



Save the Children



G.A.IN.

GUARDIANSHIP ADVANCED INSTRUMENTS FOR CHILD PROTECTION IN EUROPE (G.A.IN.)



Hungarian Helsinki Committee



Vluchtelingenwerk
VLAANDEREN



PRAKSIS

Transnational Paper

INDEX

PART I –THE GUARDIANSHIP SYSTEM IN BELGIUM, GREECE, HUNGARY AND ITALY: BEST PRACTICES AND POLICY RECOMMENDATIONS

I.1 METHODOLOGY OF THE RESEARCH

I.2. ANALYSIS OF THE LEGAL FRAMEWORK REGARDING THE NATIONAL GUARDIANSHIP SYSTEM

I.2.1 BELGIUM

I.2.2 GREECE

I.2.3 HUNGARY

I.2.4 ITALY

I.3. SENSITIVE COMMON ISSUES

I.3.1 TIME TO APPOINT THE GUARDIAN

I.3.2 REQUIREMENTS AND RECRUITING OF THE GUARDIAN

I.3.3 RELEVANT AUTHORITY TO APPOINT THE GUARDIAN

I.3.4 TRAINING OF THE GUARDIAN

I.3.5 GUARDIANSHIP: EVALUATION AND MONITORING

I.3.6 NUMBER OF CHILDREN PER GUARDIAN

I.3.7 GRATUITY OR REWARD FOR THE TASKS PERFORMED AS GUARDIAN

I.3.8 LIABILITY FOR DAMAGES (INSURANCE)

I.3.9 PSYCHOLOGICAL SUPPORT TO GUARDIANS AND TO UASC

I.3.10 LEGAL AND ADMINISTRATIVE SUPPORT TO GUARDIAN

I.4. COMPARATIVE ANALYSIS OF GOOD AND BAD PRACTICES IN THE FOUR GUARDIANSHIP SYSTEMS

I.5. RECOMMENDATIONS

PART 2 – PRODUCTION OF TOOLS AND OTHER ACTIVITIES CARRIED OUT IN THE FOUR PROJECT COUNTRIES PRODUCTION OF A SET OF TOOLS: TOOLKIT AND HELPLINE. TESTING AND DISSEMINATING

2.1 THE RESULTS OF THE EXPERIENCE CARRIED OUT IN THE FOUR PROJECT COUNTRIES

2.2 FINAL COMMENTS AND RECOMMENDATIONS RELATED TO THE ACTIVITIES DEVELOPED DURING THE GAIN - WS3 AND WS4

GLOSSARY

- **NGO**
NON-GOVERNMENTAL ORGANISATION
- **UAM**
UNACCOMPANIED MINOR
- **UASC**
UNACCOMPANIED AND SEPARATED CHILDREN

This Transnational Paper is a deliverable of the G.A.IN. Project

The Guardianship Advanced Instruments for child protection in Europe (GAIN) project intends to explore the guardianship systems in Greece, Belgium, Hungary and Italy in order to support the guardians and other professionals working with unaccompanied and separated asylum seeking children.

The general objective of the project is to ensure better protection and respect for the rights of all children in migration on the EU territory through building capacity and cooperation mechanisms for guardians. The project aims to strengthen the system of guardianship through the development, testing and dissemination of:

- a practical toolkit which includes sample support documents on recruitment in Belgium, Greece, Hungary and Italy;
- training, support and monitoring the work of volunteer and individual guardians in Belgium, Greece, Hungary and Italy;
- strengthening or introduction in each partner country (Italy, Greece, Belgium and Hungary) of a toll-free helpline to support guardians.

The project activities started with a desk and field research on the guardianship system in order to map the legal guardianship framework and provide good practices experienced by different EU Countries.

In addition to the research, an exchange of national findings, based on the four National Reports took place during the Second Steering Committee in Budapest.

This Transnational Paper on guardianship is the result of an in depth reflection of the partners on the different legal frameworks and practices. It contains a comparison among the good and bad practices and on the more sensitive issues in the four countries¹

The ultimate aim of this Transnational Paper is to create the basis for a toolkit dedicated to recruiting, training, support and monitoring of guardians.

PART I –THE GUARDIANSHIP SYSTEM IN BELGIUM, GREECE, HUNGARY AND ITALY: BEST PRACTICES AND POLICY RECOMMENDATIONS

I.1 METHODOLOGY OF THE DESK AND FIELD RESEARCH

I.1.1 TOPICS

This research is part of the **WS2** survey on the “*Guardianship Advanced Instruments for Child Protection – (GAIN)*”. The aim of **Save the Children, PRAKSIS, Hungarian Helsinki Committee and Vluchtelingenwerk Vlaanderen** is to investigate the state of art of the guardianship system in the four countries where these organisations respectively operate: **Italy, Greece, Hungary and Belgium.**

The following actors have been interviewed:

- a. **Institutional and non institutional stakeholders²;**
- b. **Unaccompanied and separated children (UASC);**

¹ To have the complete legal framework of the four different countries please refer to the National Reports of the project G.A.IN.. Please note that the analysis of the legal framework in this document is just an abstract of the four national report.

² For a complete list of Stakeholders interviewed please, refer to the national reports of this project.

Transnational Paper

- c. **Guardians** (both appointed *ex lege* and voluntarily who expressed their willingness to become Guardians, professionals and volunteers.)

I.1.2 GENERAL OBJECTIVES OF THE RESEARCH

- a. To analyze both good and bad practices regarding the guardianship system;
- b. To recognize the specific needs of the Guardians in order to create the best tools to support them.
- c. To provide indications for policy recommendations.

I.1.3 SPECIFIC OBJECTIVES OF THE RESEARCH

- a. Interviewing the Guardians (appointed/waiting to be appointed) in order to understand the difficulties that they face in fulfilling their duties.
- b. Interviewing the UASC in order to better understand their opinion on the guardians and expectations towards them.
- c. Interviewing the stakeholders, identifying strengths and weaknesses in the protection of the UASC. Identify needs of stakeholders in order to develop tools that can effectively benefit them and the children.

I.1.4 METHODOLOGY OF THE RESEARCH

Desk and field research.

- **Desk research**

Study and analysis of the national legislation of guardianship system.

- **Field research**

Quantitative and qualitative research. Different subjects involved and different tools of investigation used, as follows.

1. list of questions in a structured / semi-structured interview mode
2. themed conversation through participation in focus groups
3. written questionnaire

I.1.5 TOTAL NUMBER OF UASC, STAKEHOLDERS INTERVIEWED

COUNTRY	UASC	STAKEHOOLDERS
BELGIUM	23 (of whom 2 recently turned 18)	9 Non-institutional stakeholders 11 Institutional stakeholders 31 Guardians
GREECE	19	5 Non-Institutional stakeholders 4 institutional stakeholders 1 independent agency 3 international agencies 16 representatives of minors by 2 national NGOs
HUNGARY	13	24 Non-Institutional stakeholders 7 Institutional stakeholders of whom 6 Guardians
ITALY	21	Non-institutional stakeholders 22, Institutional stakeholders 4, Guardians 24

In total, **233** interviews were conducted (focus groups + questionnaires + structured and semi-structured interviews).

I.1.6 TIMES AND PLACES OF FIELD RESEARCH

The field research has involved the following territories of the four European Union countries:

Transnational Paper

Belgium	In Belgium, the reception and accompaniment of UASC is situated at the crossroads of federal and regional competences. The research is geographically limited to the region of Flanders for what concerns the Flemish community competences (e.g. education). This choice is motivated by the fact that Vluchtelingenwerk Vlaanderen (Flemish Refugee Action) is a Flemish organisation supporting asylum seekers and refugees in Belgium. The field research was conducted between February and May 2018.
Greece	The focus group took place in the mainland with representatives from institutional and non-institutional bodies whose work geographically covers all Greece. The interviews with the UASC were carried out in the Aegean islands and also in the mainland.
Hungary	Semi-structured interviews were carried out in Budapest while field research was carried out in the Károlyi István Children's Home in Fót where UASC are accommodated.
Italy	Geographically limited to the regions of Lazio, Sicily and Piedmont - the cities of Rome, Palermo and Turin - in the periods of December 2017 and between March and April 2018 respectively.

I.2. ANALYSIS OF THE LEGAL FRAMEWORK OF THE NATIONAL GUARDIANSHIP SYSTEM

In all four countries where the survey was carried out, a minor is *ex lege* considered as incapable or of limited capacity to act before reaching adulthood.

For this reason, therefore, if the minor's parents are dead or cannot exercise parental authority or responsibility, the relevant legislative systems prescribe the obligation to appoint a Guardian.

The Guardian is required to legally represent the minor and to safeguard his best interest.

I.2.1 BELGIUM

In 2017, 3111 UASC were referred to the Guardianship Service. The main countries of origin were Eritrea (478), Afghanistan (461), Sudan (283), Morocco (216) and Guinea (198). 675 of the 3111 UASC referred to the Service were subjected to a medical age test, and 479 were declared to be adults after the medical examination.³

In 2018, 4407 UASC were referred to the Guardianship Service. The main countries of origin were Eritrea (1285), Afghanistan (413), Algeria (396), Morocco (340) and Sudan (279).

1090 of the 4407 UASC referred to the Service were subjected to a medical age test, and 769 were declared to be adults after the medical examination.

From the moment in which the presence of an unaccompanied foreign minor, on Belgian territory or at its border, is flagged to the Guardianship Service, the latter is responsible for coordinating the contact with the authorities in charge of reception and housing. The Guardianship Service shall therefore contact the Federal Agency for the reception of asylum seekers (Fedasil), which shall in turn allocate the minor to a specific reception facility.

When it has been established that the minor meets the conditions for UASC as defined in article 5 and 5/1 of the Guardianship Act⁴, **the Guardianship Service will immediately appoint a Guardian.**⁵ In practice this often means that a guardian is only appointed after an average period of 6 weeks.

The Guardianship Service has the possibility to appoint a temporary Guardian for any person who has declared themselves to be an UASC in case of an “extremely urgent situation that can be

³ Guardianship Service, February 2018.

⁴ The conditions to be considered as a UASC, as defined in article 5 of the Guardianship Act, are the following: being under the age of 18 years-old, not being accompanied by a person with parental authority or a person acting as a guardian, being a national of a country outside the European Economic Area (EEA) and having made an application for asylum or not fulfilling the conditions to enter or reside on the Belgian territory. Article 5/1 of the Guardianship Act further specifies the conditions that nationals of countries that are member to the European Economic Area (EEA) or Switzerland should fulfil to be considered as an UASC.

⁵ Art. 8 of the Guardianship Act, Title XIII, Chapter VI of the Programme law of 24 December 2002.

Transnational Paper

appropriately motivated”⁶. This provision is however, rarely applied in practice.

The Guardianship Service must recruit the Guardian. According to the law⁷, the Guardianship Service has to follow a specific procedure and refer to specific criteria for the recognition of guardians. In practice, the Guardianship Service asks guardians to submit a motivation letter and a CV, a certificate of good behavior and all useful information regarding the guardian’s education (including diploma), their availability and their competencies with regard to the guidance of minors. The Guardianship Service makes a first selection and subsequently invites candidates for an interview regarding their motivation and competencies. The competent Jury is formed by two staff members of the Guardianship Service and one Employee-Guardian. In particular, the jury checks three basic attitudes: the ability to cooperate, the ability to listen empathically and the ability to solve issues. They also verify a number of practical aspects such as availability and distance.

According to the Guardianship Act, the Guardianship Service has to ensure that “*persons appointed as a guardian receive a training adapted to the problematics of UAM*”⁸. For this reason, the guardians who have been recruited have to follow an **obligatory basic training of five days, organised by the Guardianship Service**.

After the training, the Guardian is appointed to an UASC and is obliged to follow 15 hours of **additional training courses a year**.

According to the Guardianship Act, **the Guardianship Service and the Justice of the Peace monitor the guardians**.⁹ The guardians have to send a progress report twice a year to both bodies.¹⁰ In practice, the social expert at the Guardianship Service (who is the contact person of the guardian) will follow up the reports of the Guardian and will address issues or irregularities with the guardian. Every 1.5 years there is a fixed follow-up interview between the guardian and the social

⁶ Art. 6§3 of the Guardianship Act, Title XIII, Chapter VI of the Programme law of 24 December 2002.

⁷ Art. 13 and 14 of the Royal Decree of the 22nd December 2003 to implement Title XIII, Chapter VI of the Programme law of 24 December 2002. The Guardianship Service cannot recognize a person as a guardian in certain circumstances as described in article 18 of the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI of the Programme law of 24 December 2002. The Guardianship Service has to inform the guardian by writing of the decision to refuse the recognition.

⁸ Art. 3 of the Guardianship Act of 24 December 2002, Title XIII, Chapter VI of the Programme Law of 24 December 2002; Art. 15, 16 and 17 of the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI of the Programme law of 24 December 2002.

⁹ Art. 17, 18, 19, 20, 21 and 22 of the Guardianship Act, Title XIII, Chapter VI of the Programme law of 24 December 2002.

¹⁰ Art. 19 of the Guardianship Act, Title XIII, Chapter VI of the Programme law of 24 December 2002.

expert. The social expert will also organize an evaluation interview when this is considered necessary (e.g. when the Guardian does not submit evaluation reports or when there are complaints with regard to the Guardian).

The role of the Guardianship Service in **supporting guardians** is not described in the legislation on guardianship. In practice, a social expert is assigned to each guardian and the guardian can contact him to ask all kinds of questions. Guardians can call also the Guardianship Service for all kinds of questions.

Moreover, the Guardianship Service has created a handbook for guardians, which is updated to 2007 (at the time of writing).

In the past, there were specific so-called “*coaching programs*” for guardians. These entailed regular get-togethers of guardians of the same region, under the supervision of an expert. These “*coaching programs*” also include training sessions. Guardians can regularly get support on the content and knowledge required for their role. At the moment of writing, these “*coaching programs*” are only operative in Wallonia, and no longer in Flanders.

In Belgium, the guardian can be a:

- **“Voluntary guardian”**. The guardian is a volunteer when he/she does not carry out more than five guardianships per year. The majority of the guardians in Belgium are voluntary guardians.¹¹ They work voluntarily but not for free, as they receive a fixed remuneration of 644,52 euros for every UASC per year.¹² They also receive a reimbursement of transportation costs¹³ and a fixed remuneration of 85 euros for administrative costs¹⁴ (telephone, copies, fax etc.).
- **“Self-employed guardian”**. Self-employed guardians carry out six to 40 guardianships. It is provided by the law that they have to pay national taxes and social security contributions for every guardianships after the fifth (from 6 to 40)¹⁵. They receive a fixed remuneration of 644,52

¹¹ On 31 December 2017 there were 412 voluntary guardians who together carried out in total 967 guardianships. Guardianship Service, February 2018.

¹² Art. 6 of the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI of the Programme law of 24 December 2002.

¹³ Royal Decree of 18 January 1965.

¹⁴ Art. 7 of the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI of the Programme law of 24 December 2002.

¹⁵ On 31 December 2017 there were 96 self-employed guardians who together carried out in total 1344 guardianships. Guardianship Service, February 2018.

Transnational Paper

euros for every UASC per year¹⁶ and reimbursement for transportation costs¹⁷ and for administrative costs¹⁸.

→ **“Employee guardian”**. An employee guardian is a guardian employed by an association¹⁹. Employee guardians are contractually bound to permanently carry out twenty-five guardianships. Organisations that work with employee-guardians will receive 3.500 euro per year, per employee-guardian if at least 25 guardianships are being carried out simultaneously. They also receive 25,20 euros per guardianship and per month for administrative and transportation costs.

The maximum number of guardianships a guardian can take on at once is limited by law to 40 guardianships.²⁰ In practice, the Guardianship Service limits this to twenty-five guardianships (according to internal instructions of the Service), in order to guarantee the quality of the accompaniment. When there is a high influx of UAM, the Service deviates from this instruction, and guardians can actually take on 40 guardianships at once. In July 2018, only a small part of the guardians (ten guardians) took on more than twenty-five guardianships (to a maximum of 35 guardianships), as a result of the high influx of UAM in 2015.²¹

¹⁶ Art. 6 of the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI of the Programme law of 24 December 2002.

¹⁷ Royal Decree of 18 January 1965.

¹⁸ Art. 7 of the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI of the Programme law of 24 December 2002.

¹⁹ Art. 7b of the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI of the Programme law of 24 December 2002. On 31 December 2017 there were 26 employee guardians who together carried out in total 809 guardianships. Guardianship Service, February 2018.

²⁰ Art. 22 of the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI of the Programme law of 24 December 2002.

²¹ Guardianship Service.

I.2.2 GREECE

The estimated number of UASC currently living in Greece is 4.393. The main countries of origin are Pakistan, Afghanistan and Syria. 93,5% of them are boys, 6,5% of them are girls²².

In 2017, 2460 applications for international protection and family reunification were lodged by UASC before the competent Asylum Service, whereas in 2018, 993 applications have been lodged so far.

By the end of 2018, 3,741 UASC were living in Greece, 93,8% of whom were boys, 6,2% were girls and 7,2% were younger than 14 years old, mainly coming from Afghanistan and Pakistan.

Lack of specifically designed for UASC remained an issue of utmost importance. More specifically, the total places in dedicated long-term accommodation facilities are currently (31.08.2019) 1,173 (in reception centres and semi-independent living apartments) and in temporary accommodation 730 places were available (safe zones/emergency hotels). Because of this situation, -often long-lasting- detention of unaccompanied children was imposed: a total number of 86 unaccompanied children were detained (“protective custody”) in the pre-removal detention center of Attica and in police stations. Also, 701 children lived in Reception and Identification Centers on the Eastern Aegean islands and Evros, by the end of 2018.

In 2018, 2.445 unaccompanied boys applied for asylum and 194 unaccompanied girls, representing the 3,5% of the total asylum applicants.

With regard to first instance decisions that were issued in the context of asylum applications, 61,9% of unaccompanied minors received negative decision in substance, 30,8% were granted the refugee status and 7,3 received subsidiary protection.

With regard to new arrivals, in 2018 35% were men, 20% were women and 45 were children (86% accompanied and 14% UASC). In the case of UASCs who arrived in Greece, the vast majority of them (91%) were boys 15-17 years old

²²

Source : EKKA Dashboard 31.08.2019, http://www.ekka.org.gr/images/GR_EKKA_Dashboard_31-8-2019.pdf

Transnational Paper

According to the current national legal framework²³, the Public Prosecutor for Minors or, in the absence thereof, the territorially competent First Instance Public Prosecutor, acts as legal representative for all UASC under their jurisdiction. Consequently, there is significantly limited representation of UASC since the large number of UASC that the Public Prosecutor has to be responsible for makes a successful fulfilment of their duties not feasible in practice.

More specifically, according to the law *“The competent Authorities in the entry points of Greek territory, as well as every competent authority that confirms the entry of an unaccompanied or separated minor into Greek territory shall without any delay notify the closest Public Prosecutor’s office and the competent Authority for the protection of unaccompanied and separated minors²⁴”*.

Therefore, anyone who identifies an UASC must immediately inform the Public Prosecutor for Minors or, in his absence, the territorially competent First Instance Public Prosecutor.

The role of the Guardian for all UASC found in Greek territory, upon identification, automatically falls to the Public Prosecutor (or in his absence on the territorially competent First Instance Public Prosecutor) who acts as an interim guardian. They may provide, accordingly, authorizations to social workers, psychologists, lawyers and other personnel working with recognized NGOs by which they appoint them as representatives of the unaccompanied minors and carry out specific actions on their behalf, including the necessary legal procedures.

However, Law 4554/2018, that was recently published in the Official Governmental Gazette (on 18.07.2018), but has not yet come into effect at the time of writing²⁵, includes provisions that relate to the appointment of professional Guardians for unaccompanied minors.

According to the new law,²⁶ the competent Public Prosecutor appoints a Guardian for the unaccompanied minors as soon as possible. If no appropriate person can be identified, according to Article 1592 of the Greek Civil Code,²⁷ guardianship is in charge

²³ Law 4540/2018, Presidential Decree 220/2007 and the Greek Civil Code

²⁴ Art 22 of Law 4540/2018

²⁵ The provisions of Law 4554/2018 will take effect once the Operating Regulation of the supervisory board for guardianship is officially issued by the Social Solidarity of National Solidarity (EKKA), and approved by the Ministry of Labour

²⁶ Article 16 of Law 4554/2018

²⁷ Article 1592 of the Greek Civil Code provides for the appointment as Guardian by the court of the following persons in order of precedence: 1. the adult spouse of the minor, 2. the person or legal entity appointed in a will or declared to a notary or to a justice of the peace by the parent who was holding parental care at the time of declaration or their death, 3. any other person whom the court considers suitable, preferably from among the closest relatives of the child

of a professional Guardian who is proposed by the National Centre for Social Solidarity (EKKA)²⁸.

The appointed guardian must have the necessary knowledge, experience and expertise needed in order to perform the duties in accordance with the principle of the best interests of the child and the general well-being of the minor.

Individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be eligible to become representatives. The person appointed as representative shall be replaced only in case of inability to represent the minor on actual or legal grounds.

Professional Guardians are **responsible for actions or omissions carried out in breach of contractual obligations, breach of internal regulations on which they have agreed and of the terms of Law 4554/2018.**

The National Centre for Social Solidarity (EKKA) **will be responsible for the training and evaluation of the work of the professional guardians.** According to the provision included in the Joint Ministerial Decision 28303/27.06.2019, **the maximum number of UASC that a Guardian can take over in his/her professional capacity is.** Once this new mechanism becomes operative, it will be contrary to the current system which does not provide for a maximum number of UASC who could be under the guardianship of a single Public Prosecutor, resulting in the Prosecutor being responsible for all UASC within their area of jurisdiction.

With regard to **remuneration of guardians**, before the implementation of law 4554/2018, the Public Prosecutor is the one who currently acted as interim Guardian by law and there was no additional remuneration for this task. Once the provisions of the above Law 4554/2018 will be implemented, the remuneration of professional Guardians will be based on the contract of employment that professional guardian will sign with their employer, namely EKKA.

Law 4554/2018 also foresees the appointment of a supervisory board which will be responsible for the evaluation of the work of professional guardians in light of safeguarding the best interest of the child, following the guardian's proposal, in cases where important decisions must be taken for the future of the child.

²⁸ According to the provisions of Articles 25 and 26 of the new Law 4554/2018, a record of unaccompanied minors is kept by EKKA, as well as a record of professional Guardians and a record of the accommodation centers for unaccompanied minors that are operating nationwide.

Transnational Paper

I.2.3 HUNGARY

In 2017, 3397 applications for asylum were registered, 47% of which were lodged by children²⁹. In 2018, there were 670 asylum applicants, among them 40 unaccompanied children. In the same year, the HHC provided free legal assistance to 626 asylum seekers in total, among them 63 unaccompanied minors. It is important to highlight that the National Directorate General for Aliens Policing (NDGAP) stopped providing statistical information on asylum applicants and main countries of origin, as well as overall numbers and outcome of first instance decisions in April 2018. The official NDGAP database, which displays data updated on a monthly basis until April 2018, can be accessed here. Additionally, in 2018, the Hungarian Helsinki Committee published brief statistical overviews on a monthly basis, although not regularly (Source: Country Report of the Hungarian Helsinki Committee for the Asylum Information Database - AIDA).

By virtue of the Civil Code, any minor who has no legal guardian or whose legal Guardian can no longer fulfil his or her duties, has to be assigned a Guardian. Anyone who has knowledge of a minor who is not under guardianship has a duty to signal this to the Guardianship Office, which will then start the proceedings to appoint a Guardian for the minor.

Under the Asylum Act, when an unaccompanied minor applies for asylum, the asylum authority must refer the child to the care of a reception centre for children and contact the guardianship office, without delay, in order to have a Guardian appointed for the child.

In accordance with the law,³⁰ a Guardian must be appointed within 8 days.

Following the entry into force of several amendments to the asylum legislation in March 2017³¹, when a state of crisis due to mass migration³² (crisis regime) is in effect, asylum applications may only be lodged in the transit zones.³³ These are located on the Hungarian side of the Serbian-Hungarian border near the towns of Röszke and Tompa. Since this significant legislative change, the number of unaccompanied minors asking for asylum decreased significantly.

²⁹ Magyar Helsinki Bizottság: Magyar menekültügy a számok tükrében 2017-ben
<https://www.helsinki.hu/wpcontent/uploads/Magyar-menekultugy-a-szamok-tukreben-2018-januar-1.pdf>

³⁰ Asylum Act Section 35

³¹ Act XX of 2017

³² Chapter IX/A of the Asylum Act

³³ With a few exceptions, e.g. the asylum seeker is lawfully staying on the territory of the country.

- **Under the crisis regime, unaccompanied minors above the age of 14 need to stay in the transit zone until the end of their asylum procedure.³⁴ The Hungarian Helsinki Committee considers this to be unlawful detention.³⁵ The crisis regime therefore set up a legal framework where the detention of unaccompanied minors solely by virtue of their being asylum seekers is a rule rather than an exception, and is not applied as a measure of last resort.³⁶**
- Under the crisis regime, while in the asylum procedure, unaccompanied minors above the age of 14 are excluded from the special provisions set forth by the Child Protection Act.³⁷ This means that they are not assigned a child protection guardian to be their permanent legal Guardian but rather are assigned a temporary Guardian (called “*case guardian*” or “*ad-hoc guardian*”). The children report that they do not talk to those temporary guardians at all, they only meet them during the interview conducted by the National Directorate General for Aliens Policing (NDGAP). Once receiving international protection, they fall “back” under the scope of the Child Protection Act³⁸.

The ad hoc Guardians do not have to be trained to care for children the same way legal guardians need to be. They are also not trained in asylum law and can hardly speak English. Given the physical distance between the ad hoc Guardians’ workplace (Szeged) and the transit zone where unaccompanied minors are placed (Röszke and Tompa), the children and their ad-hoc Guardians mostly only meet twice: at the interview and when the decision is communicated.

Unaccompanied minors below the age of 14 are sent to the Károlyi István Children’s Home and receive services in accordance with the Child Protection Act. Under normal circumstances, all minors are placed there for the duration of the asylum procedure.

³⁴ Asylum Act Section 80/J (5)

³⁵ As confirmed by the case of Ilias and Ahmed v. Hungary, Application no. 47287/15; not yet final

³⁶ Article 37 CRC

³⁷ Act XXXI of 1997 on the Protection of Children and Guardianship Services

³⁸ Child Protection Act Section 4 (1) c)

Transnational Paper

In the cases of unaccompanied minors below the age of 14, the body responsible for appointing Guardians is the Guardianship Office of the Government Bureau of Budapest.

By virtue of the Child Protection Act, **only Guardians working at Child Protection Guardian Services of Budapest (TEGYESZ) may be appointed to be Guardians to unaccompanied children (as of the writing of the current report, all legal Guardians are professionals who are employed by the state and work at TEGYESZ).**

The Implementation Decree for the Child Protection Act contains an exhaustive list of the necessary qualifications a person needs to possess in order to become a Guardian.³⁹

According to the Government Decree, the Guardian is required to have a degree (or be certified) in one of the following: law - public administration manager - administration manager - social work - pedagogy (except for religious studies) - psychologist or mental health - child protection counsellor - family advisor holding a legal certificate (not a law degree) - district nurse - theologian - teacher of religious studies - pastoral advisor.

The appointment is a formal procedure governed by the Child Protection Act, the Implementation Decree to the Child Protection Act and the Administrative Proceedings Act.⁴⁰ Following the call from the National Directorate General for Aliens Policing (NDGAP) to have a Guardian appointed, the Guardianship Office of District V of the Government Office of Budapest contacts TEGYESZ and asks the Head of the Service to suggest which Guardian should be appointed and who shall act as substituting Guardian. This procedure shall be conducted in 8 days and, once appointed, the guardian must act as the child's legal representative.

Guardians are required to meet children below the age of 6, twice a month and children above the age of 6, once a month.

³⁹ Decree 15/1998. (IV. 30.) on the conditions under which institutions and persons providing personal assistance to children may operate and their tasks Section

⁴⁰ Act CL of 2016 on the the General Rules of Administrative Proceedings

The training course for guardians does not contain specific and detailed information on unaccompanied minors.

According to the law, **the monitoring of the guardian's work is conducted by the Guardianship Office.**

I.2.4 ITALY

In 2017, 17.337 minors arrived in Italy, of these, 15.779 are UASC.

According to the last annual report of the Ministry of Labor and Social Policies 18,303 UASC were accommodated in the reception system as of 31.12.2017, (to which a further 5,828 unaccompanied foreign minors who were rendered untraceable, by having moved away from the centers, must be added).

The UASC were mainly from Gambia, Egypt, Guinea, Albania, Eritrea, Ivory Coast, Nigeria, Mali, Senegal, Bangladesh (top ten nationalities)⁴¹.

In 2018, 4,278 minors arrived in Italy, of whom 3,536 UASC

As of 31st December 2018, 10,787 unaccompanied foreign minors were present in the reception system, of whom: 10,000 males (92.7%) and 787 females (7.3%). 5,229 are the UASCs that become unavailable in 2018.

The UASC hosted in the centers were mainly from: Albania, Egypt, Gambia, Guinea, Eritrea, Ivory Coast, Mali, Nigeria, Pakistan (top ten nationalities).

According to the law, all children, including UASC, shall be represented by a legal guardian.

The guardian shall be appointed as soon as possible⁴² and within 48 hours in the cases of UASC applying for international protection⁴³.

Before the adoption of the Law 47/ 2017 in April 2017, with some exceptions, the Judges used to appoint an institutional body (the Mayor of the municipality where the UASC was accommodated,

⁴¹ https://www.savethechildren.it/sites/default/files/files/Analisi%20Sbarchi%20Gen-Dic_2017.pdf

⁴² Article 19 § 5, Legislative Decree n. 142/2015

⁴³ Article 26 § 5, Legislative Decree n. 25/ 2008

Transnational Paper

Social Services etc.) as a guardian. This type of guardian is commonly referred to as an “*institutional guardian*”.

This practice could have a negative impact on the UASC’s access to the rights prescribed by law. In fact, the institutional guardian was often appointed as a guardian of dozens of UASC (in many cases even hundreds) and thus the UASC were unable to have direct dialogue with him.

On April 7, 2017, the Law 47/2017 was promulgated, providing profound changes to the guardianship system in Italy.

The new law provides that a **private citizen (Italian or foreign, in good standing with a residence permit) can express his/her willingness to become a voluntary guardian by sending an application in response to a public ad hoc call, published at the regional level by Regional Ombudsperson for childhood and adolescence (or by the National Ombudsperson Authority for childhood and adolescence in the region without a regional Ombudsperson).**

After the Ombudsperson has made a check on compliance with the requirements (no previous criminal records etc.), the guardian is invited to follow a **specific training course** (organized by the Ombudsperson of the region in which the guardianship application was made)⁴⁴.

After completing the course, and under the individual’s consent, his/her name is placed in a special register of voluntary guardians, which is filed at the Juvenile Court. From this moment onwards, the judge of the Juvenile Court can appoint him/her as voluntary guardian of an UASC (the new law provides that a voluntary guardian can be appointed guardian of a maximum of 3 UASC)⁴⁵.

Based on the Law, the work of each voluntary guardian is to be monitored by the Juvenile Court, while an overall monitoring role of the guardianship system is in the responsibility of the National Ombudsperson for childhood and adolescence.

The relationship between the minor and the Guardian is regulated by general provisions of the Civil Code and a code of conduct is being drafted at the time of writing.

⁴⁴ For the complete list of requirements make references to the Italian national report of this project.

⁴⁵ It is important to remember that at the moment in Italy, both systems of protection are active: the traditional guardianship and the voluntary guardianship.

The institutional guardian (he is also appointed by the Juvenile Court) is still appointed guardian of more than three minors, unlike what happens for the voluntary guardian.

The guardian's "job" is unpaid and voluntary; and at the moment of writing - with the exception of some regions and autonomous provinces - there is no reimbursement for the costs and no insurance coverage.

Currently, the law **does not provide for psychological or legal support to the voluntary guardians**. Some regional Ombudsmen, however, are gearing up to provide it. In some territories, in fact, through agreements signed by the regional Ombudsmen with associations and NGOs, or with the support of local authorities, Ombudsmen are providing legal and bureaucratic support.

The new Guardianship system introduced by Law 47/2017 has effectively entered into force. However, the implementation of the new Law is still inhomogeneous as the application of the new provisions is influenced by the old practices and the current social context of each different area of the country.

Transnational Paper

I.3. SENSITIVE COMMON ISSUES

I.3.1 TIME TO APPOINT THE GUARDIAN

BELGIUM

According to the Guardianship Act, the **Guardianship Service will immediately appoint a guardian. In practice this often means that a guardian is only appointed after an average period of 6 weeks.**

The Guardianship has the possibility to appoint a temporary guardian for any person who has declared themselves to be an UASC in case of an “extremely urgent situation that can be appropriately motivated”. This provision is however, rarely applied in practice.

GREECE

Under the current legal framework, **the competent Public Prosecutor automatically and immediately acts as interim guardian for the unaccompanied minors** identified by the authorities.

According to the new Law 4554/2018, the competent Public Prosecutor appoints a guardian for unaccompanied minors **as soon as possible**. If no appropriate person can be found, guardianship is granted to a professional guardian who is proposed by the National Centre for Social Solidarity (EKKA).

HUNGARY

In accordance with the Law in **maximum 8 days**.

ITALY

The guardian must be appointed **as soon as possible, and within 48 hours in the case of an UASC requesting international protection.**

I.3.2 REQUIREMENTS AND RECRUITING OF THE GUARDIAN

BELGIUM

The Guardianship Service asks guardians to provide a **motivation letter and a CV, a certificate of good behaviour and all useful information regarding the guardian's education (diploma), their availability and their competencies with regard to the guidance of minors. After the first selection the Guardianship Service invites candidates for an interview** on their motivation and competencies, checking three basic attitudes: the ability to cooperate, the ability to listen empathically and the ability to solve issues. The jury is formed by two staff members of the Guardianship Service and one employee-guardian. The Jury also verifies a number of practical aspects such as availability and distance.

GREECE

Under the current legal framework, the competent Public Prosecutor acts as provisional guardian without any special requirements or prerequisites.

According to the provisions of the new Law 4554/2018 in conjunction with the provisions of the Joint Ministerial Decision 28304/2019, it is foreseen that a National Registry of professional guardians is to be kept by the National Centre for Social Solidarity (EKKA). EKKA is the competent authority for the maintenance, updating of this Registry and for its linkage with the National Referral Mechanism for Victims of Human Trafficking

HUNGARY

According to the Child Protection Act, only guardians working at TEGYESZ (Child Protection Guardian Services of Budapest) may be appointed to be guardians of unaccompanied children. The Implementation Decree to the Child Protection Act contains an exhaustive list of the necessary qualifications one person needs to possess in order to be able to become a guardian. They need to hold a degree (or be certified in) one of the following: law, public administration manager, administration manager, social work, pedagogy (except for religious studies), psychologist or mental hygiene, child protection counsellor, family advisor holding a legal certificate (not a law degree), district nurse, theologian, teacher of religious studies , pastoral advisor.

Transnational Paper

ITALY

In order to become a guardian, a person needs to meet some specific requirements provided by law : 1) being an Italian and European citizen / or non-European citizen but with residence permit with good knowledge of the Italian language, 2) registered residence in Italy, 3) over 25 years old, 4) not having a criminal record, 5) respecting the provisions of the law ex art. 350 of Civil Code.

According to the new Law 47/ 2017, a private citizen (Italian or foreigner in good standing with a residence permit) can give his/her willingness to become a voluntary guardian by sending an application in response to a public call published by the (regional or national) Ombudsperson for childhood and adolescence. They can be appointed as guardians after accomplishing a specific training course.

I.3.3 RELEVANT AUTHORITY TO APPOINT THE GUARDIAN

BELGIUM

Guardianship Service (which falls within the Federal Public Service of Justice)

GREECE

According to the provisions of the new Law 4554/2018 **the competent Public Prosecutor must appoint the Guardian.** If no appropriate person can be found, in the meaning of Article 1592 Civil Code, guardianship is granted to a professional guardian who is proposed and employed by the National Centre for Social Solidarity (EKKA).

HUNGARY

Guardianship Office

ITALY

Juvenile Court

I.3.4 TRAINING OF THE GUARDIAN

BELGIUM

Obligatory basic training course of five days, organised by the Guardianship Service.

After the appointment as guardian, another training course of 15 hours every 1,5 years.

GREECE

Under the current legal framework, the competent Public Prosecutor acts by law as interim guardian without any special training.

According to the new Law 4554/2018, the competent authority for the initial and constant training of professional guardians is the National Centre for Social Solidarity (EKKA), in cooperation with other agencies.

HUNGARY

No specific training course for guardians regarding unaccompanied minors.

ITALY

After the recruitment, a person who wants to become a guardian, must follow a training course.

I.3.5 GUARDIANSHIP: EVALUATION AND MONITORING

BELGIUM

The Guardianship Service and the Justice of Peace monitor the guardians. The guardians have to send a **progress report twice a year** to the Justice of the Peace and the Guardianship Service. The social expert at the Guardianship Service follows up the reports and will address issues or irregularities with the guardian.

Every 1,5 years there is a fixed follow-up interview between the guardian and the social expert. When necessary, the social expert will also organise an evaluation interview.

Transnational Paper

GREECE

Under the current legal framework, there is no specific procedure for the evaluation of the Public Prosecutor's work with unaccompanied minors, since it only acts as interim guardian for the appointment of guardians or representatives.

According to the new Law 4554/2018 in conjunction with the provisions of the Joint Ministerial Decision 28303/27.06.2019, the National Centre for Social Solidarity (EKKA) will be responsible for the monitoring and regular evaluation of the work of professional guardians through reports, in site inspections and hearings at the accommodation centers for unaccompanied minors.

HUNGARY

According to the law, **monitoring activity is provided by the Guardianship Office.**

ITALY

According to the Civil Code, monitoring is provided by the Juvenile Court.

I.3.6 NUMBER OF CHILDREN PER GUARDIAN

BELGIUM

Maximum of 40 children per guardian (as defined by law). In practice this is often limited to twenty-five children.

GREECE

According to the new Law 4554/2018 and the provisions of the Joint Ministerial Decision 28303/27.06.2019, the number of children taken over by each professional guardian shall not exceed the number of 20.

HUNGARY

Maximum of 30 children per guardian.

ITALY

Maximum of 3 UASC for each volunteer guardian, except for exceptional cases.

I.3.7 GRATUITY OR REWARD FOR THE TASKS PERFORMED AS GUARDIAN

BELGIUM

Voluntary guardians and self-employed guardians receive a fixed remuneration of 644,52 euros per guardianship per year. They also receive a fixed remuneration of 85 euros for administrative costs and reimbursement of transportation costs.

Organisations that work with employee-guardians will receive 3.500 euro per year and per employee-guardian if at least 25 guardianships are being carried out simultaneously. They receive 25,20 euros per guardianship and per month for administrative and transportation costs.

GREECE

Under the current legal framework, there is no additional reward to the competent Public Prosecutor for the tasks performed as provisional guardian to UASC.

According to the new Law 4554/2018 and the provisions of the Joint Ministerial Decision 28303/2019, there will be remuneration (salary) for the employment of professional guardians and they will be included in the National Registry for Professional Guardians after their employment.

HUNGARY

All legal guardians are professionals who are employed by the state, working for TEGYESZ and **do not receive extra money.**

ITALY

The voluntary guardian carries out his tasks for free. However, in some territories some ombudspersons or local bodies have provided for the giving of reimbursements to the guardians reimbursements for the expenses incurred (petrol, etc.).

Transnational Paper

I.3.8 LIABILITY FOR DAMAGES (INSURANCE FOR THE GUARDIAN)

BELGIUM

The guardian has professional liability: he is liable for his own (also unintentional) mistakes made in the performance of his duties. This professional liability is covered by an insurance that has been taken out by the Guardianship Service.⁴⁶

In contrast to parents, the guardian is exempt from civil liability for damage caused by the minor. Article 1384 of the Civil Code does not apply to the guardian of an unaccompanied minor. The Guardianship Service also covers damage caused by the minor through an insurance policy that it has taken out.⁴⁷

GREECE

Under the current legal framework, there is no specific liability for damages or insurance for the Public Prosecutor who acts as provisional guardian to UASC. According to the new Law 4554/2018, the Professional Guardian is responsible for actions or omissions for breaches of contract, of internal regulations and of the terms of Law 4554/2018.

HUNGARY

According to the Civil Code, no special liability rules.

ITALY

Insurance for Guardians is not provided by law. It is ensured in some Regions/Provinces.

⁴⁶ Art. 8 of the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI of the Programme law of 24 December 2002.

⁴⁷ Art. 8 of the Royal Decree of 22 December 2003 to implement Title XIII, Chapter VI of the Programme law of 24 December 2002.

I.3.9 PSYCHOLOGICAL SUPPORT TO GUARDIAN AND TO UASC

BELGIUM

No professional psychological supervision is provided for guardians. UASC can get psychological support from psychologists in their reception facility, but there are waiting lists to make an appointment with the psychologist. Psychologists outside the reception facility often find themselves reluctant to engage in in-depth interviews because of a lack of (sufficiently trained) interpreters. UASC can also contact youth care services for specific support. In general, there is a lack of appropriate emotional support programs for UASC.

GREECE

Under the current legal framework, there is no specific provision for psychological support neither to the Public Prosecutor who acts as interim guardian nor to the UASC.

According to the provisions of the Joint Ministerial Decision 28303/2019, it is foreseen that EKKA shall provide professional supervision to guardians during the provision of their services.

HUNGARY

No professional supervision is provided.

ITALY

Psychological support is not provided by law but some Ombudsmen - occasionally in collaboration with associations, universities and NGOs – have launched some projects of psychological assistance for the guardians and for the UASC.

Transnational Paper

I.3.10 LEGAL AND BUREAUCRATIC SUPPORT TO GUARDIAN

BELGIUM

A social expert of the Guardianship Service is assigned to each guardian and the guardian can contact him/her to ask all kinds of questions. Guardians can also call the permanent Guardianship Service.

Moreover, the Guardianship Service has created a handbook for guardians, but in actuality this handbook for guardians has not been updated since August 2007.

In the past, there were specific so-called “*coaching programs*” for guardians that actually is only operative in Wallonia, and no longer in Flanders.

GREECE

Under the current legal framework, there is no specific provision for legal and bureaucratic support to the Public Prosecutor who acts as provisional guardian, but in practice they are supported by NGOs and professionals who are authorized to represent UASC before public authorities.

According to the new Law 4554/2018, no specific legal and bureaucratic support is provided for the professional guardian, but it is among the duties to cooperate with the legal representative and the accommodation center of the UASC.

In cases however where important decisions must be taken for the future of the child (such as health issues, disability, religious beliefs, suspicion of harassment, neglect or exploitation), the guardian shall refer to the supervisory board for guardianship of unaccompanied minors to evaluate and determine the best interest of each minor concerned.

HUNGARY

According to the Law it is provided by their respective offices.

ITALY

It is not provided by law but some Ombudsmen - occasionally in collaboration with associations, universities and NGOs - have provided for the creating of a legal and bureaucratic support desk for the voluntary guardians who need assistance.

I.4. COMPARATIVE ANALYSIS OF GOOD AND BAD PRACTICES IN THE FOUR GUARDIANSHIP SYSTEMS

From the desk and field research carried out by four researchers from NGOs - Save the Children Italy, the Hungarian Helsinki Committee, Vluchtelingenwerk Vlaanderen and PRAKSIS Greece - some good and bad common practices have emerged within their respective legislative systems.

The guardianship systems analyzed have shown profound differences, mostly due to the heterogeneity of the legislative systems.

First of all, each country has adopted a partially different concept regarding of “guardian” and different rules on whom can be appointed :

Hungary is the only country where legislation requires that the Guardian be appointed only among those working within the TEGYESZ⁴⁸.

In Italy, the Guardianship system provides for the simultaneous presence of "*institutional guardian*" and "*voluntary guardian*". In particular, the new Law 47/2017 introduced the "voluntary guardian", a private citizen properly selected and trained to be appointed Guardian and can be the Guardian of a maximum of three children. This provision is meant to overcome the problem of hundreds of UASC under the Guardianship of a single institutional guardian.

In **Greece**, this is a transitional period between two legal frameworks concerning the guardianship of unaccompanied minors. On one side, the competent Public Prosecutor is still acting as a provisional Guardian and on the other, **legislative provisions for the appointment of professional guardians have been enacted and remain to be implemented on 01.03.2022.**

In fact, in Greece the new Law 4554/2018 provides that private citizens who fulfil the necessary requirements (education, experience, linguistic skills) can be employed and appointed as Professional Guardians. **This way, an improvement is expected in comparison to the present situation**

⁴⁸ With the exception of the temporary guardians appointed under the crisis regime.

Transnational Paper

by which a single territorially competent Public Prosecutor is responsible for all the UASC whose presence has been reported in their jurisdiction. However, the new provisions for the professional guardians have not yet been implemented and are not yet in effect.

Instead, in **Belgium** there coexist three different figures of Guardians: voluntary guardians, self-employed guardians and employee guardians.

In particular, all four legislative systems provide for a small timeframe in which the appointment of a guardian must occur:

Nevertheless, **with the exception of Hungary** (in which this time frame is set to a maximum of 8 days), **the other three countries** (with the exception of **Italian asylum seekers**, whose guardian appointment must proceed within 48 hours) **have not legally set a maximum timeframe within which the guardian nomination procedure must be completed.**

All four legislative systems provide that the candidate, who has expressed his/her will to become a guardian, must fulfil certain requirements. Particularly noteworthy is the recruitment procedure envisaged by Belgium, which provides for a thorough analysis of the candidate's application, not only with regard to the formal requirements that he/she must possess, but also with regard to skills and the deeper motivations that may have led them to submit the application.

Regarding **the authority assigned to the appointment of the guardian, with the exception of Italy and Greece**, in which it a legal body appoints the guardian, **in the other two countries this task is assigned to administrative bodies.**

In Belgium and Italy specific and structured **training courses for people who want to become a Guardian are foreseen.** In these countries “refresher courses” are also foreseen, mandatory and provided for by law in Belgium, optional and not provided for by law but becoming more common in Italy. In Greece, according to the new Law 4554/2018, a responsible authority (EKKA) is set **for the initial and the constant training** of the Professional Guardians, in cooperation with other agencies.

In accordance with the current four legislative systems, **the correct accomplishment of the duties of the guardian, with regard to the tasks assigned to him/her by law, is monitored and controlled in all four countries.** However, only in Italy the task of individual monitoring is fulfilled by a legal entity and not an administrative authority (while the overall monitoring of the system is assigned to the National Ombudsperson Authority for childhood and adolescence) In Greece, according to the new Law 4554/2018, the responsible authority (EKKA) will be also responsible for the monitoring of Professional Guardians.

In Italy, where the law provides that a maximum of three UASC can be assigned to one volunteer guardian (the old guardianship system, however, which allowed for a multitude of UASC to be assigned to a guardian, remains in operation, parallel to the new system introduced by law 47/2017) and in Greece (under the new law 4554/2018), where the maximum number of UASC still to be determined by Joint Ministerial Decisions, while in Belgium and Hungary the relevant legislative systems allow for **too many children to be placed under the responsibility of each guardian.** A high number of UASC assigned to one guardian, could interfere with his/her capacity to properly carry out their duties.

In all countries, except for Italy, according to the law the Guardians are paid; in some cases, in the performance of their normal office functions and without then receiving an additional reward; in other cases receiving a fixed remuneration as a reimbursement.

In Greece according to the new Law, the salary of the Professional Guardians will be determined by a Joint Ministerial Decision between the Ministry of Labour, Welfare and Social Solidarity and the Ministry of Finance and Development.

At present, only in Belgium, the legislation provides for insurance to cover any damage (even involuntary) for which the Guardian is responsible, during his work. Although is not mandatory by law, nevertheless in Italy some Ombudspersons have provided for an insurance covering any damages caused by the minor.

In none of the four countries psychological assistance and supervision is provided for by law to appointed Guardians.

Transnational Paper

Unlike Hungary and Belgium, in Italy and Greece (according to the new Law 4554/2018) the law does not provide legal and bureaucratic assistance to Guardian officers. However, in these two countries the Guardians are often supported by NGOs and associations.

I.5. RECOMMENDATIONS

Based on the comparative analysis of this transnational report and on the findings of the national reports, the following recommendations are addressed to national and European authorities on the appointment, training and monitoring of Guardians of unaccompanied and separated children and on measures of support to their aimed to guarantee better protection to UASC and stronger support to guardians.

RECOMMENDATIONS

I. REQUIREMENTS, SELECTION PROCEDURE, APPOINTMENT

The selection of new Guardians is the first step to provide UASC with a proper guidance, representation and support. The EU and Member States should define quality standards for the selection procedure of guardians. Guardians should only take charge of a proportionate amount of children for a reasonable amount of time. Member States and EU authorities competent in this subject should take into careful consideration the following issues when drawing the relevant legislation and practice:

- In consideration of the crucial role of the Guardians for the representation, well-being and access to rights of the minor, a specific reference to **personal skills** should be included among the necessary requirements of Guardians. Among them: mediation skills, personal attitude to establish a positive helping relationship and to be a reliable guidance for the child. These skills should be added to **basic requirements** such as lack of criminal records and a stable legal status.
- **Education degrees** and/ or professional/volunteering **experiences** should be taken into consideration in the overall evaluation of the applicants.
- Specific attention to any possible **conflict of interest** should be taken into account during the appointment (e.g. if the guardian is the responsible person of the reception centre where

the child is accommodated). The Guardian has a paramount role in the protection of children, in monitoring the respect of his/her rights and in ensuring a full representation in legal procedure. Thus, he/she should be able to perform this role independently and without any external influence, putting the best interest of the child at the core of his/her activity.

- The selection procedure should be the responsibility of an **independent and specialised authority**. It should consist in the evaluation of CVs and interviews of the applicants carried out by personnel skilled in the area of support to UASC.
- An adequate number of minors should be assigned to each Guardian, depending on his/her full-time or part-time role and not exceeding a maximum of 20 children for full-time Guardians. However, this number should always be determined according to a quality process through which an evaluation of each case is carried out in order to take into consideration the characteristics of each case. Cases with multiple vulnerabilities require (e.g. THB, VoT, SGBV etc.) require more time.

2. TRAINING

Guardians can be full-time or part-time. They can play their role on a professional or a non-professional basis. They can be paid or not paid. Always, they are a relevant point of reference for the child and in the protection system. Thus, all Guardians should be made aware, through the training, of the functioning of the system and of all relevant aspects of the situation of UASC. Additionally, they should be fully empowered to interact with the child and with all the relevant actors in the system.

Member States and EU authorities competent in this subject should take into careful consideration the following issues when drawing the relevant legislation and practice:

- All Guardians-to-be should receive adequate obligatory training prior to being appointed and regular follow-up training - at least once a year - following the appointment.
- Training modules should include courses/practical workshops on legal, social, phenomenological and psychological aspects of the support to UASC, on how to deal with vulnerabilities as well as on child safeguarding and should be carried out by both institutional and academic/NGO experts, in order to give the guardians-to-be a complete picture of the reality. *Ad hoc* training regarding best interest determination, mediation, child participation, cross-cultural communication and prevention of abuses and trafficking should be part of the training module.

Transnational Paper

- Additional training tools/guiding principles, such as a Code of Conduct, Guidelines and practical toolkits, should be provided to the Guardians by the relevant authorities.

3. MONITORING

Being a Guardian entails, in the national legislations, a large set of responsibilities toward the child. In the practice, the Guardian's action has a profound impact on the minor's life and should be subject to a regular and independent reporting mechanism also in order to allow the child to report any complaints. The child should also be made immediately be given a contact point in case there are complaints.

Member States and EU authorities competent over this subject should take into careful consideration the following issues when drawing the relevant legislation and defining the practice:

- The activities of the Guardian should be subject to regular monitoring by an independent and expert authority. The monitoring should be carried out through receiving regular reports and holding regular meetings with the Guardian and with the child.
- Specific meetings/debriefing between the monitoring authority and the Guardian should be set up in case of sensitive decisions, critical issues, incidents.

4. SUPPORT MEASURES

Both full-time and part-time Guardians, in consideration of their role in the protection of UASC, should benefit from the full support of the authorities in order to be in the best possible condition to perform their duties. Member States and EU authorities competent over this subject should take into careful consideration the following issues when drawing the relevant legislation and defining the practice:

- All Guardians should be granted a reimbursement for expenses incurred in the performance of their duties. A system of reimbursement including clear criteria and procedures should be set up.
- All those who perform their activities as Guardians outside an employment contract should be granted an adequate amount of hours of work permission.
- Civil liability insurance should be granted to all Guardians at the expense of the central/local authorities.
- Free support services should be set up in order to provide the Guardians with legal, social and psychological orientation and counselling.

2. PRODUCTION OF A SET OF TOOLS AND OTHER ACTIVITIES CARRIED OUT IN THE FOUR PROJECT COUNTRIES: TOOLKIT AND HELPLINE. TESTING AND DISSEMINATING

The main objective of the GAIN - WS3 is to produce a set of tools for guardians and for stakeholders involved in the guardianship system, in particular:

- **Toolkit** (one toolkit for each country) → elaboration of the toolkit starting with the analysis carried out in WSI, that must cover all the areas of interest identified during the field and desk research.
- **Helpline/ helpdesk** (one toolkit for each country) → preparatory activities for setting-up or strengthening the helpdesk/helpline that has to support guardians and other stakeholders.

During the GAIN-WS4, the partners had to test and promote these tools (toolkit and helpline).

In particular the capacity building activity had to include 4 Technical assistance sessions for the actors involved in the guardianship system and the dissemination activity had to include 1 High level meeting to promote the toolkit.

The activation of the helpdesk/helpline had to assist guardians on technical and legal aspects related to their role and support them in the use of the toolkit, reviewed on the basis of the received inputs.

Transnational Paper

2.1 THE RESULTS OF THE EXPERIENCE CARRIED OUT IN THE FOUR PROJECT COUNTRIES

SECTION I:

BELGIUM - FLEMISH REFUGEE ACTION (VLUCHTELINGENWERK VLAANDEREN)

I. GENERAL INTRODUCTION RELATED TO THE DEVELOPMENT OF GAIN - WS2 AND WS3

The English version of the national report (part of the G.A.IN project, which was drafted in 2018) on the protection of unaccompanied minors in Belgium and support to voluntary guardians was translated into Dutch during Work Package 4, in order to make it more accessible for policy makers and the broad public. The report has been available on the website of the Flemish Refugee Action since 28 February 2019⁴⁹. It is also available under the section 'positions and recommendations'.

It was presented to and discussed with policy makers and stakeholders during a national High Level Meeting on the 28th of February 2019, during which the draft toolkit was introduced as well. Through further consultations and discussions carried out during the 4 technical assistance meetings in June-July 2019, further technical assistance and support in the implementation and management of the guardianship system to key stakeholders was provided and input for the toolkit was considered coming directly from its users, which guarantees the real utility of the document.

⁴⁹ <https://www.vluchtelingenwerk.be/publicaties/rapport-niet-begeleide-minderjarige-vreemdelingen>

<https://www.vluchtelingenwerk.be/standpunten-en-aanbevelingen>

Technical Assistance Sessions and High Level Meeting ->

Technical Assistance Sessions	
Turnhout 17th June 2019 Cirkant ngo, Youth Services	Vluchtelingenwerk Vlaanderen (Project Officer G.A.IN Project), 6 voluntary guardians, Student Catholic University Leuven
Brussels, 27th June 2019 Guardianship Service - Belgian Federal Department of Justice	Vluchtelingenwerk Vlaanderen (Project Officer G.A.IN Project), 2 employees of the Belgian Guardianship Service
Brussels, 3rd July 2019 Caritas International	Vluchtelingenwerk Vlaanderen (Project Officer G.A.IN Project), 2 employees of Caritas International and professional guardians
Lier, 6th July 2019 Marnixhoeve	Vluchtelingenwerk Vlaanderen (Project Officer G.A.IN Project), 5 voluntary guardians

28th of February 2019

High Level Meeting - stakeholders involved

Transnational Paper

There were 50 participants during the National High Level Meeting. They represented a broad range of main stakeholders (both institutional and non-institutional): Immigration Office (federal government); Federal Agency for the reception of asylum seekers (federal government); Guardianship Service (federal government); Cabinet vice prime minister (federal government); Chancellery and Administration Department (regional government); Agency for Youth well-being (regional government); Department of Culture, Youth and Media (regional government); BON - Agency for Integration (regional government); Foster Care Flanders (regional government); Children's Rights Commissioner (regional government); Sp.a study department (political party); Cd&v study department (political party); Voluntary guardians; Caritas International; Red Cross Flanders; Child Focus; SOS Children's Villages; Minor Ndako (reception organisation for UASC); Students researching UASC (University Leuven); Doctoral Student (University Ghent); Arktos; Church organisation; Staff of a reception center for UASC; Staff member Platform Children in Exile Belgium; SIAL (Support Center Integration Asylum Seekers Lubbeek)

2. TECHNICAL ASSISTANCE AND HIGH LEVEL MEETINGS: MAINLY INPUTS RECEIVED

Main inputs received from guardians→

Appreciation of the toolkit. The guardians agreed that the Toolkit is a well-developed practical instrument and ready for immediate use, especially as it provides clear, concrete and practical check-lists on several topics. The feedback on the structure of the Toolkit was positive; The simple and straightforward structure of the Toolkit allows an easy use of the document. The guardians appreciated the clear and concrete language used in the Toolkit and the fact that practical reference was made to different contacts or documents to be used by the guardians. The guardians confirmed the Toolkit integrates the existing Guardianship Guidebook drafted at national level by the Guardianship Service, complemented with their regular updates and hand-outs. The Toolkit provides a practical tool to ensure all aspects (residence procedures, housing, education, health and wellbeing, work and family (reunification)) of the UASC are being properly and timely followed up by

guardians. The guardians agreed necessary topics were covered and needed check-lists were provided, which can be used on a daily basis.

The guardians provided inputs and suggested to add additional information in the toolkit, mainly about: include a paragraph on the new regulations (effective since January 2019) relevant to education allowance; include a short paragraph related to the costs of interpreters and how to claim the expenses; include additional organisations which guardians can approach when their pupil is facing emotional difficulties; clarify the minimum age for opening a bank account for UASC; include a paragraph that covers the reporting duties of guardians to the Guardianship Service and the Justice of Peace; add some practical guidance on how to make international phone calls in case the guardian needs to contact the pupil's parents; add a reference to the instances that will cover the medical expenses of the pupil; add additional organisations that provide assistance in family reunification procedures to the annex of the toolkit.

Moreover guardians underlined:

1. Challenges related to the language during official residence procedures; for some of the UASC, during the official residence procedures, the language of the procedure differs from the language spoken by the guardian and/or pupil. This complicates an appropriate follow up on procedures. It would be recommended for state authorities to take the guardian's and/or pupil's language into account when determining the language of the procedure.
2. That every pupil is an individual with his/her own needs. There should be, for example, more tailor-made student jobs made available for UASC.

Main inputs received from stakeholders→

Transnational Paper

The discussions revolved around some specific themes⁵⁰. Stakeholders:

- Discussed about the accuracy of the medical tests for the age assessment, which has been criticized. Some believe that taking into account physical characteristics is not enough. A more adequate system could be developed and more emphasis could be put on psychological analysis and conversations.
- Underlined that the Guardianship Service shares a variety of detailed guidance notes and documents with all voluntary guardians, at the moment of induction and complements them with regular updates and hand-outs. A stakeholder noted that as the G.A.IN toolkit is complete, yet brief, the document will provide guardians a clear and practical overview of all aspects (residence procedures, housing, education, health and wellbeing, work and family reunification) of the UASC to be properly and timely followed up.
- Provided inputs and suggested to add additional information in the toolkit, mainly about: include a paragraph to the 'network section' of the toolkit that describes how the competent juvenile judge is being determined (should there be a need); include two less known channels (CAW and CLB) to the list of channels available to access specific services for UASC with specific needs; stress the importance for the guardians to support the pupils with negotiating fire insurance and utilities once the pupil qualifies to live separately; include the fact the Guardianship Service expects the guardians to attend at least one official meeting with the school of their pupil a year; include the fact that the guardians should provide realistic and practical information about the family reunification procedures (such as on the costs and emotional impact), both to their pupil and his/her family; add a paragraph about the

⁵⁰ Such as transversal policy (cooperation between organisations and services around UASC and the complex distribution of competences in Belgium); living (reception facilities that fit the pupil's needs, need for privacy and proper guidance); well-being (need of psychological assistance for UASC, accessibility to mental health care and assistance, access to leisure organizations and sport, building resilience); education (pupil's demotivation to go to school, challenges for guardians, individually tackled learning trajectory); representation (how to determine a durable solution for UAMs, time and support to prepare interviews within the framework of the residence procedure; assistance of a lawyer; humane asylum legislation; sustainable solutions for UASC); building trust between guardian and UASC (importance of trust to prevent disappearances, protection of UASC in transit); best interest of the child (assessment and determination of the best interest); family (administrative costs of family reunification, procedure of family reunification); Independent living (how to support young people who turn eighteen); practical support and evaluation of guardians (practical support, training and evaluation of guardians, AMIF project of the Guardianship Service, in which a method is developed to better support and follow up guardians)

fact that guardians can decide to change the lawyer of their pupil, in case they assess the lawyer is not suitable to represent the pupil; stress the importance of the independent role of the guardian when interacting with their pupil.

Main inputs received during the session with unaccompanied minors→

The importance of support in the development of UASC was stressed. An unaccompanied minor confirmed that both the guardian and the foster parents were of great importance to him. It is important that young people have people around them who believe in them. An unaccompanied minor stressed the importance to give the UASC the opportunity to build a network. Nobody likes to be alone. One unaccompanied minor mentioned that he knows a lot of young people who do not receive the appropriate support/guidance and noted "They are here physically, but mentally they are somewhere else".

3. TOOLKIT. DEVELOPMENT AND BUILDING METHODOLOGY

Vluchtelingenwerk Vlaanderen has developed the draft toolkit ('test toolkit') for voluntary guardians after Steering Committee 2 (May 2018 – August 2018). The toolkit for voluntary guardians and other stakeholders was developed based on the national report findings, also drawing from transnational exchanges on methodology, ideas between project partners and feedback received from the helpline.

The G.A.IN project officer, assisted by a volunteer, further talked to six voluntary guardians during a meeting on 4 June 2018 at the homeless shelter Victor in Antwerp, in order to receive inputs/ideas for the content of the draft toolkit. On 27 July 2018, the project officer and the volunteer had a meeting with a youth worker of Arktos VZW who assists unaccompanied children in finding work, housing, etc.. He gave inputs and shared his ideas for modifying the draft toolkit. The project officer shared these ideas with the project partners on the 3rd of August 2018 by e-mail. The draft toolkit was further modified, taking into account the inputs from the different stakeholders, including the voluntary guardians, and questions received on unaccompanied minors at the helpdesk.

Transnational Paper

The toolkit was built and further developed as a practical instrument for voluntary guardians, mainly providing them with check-lists on several topics (residence procedures, housing, schooling, health, finances, work and family reunification). Thanks to desk and field research and to the activities of the helpline, Vluchtelingenwerk Vlaanderen developed an analysis of the current situation.

On 14 October 2018, Vluchtelingenwerk Vlaanderen sent the draft toolkit to the project coordinator (Dutch version). On 30 October 2018 the project officer of Vluchtelingenwerk Vlaanderen also sent a brief English version of the toolkit to the project partners. As confirmed by the project coordinator, the toolkit was well adapted to the Belgian reality and consistent with the level of development of the different policies and tools existing in favor of unaccompanied minors. After receiving feedback from the project coordinator and further legal review by legal officers who work at the helpline, additional modifications were done.

Through consultations and discussions carried out during the 4 technical assistance meetings in June-July 2019, further inputs on the concreteness, practicality, clarity, utility and adaptation to the national reality of the toolkit was collected. The feedback on the toolkit, coming directly from the users of the Toolkit, can be read in Section 2.

The finalized Toolkit can be used as a practical instrument for voluntary guardians to quickly respond to doubts and provides check-lists of documents and actions needed in order to better support the relevant Stakeholders and unaccompanied children.

4. HELPLINE

In 2016, the Flemish Refugee Action (Vluchtelingenwerk Vlaanderen) has activated a helpdesk service for all people who have questions related to asylum seekers and refugees. The legal officers of

Vluchtelingenwerk Vlaanderen also answer questions addressed to the legal helpdesk of the Flemish Agentschap Integratie en Inburgering (by e-mail and phone).

Within the framework of the G.A.IN. project and with the assistance of the European Commission, Vluchtelingenwerk Vlaanderen has the opportunity to strengthen the technical and legal helpdesk service to support guardians of unaccompanied minors and other stakeholders working with migrant children. The helpdesk service therefore guarantees also free support and orientation to services for persons with questions related to guardianship and unaccompanied minors.

The helpdesk service can be reached by telephone (the “Refugee Helpline” on the number 02 225 44 00) and by e-mail (info@vluchtelingenwerk.be).

4.1 HELPLINE: WORK METHODOLOGY

The helpdesk service uses the experience and professionalism of the helpdesk team of Vluchtelingenwerk Vlaanderen in order to guarantee immediate assistance to users. Within the framework of project G.A.IN., the helpdesk service of Vluchtelingenwerk Vlaanderen focused its activities on developing assistance and support to guardians and other stakeholders with questions related to UASC. The helpdesk team of Vluchtelingenwerk Vlaanderen uses the Freshdesk-system to answer questions on UASC by e-mail. Moreover, the helpdesk team of Vluchtelingenwerk Vlaanderen responds to questions on UASC by phone, and registers them in the same Freshdesk system. Questions regarding unaccompanied minors are systematically categorised with a label ('UAM'), in order to count the number of questions received. This label was created in the context of project G.A.IN.

In particular the Helpline is:

Transnational Paper

- Providing legal assistance/advice to voluntary guardians on topics such as documents and administrative/judicial procedures, right to health/education/employment, etc.;
- Providing legal assistance/advice to UASC;
- Providing legal assistance/advice to other stakeholders (lawyers, social workers, youth workers, etc.);
- Providing support with all questions related to UASC and referring stakeholders to key actors involved in the procedures;
- Informing voluntary guardians and other key stakeholders on the current legal framework;
- Encouraging collaboration and continuous contact between key stakeholders involved in the voluntary guardianship.
- Supporting family reunification procedures in Europe: In the context of the G.A.IN. project the helpdesk implements a cross-border collaboration with the project partner helplines (Praxis in Greece, the Hungarian Helsinki Committee in Bulgaria and Save the Children in Italy) to facilitate the completion of family reunification procedures concerning unaccompanied minors who claim to have relatives residing in one of the aforementioned countries.

4.2 HELPLINE: RESULTS

Vluchtelingenwerk Vlaanderen received 58 queries on UASC in the period from September 2018 till 15th July 2019.

4.3 MAIN INPUTS RECEIVED FROM THE HELPLINE

The questions on UASC received by Vluchtelingenwerk Vlaanderen in the period from September 2018 until July 2019 mainly concern the Dublin procedure, the family reunification procedure and the transition period to adulthood. The questions Vluchtelingenwerk Vlaanderen receives often

involve complex cases and a variety of legal questions. The stakeholders contacting the helpline pose a variety of questions, amongst others:

- additional guidance on how to assess and determine the best interest of the child under Article 8 Dublin III Regulation;
- guidance on how the Dublin Directive is applied in cases of UASC;
- where to find information on trainings on communication with UASC;
- family reunification procedures;
- new elements in subsequent asylum applications for UASC;
- consequences for UASC who recently turned 18 and who were ordered to return to their country of origin;
- the rights of refugee children in Belgium;
- where to find a lawyer, specialized in immigration law and working with UASC, and an interpreter;
- domestic violence;
- possibility of DNA testing in the context of the asylum procedure;
- where to find buddies and additional support for UASC;
- employment possibilities for UASC;
- transition period to adulthood.

Transnational Paper

SECTION II:

GREECE - PRAKSIS

I. GENERAL INTRODUCTION RELATED TO THE DEVELOPMENT OF GAIN - WS2 AND WS3

PRAKSIS had finalized the 3rd version of the toolkit by the end of June 2019, a time where the final Ministerial Decisions clarifying the New Guardianship Law were issued. After these proceedings and the very important Technical Assistance Meetings, the toolkit is being finalized. PRAKSIS implemented six Technical Assistance Meetings in a bilateral way, with the main stakeholders at national level involved in child protection and guardianship. The 3rd version of the Toolkit was elaborated on and there was a fruitful discussion about the current context of implementation of the new law on Guardianship (4554/2018). Indeed, the final version of the toolkit is being developed as also the Technical Assistance Meetings were held in a time where national discussion on the implementation of the new Law have reached the most critical point; the training modules for the professional guardians that will be recruited by EKKA in the next months and the Standard Operational Procedures that are expected to be issued, setting the specificities of the professional guardianship system, are about to be finalized and published, after the discussions that will take place at a national level in the next months. In this context, the technical assistance meetings were very positively regarded at this phase, as an important cooperation and inter-consultation route with the main national actors.

The High Level Meeting will take place on September 30th 2019, following the recent changes in responsible authorities and Ministries due to the national elections that took place on July 2019. All key stakeholders that participated in the Technical Assistance Meetings are already informed and the representatives of other national organizations will be invited as well.

Concerning the Helpline/Helpdesk, it was finally not feasible to be implemented for reasons related to changes mainly linked to the transitory context of the national Guardianship system, that still has not be put into action as well as changes related to the services of the partner Praksis

Technical Assistance Sessions and High Level Meeting ->

Technical Assistance Sessions	
Athens, PRAKSIS Headquarters, 22-07-2019	Bilateral meeting between PRAKSIS protection officers and Invited participants: Greek National Rapporteur on Trafficking in Human Beings
Athens, PRAKSIS Headquarters, 23-07-2019	Bilateral meeting between PRAKSIS protection officers and Invited participants: METADRASI – ACTION FOR MIGRATION & DEVELOPMENT
Athens, PRAKSIS Headquarters, 23-07-2019	Bilateral meeting between PRAKSIS protection officers and Invited participants: Members of PRAKSIS Supported Independent Living (SIL) Apartments team
Athens, PRAKSIS Headquarters, 24-07-2019	Bilateral meeting between PRAKSIS protection officers and protection expert. Invited participants: Institute of Child Health, Department of Mental Health and Social Welfare
Athens, PRAKSIS Headquarters, 24-07-2019	Bilateral meeting between PRAKSIS protection officers and protection expert. Invited participants: UNHCR Greece
Athens, PRAKSIS Headquarters, 30-07-2019	Bilateral meeting between PRAKSIS protection officers and Invited participants: National Center for Social Solidarity (EKKA)

Transnational Paper

High Level Meeting

The High Level Meeting has been scheduled for 30th of September, in Stanley Hotel, Athens. All key stakeholders that participated in the Technical Assistance Meetings are already informed about the High Level Meeting, and all other national stakeholders will be soon invited to contribute.

2. TECHNICAL ASSISTANCE AND HIGH LEVEL MEETINGS: MAINLY INPUTS RECEIVED

Main inputs received from stakeholders→

Discussions on the new national Guardianship System

As for the current evolutions on the implementation of the new Law on Guardianship 4554/2018, there was a concern that the National Center for Social Solidarity, EKKA that is the responsible authority for recruitment, training and evaluation of professional guardians nationwide, will delay the recruitment of the foreseen 180 guardians-the time of recruitment is unknown. The initial plan was this procedure to take place in September, however due to the national elections that were held on 07.07.19, the changes of the ministries and the authorized organizations took place, along with the clarifications to be made, amending the initial plan. In practice the new guardianship system is expected to become operational on 01.03.2020. EKKA is now working on the national SOPs for the role of the guardian, which expected to be issued in the next months. The coordination office of the guardians (new department in EKKA) is still under development.

Another issue of concern regards the perception that in order to effectively accomplish his/her duties, the appointed professional guardian, in contrast to the current situation, must have a wide range knowledge on legal, administrative, asylum, protection, healthcare and psychosocial support procedures. This fact leads to concern on the actual existing knowledge of the guardians that will be recruited (since there is no restriction on people with legal or psychosocial professional background to apply for guardians), which PRAKSIS believes that should took place prior to their

recruitment, how this will be a barrier in the actual work with children and the cooperation between the guardian and the staff. Moreover, the fact that based to the new law, the guardian should have a maximum of 20 UASC under his guardianship (a maximum that will surely be reached) and which in the case of Reception and Identification Centres (hotspots) may exceed this number by law, will place overload to the guardians (depending also also on the accommodation facility in which the minors are residing) and may constitute an obstacle for the quality of work carried out with children.

In the same line, there was a unanimous concern about the procedure of the recruitment of the professional guardians that follows the national Supreme Council for Civil Personnel Selection (ASEP). In this procedure, only some of the typical qualifications are taken into account as also some social criteria. No interview or other qualitative assessment of the applicants are taken into account (e.g. strengths, personal skills, ability to work with UAMs etc.), raising concerns on the actual experience and readiness of the new guardians, since the number of unaccompanied minors is also extremely high at this moment.

The training of guardians will be carried out by EKKA (with foreseen duration of 40 hours) and should cover a very wide range of issues especially if the experience and knowledge of the guardians on UAMS' related issues is not adequately safeguarded by the recruitment procedure. All these issues also create concern as to the success of the actual implementation of the new Law.

Through the New Law and the 3 Ministerial Decisions (all Ministerial Decisions are concluded and no more will be issued), the monitoring system of the guardians and the needed complaint/report mechanism for minors have not been defined, so the expected SOPs need to address these issues in detail.

The same applies for the tools to be used. The currently used tools for child protection case management (BIA, BID, Interagency Forms etc.) are expected to be adopted in the near future by EKKA (with any modifications), however this process has also been delayed. Moreover, a uniform communication tool for the cases that will be used between all relevant professionals should be soon decided by the responsible authorities.

Transnational Paper

One of the main challenges stressed was the case of appointing professional guardians for homeless minors, or minors residing in places other than accommodation facilities (Shelters, Semi-/Supported Independent Living apartments etc.) such as open accommodation facilities, protective custody, Reception and Identification Centers or in informal/insecure housing conditions (squats, in temporary apartments etc.). In these cases, the guardian won't have the opportunity to take advantage to cooperate with the staff of an organized facility (social workers, psychologists, trainers, cultural mediators/interpreters, nurses etc.) and will have to find the appropriate referral pathways. However, even in accommodation centers, there might be deficiencies in staff and the guardian will have to adjust to this condition.

Another concern is the fact that the national system and the procedures as foreseen in the new law, seem to be again "problematic" and this will have a high impact on the cooperation between all actors in cases of emergency situations. Additionally, the foreseen least contact of the guardian with the children (once a week) may result in further difficulties.

In case of children who live in accommodation centers, the exact distinction of roles, boundaries and responsibilities between the guardians and the accommodation centers' staff should be further described through the upcoming SOPs, especially since many gaps in the national system exist. This condition often leads to misunderstandings between all cooperating or referral actors, mainly in cases of emergencies.

The need for professional supervision of professionals, either in group or individually, should also be guaranteed and foreseen by the SOPs, so that the guardians will be fully aware of the issues related to working with minors that might have multiple vulnerabilities and have suffered traumas.

Moreover, there was a concern that the lack of independency of the guardian (since he/she will be recruited by the state), may negatively interfere in the cooperation and the quality of relationship with the children.

Discussions on the Toolkit (3rd version):

The toolkit was very positively assessed by all stakeholders and the extend of issues mentioned was very positively regarded, as addressing the actual needs of the guardians in terms of knowledge acquisition and as a trigger for further awareness.

In order to avoid overlapping and further strengthen the G.A.I.N toolkit, we asked partners that also currently participate in other EU projects on guardianship and are developing respective toolkits, to share them in our discussion. These other toolkits were elaborated on, in comparison to the G.A.IN. toolkit, as also other existing toolkits that are considered valid ones.

Main discussion stressed:

- The LGBTQI+ topic were perceived as a very important addition since these issues require a wide range of communication skills and further sensitivity in working with the individualized needs of people. In all cases, the approach of the guardian as also the methods used should be always gender, age and culture sensitive, a fact that sets several and different challenges, mostly in specialized cases of suspected trafficking, SGBV etc. For instance, the knowledge of the cultural issues that are unique in some countries of people's origin, may be very critical in early sensitizing and alerting the professional or guardian about some kind of abuse that may exist. Unfortunately, this knowledge based on everyday fieldwork experience has not been systematically recorded and compiled and each person needs to proceed with his/her own research and consultation with experts.
- In the same line, the issue of cultural mediation/interpretation is a very crucial one in the protection of minors and especially in the case of Trafficking in Human Beings (THB). It was highlighted that professional guardians should be aware of the relevant laws for the rights of the minors regarding their support (either in case of THB or in everyday medical, psychosocial and protection needs), in order to be able to advocate for them in case some kind of support is denied or inadequately provided by public or private organizations. Of course this is not at all an easy target to achieve, since the procedures foreseen by law are often dispersed in several articles.
- The rights of trafficked persons, especially minors, the issues regarding effective abuse prevention techniques, the prioritization of support, the referral pathways and

Transnational Paper

cooperation were discussed.

- It was suggested that the toolkit should include epigrammatically all the main legal statuses and legal categories that a UASC may be granted at an initial or at a later stage (such as asylum 1st instance rejection etc.), the procedures of seeking / requesting accommodation when the minors are about to age out, reaching 18 years of age, the procedures for positively concluding the guardianship relationship after the age of 18 etc.. As for education, they proposed to add the options that a UASC has and to include a list of all main educational agencies (both formal, informal and non-formal) that the guardian may refer to, according to the UASC' needs. It was stressed the need for the guardian to assist the child in his/her integration process, promoting the contact with the local community and introducing it to the Greek reality. Additionally, they proposed to add the rights relating to the employment of UASC, 15 years old and over. Suggested additions to the annexes of the toolkit: samples of the legal documents types, main medical and social services, specific tools (BIA: rapid BIA (islands), BIA for the National Dublin Unit, BID, accommodation requests to be sent to EKKA) etc.
- Emergency mental health issues and how to treat them (e.g. self-harm) could also be included.
- The tool/referral mechanisms for victims of trafficking and torture were discussed and validated, as also the recognized other referencing documents on child protection were discussed , in order to be included in the Annex of the toolkit, to some extent.

Main inputs received during the session with unaccompanied minors→

Although no formal technical assistance took place with unaccompanied minors, unofficial discussions with minors visiting the organization, revealed the need to include as many information as possible about organizations offering all kinds of services.

3. TOOLKIT. DEVELOPMENT AND BUILDING METHODOLOGY

The toolkit was designed in order to address the needs of the guardians as well as protection officers. The new Law for guardians foresees the operation of professional guardians, a system that is radically different from the previous context. Professional guardians have a very wide range of

responsibilities and the challenge is to provide a thorough overview of the needs of unaccompanied minors, as these have been identified through the experience of PRAKSIS and other key stakeholders, through their inputs by the 6 technical assistance meetings. The final version of the toolkit arrives at a time when in Greece, all relevant toolkits will be compiled (expected time: September), by the responsible authority of National Center of Social Solidarity (EKKA), under which all professional guardians will operate. This compilation and elaboration on the toolkits that have been developed (mainly by other European projects with local key partners) will help in the development of the National SOPs for the guardians, that will further clarify the Law and the Ministerial Decisions that followed (June and July 2019). Moreover, this information will be used for the development of the national training module foreseen for the professional guardians. EKKA has the supervision and responsibility of both, however these are expected to be finalized after consultations and discussions with key national stakeholders.

Consequently, it was decided that what was really needed was an extended (yet an easy to understand and user-friendly) overview of the responsibilities, the procedures followed, the complex needs of the minors that might be faced, as also the responsible agencies in each case, to whom the guardian will have to refer to.

Moreover, Annexes of currently used tools for protection of minors will be included as also the indicative contact list of main authorities responsible for a wide range of supporting services (public and civil society sector).

4. HELPLINE

On early 2019, PRAKSIS informed the leader of the partnership SAVE THE CHILDREN ITALIA ONLUS that finally, the Helpline was not feasible to be implemented.

On the one hand, the framework on UAMs' Guardianship was changed due to the new Greek Legislation for the Guardianship of Unaccompanied Minors, published in July 2018 (Government Gazette No: 130/18.7.2018, Law No. 4554, Part C, Articles 13-32), a fact that made the context transitory, since until very recently the Ministerial Decisions were not finalized and issued at national level., which is expected to take place on 01.03.2020. At the moment of communication of this decision, the foreseen system of professional guardians was not yet in place. The development and operation of a helpline that would be tailor-made for the new framework and provide detailed information, assisting guardians in their actual, everyday work of protection of UAMs was not

Transnational Paper

considered feasible at that moment. At this time (August 2019) professional guardians have not been recruited yet and the actual implementation is still on hold. The alternative choice discussed the previous period, i.e. developing a Helpline as a tool for the support of professionals of PRAKSIS Accommodation Centers for UASC, acting as representatives of the minors, faced several complications, leading in the difficulty in finally developing the helpline.

SECTION III:

HUNGARY - HUNGARIAN HELSINKI COMMITTEE (MAGYAR HELSINKI BIZOTTSÁG)

I. GENERAL INTRODUCTION RELATED TO THE DEVELOPMENT OF GAIN - WS2 AND WS3

The situation regarding asylum seekers, including that of unaccompanied minors, and the one of human rights defenders in Hungary worsened significantly in the past years, greatly impacting on the implementation of the G.A.I.N project.

During the project implementation period, the work of the HHC in the field of asylum was characterised, among others, by the introduction of a new inadmissibility ground to the Asylum Act as of 1 July 2018, the starvation of asylum seekers (including children) in the transit zones during August and the ensuing legal challenges to halt this practice.

These serious violations of human rights, paired with the arbitrary limitation to the access to the territory of Hungary brought the number of asylum seekers to a very low level. Importantly, the HHC continued to be the only organisation that provided free of charge legal assistance to asylum seekers in this extremely hostile operational environment.

Due to the low number of unaccompanied minors present in the territory and the low number of personnel (including guardians) who work with them, instead of setting up a helpline, the HHC focuses on providing legal assistance both face-to-face and through online means of communication.

Transnational Paper

Technical Assistance Sessions and High Level Meeting ->

Technical Assistance Sessions	
18 March 2019	Ferenc Kiss, Jesuits; Zsolt Szekeres, HHC
16 April 2019	Ferenc Kiss, Jesuits; Ferenc Sarok, TEGYESZ (the leader of the guardians); Zsolt Szekeres, HHC
It won't be held*	[people/ beneficiaries involved]
It won't be held*	[people/ beneficiaries involved]

The HHC was able to organize only two of the four envisaged technical assistance sessions. The two remaining sessions will not be held, due to the reasons listed below:

1. State authorities are systematically refusing to cooperate with the HHC, which they label to be the "agent of George Soros", working to destabilize the Government. During the course of 2017, State authorities cancelled previously existing cooperation agreements. An increasingly hostile atmosphere, fuelled by the anti-migrant and anti-NGO line taken by the Government means that state authorities are extremely unlikely to participate. In fact, sending official invitations may result in the project being openly attacked in pro-Government media, which may deter other partners from cooperating and would therefore seriously endanger the project as a whole.
2. The HHC considers it has exhausted the number of actors (both independent from the Government or not directly dependent on it) who could benefit from these sessions in the current Hungarian operational context.

12th March 2019

High Level Meeting stakeholders involved

Erika Losné Tímár, Head of UASC Unit, Károlyi István Children's Home; Katalin Bognár, Professional Manager, Menedék Association for Migrants; Anikó Bakonyi, senior advocacy officer, HHC; Orsolya Szántai Vecsera, attorney, HHC; Csongor Kiss, protection officer, UNHCR Hungary; Zsolt Szekeres, legal officer, HHC.

2. TECHNICAL ASSISTANCE AND HIGH LEVEL MEETINGS: MAIN INPUTS RECEIVED

Main inputs received from guardians→

- The discussions revolved around the issue of the closure of the Károly István children's home (located in Fót). Everyone was concerned about the fact that the government announced in February that they would close the children's home where UASC asylum seekers under 14 and UASC recipients of international protection above 14 are staying.
- It was stressed that there is no available information on the closure since the Directorate for Social Affairs (the body responsible for the Children's Home, an agency of the Ministry of Human Capacities) does not communicate any plans, schedule or any other details with the management of the Fót Children's Home (Erika Losné Tímár, Head of UASC Unit, Károlyi István Children's Home).
- Also related to Fót's closure, issues regarding legal representation, school holidays, state subsidies available for providing housing for unaccompanied minors and the availability of foster parents were raised.
- It was highlighted that the toolkit is of a very high quality and that it should contain more practical examples, although, at the same time guardians, who are overworked and underpaid, will be very unlikely to read anything that is longer than this toolkit (Leader of the guardians, Ferenc Sarok).

Transnational Paper

Main inputs received from stakeholders→

- It was agreed that participants keep a close eye on the situation and carry out advocacy work to ensure that children are not subjected to treatment contrary to Article 3 of the ECHR and that the UN Convention on the Rights of the Child is respected when the closure of the Károly István children's home (located in Fót) takes place (all stakeholders).
- It was highlighted that there was no accompanied minors in the transit zone, because the government continues to arbitrarily restrict access to the territory using the list, managed by the Serbian authorities. Everyone agreed that it's worrying that the Government practically hand-picks the asylum seekers who can enter the transit zones (and subject themselves to detention) and apply for asylum (all stakeholders).
- It was underlined that all stakeholders are concerned about the status revision procedures for minors and young adults in after-care. In fact, the HHC has recently come across several cases in which the National Directorate General for Aliens Policing (NDGAPIAO) withdrew the status of young adults who arrived to Hungary as unaccompanied minors but since have gone into aftercare. For this reason, all stakeholders agreed to advise all young adults they are in touch with to check their status with the NDGAP, provide it with their real address and seek legal assistance from the HHC.
- Issues related to the broader child protection framework were raised with the representative of the Hungarian Jesuits. These have expressed their interest in assisting those unaccompanied minors currently staying in the Károlyi István Children's Home in Fót who will need to move out sometime during 2019 (Ferenc Kiss, Hungarian Jesuits).

3. TOOLKIT. DEVELOPMENT AND BUILDING METHODOLOGY

The project officer drafted the first version of the toolkit during the implementation period 01/09/2018 to 31/01/2018. The background work for designing the toolkit for guardians and other stakeholders was based on the national report findings, also drawing from transnational exchanges on methodology and ideas between project partners. After consulting with project partners in person at the 2nd steering committee meeting as well as via Skype about the content of the national toolkit, the HHC decided to focus on the following areas:

- The social and psychological effects of up-rootedness of unaccompanied minors
- Procedural safeguards for unaccompanied minors
- The child-specific guarantees of the Dublin III Regulation
- Child-friendly communication in the asylum procedure
- Contact details and a description of the activities of civil society organisations working on the field.

Between 30-31 October 2018, the project officer participated at the 3rd Steering Committee meeting in Athens, where he introduced the Hungarian toolkit to the partners.

The first draft of the national toolkit was written and translated into English so that project partners can have a better understanding of it. The findings in the toolkit were discussed extensively with project partners, including the external evaluator.

Following the completion of the first draft of the toolkit, the contents were tested with lawyers in the HHC with substantial knowledge and experience on the creation of similar materials. Taking their inputs, as well as the inputs of the external evaluator into account, a second round of introduction and feedback was organized with relevant stakeholders, most importantly guardians.

Transnational Paper

Due to the low number and heavy workload of the professionals working with unaccompanied children, the HHC merged the meeting aimed at the finalisation of the toolkit and the national high level meeting. This was deemed to be the most efficient method of cooperation with partners and done so following an extensive working experience with them. As a result, on 12 March 2019, the HHC organised the national high level meeting with all relevant actors on the field who cooperate with the HHC (for reasons explained before, state authorities are not invited): Károlyi István Children's Home in Fót, Menedék Association, UNHCR.

The guardians were invited but could not assist. A separate meeting was then held with their leader on another occasion later the same month. The first version of the toolkit was shared with all participants and feedback was collected on the spot. No additional feedback was shared with the HHC following the meeting. Their feedback on the toolkit has been described in section 2.

4. HELPLINE – LEGAL ASSISTANCE

As described previously, due to the low number of unaccompanied minors present in the territory and the low number of personnel (including guardians) who work with them, the helpline was not set up as an actual hotline landline service, but rather as a helpdesk that provides counselling and assistance for stakeholders, including guardians. As a result, the HHC focuses on face-to-face legal assistance and provides legal help through online means of communication.

The indicators listed below are sorted into four categories: **1.** Number of face-to-face meetings with unaccompanied minors and the location it took place; **2.** Number of email inquiries from practicing lawyers in legal matters related to unaccompanied minors; **3.** Number of face-to-face meetings with child protection staff members in the Children's Home housing unaccompanied minors **4.** Number of face-to-face meetings with all stakeholders, including guardians.

I. Number of face-to-face meetings with unaccompanied minors

Károlyi István Children's Home (Fót)	Office of the HHC (Budapest)
--------------------------------------	------------------------------

6	1
---	---

2. Number of email inquiries from practicing lawyers

Date	Legal issue
10 September 2018	Challenging the decision that states the unacceptability of an Afghan unaccompanied minor asylum application
8 November 2018	Inquiry on the norms which rule the election of legal guardians
15 November 2018	Asking for help in deciding whether challenging a decision of asylum application rejection is in the best interest of the child
5 December 2018	Request for national minor rights information of children going back to Afghanistan

3. Number of face-to-face meetings with child protection staff

Date: 6 september, 11 october, 10 december 2018

In the course of these meetings, the HHC project officer had in-depth discussions with the leaders and social workers of the Children's Home in Fót housing unaccompanied minors and answered their questions on the general legal environment surrounding unaccompanied minors in general, with regard to the above-described changes in legislation, as well as the legal possibilities in individual cases.

4. Number of face-to-face meetings with all stakeholders, including legal guardians

Transnational Paper

The HHC project officer continued to organise meetings with stakeholders to discuss the legal developments and harmonise strategies in order to offer the best available services to unaccompanied minors in the rapidly changing legal environment. The involved stakeholders were: Hungarian Helsinki Committee; UNHCR Hungary; Legal guardians; Károlyi István Children's Home; Menedék Association (an NGO providing social assistance for asylum seekers); Cordelia Foundation (an NGO providing psychological assistance for survivors of trauma and torture).

The following meetings were held:

Meeting	Participants
9 October 2018	HHC, UNHCR Hungary, Legal guardians, Károlyi István, Children's Home, Menedék Association
10 December 2018	HHC, Menedék Association, Cordelia Foundation

4.1 HELPLINE – LEGAL ASSISTANCE: WORK METHODOLOGY

In particular the Legal Assistance has been developed as follow:

- Face-to-face meetings with unaccompanied minors.
- Activity of inquires related email support from practicing lawyers in legal matters concerning unaccompanied minors.
- Face-to-face meetings with child protection staff members in the Children's Home which hosts the unaccompanied minors.
- Face-to-face meetings with all stakeholders, including the legal guardians.
- Support to the family reunification procedure in Europe: In the contest of the G.A.IN. project the Minor Migrants Helpline implements a cross-border collaboration with the project partner Helplines (Praksis in Greece, the Hungarian Helsinki Committee

in Bulgaria and Vluchtelingenwerk Vlaanderen in Belgium) in order to facilitate the achievement of family reunification procedures of the unaccompanied minors who claim to have relatives residing in one of the aforementioned countries.

4.2 HELPLINE - LEGAL ASSISTANCE: RESULTS

As described previously, part of the project helpline service and the HHC group more in general focuses on face-to-face legal assistance and provides legal help through online means of communication. During the period September 2018- July 2019, the HHC continued to be the only NGO that provides legal assistance and representation to unaccompanied minors in the asylum procedure.

As a result of the activities of this project, the attorneys and lawyers, that are participating in the complex legal battle to overcome the unlawful restrictions of territory access and asylum procedure, were able to benefit from tailored legal reasoning that focused on the best interest of the child, a concept seriously underused and underrated in Hungarian jurisdiction. This resulted in favourable court decisions, quashing decisions of the Immigration and Asylum Office ordering the return of unaccompanied minors to Serbia, a country that offers inadequate reception conditions. More importantly, owing to the specific legal advice provided by the legal officer working under this project, relevant Courts ordered the release of three unaccompanied minors from the transit zones, where they were held in detention in an unlawful manner (see the case of Ilias and Ahmed v. Hungary, app. no. 47287/15, not yet final). The lasting cooperation between relevant stakeholders (regular meetings and discussions with NGOs, legal guardians, and the Children's Home) remains the only forum in the country where state authorities and members of civil society can engage in meaningful conversation.

Transnational Paper

In 2019, only one unaccompanied minor entered Hungary in the course of many months, while those staying in the country are facing a systematic threat to their basic rights. The HHC focused on providing legal and policy advice to the stakeholders involved in or affected by the closure of the Károly Itsván children's home (located in Fót). Only one visit to the Children's Home was carried out under the project. It was on 13 March 2019 and involved a meeting with the minor A.R. (born in 2005 in Nangarhar, Afghanistan). The project officer met once with him in Fót, before A.R. left the Children's Home. In February, the project officer was named representative by the boy's guardian.

In 2019, the HHC has provided legal and policy assistance to relevant stakeholders concerning the closure of the Károly Itsván children's home (located in Fót). The Government announced in February that they would close the children's home where UASC asylum seekers under 14 and UASC recipients of international protection above 14 are staying. The details of the closure are currently not known, neither are its exact modalities or the alternative locations where the children will be brought. Since such a closure has an intense potential on violating a number of the most fundamental rights of children (sound development, education, housing, etc.) the HHC focused considerable energies on following up the case, advocating for humane alternatives and collaborating with other actors on the field. The activities carried out under this involved:

- Regular correspondence with the children's home (mostly through phone), guardians, fellow NGOs
- A meeting with Bernadett Szél, independent member of Parliament, discussing current updates on the Children's Home
- Publishing about the legal anomalies surrounding the Children's Home and giving interviews to Hungarian news media about the topic.

4.3 MAIN INPUTS RECEIVED FROM THE HELPLINE

Please, refer to § 4 and 4.2.

SECTION IV:

ITALY - SAVE THE CHILDREN ITALIA

I. GENERAL INTRODUCTION RELATED TO THE DEVELOPMENT OF GAIN - WS3 AND WS4.

According to Article 11 of Law no. 47 of 7 April 2017 n. 47, voluntary guardians should be trained by the Regional (or National) Ombudspersons as a basic phase before being appointed.

The activities related to WP4 that Save the Children carried out have taken into account this provision and were focused on strengthening these capacity-building activities as well as providing continuous support and assistance, also following the appointment.

This project has ensured to consolidate the first capacity building activity required by law with our follow-up sessions that were essential to provide guardians with additional tools and support in order to perform their role once appointed.

Technical Assistance Sessions and High Level Meeting ->

Save the Children carried out four Technical Assistance Sessions at the territories' level (in Rome, Turin, Palermo and Catania) and a final High Level Meeting at the Chamber of Deputies in Rome. During those meetings Save the Children used the draft of the toolkit as a basis to open the discussion and analysis on the issues of responsibilities and tasks of the guardians and applicable rules, in order to help participants to share information, and supported stakeholders in creating an effective network among them. During the Technical Assistance Sessions, the toolkit was analyzed in-depth, thanks to the exchange of opinions by all stakeholders involved at regional level.

During the High Level Meeting, carried out following these sessions, Save the Children presented the toolkit, as a result of the four Technical Assistance Sessions, and other activities of the project, as the First Transnational Meeting, the results of the country report and the results of the helpline.

Transnational Paper

Technical Assistance Sessions	
<p>Rome, 30th October 2018</p> <p>Save the Children</p>	<p>Morning Session - Participants: StC (Project Manager, Advocacy Manager, Legal Expert and Technical Expert), President of the Juvenile Court of Rome, Department of Welfare of the Municipality of Rome, UNICEF, UNHCR, IOM, Cooperative CivicoZero, Association “Officina 47” (association of voluntary guardians)</p> <p>Afternoon Session with guardians - Participants: StC (Project Manager, Advocacy Manager, Legal Expert and Technical Expert), expert Guardians</p>
<p>Turin, 9th and 10th May 2019</p> <p>Civico Zero, Save the Children</p>	<p>Session with unaccompanied minors - Participants: StC (Project Manager, Technical Advisor on Migrant Children, Responsible of Civico Zero, Representative of the Municipality and 20 unaccompanied minors).</p> <p>Session with guardians and stakeholders - Participants: StC (Project Manager, Technical Advisor on Migrant Children, local Legal Expert, Responsible of Civico Zero), Regional Ombudsperson, Representative of the Prefecture of Turin, 2 representatives of 2 local Shelter for Minors, Asgi (local representative of Association of Juridical Studies on Immigration); Representative of the Municipality, 2 voluntary guardians.</p>
<p>Palermo, 14th May 2019</p> <p>Centro TAU, Punto Luce</p> <p>Save the Children</p>	<p>Participants: StC (Project Manager, Technical Advisor on Migrant Children, Regional Programme Representative, and Psychologist for migrant Children), President of the Juvenile Court of Palermo, Prosecutor of the Juvenile Court of Palermo,</p>

	Department of Welfare of the Municipality of Palermo, Representative of Social Assistances Services of the Municipality of Palermo, Regional Children’s Ombudsperson.
Catania, 29 th May 2019 Civico Zero Save the Children	Participants: StC (Project Manager, Technical Advisor on Migrant Children, President of Civico Zero Catania), President of the Juvenile Court of Catania, Regional Ombudsperson, IOM, UNHCR, CIR.

<p>5th May 2019</p> <p>Chamber of Deputies, Parliament</p> <p>High Level Meeting</p>
<p>Barbara Pollastrini - MP, Raffaella Milano - Save the Children Italy Program Director, Filomena Albano - Italian Authority for Children and Adolescents, Patrick Doelle - Representation in Italy of the European Commission, Italy Migration Support Team, Joseph Moyersoan - IAYFJM (International Youth and Judges and Magistrates Family Association), Virginia Costa- ANCI (National Association of Italian Municipalities), Zsolt Szekeres - Hungarian Helsinki Committee (HHC), Valeria Gerace - GAIN Save the Children project manager , Daria Storia -Technical consultant on migrant children Save the Children, Andrea Panico, Legal Expert - Save the Children, Eugenia Barone Adesi - CIR, Roberto Lucarella - UNHCR, Ivan Mei - UNICEF</p>

2. TECHNICAL ASSISTANCE AND HIGH LEVEL MEETINGS: MAIN INPUTS RECEIVED

Main inputs received from guardians→

Transnational Paper

Appreciation of the toolkit. The general feedback on the Toolkit was positive.

The guardians participating in the meetings agreed that it is a well-developed instrument and provides clear and practical check-lists on the most important topics, using a clear language.

Their suggestion and inputs were taken into consideration during the draft of the final version of the toolkit.

In particular, the guardians participating in the meetings provided inputs and suggested to add information in the toolkit, mainly about:

- the procedure to enroll unaccompanied minors in athletic and sportive societies;
- work placement and internships;
- the differences between first and second reception centres and the need to evaluate every single decision of transfer;
- the importance of providing the Authorities with the exact personal data, even in case there is no identity document available;
- more detailed information on the so-called “*proseguito amministrativo*” (*administrative follow up*), i.e. the procedure of aftercare that can be activated for children turning 18.

Moreover guardians underlined:

- the existence of huge differences in the application of laws and regulations at local level. Guardians said that the Toolkit can be an instrument that describes the “*official procedures*”, however we need to keep in mind the need to verify how specific procedures are implemented locally.
- the importance to create an efficient network among guardians and between guardians and relevant stakeholders.

Main inputs received by stakeholders:

- Suggested to add some information in the toolkit and made technical suggestions.
- Underlined the importance to create an efficient network among guardians and relevant stakeholders and promote it through the toolkit.
- Suggested the implementation of a greater collaboration among stakeholders involved in voluntary Guardianship in order to realize more efficient interventions and a deeper protection of the rights of unaccompanied minors.
- Highlighted the difficulty of the guardians to have a relationship with key stakeholders. In some cases, stakeholders do not have trust in voluntary guardians as they are not yet recognized as institutional actors (they have been created recently by Law 47/2017).
- Stressed the circumstance that voluntary guardians frequently are not fully aware of their responsibilities and limits: in some cases they take action in areas for which they are not responsible.
- Highlighted that the guardians have to focus on the best interest of the child and must cooperate and coordinate their actions and activities with all the actors involved, such as the Juvenile Court, the staff of the reception centre, the social workers. They suggested to include in the Toolkit a paragraph about the ethics of the guardians, a sort of code of conduct.
- Reminded that a relevant number of voluntary guardians has neither experience on immigration nor legal knowledge, noticing the lack of a framework in which guardians can move and identify actors responsible depending on specific needs.
- Reminded that several guardians do not have any legal experience or background, so they find themselves in several difficulties even from the practical point of view and it is not easy to assist them.
- Underlined the criticism regarding the transfer of unaccompanied migrant children from the first to the second reception. Sometimes the children are moved from a region to another so they lose their contacts, friends and points of reference and are moved to an area that offers fewer services than the first reception. According to the, when deciding on these transfers, authorities are not always inspired by the best interests of the child. Besides this, guardians are often not notified of the transfer

Transnational Paper

and therefore cannot protect the child

Main inputs received during the session with unaccompanied minors ->

Minors have clearly shown their need to have a positive affective environment where they may develop their personal project and dreams.

A 19 year old boy from Egypt said: *“When I came to Italy, I knew my plans and goals well and today, with much difficulty, I found the right path to achieve them. There are some guys who came with me that maybe had a project, but they lost it during the journey, because they lost so much time, because they didn’t get any answer, because they were waiting for someone to talk to. So, I asked guardians to help one of these boys. Yes, because he is lost and can no longer find his path. He could throw his life away like so many in such a situation do. Dear Guardian, I am asking you to stand beside him and help him simply to remember, to understand his aspirations so that he can find his spark again”.*

3. TOOLKIT. DEVELOPMENT AND BUILDING METHODOLOGY

The law 47/2017 established the possibility to become voluntary guardians of UASC for all those interested, asking for some personal requirements and participation in training courses.

Although these courses are certainly exhaustive, the subject of the protection of UASC is vast and complex, and it requires transversal skills and continuous updating.

The toolkit is meant to be a practical aid both for those who have not yet decided whether to give their willingness to cover the role of voluntary guardian, and for those who have already decided.

Toolkit building methodology. After a first draft, the contents of which were written mostly based on the questions addressed to the Helpline operators, the toolkit was modified different times, both to adapt to continuous regulatory changes, and following meetings with guardians and

institutions operating in the child protection system, held in Rome, Turin, Palermo and Catania, as part of the G.A.IN. project.

Moreover, besides having met the stakeholders and guardians, **Save the Children team wanted to hear the opinion of the children** and therefore consultations were also carried out with about thirty minors (see Box “*Main inputs received during the session with unaccompanied minors*” art. § 2).

The minors have actively participated in the consultations, and all have shown themselves to be very passionate about the issue.

At first, during the meetings, the children started the conversation focusing on the practical and technical aspects of protection, with an adult attitude.

The minors appreciated the work carried out with the STC team. They really appreciated that Save the Children would share their thoughts and comments with the guardians and other relevant actors, and that their inputs were taken into consideration to include it in the toolkit.

The Toolkit guarantees practical support to guardians, since it was developed considering the experiences and practical daily needs of the guardians and of the UASC involved in the voluntary guardianship.

4. HELPLINE

Since July 2016, Save the Children Italia has activated the Helpline for Minor Migrants. The Helpline is a free number through which unaccompanied minors can request information and get appropriate and relevant answers on their rights and opportunities.

The aim of the project is to guarantee free support and orientation for migrant children on national territory, in order to inform them about their rights and to provide them legal and psychological assistance.

Transnational Paper

The telephone service is multilingual (Arabic, English, French, Tigrin, Somali and French).

The Helpline team provides assistance and legal advice on administrative procedures **both to minors and actors involved in the assistance path of unaccompanied foreign minors** (social services, community for minors, schools, etc.).

Within the framework of the G.A.IN. project, from September 2018 the Helpline focused its activities on assistance and support to voluntary guardians.

The helpline service can be reached by telephone (800 14 10 16 - 351 22 02 016).

4.1 HELPLINE: WORK METHODOLOGY

The Helpline uses the experience and professionalism of its team to carry out their activities and guarantee immediate assistance to users. The Helpline team answers calls by providing support and immediate advice. If the case is to be taken in charge, it is discussed with the coordinator and inserted among the cases to be followed from a legal or administrative point of view.

In particular the Helpline is:

- **providing assistance to Voluntary Guardians**, even after the conclusion of the trainee sessions (1. listening and supporting, 2. releasing of useful contacts as consulates, regional and national Ombudsperson offices, Civico Zero etc., 3. sending of informative material);
- **giving practical support in the administrative procedures and defining the key Stakeholder's role;**

- **constantly informing key Stakeholder and Voluntary Guardians** on the current legal framework in the light of the several recent changes still ongoing;
- enhancing the **dissemination of good practices** detected at local level;
- **encouraging and ease networking activities** among key stakeholders involved in the Voluntary Guardianship.

- Providing **legal advice to the UASC**
- Providing **psychological counselling to the UASC**
- **Reporting of UASC vulnerabilities cases in the area.** Alert the local contacts so that they can get in touch with the child and support him directly in the satisfaction of his primary needs. Alternatively, the Helpline operators contact the child's reception centre or relevant institutions in order to support the UASC in meeting his needs

- Support to the family reunification procedure in Europe: In the context of the G.A.IN. project, the Minor Migrants Helpline implements a cross-border collaboration with the project partner Helplines (Praksis in Greece, the Hungarian Helsinki Committee in Bulgaria and Vluchtelingenwerk Vlaanderen in Belgium) to facilitate family reunification procedures regarding unaccompanied minors who claim to have relatives residing in one of the aforementioned countries.

4.2 HELPLINE: RESULTS

Guardians and volunteer guardians-to-be who have called the helpline from 1 September 2018 to 31 August 2019 are 253.

Of these:

Transnational Paper

Appointed Voluntary guardians	67		
Voluntary guardians not yet appointed	186 of these →	Private citizens	142
		lawyers	4
		public officials	5
		Cultural mediators	2
		teachers	5
		+ other subjects (doctors, students, etc.)	

Most of the calls came from:

- Lazio (50)
- Friuli Venezia Giulia (17)
- Lombardia (52)
- Campania (28)
- Veneto (14)
- Piemonte (20)
- Emilia Romagna (12)
- Sicilia (9)

4.3 MAIN INPUTS RECEIVED FROM THE HELPLINE

The Guardians contacting the helpline pose a variety of questions, amongst others:

- how to become a voluntary guardian (170)
- how to get permit for minors (5)
- family foster care (18)
- conversion of the minor's permit when he comes of age/ necessary opinion of immigration D.G. (17)
- administrative care continuation (prosiguo amministrativo) (7)
- registration in the national sanitary and health related question (3)
- waive Guardian's office (4)
- guardian / hosting centre relations (3)
- international protection / territorial commission (3)
- training course for volunteer guardians (3)
- sport (2)
- assistance / inclusion / integration (3)
- request contacts regional / national Ombudsperson office (5)
- responsibility of the voluntary guardian (6)
- UASC work orientation (5)

Other topics covered →

Exploitation of child labour, request of passport, family reunification, placement and transfer of UASC, linguistic mediation etc.

Transnational Paper

2.2 FINAL COMMENTS AND RECOMMENDATIONS RELATED TO THE ACTIVITIES DEVELOPED DURING THE GAIN - WS3 AND WS4

In accordance with the reports prepared by the partners, the GAIN WS2 and WS3 activities - although with many limitations mainly due to the change (still in progress) in the legislation of some countries (Greece / Italy) or to their political situation (Hungary) - brought good results.

The toolkit proved to be a valuable collection of information for the guardians. In some cases, the toolkit is helping guardians, bringing order where before there was a large number of information available on the net, but they were not organized and systematized.

In the countries where it was activated, the helpline assistance produced very good results and was of great support for the guardians.

Recommendations ->

On the basis of the activities enforced in the context of GAIN project - WS4 - and the results obtained, the following good practices are recommended:

for the Helpline:

- to develop helpline / helpdesk services in all EU Member States
- to map all the services providing assistance on the European territory (with pertinent references such as e-mails and telephone numbers) and keep the list constantly updated.
- to develop a transnational network of the different assistance services. The connection activity is in fact of fundamental importance in the event that a UASC has

Transnational Paper

applied for asylum (or simply is hosted) in a country, but has relatives in another country. Effective networking can facilitate and accelerate the family reunification procedure.

- to ensure that the helpline is managed by a multidisciplinary team of qualified professionals (anthropologists, lawyers, psychologists, etc.)

for the Toolkit:

- to update it periodically
- to publish an online version
- to encourage regular meetings with Stakeholders in order to exchange information and to assess any substantial changes in the text (mainly caused by legislative innovations)
- to encourage regular meetings with the Guardians in order to get new suggestions.



This Transnational Paper was funded by the European Union's Rights, Equality and Citizenship Programme (2014-2020).