of an UAM?

There are certain factors to be considered for the process of having safe return of UAMs. First of all, the willingness of the UAM should be considered as basic criteria for safe return, because once UAMs show enthusiasm and cooperation in the return procedure, the rest of the return and reintegration process can be much easier. Secondly, the assurance of having shelter for the UAM is crucial. Having a place to live, whether in the house of the parents/relatives or in a governmental shelter would make the AVRR more sustainable. UAMs are extremely vulnerable especially if they are not well familiarized with the psycho-social status of the surrounding area where they can easily be exposed to danger and deviation if not well guided into the reconnection with the community and its members. Obtaining the approval /readiness of the family/relatives well before the return take place is the third criteria. When a family approves/ready to

receive their child, the entire process becomes easy. In fact the commitment from the family/relatives helps the UAMs in a sense that psychologically the UAMs don't need to feel that they have to face the return process on their own, instead they are made to feel that they are fully supported. The well-being of the family that the UAMs return to is another crucial factor. The reintegration process of the UAMs is difficult by nature and it is a burden on the family, however, if financially capable, the families can afford arranging for different activities for their returned children and respond to the possible needs of them at the right time that prevents them from opting for the wrong choices. Therefore, the well-being of the parents/relatives should also be considered. Fifth, the social status of the family that UAMs return to has a huge psychological impact on the minors. For example, if the UAMs return to a socially devastated family (when parents are separated, or one of the parents is convicted of a crime), they surely suffer from the critics and existing social norms and always looked at and treated in a different manner, or at least the perception would be in this way from the UAMs' view.

1.3 – How far are parents and/ or guardians in CoO involved in a process of voluntary return of an UAM? Do they agree on the return?

The involvement of the parents/guardians in CoO can either be positive or negative. If the parents are positive about the return of the minor, they usually cooperate fully with IOM and the concerned parties. They make the return process easier by encouraging the minor to return to the CoO, or at least by showing no objection to the decision of return by the minor. In this way, the time and effort needed for tracing and return procedure will be reduced significantly and the minor will return with a feeling that he is welcomed and supported with his/her decision. However, if the parents are negative about the return of their child, they usually show little interest in cooperating with IOM, and they often try not to give accurate information about their current family situation during the

field visit and assessment process. This usually makes the return process more difficult, because the family might unwillingly agree to accept their child, but the after-return period will be very difficult for the minor. In IOM Iraq, we have experienced both scenarios. In most cases, the parents usually agree with the return of their child and do like to cooperate and respond quickly when it comes to assessment and signature collection, but in some other cases, the family usually shares their unhappiness with the fact that their child put them in a difficult financial situation by travelling to Europe in the first place.

1.4 – Are there mechanisms to prove family ties in the context of the voluntary return of an UAM?

In order to prove the family ties there is not much that can be done. The first thing to depend on is the Iraqi ID and nationality. Second, the information provided through assessment visit can be compared to the information provided by the minor and if the two versions match, one can probably conclude that the family tie exists. Moreover, IOM Iraq believes involving local authority may be the best option, because it is not easy for guardians/parents to avoid officials when it comes to such sensitive issues.

1.5 – How is the family assessment conducted and by whom?

The family assessment is conducted by IOM operations staff and it is usually based on the requests IOM Iraq receives from the sending missions. For example, each sending mission has its own template to be used. Overall, the forms contain questions related to family members, socio-economic situation of the family, general services available in the place where the family resides and their willingness to receive their child.

1.6 – Who are the actors involved in the return/ reintegration process for an UAM? Who is in charge of BID, family assessment, collection of necessary documents?

IOM Iraq is the main actor throughout the process of the return and reintegration of the minors.

2 – Return procedures

2.1 – How is the assistance upon arrival on an UAM organised and carried out?

The arrival assistance is carried out in a normal way; first the guardian/parents are informed about the arrival of their child. Then, once the minor arrives, IOM staff receives him/her and can provide onward transportation and one night accommodation based on the request received from the sending missions. When the child's final destination is far from the airport, the parents may seek one night accommodation before traveling back to their final destination. Worth to mention, the entitlement for any airport service is based on the pre-notification correspondence with the sending missions.

2.2 – How is the handover between IOM staff and parents/or guardian carried out?

The guardians either confirm their presence at the airport or prefer IOM Iraq to assist the minor till he/she reaches the final destination. In both cases, IOM staff will make sure that the handover form is signed by the family. In the case of having unusual or unexpected remarks, IOM staff notifies the sending mission directly, for example the attitude and the reaction of the family to the child.

3 – Post-return procedures

3.1 – What are the types of reintegration assistance for the UAM/family/guardian that are provided in the post arrival phase?

Interviewing and counselling is the first step where UAMs and family get acquainted through a proper briefing on the various options available after return. IOM Iraq also guides minors to obtain supportive documents to receive the assistance, and then assists in filling out the forms, and implementing the reintegration plans as well as monitoring the progress at later stages. So the main kinds of activities are starting a small business/joining an existing business, Job placement (depends on the age of the minor), education (it is really encouraged), vocational training (to learn new skills that build the capacity of the minor)

3.2 – What are the existing mechanisms available for the reintegration assistance for UAMs?

In order to start an activity in a proper way, IOM Iraq looks at the emotional maturity or decisiveness of the minor. Next, it provides a proper counselling and, based on the best options available, it requests the minor and his/her family to submit necessary documents to start the implementation of the reintegration assistance. In the case of vocational training, IOM Iraq tries to find out what are the main objectives behind the minor's interest in opting for such options. When it comes to the purchasing reintegration items, IOM Iraq applies its own procedure which involves logistics department to assess the validity of the prices and the quality of the items. Most of the time, IOM collects the signature of the parents along with the signature of the minor and provides the assistance in the presence of both minors and parents.

3.3 – Are there opportunities for inclusion of parents into the reintegration process?

The involvement of the parents and other family members in the reintegration process is a key factor in achieving success, therefore, IOM Iraq usually asks a family member to accompany a minor throughout the reintegration process. In Iraq, usually children stay with their parents long after their maturity age. Most of the time children fully depend on their support for their daily expenses, school, clothes, and many other issues. In fact, without the support of their parents, it is very difficult to have a sustainable life style. Hence, the inclusion of the family in the reintegration process from the very first stage is needed. Another advantage in including the family in the process is that they may also contribute towards the reintegration plan. For instance, in the case of the business set up, parents can contribute financially for the sake of their children. After all, if a minor goes for an option disliked by family members, he/she may need to bear the consequences of failure, however when the support of the family is there, the minor has little to worry about. In brief, the current social structure in Iraq provides a good opportunity for the involvement of parents.

3.4 – Monitoring of the reintegration activity (who, for how long, who reports to whom...)?

IOM Iraq has a standard procedure for the monitoring of all its cases. Each reintegration case is usually monitored three months from the date of receiving the reintegration package. IOM Iraq prefers to use its own standard template, however, from time to time, sending missions/donors prefer their own templates and also in some occasions more than one monitoring visit can be conducted when more information is required.

4- Kosovo/UNSC 1244

In order to facilitate and support the sustainable reintegration of the repatriated persons, Government of Kosovo in October 2013, has adopted National Strategy for Reintegration of Repatriated Persons in Kosovo, 2013-2017, and its Action Plan. This strategic document has been followed by development of several additional practical documents including:

- Guide for the Implementation of the National Policy on Reintegration;
- Regulation grk no.20/2013 on reintegration of repatriated persons and management of the reintegration program
- Guide for support and assistance to repatriated persons for sustainable reintegration based on reintegration policy;

Basic conditions for the voluntary return of unaccompanied minors, according to the representatives of the relevant Kosovo institutions that are interviewed in this study, is provision of the opportunity to return to the biological family or relatives, and ability of the parents or caregivers, in case of minor with no parents, to ensure safe and caring home environment. Once basic conditions are met, there is a need to ensure that returned minors have access to the reintegration opportunities such as education, health, employment, etc. Of course important **prerequisites** to the above are proper information of the unaccompanied minor about the advantages of the voluntary return, timely notification of the Kosovo authorities on the return of the minor, contacting and informing the family and their agreement with the return, reception at the Airport and escorting the returned minor to his family. Prior to each return CSW discusses with the parents and/or guardian the return process and then case the report is prepared depending from the outcome of the discussions and assessment.

In term of **verification of the family relationship**, as mentioned earlier family assessment, including family relationships is carried out by the Centre for Social Work as a leading authority for this purpose. If findings of the assessment are subject to dispute are doubts, the

case is referred to other relevant actors for assistance in verification of information, such as DCAM, DRRP, police, office for civil registration, and municipal authorities.

Family assessments conducted by the CSW are comprehensive and pay specific attention to the **safety of the unaccompanied minor** during the reintegration process. In this contest it is essential that family approves return of the minor and presents at the airport to welcome their child. Other very important **circumstances** are supporting the family in meeting the needs of the child for food, shelter, clothing, health, education, employment and social reintegration.

Centre for social work conducts monitoring visits to the minor's family in order to assess the integration process and identify needs of the family. In addition, **Periodical monitoring and assessment** of implementation of the business plan should be carried out by the Municipal Employment Offices (MEO), Vocational Training Centres (VTC) and regional coordinators.

Key actors responsible for the return and reintegration process at the central level are:

- Ministry of Internal Affairs (MIA),
- Ministry of Labour and Social Welfare (MLSW)
- Ministry of Environment and Spatial Planning (MESP),
- Ministry of Health (MoH),
- Ministry of Education, Science and Technology (MEST),
- Ministry of Local Government Administration (MLGA),
- Ministry of Forestry and Rural Development (MFRD),
- Ministry of Diaspora (MoD),
- Ministry for Communities and Returns (MCR),
- Ministry of Finance (MoF), and
- Ministry of Agriculture.

While at the local level, main actors involved in this process include:

- Municipal assembly;
- Municipal directorate for health, social welfare, and education;
- Municipal office for communities and return;
- Municipal centre of the civil registration and municipal office for the civil status;

Additional relevant actors are:

- **Central Commission for the Reintegration (CCR)** - a decision-making body at the central level, which is comprised of representatives from MIA, MLSW, MESP, MoH, MAFRD and it decides on the requests of repatriated persons for benefiting from Reintegration Program;
- **Commission for Appeals** - reviews and decides the appeals of repatriated persons against the decisions of the CCR and MRC.
- **Municipal Commission for Reintegration** which is comprised of municipal representatives of education, health, social welfare, labour and employment, public services, planning and urbanism, geodesy, cadastre and property, the officer for European Integration and the representative of the MORC. This commission takes decisions on applications for emergency benefits of repatriated persons; and
- **Regional coordinator** - responsible the coordination of the reintegration process with the local level, monitoring of the implementation of decisions issued at the central and local level for the certain region, and verification of cases in the field in cooperation with municipal authorities

Centres for social work at the municipal level supported by the MLSW/DSPF have the **overall responsibility for the child's welfare and family assessments**, while MIA and municipal centre of the civil registration and municipal office for the civil status are responsible for **obtaining necessary and required documents**.

Acceptance of responsibility by the family to take care about the child and adequate assessment of the family conditions for provision of care to the child, are used as **additional criteria** for the voluntary return of an unaccompanied minor.

In terms of **organization of the return**, including voluntary return, MIA is mandated to manage and oversee entire process, from the moment of readmission to distribution of assistance in various fields. This process can be categorized into three main groups of activities;

- **Readmission phase**, managed by the DCAM/MIA and by the Border Police;
- **Assistance provided at the central level**, managed by the DRRP/MIA with the involvement of the other ministries; and
- **Assistance provided at the municipal level**, managed by local authorities under the coordination of the Municipal Offices for Communities and Returns (MOCR) and under the general supervision of the DRRP.

MIA is also responsible for **information and coordination**. Prior to arrival of the repatriated persons in Kosovo, MIA should inform the relevant ministries for the needs, including special needs, as well as basic data for the date and place of arrival.

The return process can be summarised as following:

- Process of the readmission/repatriation starts upon an official order or legal decision is made by the host country that denies legal status of stay of a person or family in that country;
- Following this decision, the sending country contacts Kosovo institutions to confirm the origin or nationality of the person/family concerned;
- After receiving of the confirmation for readmission from Kosovo authorities, the person/family can be returned to the country;

- Upon at the airport, the Kosovo institutions (representatives of DRRP and/or CWS) are obliged to accept the person/family, assess their health status and needs, and provide oral and written information on their rights and opportunities for the reintegration benefits and support;
- If the person/family on the day of arrival cannot go to the place of his/her residence in Kosovo, the Kosovo institutions have an obligation to provide temporary accommodation for up to seven days. Moreover, when it is needed, Kosovo authorities will arrange transportation and escort to the returnee to the destination municipality.
- Upon arrival in the municipality of origin, the municipal institutions, relevant directorates and offices, are responsible to provide necessary assistance for the reintegration, including civil registration, housing and access to public services, as well as health, education, employment and social welfare;
- In the Municipal Office for Communities and Returns (MOCR), the repatriated persons can submit a request for assistance and support.

Special attention in the providing of the assistance and support is offered to **vulnerable groups**. Special needs of the vulnerable persons and the best interests of the children should be taken into account during the assessment. In this context, during the process of the reintegration special attention will be paid to:

- self-feeding mothers;
- Children without parental care and children abandoned;
- Children without parental care and abused and mistreated children;
- Protection of the children with special needs, with the special emphasis for the minorities;
- Minorities such as: Roma, Ashkali, Egyptian and other minorities at the municipal level;
- Elderly persons without family care;

- People with mental disabilities and without family;
- Families with poor economic condition;
- Victims of the human trafficking.

In addition, responsible authorities should ensure that repatriated persons receive the necessary information in the official languages and/or languages they understand.

Documents required for the voluntary return of an unaccompanied minor include:

- (1) Birth certificate and other documents from the civil registration;
- (2) Education certificate/diploma;
- (3) Information on health condition, including immunisation;
- (4) Proves in case of physical or mental disability;
- (5) Criminal record, if any;
- (6) Any other information relevant to support reintegration of rapatriated minor.

DCAM will send official request for the above information to the country requesting return, alongside with the approval for readmission by the Kosovo authorities. If the information regarding the health condition reveals that the returnee is suffering from the severe health conditions which cannot be treated in Kosovo, DCAM will inform the requesting country about this within 24 hours.

Unaccompanied minors are **received** at the border crossing point by parents, by the social worker/and or legal guardian and representative of the DRRP. Similarly, from the border crossing to the place of residence, unaccompanied minors will be **accompanied** by parents, and in case of no parental care by the social worker/and or legal guardian.

In order to assist reintegration of the repatriated person, Kosovo Government introduced the **Reintegration Program** which is

managed by the MIA, and there is a managing board established for this purpose. Furthermore, according to the Reintegration Strategy for Repatriated Persons, unaccompanied minors are categorized as a vulnerable groups and special attention is given to this group. During the reintegration process, based on MoU between MIA/DRRP and MLSW, care for this category is responsibility of the MLSW and CSWs in accordance with their mandate, supported by the Reintegration Department /MIA

If the repatriated person meets criteria according to Regulation grk no.20/2013 on reintegration of repatriated persons and management of the reintegration program, he/she is entitled to:

Assistance provided at the central level including:

- Assistance upon arrival
- Transportation to the place of destination
- Temporary accommodation

Assistance provided at local level:

At the local level, assistance and support provided to repatriated persons is mainly organized as a part of municipal services in close cooperation and coordination with local authorities of social welfare, health care, employment, education, housing and other providers of public services.

Assistance and support in local level are divided in two categories:

- Assistance and support through public services
- Assistance and support upon submission of the request

The MOCR has a key role in ensuring access to assistance and support for repatriated persons during the reintegration process.

- Assistance and support through public services covers following areas:
 - Civil registration
 - Acquiring personal documents

- Providing of housing
- Health treatment
- Social welfare
- Employment and professional training
- Education and additional classes
- Psycho-social treatment in case of need
- Assistance and support upon submission of the requests covers the following areas:
 - Food and hygienic package
 - Winter assistance package
 - Furniture package
 - Occasional assistance
 - Housing through rent
 - Medical treatment
 - Renovation/reconstruction of houses
- Assistance for self-employment/establishing of business

Please see Annex C for detailed information on assistance through Reintegration Programme

In terms of **monitoring and evaluation** of the situation of the unaccompanied minor after his return, each municipality has an office for community and return within which is established a Committee that monitors reintegration process of repatriated persons. This committee is comprised of representative of the Centre for Social Work as well as representatives of other relevant municipal departments. Furthermore, in order to monitor and evaluate integration, CSW in cooperation with the minor, parents/caregiver or legal guardian, prepares individual plan of services which is reviewed in accordance with the relevant standards. Periodical monitoring and assessment of implementation of the reintegration programme, are also carried out by the regional coordinators in cooperation with other relevant municipal actors. An electronic case management system is developed to coordinate the programme, which is also used for the purpose of monitoring.

MIA in cooperation with other actors prepares leaflets that contain **information** about the rights and responsibilities of the repatriated persons, as well as, information on assistance and benefits for the repatriated persons. These leaflets are available in Albania, Serb, Roma, Turkish and English languages, and are distributed to the repatriated persons at the moment of arrival, but they are also available within CSWs and temporary accommodation centre. There are also leaflets adequate for children, emphasising children's rights, legal services for protection of those rights, education, etc.

Representatives of the institutions that were interviewed for this study, stated the so far they did not had any experience of voluntary return of unaccompanied minor, thus it was not possible to present in this report any **positive examples of the voluntary return of unaccompanied minors**.

Family/parents are identified as crucial **contributing factor to successful voluntary return and reintegration of unaccompanied minors**. According to DSPF *"Offices for communities and return, as well as, Centres for Social Work, support the family in a professional manner, but there is no substitution for the important role of the family as contributing factor to successful voluntary return of unaccompanied minor"*.

Regarding **recommendations** on how to improve the process of voluntary return and reintegration of unaccompanied minors, it was cited that *"voluntary return can be improved if the minor is convinced that his/her requests/needs for social welfare, education, health and employment will be fulfilled. These guaranties make voluntary return more successful. Of course family and family environment remains determining factor"*.

International Organisation for Migration (IOM) - Throughout entire above mentioned process of return and reintegration of unaccompanied minors, IOM has played important role by supporting relevant Kosovo institutions at central and local level.

Key supporting activities implemented by IOM in cooperation with the Kosovo authorities include the following:

- Family tracing;
- Family assessment;
- Obtaining relevant documentation for voluntary return;
- Assisted voluntary return programme;

Awareness raising and information dissemination

5- Pakistan

1 – Pre-return procedures

1.1 – How is the collaboration with IOM sending missions performed?

The sending mission initiates the travel arrangement after the family assessment has been completed and report shared.

1.2 – What are the criteria for a safe return of an UAM?

The safe return of a UAM is ensured through the following, depending upon the donor requirement:

- By arranging an IOM operational escort with the minor. The escort hands over the minor upon arrival by getting proper handing-over forms signed by the family.

- By ensuring that the minor is booked as UAM with the airline which requires a proper documentation of taking over and handing over from the airline staff by the designated person only.

1.3 – How far are parents and/ or guardians in CoO involved in a process of voluntary return of an UAM? Do they agree on the return?

The parents do agree to the voluntary return and, linked to this agreement, a signed declaration is required to be submitted by the parents/guardian confirming that they are willing and ready to receive the minor.

1.4 – Are there mechanisms to prove family ties in the context of the voluntary return of an UAM?

Family ties, in terms of parents at least, can be determined through birth certificate or form for the registration of children under 18 years of age issued by the National database Registration Authority. This can be cross checked against the national identity cards of the parents. To provide these documents is one of the pre requisites in order to prove the family ties.

1.5 – How is the family assessment conducted and by whom?

The family assessments are conducted by IOM staff by going to the place of residence of the minors as per request received from the sending mission. The factors mentioned above are determined through the interview protocol that is filled out very carefully and as per the guidelines received from sending missions.

1.6 – Who are the actors involved in the return/ reintegration process for an UAM? Who is in charge of BID, family assessment, collection of necessary documents?

This is best answered by the sending mission however the mission in CoO is responsible for collecting of the documents and compiling report based on the interview protocol received.

1.7 – Is there reintegration assistance available for UAM in CoO? Are there eligibility conditions for the reintegration assistance?

Reintegration assistance can be provided as per the project foresee, the mission in Pakistan assists with the following in terms of providing reintegration assistance.

- Counselling with regards the business idea/plans based on the background and previous experience of the returnees.
- Guidance in developing a business plan
- Guidance with regards to advising formalities in obtaining relevant documents to set up a business
- Assessing the need of vulnerability assistance.
- Putting together relevant paper work to ensure that returnees get the intended grant in a speedy manner.

2 – Return procedures

2.1 – How is the assistance upon arrival on an UAM organised and carried out?

The assistance upon arrival is provided as follows:

- Receiving the minors in the airport's arrival hall.
- Assistance through the immigration formalities upon arrival.
- Assistance in collecting luggage.
- Handing over the minor to family and getting the handing-over forms signed

- Arrangement of domestic transportation if envisaged within the scope of the project or handing over cash for this arrangement.

2.2 – How is the handover between IOM staff and parents/or guardian carried out?

The hand over is carried out inside the airport after arrival hall. The minor's family is informed beforehand of the arrival date and time. The families usually come to the airport for the hand over. Handover forms are signed and pictures are taken depending upon the consent of the family.

3 – Post-return procedures

3.1 – What are the types of reintegration assistance for the UAM/family/guardian that are provided in the post arrival phase?

The reintegration assistance for UAMs and their families include the following: Education/vocational training; Temporary Accommodation; Business start-up; Purchase of tools, equipment, goods, etc.; Setting up of small businesses, either solely or in partnership; Dairy Farming; Clothing/garments business; Grocery shops; Electrical goods store etc

3.2 – What are the existing mechanisms available for the reintegration assistance for UAMs?

Although the above in terms of vocational trainings and further schooling are available for minors, most of the minors opt to include the reintegration activities that parents/guardian can take up, for example investing in an already running business of the family or

purchasing tools for a dairy farm that being owned by the father/guardian.

3.3 – Are there opportunities for inclusion of parents into the reintegration process?

As explained above, the inclusion of parents into the reintegration process has been a more followed practice rather than the minor taking up a vocational or educational opportunity. This supports the fact that the main reason for a family to send over the minors to another country is economic. Therefore when the reintegration component is available for inclusion by the family, this becomes the most opted for solution.

3.4 – Are there projects that provide support to the wider community in the CoO?

This has not been the case so far; however, a suggestion was made to one of the sending mission to conduct a sample survey in an area for identification of such a mechanism.

3.5 – Monitoring of the reintegration activity (who, for how long, who reports to whom...)?

The monitoring period usually starts after three months of provision of the assistance. The most preferred method is by actual visits to determine if the activity is still ongoing. Monitoring visits are planned and carried out by IOM staff in the mission. The reports are shared on pre-designed templates and photographs taken with consent are shared with the relevant project staff in the sending missions who in turn share these with the donors.

3.6 – Evaluation, if any (who, what activities, who reports to whom ...)?

The projects being implemented in the mission have so far been concerned with monitoring alone. Evaluations are carried out at the sending mission level as per project/donor requirements.

PART II – CASE STUDIES

Family Assessment / Return & Reintegration Story

COUNTRY OF ORIGIN: Albania

CITY: Durres

MINOR's NAME: Altin¹²²

STATUS: Irregular

TYPE OF ASSISTANCE

PROVIDED: Family Tracing and Reintegration

Who is Altin?

Altin was 17 years old when he first got in touch with IOM The Netherlands. He comes from Albania and has four brothers and two sisters. He loves cars and wanted to become a car technician first but is now using his talent in music and bought DJ equipment after his return to Albania.

The minor's migration pattern from his CoO to the EU MS

The pattern is not completely known to IOM The Netherlands. He stayed in a reception center for unaccompanied minors in

the south of The Netherlands. All in all Altin only stayed one month in the Netherlands before he decided to return with IOM. The return preparations in the Netherlands including the family tracing took five weeks in total.

While in the EU MS host country

Altin stayed in a reception center for unaccompanied minors in Oisterwijk. In this center more foreign unaccompanied minors are hosted. He did not apply for asylum in the Netherlands. This is something IOM The Netherlands observes more often with migrants from Albania who usually try to reach Great Britain. As he was a minor, the government appointed a legal guardian for him. Legal guardians for foreign children are usually professionals working for NIDOS – the legal guardianship agency in the Netherlands.

Preparation of the Family Assessment by the EU MS

IOM the Netherlands requested the legal guardian and Altin to

¹²² NB: Name has been changed for the story.

fill in the family tracing format with relevant information about the whereabouts of the family and the consent for IOM to conduct a family tracing. IOM – wherever possible – seeks the approval of the child as well as the legal guardian to contact family in the CoO.

Carrying out the Family Assessment by the CoO

Upon the request from IOM the Netherlands we initially contacted and then conducted family assessment interview with the family of the minor in Katund i Ri, Durres district in mid December 2013. The contact was not easy at the beginning; the minor's family was suspicious of IOM's role in the return and reintegration story. They were aware of Altin's wish to return but did not want to have it done through state entities in fear of any penalty for letting an under 18 go unaccompanied to a third country. However, the doubts were erased during the meeting with them at their place. The family strongly demanded the return of their youngest son as soon as possible amidst fears of

him losing the ongoing academic year. The talk mostly focused on the ways to have the minor returned within 2013 rather than on the reintegration grant. They also asked for a letter from IOM Tirana which they thought would be useful as a support document to have the returned minor re-enrolled at school.

Follow-up of the Family Assessment

The family assessment was shared with the legal guardian in the Netherlands who had no additional questions and who in return signed the consent form for the return of the minor.

Minor is staying in the EU MS or returns to CoO - Organization of the Return

IOM offers counselling sessions in all asylum seeker reception centers in the Netherlands. For unaccompanied minors IOM The Netherlands has special focal points who are trained to communicate with this specific target group. Altin's IOM counselor informed him about the possibilities of voluntary return and reintegration with IOM. In collaboration with the

legal guardian, the mentor at the reception facility and Altin himself it was decided that return was in his best interest. Together with the IOM counselor, Altin made a first design of his reintegration plan. He wanted to attend school and also train for becoming a car technician.

Return to Dures

On 14 January 2014, Altin was assisted by IOM The Netherlands to depart via Schiphol Airport. The airport assistance team helped him with the check-in procedures and all other practicalities.

Due to the fact that Altin was already 17 years old, no escort travelled with him. However, IOM informed the airline about a young traveler and request Meet&Assist assistance in transit.

Altin arrived safely in Tirana in the evening where he was picked up by his family. IOM Tirana arranged the handover to the family and informed them about the arrival time of Altin.

Project and the Future...

After his return Altin revised his initial reintegration plan and invested his in-kind reintegration amount into purchasing DJ equipment in order to offer his services for weddings and other festivities. He also bought a cow that is a highly productive milk cow in order to support his family's income.

IOM Tirana initially focused its effort in helping Altin in getting enrolled back to the school by liaising with the Dures Education Directorate and they issued an instruction to the Katund i Ri school director on that purpose (unfortunately, we later learnt that the director had not followed the instruction and the minor is to resume the lost academic year in mid September 2014).

Altin's initial request was that of working as a DJ with his brother; for that reason, he decided to spend part of the grant on the purchase of used DJ items, which were cheaper than the new ones. In our phone talks with the minor and the family, he has been busy attending weddings and other

joyful ceremonies in the village with his DJ items and the income is reportedly satisfactory. Altin went on with his reintegration idea of using the rest of the fund for the purchase of cattle and hiring of a plot of land which would serve his family increase the income and satisfy their needs better.

moreover, as in this specific case, IOM needs to react promptly operationally especially when it comes to the family's request for an urgent return of the minor home.

Good to know

- When a family assessment is necessary, IOM can conduct on-site visits at the residence place of the UAM in his/her country of origin. This allows confirming that the return is taking place in the best interest of the child.
- Every UAM below the age of 15 has to be escorted. IOM always identifies the escort that is the best positioned to assist the UAM.
- The suggestions coming from the parents during the interview are useful to determine the way the grant would be used. As legal guardians of the minor they know well what the most urgent needs are and where the effort needs to be focused;

Family Assessment / Return & Reintegration Story

COUNTRY OF ORIGIN:

Pakistan

Area in the country: North
of Pakistan

MINOR's NAME: -K.S.-¹²³

STATUS: Unaccompanied
Migrant Children

locally, but the financial support he brought home was still not enough for the large family.

The minor's migration pattern from his CoO to the EU MS

K. reached Italy in December 2013. He was advised by the "broker" to move to a wealthy town in the north of Italy so to be able to receive good services.

Who is K.?

K. has gone through a perilous voyage crossing different countries hidden in trucks, traversing borders on foot, always accompanied by the "broker" who facilitated his passage.

The decision to migrate was a "family venture"; K.'s relatives had to sell a vast plot of land to support the journey.

Before leaving his country, the minor had already dropped out of school and had started working

While in the EU MS host country

Once in the care of the local social services the minor asked his family to share with him important documents, such as birth and family certificates so to help his integration in Italy. K.'s firm wish is to remain in Italy and find a good job there. This is also the desire of the family, as confirmed through the family assessment.

Preparation of the Family Assessment by the EU MS

¹²³ NB: Name has been changed for the story.

Based on the standard procedure, the social services of the municipality taking care of the minor transmitted the social report to the Ministry of Labour and Social Policies, who in turn requested IOM to evaluate the information and ascertain that this was enough to start the assessment in Pakistan. The information was eventually transferred to the IOM Mission in Islamabad, which took the first contact by telephone with the family.

Carrying out the Family Assessment by the CoO

An initial contact was established with K.'s family for their consent and once consent for the visit was obtained, the visit was planned. K.'s house was situated in a village in Punjab, a northern province of Pakistan. The mother discussed with IOM the whole travel plan and the idea behind. The top reason mentioned was the 'economic one' and the "betterment of minor" who did not have any future while in Pakistan due to the lack of opportunities. The family lived in a

typical village household which was spacious but having a large house in the village doesn't guarantee good economic prospects for the family since it is usual that such properties are owned through generations. The father being unable to work due to sickness and the other brothers not being able to contribute towards the improvement of the family's economic condition had led to the organization of the trip abroad. The family was not inclined towards receiving the minor back home due to the lack of future prospects for him in the CoO and the hefty investment that was put into organization of the trip. The family was confident that the minor's migration to Italy was still a good bargain

Follow-up of the Family Assessment

From the Country of Origin's point of view, no follow up was such required after the family's intent of not receiving the minor back.

In Italy, the results of the assessment have been shared with the Italian Ministry of Labour and Social Policies, that has the task to transmit the feedback received to the social services. No other actions were taken.

Current situation and future options (is the minor planning to stay in the EU MS or to return to his CoO)

The minor has since then become of age and he no longer falls under the remit of the Ministry of Labour and Social Policies. It is worth mentioning, however, that the report of the family tracing/assessment was part of the documentation submitted to the competent authorities, upon becoming of age, to obtain a residence permit for work or study purposes, as envisaged by the Immigration Act.

Good to know

K.'s experience sums up some of the main features of UMCs' migration from Pakistan to Italy;

therefore, it could be seen as a paradigm of this migratory trend.

In fact, as the majority of Pakistani minors, K. reached Italy after a tiring and dangerous trip, following one of the most common migratory routes (leaving from Pakistan and crossing Turkey, Greece, FYROM, Serbia, and Austria).

He went to Italy to take advantage of better job opportunities so as to improve the future prospects of himself and his family, confirming the 'economic nature' of most of Pakistani UMCs' migratory projects.

Another factor which was not directly mentioned however, it has been observed that certain areas of Punjab in Pakistan follow this trend of sending their child abroad as it is known that "there have been examples that eventually they are able to support not only themselves but the families eventually". Moreover, what seemed

interesting was an indifference towards the hardships of the journey itself as the family either didn't want to acknowledge or was not aware of the extreme conditions that such a journey entails. Generally the family was open to speak about the issues and problems that they had leading to eventual migration but showed restraint in speaking about the mechanism of the journey and related arrangements.

long term, this "investment" will secure them a better future.

Last, as mentioned before, K.'s family supported the minor and was actively involved in the organization of his voyage, thus highlighting that the project doesn't solely respond to the minor's aspirations but it is conceived as a family venture. This aspect has often been observed in those countries – including Pakistan – where the migratory project entails and requires consistent financial resources in order to cover the trip expenses, the issuance of relevant travel documents, and the amount to be paid to the broker; as a consequence, the families accept to take on these costs since they are strongly convinced that, in the

Family Assessment / Return & Reintegration Story

COUNTRY OF ORIGIN:

Albania

Area in the country: North
of Albania

MINOR's NAME: -A.R.-¹²⁴

STATUS: Unaccompanied
Migrant Children

Who is A.?

A. is almost 18 years and has travelled to Italy in search for a better life, persuaded that only there he could fulfil his aspirations.

He had dropped out of high school in Albania as he wanted to pursue a vocational training and become a mechanic. His family was ready to support him in further his education in his home country but, considering their financial situation, the minor was firmly

convinced he could better succeed in Italy. He then decided to migrate to Italy in order to work and to send remittances back home.

The minor's migration pattern from his CoO to the EU MS

A. reached Italy in September 2013. Probably in conjunction with the possibility to enter Italy without a visa, the minor had the chance to visit the country several times before that date. The minor also had a close family member who had been living in Italy for more than a decade and who was well integrated. He had mentioned that he could welcome the minor within his family and support him in his integration process.

During this last trip in September 2013, A. then decided to stay and was hoping to easily find a job.

While in the EU MS host country

¹²⁴ NB: Name has been changed for the story.

After a few months of stay in a big town in the North of Italy, in November 2013, the minor was arrested by the local police. He had been living in an accommodation center before that; He did not ask for asylum, while he was hoping to get a residence permit for work purposes.

Following the decision of the Juvenile Court, he was placed in a special reception centre (i.e. special accommodation centre run by the Ministry of Justice – Juvenile Justice Department). The minor was hosted in that center because he had been charged with theft.

Social services immediately informed the family about this situation, thanks to the contacts shared by the minor. They were adamant for the minor to go back home.

Preparation of the Family Assessment by the EU MS

Because of the delicate situation of the minor, the social services and the Ministry of Labour and Social Policies asked IOM to act in

a timely manner, so that the results be available before the hearings.

A. claimed to be innocent and his family agreed on this stand. This has certainly not helped the trust building exercise that the IOM local Mission had to undergo.

Carrying out the Family Assessment by the CoO

The case of the minor A.R. was referred to IOM Tirana on 26 March 2014 with an indication of sensitivity. The minor A.R. was reportedly having problems with the Italian justice. The building of trust is usually difficult at the initial stage when parents of the minors are contacted to discuss about arrangements for the interviews; under the specific circumstances that minors are facing problems with the justice, the task of convincing the minors' families becomes more challenging. That proved to be the case with A.R. family. They initially thought IOM

represented some justice institution and therefore, preferred to have the interview at IOM premises. That was a way, in their opinion, to avoid catching the others' attention in the small town where they live as they might be more suspicious of something wrong going on with the family. The minor's father was initially introduced with IOM's role in regard to the minors' issues and fully convinced of the humanitarian nature of the project. Building on that, he was open to tell the entire story and expectations of the family from the minor.

Follow-up of the Family Assessment

After having received the Family Assessment report, the social worker in charge of the minor's case contacted the IOM office in Italy to inform about the minor's judicial hearing and his future projects. He referred that the minor had expressed the desire to go back home and reunite with his family; as to the minor's hearing, the social worker explained that

the Judge would probably acquit him.

Current situation and future options (is the minor planning to stay in the EU MS or to return to his CoO)

IOM Rome could not assist A. to return home since he turned 18 shortly after the hearings.

The social worker called back IOM Rome to thank for the speediness in providing the results of the assessment and the comprehensiveness of the information contained and informed that the municipality of the family would have taken up the costs of the return.

Good to know

The Family Assessment report was submitted to the Judge in charge of the minor's judicial hearing so as to allow him to gather an in-depth knowledge and understanding of the minor's story. The Family Assessment has been indeed considered as a useful and valuable instrument in support of the Judge's decision, and proved to be a comprehensive tool to better assess the minor's situation and the measures to be taken in his favour.

IOM Tirana was contacted in the upcoming weeks by the minor's father who informed us of the latest from A.R. situation in Italy. He said he appreciated IOM's attention to the needs of the son.

PART III – CONCLUSIONS AND RECOMMENDATIONS

National Country Studies' Conclusions

Austria

The analysis of the information and data obtained revealed a lack of established procedures regarding the assessment of families when an unaccompanied minor residing in Austria wants to return voluntarily. Furthermore, it became apparent that various actors in Austria have different perceptions and expectations regarding the meaning and content of a family assessment, and that the distribution of responsibilities in this context is unclear.

Conducting this research also showed that specific preconditions – with paramount importance given to the involvement of legal guardians – are applied when preparing and carrying out the voluntary return of an unaccompanied minor, but that there is no unified approach that is applied by all involved partners. While reintegration assistance, including counselling, education and income-generating activities, is provided in the framework of various mostly AT MoI and European Return Fund co-funded country-specific projects for the assistance of the voluntary return and reintegration of returnees, there is no specific support provided to all unaccompanied minors who wish to return, regardless of their country of return. This has an impact on the implementation and duration of monitoring activities which are currently bound to the existence of the abovementioned projects.

All in all, experience with the preparation, organization and implementation of family assessments as well as voluntary returns and reintegration of unaccompanied minors is limited in Austria, and there is a need for the development of clear guidelines that are followed by all persons and institutions involved, including outreach

activities to and networking among key stakeholders such as the youth welfare.

No formalized best interest determination procedure exists with regard to unaccompanied minors on the national level in Austria. The view of the child, the child's identity, the preservation of the family environment and maintaining relations, the care, protection and safety of the child, the situation of vulnerability, the right to health and the right to education, as outlined in the General Comment Nr. 14 to the Convention on the Rights of the Child and its supplementing Protocols are the most crucial factors for a best interest determination and should be reflected in more detail in national legislation.¹²⁵

As no formalized family assessment procedure exists as such, and as the legal framework regarding the conduction of family assessments for unaccompanied minors is very limited on the national level in Austria, guidance for the responsible actors, the content and methods to be applied should be developed and be legally binding.¹²⁶ Various stakeholders suggested that an independent, impartial international actor with strong expertise in human rights, and more specifically the rights of the child should be tasked with the conduction of family assessments in the case of unaccompanied minors.

The establishment of a well-functioning network consisting of different organizations including authorities for information exchange between Austria and the country of return was also highly recommended. The content should cover a variety of issues, such as the ability of the parents or other previous caregiver to care for the child, the accommodation, nutrition and financial support that can be offered to the returning minor, and the availability of appropriate

¹²⁵ Interview Birgit Einzenberger, 12.6.2013

¹²⁶ Interview H. Fronek, 10.7.2013, Interview H. Sax, 17.6.2013

health care and psychosocial support, education and recreational opportunities. It should also be investigated if the environment in the country of return is beneficial to the child's development and long-term reintegration, and what perspectives the minor will have.

The "home study reports" suggested by UNHCR could be a promising tool in the sense that they follow a very holistic and multi-disciplinary approach. They encompass the assessment of "the ability of the parents or other previous caregivers to ensure the safety of the child. It is a question of safety, the permanency of that solution and the wellbeing of the child and the protective capacities of the parents or the care givers and their ability to ensure the safety of the child. So a home study would also have to look at the appropriate accommodation, appropriate financial support, nutrition, health care, education and recreational opportunities. So the question is whether the environment in the home or in the family would be one which would be beneficial for the development of the child into adulthood."¹²⁷

In terms of methodology, interviewed stakeholders recommended carrying out personal visits to the families or other previous caregivers, and also speaking to other key persons, such as previous teachers of the minor, neighbours etc. As many stakeholders are currently not fully aware of their duties regarding the conduction of a best interest determination (BID) and a family assessment, an awareness raising campaign was suggested.¹²⁸

The process of decision-making following the conduction of a BID and a family assessment should be given sufficient time, and the advice of a number of actors such as legal representatives and care workers should be involved in addition to the legal guardian, who is by law

¹²⁷ Interview B. Einzenberger, 12.6.2013

¹²⁸ Interview N. Ceipek, 6.6.2013, Questionnaire Advocacy Group for Children and Youth in Styria

responsible for representing the interests of the unaccompanied minor. It was pointed out as being of paramount importance that the voice of the child is duly heard, and that the wishes of the respective minor is given due weight, while ensuring at the same time that the reasons for a child's wish to return to his/her country of origin are critically reflected and analyzed. It was also recommended to allocate sufficient time for the decision-making process. As it can be very difficult to assess from the distance if returning is in one's own best interest, one of the interviewed experts suggested that there should be a possibility for "temporary return", which would allow unaccompanied minors to observe on the ground if it is really possible for them to reintegrate into their home country in the long term, or if they prefer to go back to the country of destination again.

In order to ensure that the involved actors are well-prepared for the responsibilities related to conducting a family assessment and a best interest determination, one of the interviewed experts also highlighted the importance of continuous and intense training for stakeholders both in Austria and the countries of return. These should not only focus on social aspects, but also include country-specific information, so that decision-makers are well aware of specific circumstances in the respective countries of origin before coming to a conclusion regarding the most appropriate durable solution for the unaccompanied minor.

Regarding the voluntary return of unaccompanied minors, most stakeholders who provided information for this report agreed that reintegration support is indispensable in order to support the basic needs as well as the development and full evolution of potentials of the unaccompanied minor if the situation in the country of origin requires it. The provision of reintegration assistance to any unaccompanied minor who returns to his/her country of origin, regardless of whether a reintegration project is available or not, was thus recommended by a number of experts, and one stakeholder

suggested that the existence of reintegration assistance should be included in the BID analysis in the sense that it should only be decided that it is in the best interest of the child to return to his/her country of origin if reintegration support is provided.

Monitoring by independent actors is seen as a very important mechanism. Various experts recommended that returned minors should not only be monitored during the first months, but that they should also be visited one to two years after return in order to assess if the situation is also satisfactory in the long term (IOM suggests monitoring the situation for at least up to 18 months). The results of the monitoring should serve as basis for taking further actions if they reveal that the proper reintegration of the minor is not ensured.

Another important recommendation reflects on the appointment of legal guardians in Austria. While this process can currently take up to several months and is in some cases never done, various experts voiced the need for taking quicker action in this regard. This is considered to be of utmost importance in order to safeguard the rights of unaccompanied throughout their stay in Austria as well as in the initial phase immediately after their arrival. The legal guardians in the countries of return were also discussed critically. Several stakeholders consider institutions to be inappropriate for taking over the guardianship of a returning minor; the latter should whenever possible be referred to a family member or another previous caregiver who is capable and willing to take responsibility for the returning minor.

Hungary

Despite the fact that there is no definition of the best interest of the child, the administrative authorities - in compliance with current regulations - have already been obliged to consider this notion in

their decision-making processes. Therefore it is strongly recommended that all the authorities (OIN and police) should examine each case separately and extensively to assess the protection needs of the unaccompanied minor and the family situation of the child and foremost, to serve the best interest of the child regardless the type of the procedure they are dealing with.

Based on the findings described in the report there is a great need for practical guidelines for all actors authorised to take actions and decisions that affect unaccompanied minors. Safeguards and procedures need to be developed to ensure that the best interest principle will be applied to the child's individual situation. Ensuring that the child's opinions are heard in these processes is one of the key safeguards to enforce the principle.

As the authorities in charge of the procedure are part of a completely different system than the institutions providing accommodation, provisions and social services, the cooperation should be enhanced between the two sides in order to obtain a durable solution for the vulnerable situation of these children.

There are practical tools already developed that could be used more effectively. After developing several action plans and guidelines for vulnerable children all around the world¹²⁹ the UNHCR developed the Best Interest Determination (BID) Guidelines in May 2008.¹³⁰ The BID Guidelines is a general child protection tool which describes a formal

¹²⁹ In the 1990s, UNHCR applied the best interest principle in its Comprehensive Plan of Action (CPA) for Vietnamese asylum-seekers and their dependants. In the beginning of 2000, the best interests principle was applied during the assessment of durable solutions for the so-called "Lost Boys" of Sudan living in Kakuma refugee camp, Kenya. Later an initial set of guidelines on the best interests of the child were developed for use in Ethiopia (2003 to 2004), where BIDs were again conducted for unaccompanied and separated Sudanese refugee children.

¹³⁰ UNHCR Guidelines on Determining the Best Interests of a Child
<http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=48480c342>

process for determining children's best interests. According to the information received from the Refugee Affairs Directorate, UNHCR already started to explore the possibilities of incorporating the BID Procedure into the RSD procedure. Discussions have just started regarding this. If accepted, the BID procedure would certainly focus on family assessment with a special emphasis. Since negotiations between UNHCR and OIN have just begun, there is no information about the exact form of the implementation of BID Guidelines.

Once agreement has been reached on the conditions, the HHC recommends extending the application of the BID Guidelines in all procedures conducted by the OIN related to unaccompanied minors.

As another example of further improvement, in 2012 the National Police Headquarters and the Ministry of Interior started developing an age assessment protocol that will provide a standard framework for all police examinations with standard methodology and quality requirements. In developing the protocol, the parties had the opportunity to co-operate with non-governmental and international organizations. The participating organizations shared their available international experiences and their recommendations on good practices.

Italy

Italy approaches UAMs related issues by identifying different categories of unaccompanied minors, which are in turn differently regulated. In order to strengthen UAMs' protection and for a better investment of public resources, the cooperation among Institutions is central.

Taking this into account, the "Inter-institutional Committee" set up by the Ministry of Labour and Social Policies represents a positive

practice. In this framework, indeed, a shared approach can be adapted to the peculiarities and specific needs of the different categories in order to provide adequate protection.

The Italian law provides a set of general rules concerning family tracing procedures. By not having strict rules it can be positively evaluated as it allows case-by-case approaches to be followed according to the actual and pressing needs of involved minors.

Another aim that is central to the Italian approach is the strengthening of the cooperation among Member States with regards to Family tracing. To this end, a strengthened cooperation would be central in order to:

- Develop a European approach to all issues concerning UAMs.
- Trace families within EU MS, especially for asylum seekers and in the light of reunification within EU;
- Trace families in country of origin and third countries where tracing is not possible for national authorities (namely Egypt and Morocco for Italy);
- Family tracing involves unavoidable costs to the States. These, especially in this time of economic crisis, could encounter difficulties in ensuring the economic sustainability of the family tracing.
- Family tracing should be valued also in developing integration paths in the country of destination. In this light, traced family members could be more involved by social services when arranging activities with the minors.

Albania

The Government of Albania has been and continues to be committed to the improvement of the standards related to the protection and

respect for the rights of the child in the country. The first important step was the ratification of the International Convention on the Rights of the Child (CRC) by the Albanian Government in February 1992. The CRC implementation called for the enactment of specific laws and by-laws, as well as the establishment of institutions at the political, executive, and auditing/monitoring level.

In terms of family assessment, the main law on which the process is based on is that “On the protection of the rights of the child”. The law aims at offering specific protection to the children’s rights by putting in place a comprehensive legal and institutional framework to the best interest of the child. The law targets children within the territory of the Republic of Albania and children of Albanian nationality residing outside the country. Article 9 paragraph 1 of the law indicates that the child has the right to re-enter (or leave) the Albanian territory on grounds of family reunification. Article 10 paragraph 2 states clearly that the unaccompanied minor has the right to reunite with his family or the legal custodian at the quickest time possible. It also states that the parent or the legal custodian should inform the responsible state authority for the missing child within 24 hours, so that effective measures are taken in time to enable the soonest return home.

The procedures for the return and repatriation of children are defined by government decisions and in the virtue of bilateral agreements with other countries. Based on the above legal framework, all the decisions related to the protection of the children’s rights follow the principle of best interests of the child out of parental care, temporarily or permanently. The law “On the protection of the rights of the child” foresees the assessment and monitoring of the situation of the families of children at risk through the Child Protection Units established at the local level. Such units identify and coordinate with administrators of social services the

protection, referral and analysis of cases in the commune's specific territory.

An identified challenge linked to the family assessment procedures concerns the fact that IOM Tirana has been conducting the family assessment procedures all on its own as there was no reply to its invitation to the Albanian social services for cooperation and joint teams in the field. The presence of local child protection unit staff at local level would have provided more background information about the area in general, the economic and social problems and the development potentials so that we would have had a better picture of where to focus the effort in case of a minor's return. That would have helped also in drawing conclusions of a higher objectivity on the above issues. This cannot be seen however as a lack of will rather than a lack of logistical and financial resources the part of state social services to join in the process.

The efforts to get a clearer insight into specific family issues, problems and potentials to build on their income generating resources have been, not insignificantly, deterred by the unwillingness of the parents or legal custodian of the minor to provide accurate details and information to the interviewers.

The family assessment should take into account the various social, economic and family factors which have led to the minor's departure from his family. They should be conducted as far as possible by a multidisciplinary team familiar with the issues related to the unaccompanied children, with sufficient knowledge of the social and economic situation in the area. The inclusion to the highest extent possible of the state social services at local level and community leaders is needed to guarantee a more accurate, profound and impartial consideration of the factors triggering migration. The local social service staff would compensate for the lack of information on a

specific area on the part of IOM team. Building on existing knowledge and documentation, the proper interagency coordination for the family assessment paves the way for a strong coordinated response at a later stage.

Iraq

In the Iraqi context, family assessment from the law perspective is still in its primary stage. Although some good points exist in the Constitution and other laws, in practice there is no significant development, especially if we consider all Iraq. It is true that in the Kurdistan Regional Government (KRG), the security situation and the steady development in social life allow for a better approach and discussions for applying improved mechanisms. However, there are certain trends that remain still unimproved; for example with the definition of a child: certainly someone who is 16 years old is not seen by the public as a child.

The Government's role is quite limited in assessing/improving the family situations and responding to the child protection, hence families are still supposed to protect their children and if there is a case of violence, it will probably not reach the authority. Therefore, the issue is first related to the public awareness as well as child awareness in school, to a great extent. Second, the response and the quality of response are not good enough. However, the overall services provided for the children are improving compared to the past years, especially in the KRG.

- Common points in existing procedures listed in the report
 - a. Receiving the request from the sending mission as well as the background information of the family.
 - b. Contacting the family to know their whereabouts and setting a date to pay the visit for the assessment/tracing purpose.

- c. In difficult cases, IOM Iraq may also involve the local authority for the tracing and location of the family.
 - d. Filling out the assessment template/gathering other information based on the field visit and taking some photos if the consent of the family is given.
 - e. Reporting back to the sending mission for further actions.
 - f. Receiving UAMs upon arrival and making sure the family/guardian has already signed the approval letter to receive the child. During the handover period, the guardian will sign the acknowledgement letter too.
 - g. If the UAM is entitled to the in-kind support, he/she will be advised to approach IOM offices near his/her location to start the reintegration process.
 - h. Once approached, the proper interviewing and counselling will take place where the minor and his/her guardian receive guidance on the suitable reintegration option for the minor. The view of the guardian/parents should be well taken into the consideration here. Furthermore, the minor will be briefed about the education situation, vocational training availability, etc.
 - i. The minor/guardian has to submit the necessary supportive documents to start a reintegration activity
 - j. Later, the reintegration case is approved and price of the items are checked. Then, the purchasing of the items takes place.
 - k. All the documents shared with the sending mission
 - l. Three months from the date of providing the last instalment, IOM conducts a monitoring visit.
- Identified challenges linked to the family assessment procedures
 - a. Lack of accuracy in the provided information either by the family or by the minor.
 - b. Location of the assessment, urban versus rural.

- c. Security situation of the area the family resides in.
 - d. The difficulties related to the reintegration options. In some areas the minor wants to be engaged with something which is not easy to be found in his/her area. This will consequently limit his/her options. So the family could claim the unavailability of certain facilities preventing their child from returning.
 - e. The family's unwillingness to receive the child,
 - f. The direct interference of other relatives/family members especially if the minor belongs to a family with strong tribal norms. In such occasions, the privacy of the inner family circle will be very difficult to be maintained.
- Criteria to identify good practices (i.e. procedure in line with best interest determination, promotion of UAMs rights is of primary consideration, return goes along with a Life project recommendations. etc.)
- a. The general attitude of the family towards the child is key in identifying the best practice. When the child returns with a feeling that he/she will be supported and warmly welcomed, the process goes much smoother.
 - b. The return procedure that is accompanied by a well-tailored reintegration package leads to successful and sustainable return. The flexibility is therefore important.
 - c. The overall financial and social situation of the family also leads to healthy outcome. A well-off family can absorb the expenditure of the child more easily and can please the child's desire making him/her less worried about the familiarization with a new environment. This also has a link to the location and the area that a child lives in. For example, the services that are available in developed neighbourhood are different from the one that are available in a deprived area.

- d. The wishes of the child versus the opportunities available. A child may have certain aims to achieve but he/she may not be able to achieve them simply because they conflict with the current social situations and trends exist as well as the degree of his/her family's involvement with such norms.
- e. If education is part of the plan the return time is crucial. School year starts in September, so the minor should return during August or early September to benefit from the school.

Kosovo/UNSC 1244

Over the years Kosovo has established rather advanced legal framework related to children's rights, which is in alignment with the international standards and conventions. Moreover, institutional mechanisms for children's rights are developed at the optimal level. However, major challenge remains insufficient effective implementation capacities at the both levels, central and local, which is mostly due to financial, technical, human resource and infrastructure limitations. Consequently, there is a considerable gap between the policy level and service user level, causing serious obstacle to successful and sustainable reintegration of repatriated person, including unaccompanied minors. In this context, its recommend to place more efforts on increasing implementation capacities through advocacy for improved government funding for institutional mechanisms, strengthening monitoring of the quality of services provision, and fostering partnership with the NGOs including outsourcing of services.

Despite the valuable progress made in terms of awareness, it seems that there is a space for improving the level of knowledge among relevant stakeholders, both, at central and local level, about the policy framework and institutional mechanism for the return and

reintegration of repatriated person, including unaccompanied minors. This may be true in particular for the municipal authorities, given the continuing decentralisation process of the social services, and recent municipal elections causing changes in the senior staff. Consistent information sharing system and periodical formal workshops for all involved actors are recommended.

Although it is difficult to assess the extent to which illegal migrants in country of destination are informed about the possibility of voluntary return, it is advisable to increase the efforts in this regard using all available resources, including Kosovo diplomacy offices. It is very important to ensure that potential voluntary returnees and their families are informed accurately about the benefits of the Reintegration Programme, in order to reduce unexpected disappointments and to maximise the reintegration prospect.

It is strongly recommended that the unaccompanied child should only return to the country of origin if there is proof that safety can be assured. Children having lost trust towards institutions they end up more frequently involved in illegal situation.

In general context, children often return to their country of origin without their consent. Not only is the children's consent absent, but there is also a lack of a proper information process that enables children to take an informed decision. In this regard the discussion on the return and re-integration of unaccompanied children into their countries of origin cannot be separated from the general discussion on regulations and practices on migration.

Furthermore there is the need to carefully identify whether children are sincerely willing to go back to their countries of origin, or if this decision has been induced by fears of repression or violence experienced or manipulation during the investigation process. In this

regard, as recalled in General Comment No.6 paragraph 95 of the Committee on the Rights of the Child, particular attention should be paid to training of officials working with unaccompanied children.

A number of different actors including government institutions and CSOs are involved in addressing the situation of unaccompanied children. Thus, it is recommended to further strengthening coordination in order to act in the best interest of the child.

The country of origin frequently does not have the necessary resources (economical resources, know-how as well as the political willingness) to comply with international standards. It is important thus to constantly monitor whether the cooperative patterns on readmission, as they stand now, are conducive to institutional and legal reforms aimed at protecting the rights of the removed migrants as well as their re-re-integration.

Authorities of the country of origin are encouraged to use expertise of international agencies, in particular for initiating and maintaining contact both with the child's family and with the authorities in the country of origin and for establishing an assistance programme for the family, when deemed necessary and appropriate.

A multidisciplinary approach should always be ensured, e.g. establishment of comprehensive panels in charge of considering which solution is in the best interests of the child on a case-by case basis and making appropriate recommendations.

Reintegration projects are generally implemented with poor capacities and do not provide the child with required tools that can lead to long-term and sustainable autonomy. Assistance provided to returning children and their families often comprises short term interventions, not taking into account the expectations and prior

experiences of the child. Given the shortage of employment opportunities and the general economic situation in the country of origin a successful re-integration project would mean long-term investments in favour of the country of origin.

Finally there is a general absence of monitoring and evaluation of re-integration projects that is due particularly to scarce economic resources and political will. The lack of know-how and specialised training of social workers involved with unaccompanied children must not be underestimated; it can prove to be a serious obstacle to effective and impartial evaluation. Thus, it is highly recommended comprehensive external evaluation of all aspects of the current Reintegration Programme, in order to determine level of its impact on the sustainable return, from the perspective of repatriated persons, policy makers and service providers, as well as to identify good practices and address the challenges.

Pakistan

The immigration authorities in Pakistan, as in any other country, are keen to find out the various routes, reasons and actors involved in the process of migration especially that of minors. The authorities are therefore carrying out an investigation upon the arrival of the returnees to map out the above through interviews. There can be detentions in the cases when the authorities find out that truthful information has not been shared. The minors are however exempt from this and are not detained.

Concerning possible challenges linked to the family assessment procedures, the following three have been identified: the remote locations and access of families; the willingness of families to provide

correct information; and the economic factor behind the minor's migration.

Regarding good practices, prior to identifying the best practices criteria, it would be important to mention that the country of origin's perspective should be taken into account as of prime importance in this regard since every country has different social and cultural backgrounds. Having said that, the following can be listed as some of the good practices:

- It is important to work with the parents/the family in the country of origin as they might be in a better position to help understand the socio-economic conditions of the particular area to which the minor will be returning to eventually.
- The degree of the family's involvement in the reintegration plan can be enhanced by taking into account the fact that the family may look at this from the point of view of getting an overall benefit from the minor's reintegration plan.
- The involvement of larger communities in the country of origin for reintegration projects. For example initiating plans that can have an impact or a benefit factor for the community as a whole.
- There should be an emphasis on the fact that the reintegration grant is to be provided in-kind and not in cash so as to develop this in the minor's mind that he needs to focus on some activity rather than just getting cash money.
- Different variations in terms of specific areas of return and specific situations should be taken into account. It may not be possible to have a uniform formula that fits every situation. The need for flexibility depending upon specific situation has to be considered.

Recommendations

1. Search for a durable solutions

At this stage, there are no established criteria for the determination of durable solutions. Selected EU MS do make efforts in contributing to the best interest determination, though have some difficulties to gather information on the situation in Countries of Origin, namely regarding a tracing of the family, assessing the situation in the Country of Origin, possibilities of restoring family links and possible return to the Country of Origin and family reunification.

The European Commission recognized the need for greater coherence and more cooperation and has elaborated the EC Action Plan on Unaccompanied Minors (2010-2014). The Action Plan mentions the need for a common approach to identify durable solutions ensuring the best interests of the child are given primary consideration. Article 3.1 Convention on the Rights of the Child, on this Best Interests Principle, is now more firmly embedded in EU primary and secondary law. The EU Charter article 24, EU Directives and Regulations art 16 ATD, art 5 and 10 RT, art 24. 3 RCD are also to be mentioned, however the problem remains the introduction of the principle into practice. Compliance with Article 3.1 of the Convention on the Rights of the Child requires a State to undertake a holistic assessment of the child's rights and needs as part of the consideration of all possible durable solutions.

A durable solution considers the child's best interest determination which needs to be thorough examined through an individual assessment of all circumstances linked to the child past, current and future situation.

The EU Action Plan on Unaccompanied Minors (2010-2014) observes that return is one amongst durable solutions for Unaccompanied Minors, expressing that “durable solutions should be based on the individual assessment of the best interest of the child and shall consist one of the following solutions:

- Return and Reintegration in the Country of Origin
- Granting of the international protection status or other legal status allowing minors to successfully integrate in the Member State of residence
- Resettlement

2. Best Interest Determination

The principle of the best interests of the child is stated in article 3 of the UN Convention on the Rights of the Child, however, the definition of this principle is not provided in the Convention. The Committee on the Rights of the Child has issued General Comments to further develop the meaning of the best interests of the child. General Comment n°6 (2005) on the treatment of unaccompanied and separated children outside their country of origin stipulates: “Efforts to find durable solutions for unaccompanied or separated children should be initiated and implemented without undue delay (.....) Following a rights-based approach, the search for a durable solution starts with analyzing the possibility of family reunification”. The recently adopted General Comment n°14 (January-February 2013) on the right of the child to have his or her best interests taken as a primary consideration should also be taken into consideration.

UNHCR and UNICEF have jointly developed Guidance for professionals who are in contact with unaccompanied and separated children (UASC) in order to provide them the tools on how to apply in practice the best interests principle when identifying durable solutions for UASC. The Guidance is listing features of a Best Interest

Determination (BID) including a checklist of factors, diagrams describing a possible best interests process. Key features of a BID include the need to consider a range of solutions, demonstrate and document that the child's best interests have been a primary consideration, include the child's participation, and to be part of a determination process that is independent. When initiating a BID, the child's needs and the below circumstances need to be taken into account: a safe environment is the priority and usually outweighs other factors.

3. Lack of harmonized standards in EU MS

The arrival of Unaccompanied Minor (UAM) in Europe is not a temporary phenomenon and yet, there are still considerable disparities and lack of harmonized standards in EU Member States in the treatment of Unaccompanied Minors. The Convention on the Rights of the Child has been ratified by all EU MS who therefore have the obligation, under international law, to implement the Convention's provisions. However, European States struggle with identifying solutions in the best interests of the child and too often focus on the return of the child in the country of origin as immigration considerations outweigh the child's best interest considerations. As no durable solution in their best interests are identified or as decisions about their future are delayed until they're 18, Unaccompanied Minors do not see any perspective for their future and some tend to disappear from care centers, increasing their vulnerability to abuse and exploitation. Standards related to the age assessment need to be harmonized as well.

4. Study report/ Social report/ Mini assessment in host country

The report is an important piece of information as it assesses the situation of Unaccompanied Minor while residing in the host country. It should provide a short narrative part on a migration journey of the child, any specific type of vulnerability (VoT, medical case etc). The report should also contain basic information on the family in country of origin : whether parents/ family members or guardians still live in the country of origin, contact details and any other relevant information linked to the family/ guardians. That document should serve as a basis for a family situation report which should be conducted as soon as possible.

5. Communication with Unaccompanied Minor (UAM)

Concerning the sharing of information, it is important to note that children can be reluctant to share any information about themselves, as they can fear that providing information may automatically lead to return; or because they face possible pressure from the family or smugglers. It is therefore important to clearly communicate to the child that the objective of family assessment should be to restore family links. A provision of information needs to be timely and thoroughly. Concerning other actors involved, the guardian can play an essential role in building trust between UAM and other actors involved while residing in the host country (legal representative, social worker etc).

The information on procedures as well as of children rights can be communicated to UAMs via social workers, guardians but can be also conveyed via leaflets, brochures, web-sites that are developed in a child friendly format and foreign languages.

When it comes to the immigration procedures, the child should be kept informed on the evolution of his/her file.

In terms of challenges, decisions taken on the future of a child are not enough explained: they do not explain how the best interests were considered or why they were set aside by other non-rights based considerations.

6. Restoring Family links/ Family assessment

The International Red Cross and Red Crescent Movement's vision on Restoring Family Links (RFL) is "to alleviate the suffering of people who have no news of their families". RFL is the generic term given to a range of activities that aim to prevent separation and disappearances, restore and maintain contact between family members and clarify the fate of persons reported missing. These activities are conducted in accordance with the Movement principles of independence, neutrality, impartiality and humanity.

RFL activities are undertaken following separation between family members which occurred in situations requiring humanitarian response, as a result of armed conflicts and national and man-made disasters. The focus of restoring family links has also been expanded to include services to family members separated as a consequence of migration. RFL concerns a wide range of activities including re-establishing communications, tracing of persons and family reunifications.

Tracing is a term used by Red Cross to describe activities related to restoring or maintaining contact between members of separated families. Various tracing tools and procedures (i.e. tracing requests, active searching, submission to the authorities, as well as publishing and broadcasting information) are used, and adapted to the cultural context. Several principles need to be applied when tracing family members of unaccompanied or separated children. The child's wish needs to be respected: the tracing of family members is a right the

child is entitled to under the Convention on the Rights of the Child and the Geneva conventions, but the child also has the right not to search for his/her family: a child cannot be forced to search for his/her family.

Similarly, another principle is the respect of the wish of the person sought and who has the right not to be found: if the person sought is located but does not want to be found, this wish needs to be respected. Also, finding the family does not always lead to family reunification. Before family reunification takes place, both the child and the family must agree to the reunification. While the goal generally is a family reunification, this is not always possible or desired.

There is a need for distinction between family visit/counselling and assessment. When trying to identify the BID, how the situation and potential risks are assessed if the family has not been found? UNHCR underlines the importance of carrying out home studies in the child's country of origin (but in several countries, due to security reasons, a home study is difficult to carry out) in order to be able to evaluate if a return might be in the child's best interest. A child returned to a welfare institution should be only the last resort.

What is the aim of the family assessment? Assistance to the child carried out in order to restore family links? Are we assessing the voluntary return option or a stay in the host country? Is the information collected used for guidance/counselling of UAM or for a decision making? There should be distinction between these two possibilities: thus different procedures and methodologies should be put in place when compiling a "Family situation report" and when conducting a "Return and Reintegration assessment".

When the family tracing/assessment should be initiated? Whereas taking into account the different legal frameworks of host countries involved in the project, it could nevertheless be said that as soon as a legal guardian is appointed or as soon as a social worker starts taking care of the UAM, a family assessment (or another title according to different procedures/ national settings in host countries) should be put into place.

How the family tracing/assessment is initiated? The request comes from the guardian/social worker and the child: it is their initiative (referred to social workers and/or legal guardians where there is no centralized authority deciding for that) and their choice of who will be conducting the assessment (IOM or other organisation).

Who does the tracing/assessment? Currently there are two different concepts/procedures applied for family tracing/assessment (IOM/ICRC)

- ICRC: Family tracing and restoring family links
- IOM: Family assessment questionnaire through a family visit (in case IOM is conducting the assessment, there is a need for family contact before the procedure starts, and this is always provided by the UAM to social worker/legal guardian).

What is the outcome of the family assessment and when is the assessment “valid”? The family assessment feeds into the BID (UNHCR considers BID a fundamental case management tool that should consider a range of solutions, not only limited to the attainment of 18 years old, by creating different options, and considering a range of solutions). The child should be the first to know the results from the family assessment. The role of the guardian/ social worker is very important as he acts as a person of trust for the child and he takes decisions regarding the best interest

of the child; when that is not the case, the guardian/social worker plays nevertheless a very important role in that process. A guardian also needs to support the child in case of negative news (family does not agree to the return of the child), especially in those context where a decision about the possibility of the child to remain on the territory of the host country is taken by local authorities.

Request for the family assessment should be addressed to Ministries (such as Kosovo) and respective social state departments, IOM (in several countries) or ICRC (as in Austria). The maximum family assessment duration should be 30 days. And it is necessary to know, to have included in the information gathered through the family assessment visit, whether or not the families are willing and able to receive the minor. Counter trafficking risk assessment should always be taken into consideration whenever applicable. The assessment should be done by a social worker, a qualified professional, an IOM/ or NGO partner trained staff (person entitled to do it), and not by the authorities or the embassies. Involve an interpreter or mediator when necessary.

As much as possible, IOM/ICRC should involve a well-trained staff, or at least train the staff before conducting the assessment, and select them as much as possible basing on a specific curriculum, entailing a socio-psychological background and/or skills acquired in this field. Ongoing training should be guaranteed by senior staff, trained and already experienced in the family assessment techniques. Finally, the process should be supervised by qualified professionals.

If international organizations are not able to do the family tracing and assessment, the involvement of the embassies or local authorities could be considered as option although the best interest of the child may be violated in the asylum process (should it be a case). This option could be used as a last resort.

Local authorities could also play a role, especially when the minor is willing to return but has no clue about the whereabouts of his/her parents. Nevertheless, their involvement should be taken into consideration very carefully, for the reasons stated above.

Psychological support/counseling to the minor is crucial, in order to better gain information regarding his /her family, and back, when the information is obtained, in order to better sustain him/her.

7. Triangle of consent

It is crucial to obtain a triangle of consent between the guardian/social worker, the child and the families in the country of origin. The consent by all should be included as criteria in determining whether a family reunification is in the best interest of the child. The final decision regarding the future of the child can be done by the guardian (based on IOM's information gained from the assessment) or by the authorities.

The willingness of the minor to initiate the family tracing and/or the family assessment procedure should be considered as the basic step.

Guardians and social workers should be involved provided they know the historical background of the minor; suggestion is made to specify personal and family background. When the minor initiates the return, it is a best case scenario, although social workers and/or legal guardians should always verify that is the minor's will and not a suggestion coming from another actor that might be in contact with the minor; otherwise, the approach could be in the form of a triangular situation where the opinions of the guardian, the social worker and the minor are considered.

8. Importance of Mediation

In cases when families are not willing to collaborate in the assessment process, mediation with the family should be initiated, in order to establish contact with the family and eventually finalize the family assessment.

There is no established procedure for mediation: how to start the mediation process, when to initiate it, by whom and how long should it last.

The importance of the information on the child that is going to be communicated to the parents should be taken into account. Same should apply to the information that child is willing to share with the family at that stage. Finally, cultural elements should be considered when proceeding with mediation.

The process of negotiation takes time, especially for the cases where child/parents are reluctant to be involved and to provide relevant information or if there is a need for the protection of the child.

Finally, a possibility of organizing the mediation with a panel of all actors involved exists. But this form of mediation can then be seen as opening a space for dialogue: thus needs for safeguard.

9. Analysis of Countries of Origin policies and practices

There is always a need for analysis of the country of origin's perspective: if there is a culture of sending children abroad, then investments and stakes are high. Adding to that, and prior to that, the single family perspective should be well examined, as there is an evidence that the migration of an Unaccompanied minor is in most of the cases a family migration project.

Considering the potential return that comes after the tracing and assessment process, i.e. whether the minor will be returning to the governmental institution /facilities or to the parents, and based on this, different approaches should be considered, concerning the family tracing/assessment and the reintegration approach.

Elements to take into consideration are safety issues, family relation and ties, education, health, shelter, family status, existence of an ill/vulnerable person within the family, knowing whether the trafficking aspect is present or not and if and to which extent a family member could have been involved to.

Additional elements to take into consideration:

- => Development of opportunities for the minor in a specific area (education and vocational training & jobs)

- => The role of the family in the migration process of the minor (active role or just supporting role?)

- => Push factors behind the migration process of the minor, such as presence of relative in the country of destination, success stories heard

Social workers, village leaders could collect missing information or complement the information provided by the family, but a local context is important to take into consideration, since same actors but different cultural milieu may diverge the effectiveness of the information retrieved, and may, sometimes, bend it to their own interests.

Cooperation needs to be enhanced amongst organizations (IOM, ICRC, Caritas), government institutions, NGOs and child protection units so that there can be a better information sharing system and better quality of information. Actors from the social sphere in the country of origin have to be involved, in order, for example, to provide information on local opportunities.

In case international organisations cannot take over the family tracing/ assessment, governments should be involved. The issue could be tackled through capacity building activities for social protection services and for authorities in the countries of origin.

A possibility that a family is not willing to share information about them or present the situation as worse than it is (Kosovo experience, in the frame of IOM Rome project) represents clearly a challenge when conducting an assessment. Families in countries of origin are usually well informed on immigration laws in countries of destination but they are / they might be not informed on what the minor is experiencing.

Collaboration with local partners should be further enhanced, but, depending on local contexts, this may not be feasible nor recommended everywhere (local social services may be not up to the tasks, if local partners are too tied to local governments etc).

The approach to be used should be in accordance with the country facts, as the socio-economic situation of one country can be very different from another. A reintegration activity/package may be the best option for one country while it is not for another one. It is then recommended to create country fact sheets on socio-economic situations and opportunities in the countries of origin of Unaccompanied minors , so to better support the work of the international organizations involved and to contribute to the knowledge of guardians/social workers on the specific context in countries of origin.

10. Who decides on Best Interest Determination for Unaccompanied Minor?

There is a need for a centralized independent authority with an information gathering system. A panel of experts should determine the best interest of the child, and that through existing national structures in host countries.

Importance of having independent actors, especially among social services in the field has been mentioned by participants of the Seminar organized within this project in Brussels in June 2013., highlighting there could be an independent organism to assess if the return is in the best interest of the child

11. Role of a legal guardian

Guardian should be a qualified/trained and reliable person to perform such a duty. Apart from the general knowledge on migration, he/she also needs to be familiar with immigration procedure in the host country. He/she should be informed about a migration journey of the UAM, have a good communication and share necessary info with UAM (in case of language barrier, an interpreter needs to be engaged); guardian should liaise with all actors involved in the immigration procedure and always act in the UAM best interest.

That person should assist UAM during his/her stay in a host country, both practically and emotionally, making sure that UAM's rights and views are taken into account. Should a return be envisaged, a guardian should assist during a pre-departure phase, and escort the UAM if feasible and desirable. Moreover, a guardian should have the opportunity to go himself to the country of origin to evaluate the family and context situations (hosting countries should envisage this possibility) or, at least take contact with the UAM's family in country of origin .

Guardians should make efforts to acquire a certain expertise regarding specific regions and cultural backgrounds on the country where a minor is coming from. The Guardianship services should regularly provide trainings to the staff so that they know enough about the thematic of family tracing and assessment and therefore can make the child feel comfortable when talking about a family tracing and assessment process.

12. Define terms

There is a need of agreement amongst various partners involved in the UAM matter on defining different terms. Concretely, a clear determination of terminology as well as a common shared vocabulary is necessary in order to identify each specific action and to distinguish the action of restoring family links from the family assessment visits (i.e. => Tracing; Assessment; Family; Fact Finding). Objective of each term that is being currently used (family tracing, family assessment, risk assessment etc) should be further elaborated.

Also, terms 'tracing' and 'assessment' need to be clearly distinguished, including the roles of different organizations, ones conducting family tracing, others family assessment. Is a Family tracing considered as a goal or as tool? A tracing is viewed as a goal as itself (ICRC and Red Cross) or as a tool (IOM) to get a step further into the family assessment.

Concerning definitions (tracing, assessment), there are different layers and many nuances for each definition, depending of the context (humanitarian context, migration control context or child protection context). A family members' role in the country of origin also needs to be considered, since that definition is not always clear (i.e. uncle act as a legal guardian).

Finally, a term 'assessment' should be further elaborated. 'Assessment' can imply a judgment between the actual facts and the assessment itself and thus create an undefined grey zone that may be left for interpretation. In that sense, there is a need for neutral and objective criteria.

How the organizations involved in the family assessment approach this issue? Is there any legislation to follow?

13. Data protection

Another principle is a data protection with clear procedures to put in place so that a confidentiality of data is respected by those involved in the tracing. Procedures to set up must include a system of gathering, storing and sharing information. This principle of data protection is also coupled to a specific recommendation: it is necessary to further explore issues of data protection in relation to restoring family links, including tracing. A lot of data already exists within Europe (within police and immigration authorities) and, in certain cases, that data could also be useful for humanitarian reasons.

A data protection confidentiality should be applied already at the stage of the tracing and be respected during the whole process of family tracing /assessment and return. Any issue linked to the confidentiality needs be shared between partners involved in the family assessment process.

14. Information sharing

Information sharing on results of previous projects on UAM subject is highly recommended. A case of the IOM Rome project with specific procedures has been mentioned.

Further discussion on improvement of existing tools is also encouraged. A feedback from the experience from the field/countries of origin is necessary.

Enhanced communication between counterparts both in the host and country of origin should be envisaged. That communication should go beyond already existing or currently implementing projects.

15. Respect rights of UAMs

The child's involvement in the family assessment is very important. The assessment should also start with the child's point of view on his family, gathering information on the child's opinion about his family, brief family history etc. The child may need to have contact with his family from the starting point. It is also important for the child to see and to talk in his/her own language, via Skype to the family/entourage he/she will go back to.

A clear objective should be considered where the rights of the minor are respected as well as the duty of the guardian. A gender issue should be considered, both when carrying out family assessment visits and when approaching the minor in the host country.

During the reestablished process (between the minor and the family), the minor should be given the opportunity to have good communication exchanges with his parents, if it does not go against his/her best interests. Therefore, the involvement of the social worker and/or the guardian should be constant.

Additionally, UAMs should receive same level of social assistance and health care as other children in host countries.

16. Role of UAM's family in country of origin

The role of the family in the migration process of the minor, active or just supporting role should be identified. Willingness of the family in the country of origin to provide the information is vital. The accuracy of the information provided will have an impact on the family assessment process.

In case of a return of a minor, a family needs to be included in the reintegration process: in certain cases, it is necessary to have some part of the reintegration plan dedicated to the family.

The involvement of the family needs to take place already at the beginning of the reintegration process.

17. Family assessment questionnaire

Family assessment comprises thorough analysis of the family situation in the country of origin in order to have guaranties that a child is returning to the family/ guardian and that will not be exposed to any risk (i.e. violence, exploitation). The assessment confirms that a contact with the family is established, information on both family's and child's situation exchanged and the involvement of the family in the assessment process started.

The questionnaire usually includes questions on a child and family background, migration path of the child, the current family situation in country of origin, a possibility for family reunification and reintegration in the country of origin .

In some EU MS there may be a need to distinguish a family assessment from the return/reintegration assessment in order to adequately respond to different situation a child can be confronted during his stay in a host country.

18. Return/ Reintegration

When a return/ reintegration is the best option for an UAM, IOM together with local partners in host and country of origin proceed with the organization of return and reintegration, including the analysis of a feasibility of the reintegration activity: IOM in country of origin provides feedback based on the current situation on that country, taking into account existing mechanisms and availability of local partners able to provide appropriate assistance/ services to UAMs.

The fact that a reintegration of a minor in country of origin should have a longer term perspective needs to be duly taken into consideration. Currently, in most of the EU MS, a duration of projects specifically designed to provide tailored assistance to UAMs is most of the time limited, which in certain moments implies difficulties in monitoring of their implementation. A continuity of UAMs AVRR project should be secured. Monitoring of the reintegration activity should last at least one year.

Along with standard national procedures linked to AVRR cases, it is necessary to leave a space for a 'case-by-case' approach. Importance of considering the 'case by case' scenario, when it comes to return to country of origin is justified by specificities of each UAM case.

The experience has shown that a timing of return is one very important element. In some cases, it is necessary to act fast once the child has decided to return; if a pre-departure process takes several months, UAM may get discouraged, and decide to leave a reception structure. Psychological support needs to be included in the process, especially if the preparation of return/ reintegration takes time. This psychological support is needed in the pre-departure and post-arrival phase. The age and gender should be taken into consideration.

Guardians need to be trained on the reintegration subject so that they are involved in the process when a return is determined to be the best option for the child. If possible and desirable, they should accompany UAMs during their return to country of origin and hand them over to families.

When it comes to the reintegration activities, a compilation of feasible projects/ activities in each country of origin should be made through city/ region profiles. The profile of each UAM, including education and acquired skills, specific needs and expectations regarding the reintegration should be thoroughly considered when preparing the AVRR. When discussing a reintegration plan, a focus should not be on the particular amount of a cash grant the UAM is entitled to, but to the sustainable reintegration activity. Reintegration activities should be prepared in line with the Life project recommendations. IOM together with UAMs and guardians seek to find a sustainable reintegration activity in CoO. In certain cases, families can be involved in the reintegration activities of their child.

Communities in the country of origin should be involved into reintegration project of a child, as well as diaspora organizations in host countries which may facilitate communication between host and countries of origin. AVRR projects should include that component.

Implication of reintegration focal points in country of origin during pre-departure and post-arrival phases has to be guaranteed. They need to be in contact with the minor (apart from reintegration counsellor and guardian) in order to give complimentary information of the situation in the country of origin. UAM should have the opportunity to communicate with them via Skype as well.