



## **EMN Ad-Hoc Query on Adequate reception arrangements when returning UAMs**

Requested by Jutta SAASTAMOINEN on 13th October 2017

### **Return**

Responses from Austria, Belgium, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovak Republic, Slovenia, Sweden, Switzerland, United Kingdom, Norway (24 in total)

#### Disclaimer:

*The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*

## **Background information:**

The National Police Board of Finland and the Finnish Immigration Service have an on-going AMIF-funded project “Repatriation”. The aim of the project is to improve asylum seekers’ return mechanisms. The project also looks at returns of unaccompanied minors.

In this regard, we would like to request information from the Member States related to national implementation of Return Directive (2008/115/EC), Article 10.

### Article 10: Return and removal of unaccompanied minors


1. Before deciding to issue a return decision in respect of an unaccompanied minor, assistance by appropriate bodies other than the authorities enforcing return shall be granted with due consideration being given to the best interests of the child.
2. Before removing an unaccompanied minor from the territory of a Member State, the authorities of that Member State shall be satisfied that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return.


We are aware that the topic of return of unaccompanied minors will be discussed also in the upcoming EMN-study “Unaccompanied minors after the asylum process”. Despite that, will launch this query, because this information is needed more urgently than the UAM study can provide for (the project will end in December 2017, and therefore the responses are needed in November). Moreover, the three questions in this query ask for more detailed information than the UAM study template does. We urge you to use the information gathered for this query also in preparing the UAM study later this year.

## **Questions**

1. How has the Art. 10 of the Return Directive been implemented in the national legislation of your Member State?
2. How does your Member State ensure that an unaccompanied minor is duly returned to his or her family member as provisioned in the Return Directive Article 10?
3. Should an authority from your Member State always hand the unaccompanied minor over to his/her guardian upon return, or can the minor travel the last part of the homeward journey also alone, without anyone escorting him/her and monitoring the return and reception?




## Responses


	Country	Wider Dissemination	Response
	Austria	Yes	<p><b>1.</b> Pursuant to Art. 1 of the Federal Constitutional Act on Children’s Rights, the child’s best interests must be a priority consideration in all actions affecting children that are taken by public and private institutions. This principle also applies when return decisions are issued by the Federal Office for Immigration and Asylum. In procedures relating to the issuing of a return decision, the best interests of the child are generally assessed by the competent officials of the Federal Office for Immigration and Asylum. The officials can in the specific case consult with experts or obtain an opinion from the youth welfare authority (see Art. 52 General Administrative Procedures Act). It should also be noted that in the context of return procedures the law provides for representation for minors whose interests cannot be safeguarded by their legal representatives. Beginning from when a minor arrives at the initial reception centre, that person’s legal counsellor is also the legal representative in procedures with the Federal Office for Immigration and Asylum and the Federal Administrative Court. Once the asylum procedure has been admitted and the minor is assigned to a reception facility, the local youth welfare authority becomes the minor’s representative (Art. 10 para 3 Federal Office for Immigration and Asylum Procedures Act). In practice, the local youth welfare authority also acts as the legal representative of a minor (under or over the age of 14) whose asylum procedure is not admitted. In the case of a minor whose actual legal representative is unable to safeguard the minor’s interests and who does not apply for international protection, from the point in time when a procedure for terminating the minor’s residence is initiated, the youth welfare authority of the jurisdiction in which the minor resides becomes the minor’s legal representative in all further procedural activities with the Federal Office for Immigration and Asylum and the Federal Administrative Court (Art. 10 para 4 Federal Office for Immigration and Asylum Procedures Act).</p> <p><b>2.</b> On removal, it must be possible to entrust unaccompanied minors to a family member, legal guardian or a suitable reception facility in the country of return (Art. 46 para 3 Aliens Police Act). The individual’s stay in Austria can be tolerated if removal is impossible for factual reasons which the individual is not responsible for. Such tolerated stay is temporary, that is, as long as the reasons</p>




			<p>not within the person's responsibility continue to exist (Art. 46a para 1 subpara 3 Aliens Police Act).</p> <p><b>3.</b> We refer here to the wording of Art. 46 para 3 of the Aliens Police Act (see question 2), which requires an unaccompanied minor to be entrusted to a family member, legal guardian or a suitable reception facility in the country of return. --- Source: Federal Ministry of the Interior</p>
	Belgium	Yes	<p><b>1.</b> Article 10 of the Return Directive has been transposed into article 74/16 of the Belgian Aliens Act of 15 December 1980 on entry, stay, settlement and removal of foreign nationals (entry into force of the article: 27-02-2012). This article states that before deciding to issue a return decision in respect of an unaccompanied minor residing irregularly on the territory, the Minister or his representative will consider any proposal for a durable solution made by the guardian and he will take into account the best interests of the child. The Minister or his representative will ensure that the minor, who is removed from the territory, is given guarantees concerning reception and care taking in his country of origin or in the country in which he is authorised or admitted to stay, either from his parents or another family member or guardian who is taking care of him or from government agencies or non-governmental bodies, having regard to his needs according to his age and degree of independence. To this end, the Minister or his representative will ensure that the following conditions are met: 1° there is no danger of smuggling or trafficking in human beings and; 2° the family situation is such that the minor can be re-admitted and a return to a parent or family member is desirable and opportune in view of the family's capacity to support, educate and protect the child or; 3° the reception structure is adapted, and it is in the best interests of the child to place the child in that reception structure after the return to its country of origin or to the country where the child has been admitted for residence. The unaccompanied minor and his guardian in Belgium will be informed of the name of the person or the reception structure to whom the child is entrusted and of the role this person plays in relation to the minor.</p> <p><b>2.</b> The guarantee the youngster is handed over to his parents (or another family member), a legal guardian or a representative of a governmental or non-governmental institution is assured by the presence of a representative of IOM upon arrival at the final destination airport. An official transfer of (the guardianship) of the child to the local legal representative who is waiting for the</p>

			<p>child at the airport takes place. The child only leaves Belgium if the person who will be waiting for the child at the airport of arrival is known and whether this person has been identified as the legal representative. The guarantees with regards to adapted care are in place in the country of origin or third country are assured by the Belgian legal guardian. The legal guardian in Belgium bases himself on the guidelines of the Best Interest Determination and on the information he receives (through local partners – regional staff of Caritas International or IOM or local NGOs that are partners of Caritas or IOM) from the country of origin. He looks for a match between the needs and the profile of child and the possibilities in the country of origin. It is not easy to guarantee that the UAM will not (re-)become a victim human trafficking or smuggling. To the extent possible, the local partner tries to support the youngster (and his family) (awareness, information, prevention measures). To decide if return to the family is desirable and appropriate in light of the family's situation and their ability to handle the reintegration, support, education and protection of the minor, the Belgian legal guardian makes an assessment whether it is in the best interest of the child that he returns to his family and takes a decision. However, the guardian can only do this if he has the necessary information. Information he receives from the youngster himself, the family, but also from the local partner. The local partner can visit the family, before departure of the child and even before the decision to return is taken, to collect information on the housing, education, health care options, etc. and to transfer this information to the guardian. Note that this option is not always available and that the observation by the local partner during the family visit reflects only a particular point in time (a snapshot). To decide if the reception structure is adapted and that it's in the minor's best interest to be placed in the reception structure upon his return to his country of origin or third country, the Belgian legal guardian makes an assessment whether it is in the best interest of the child that he will be accommodated in a reception structure after his return and takes a decision. The guardian takes the decision based on information he receives from the country of origin or third country, via the local partner or sometimes, exceptionally, via local authorities.</p>
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**3.** Under the age of 16, an UAM is always accompanied by an escort during the journey to the country of origin. In determining the escort, the UAM's preference is taken into account. Often this is a confidant, for example the legal guardian, the social worker or educator of the reception facility. It is also possible that the escort is a staff member of IOM or of the head office of Fedasil (someone of the so-called escort pool). Above the age of 16, UAMs are allowed to travel alone depending on the maturity of the UAM. For example: a 17-year-old who is considered, by the

			<p>legal guardian, the social worker or the staff of the Voluntary Return Unit of Fedasil, inapt to travel alone, will receive an escort. Furthermore, in every airport (departure, transfer and arrival), OIM assistance is foreseen. At airport of arrival a family member or local guardian is also present. The unaccompanied minor and his guardian in Belgium have been informed on the name of the person or the reception structure to whom the child is entrusted and of the role this person plays in relation to the minor. If no family member or local guardian is present at the airport, the UAM will be taken to his final destination by IOM staff / escort. However, this is very exceptional: family or guardian are expected to be present at the final destination airport.</p>
	Croatia	Yes	<ol style="list-style-type: none"> <li>1. The Republic of Croatia does not carry on any UCM returns.</li> <li>2. N/A</li> <li>3. N/A</li> </ol>
	Cyprus	Yes	<ol style="list-style-type: none"> <li>1. Article 10 has been transposed in the Aliens and Migration Law (CAP.105) as article 18IIB stating that: (1) "Before a return order of a UAM is decided upon, the Director of the Migration Department asks for the assistance of the Director of the Social Welfare Services, who in his/her turn provides it taking into account the best interest of the child. (2) Before the removal of the UAM from the territory of the Republic of Cyprus, the Director of the Social Welfare Services verifies that the UAM will return to a member of his/her family, to a guardian or to adequate reception facilities at the State of return". Nevertheless, the Republic of Cyprus does not issue return decisions against UAMs, therefore the above-mentioned article is not applied.</li> <li>2. The Republic of Cyprus does not issue return decisions against UAMs.</li> <li>3. The Republic of Cyprus does not issue return decisions against UAMs.</li> </ol>
	Czech Republic	Yes	<ol style="list-style-type: none"> <li>1. There is always a guardian appointed when the police commences the return procedure with an UAM. The guardian role is taken by the state 's Office for Social Protection of Children.</li> </ol>

			<p><b>2.</b> The law states that the expulsion is possible only in the case if there is information from a home country that an appropriate reception care is ensured upon arrival. In practice there are very low numbers of UAMs and their expulsion has probably never occurred in practice.</p> <p><b>3.</b> It would depend on the situation, all forced returns are being monitored by the Public Defender of Rights. CZ has no practical experience in this field.</p>
	Estonia	Yes	<p><b>1.</b> Administrative Procedure Act § 12 (2) foresees that a minor is not allowed to perform procedural acts in administrative proceedings independently. In case the unaccompanied minor is apprehended in the territory of Estonia without legal basis, the guardian is immediately involved in the proceedings. In accordance with § 176 of the Family Law Act the duties of a guardian shall be performed by the rural municipality or city government of the usual whereabouts of the child. An unaccompanied minor alien is provided a substitute home service by the Social Insurance Board during his or her stay in Estonia. Section 12 of Obligation to Leave and Prohibition to Entry Act (OLPEA) stipulates that the return decision shall be issued to an unaccompanied minor TCN if upon the issue of the return decision the representation of the unaccompanied minor TCN is ensured and his or her interests are taken into account. The obligation to leave of an unaccompanied minor TCN shall be complied with taking account of the interests of the unaccompanied minor TCN and if the guardian is convinced that the unaccompanied minor TCN shall be sent back to his or her family member or appointed guardian or to the reception centre of the receiving state. If the unaccompanied minor wishes to return voluntarily, the guardian shall organize the return of an unaccompanied minor. The Police and Border Guard Board shall provide the guardian with professional assistance for the compliance with the obligation to leave of an unaccompanied minor TCN pursuant to the procedure provided for in the Administrative Co-operation Act. The Police and Border Guard Board shall organise the searching of a family member of the unaccompanied minor TCN, of a guardian or a reception centre appointed in the receiving state. Section 21 of OLPEA stipulates that an unaccompanied minor may be expelled if the custody of a minor is arranged and the protection of the rights and interests of the minor are ensured in the admitting country. Expulsion of an unaccompanied minor is arranged in</p>


			<p>coordination with the competent state agencies of the admitting country and in case of necessity with the competent state agencies in the transit country.</p> <p><b>2.</b> Estonia does not have experience on returning unaccompanied minors to their country of origin. The Police and Border Guard Board together with other institutions determines if the unaccompanied minor has family members or legal guardian in the country of origin and whether it is safe to return the minor.</p> <p><b>3.</b> Unaccompanied minor is not allowed to travel alone. The unaccompanied minor is escorted by Police and Border Guard Board officials in case the minor is expelled from the country. If necessary the medical personnel is involved. The expulsions are monitored by the Estonian Red Cross who makes a summary of the expulsion and submits the summary to the Ministry of the Interior.</p>
	Finland	No	
	France	Yes	<p><b>1.</b> France does not organize any return of UAMs.</p> <p><b>2.</b> n/a</p> <p><b>3.</b> n/a</p>
	Germany	Yes	<p><b>1.</b> In Germany, special care is given regarding the welfare of UAMs. Unaccompanied minors who entered Germany after 1 November 2015 are taken into care by the youth welfare office that has local responsibility. This provisional taking into care ensures that they are accommodated with a suitable person or in a suitable facility. A legal guardian or curator must be appointed for each unaccompanied minor. The Family Court decides who ultimately assumes the guardianship. Guardianship as a rule lasts until the person attains majority. After their arrival UAMs are subjected to a clearing procedure which entails the initiation of further steps under the law on youth assistance or on residence. This includes clarifying the residence status. It is decided on this basis whether an asylum application is lodged. If such an application does not offer a good chance</p>







of success, the competent immigration authority may also issue a temporary suspension of forced removal (Duldung). If this cannot be considered, the immigration authority will discuss other possibilities under the law on residence. If an asylum application is to be lodged, the Federal Office for Migration and Refugees is responsible for the implementation of the asylum procedure. The national provisions apply to determining the age of majority within the asylum application. This means that once they have reached the age of 18, asylum-seekers need to lodge their own asylum application as they are regarded as being of age, regardless of the law applying in their country of origin. The guardian can however continue to accompany the asylum application in this case. Asylum-seekers aged under 18 are regarded as not having legal capacity within the asylum application. This means that unaccompanied minors may not file an asylum application with the Federal Office by themselves. In such cases, the asylum application has to be filed in writing by the youth welfare office or guardian. Regarding the removal of UAMs from the German territory § 58 (1a) of the German Residence law states that before forcibly removing an UAM, the German authorities have to ensure that the minor in question is given into the care of his parents or a legal guardian in his country of origin. Since the task of identifying the parents or legal guardians, getting into contact with them and getting their consent to the forced removal of the minor is very difficult, there are virtually no cases in which an unaccompanied minor can be forcibly removed.

**2.** As described above, forced return of UAMs whose parents or legal guardians cannot be identified is not possible. If an UAM wants to return voluntarily and his/her parents have been identified, he/she can return with the aid of the REAG/GARP AVR programme, which is conducted by the IOM. In this case the personnel of the IOM mission in the respective country of origin tries to identify the parents or legal guardians of the UAM on the basis of legal documents or addresses provided by the legal guardian of the minor in Germany. When the parents or legal guardians are found, they have to provide a written confirmation that the minor in question will be received at airport and taken into care until he/ she reaches legal age. UAMs under the age of 16 will receive an escort responsible for them during the flight, additional to the usual IOM staff present during the flight. The arrival of the UAM at the airport in the country of origin and the reunification with the parents or legal guardian is documented via a “handover certificate”.

**3.** As described above, UAMs under the age of 16 are not allowed to travel without an escort especially responsible for them. If they are over 16, they can travel without a designated escort. As

			mentioned above, there will still be employees of the IOM present during the flight. All the other steps described in question 2 still apply.
	Hungary	Yes	<p><b>1.</b> On the basis of the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals Section 45 (5) an unaccompanied minor may be expelled only if adequate protection is ensured in his country of origin or in a third country by means of reuniting him with other members of his family or by state or other institutional care. According to the Government Decree 114/2007 on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals Section 117 (3) if expulsion cannot be executed in accordance with Subsection (5) of Section 45 of the RRTN the immigration authority shall forthwith contact the competent social services to provide support and care for the unaccompanied minor.</p> <p><b>2.</b> According to the Government Decree 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals Section 72 (3) with a view to provide support and care for the unaccompanied minor the immigration authority shall contact the competent social services and the consular post of the country of origin of the minor in question in Hungary. On the basis of the Section 117 (2) in order to determine whether the expulsion under Subsection (5) of Section 45 of the RRTN can be executed: a) the immigration or refugee authority shall forthwith contact the competent social services to obtain assurance that adequate protection is ensured in the unaccompanied minor's country of origin or in another State of return by means of reuniting him with other members of his family or by means of state or other institutional care, and b) the immigration or refugee authority shall obtain country-specific information as regards institutional care available to minors in the unaccompanied minor's country of origin or in another State of return.</p> <p><b>3.</b> Hungary has a limited experience in expulsion and return of unaccompanied minors. The Immigration Office informs the Embassy accredited to Hungary on the arrival of the unaccompanied minor. The IOM Budapest Office runs an assisted voluntary return programme which ensures escort for the unaccompanied minor for the whole journey. The IOM Budapest cooperates with the IOM Office in the destination country and monitors the return and the reception by the family or by the reception institution.</p>


	Ireland	Yes	<p>1. Ireland does not participate in the Return Directive 2008/115/Ec. Ireland does not return unaccompanied minors.</p> <p>2. n/a</p> <p>3. n/a</p>
	Italy	Yes	<p>1. In Italy the return of UAMS is possible only on a voluntary basis. Indeed, the best interest of the child must be pursued in each circumstance. The competence on assisted voluntary return is also passed by an administrative body, the General Directorate of Immigration and Integration Policies of the Ministry of Labor and Social Policies, to the Juvenile Court, an organ constitutionally devoted to the determination of the child's interest. Assisted and voluntary repatriation of an unaccompanied foreigner may be adopted when reunification with his or her family members in the country of origin or in a third country corresponds to the minor's interest. The measure is ordered by the juvenile court after the minor and guardian have been questioned. In addition, the Authorities take into account the results coming from the family tracing procedures and the social services report on the situation of the child in Italy.</p> <p>2. Law no. 47/2017 has shifted the expertise on UAMS from the Ministry of Labor and Social Policies to the Ministry of the Interior. The latter, in agreement with the Ministry of Justice and the Ministry, conducts family inquiries respecting the child's superior interest. Since 2008, the International Organization for Migration (IOM) has been commissioned to carry out family tracing procedures. Such investigations consist of a socio-economic analysis of the child's background. Family tracing measures have multiple purposes and play a key role in identifying the best solutions geared to the child's superior interest. Thanks to this investigation procedure, it is possible to reconstruct the story and family status of the affected children and to investigate any critical issues or vulnerabilities that have emerged. All this information is used both to better calibrate the reception and integration path in Italy and to assess the possibility of voluntary assisted repatriation, including in the latter project its reintegration program. The General Directorate supports the costs of returning to the country of origin and / or to a third country. At</p>



			<p>the same time a socio-family reintegration plan, developed with the competent authorities, is guaranteed to the minor.</p> <p><b>3.</b> In Italy the best interest of the child is considerate the main aspect to take into account. Thus, minors' safety is always taken as a priority also during travel to reach their families.</p>
	Latvia	Yes	<p><b>1.</b> In accordance with provisions of the Immigration Law in case of detected unaccompanied foreign minor, who is staying illegally, the State Police and the Orphan's Court are informed without delay and act so as to ensure the rights and interests throughout the removal process in accordance with children's rights, regulatory laws and regulations. During the organizing of forced return procedure of unaccompanied minors, personal and property relations of such minors shall be represented by the Orphans' Court or an appointed legal representative or a manager of childcare facility. The above-mentioned bodies provide assistance for the interests of the minors and their representation.</p> <p><b>2.</b> The State Border Guard with the intermediation of the Consular Department shall communicate with the diplomatic or consular representation of the relevant state, relevant competent institutions or non-governmental organisations, which monitor the observance of the rights of children in this State, and perform other necessary measures in order to ensure execution of the voluntary return decision or removal order and the handing over of the unaccompanied minor foreigner to a family member, legal representative of the parents, representative who monitors the observance of the rights of children in this State, or a representative of the institution, which ensures placing of the child in a suitable accommodation institution.</p> <p><b>3.</b> In accordance with national regulation when implementing the forced removal of vulnerable persons the State Border Guard officials accompany the UAM and provide his/her hand over to a family member, legal representative or the representative of a specialised institution. The Ombudsman monitors the forced return operations of UAM.</p>
	Lithuania	Yes	<p><b>1.</b> Article 10 of the Return Directive is implemented in Article 32 and 129 of the Law on the Legal Status of Aliens. Article 32. Unaccompanied Minor Aliens 1. Unaccompanied minors aliens,</p>


regardless of the legitimacy of their stay in the territory of the Republic of Lithuania, during their stay in the territory of the Republic of Lithuania, without delay, shall be appointed with a representative in accordance with the procedure established by legal acts of the Republic of Lithuania. If a legal entity is appointed a representative, it shall appoint a responsible person who carries out the duties of an unaccompanied minor alien. 2. Unaccompanied minor aliens, regardless of the legitimacy of their stay in the territory of the Republic of Lithuania, shall have the following rights: 1) to be provided with free accommodation and be supported in accordance with the procedure laid down by the Minister of Social Security and Labour of the Republic of Lithuania; 2) to study according to a general education programme/programmes or a vocational training programme/programmes in accordance with the procedure established by the Minister of Education and Science; 3) to receive free basic medical aid in accordance with the procedure established by the Minister of Health; 4) to be provided with free social services in accordance with the procedure established by the Minister of Social Security and Labour; or international organisations of the Republic of Lithuania. 5) to receive state-guaranteed legal aid unless the laws of the Republic of Lithuania provide otherwise; 6) to contact the representatives of non-governmental 3. Having received information about an unaccompanied minor alien, the Migration Department must, together with the organisations indicated in point 6 of paragraph 2 of this Article and the legal representative of the unaccompanied minor alien, immediately organise search for the minor's family members. 4. The issue of the legal status of an unaccompanied minor alien in the Republic of Lithuania shall be addressed when conducting the search for his family members.

**Article 129: Return of Unaccompanied Minor Aliens to a Foreign State** 1. An unaccompanied minor alien illegally staying on the territory of the Republic of Lithuania or illegally residing in it shall be returned only provided that he is duly taken care of in the foreign state to which the unaccompanied minor alien is returned taking into consideration his needs, age and level of independence. 2. Where an unaccompanied minor alien is not returned to a foreign state, he shall be issued a temporary residence permit valid for a period not exceeding one year. 3. The issue of an unaccompanied minor alien's return shall be dealt with in cooperation with foreign states and international organisations under concluded international treaties.


**2. Description of the procedure regulating the adoption of the decisions on the obligation of an foreigner to depart, the foreigner's expulsion, return and transit through the territory of the Republic of Lithuania and the implementation of the above-mentioned decisions, approved by the**


			<p>Minister of the Interior of the Republic of Lithuania states, that the decision on the return of an unaccompanied minor is made only with the consent of the parents or other legal representatives or, if it is not possible to find them, to a foreign state institution responsible for the custody or protection of children, agreeing to receive an underage minor. If necessary, the unaccompanied minor alien is accompanied to the state border of the Republic of Lithuania or to the country to which he is returned and transferred to parents or other legal representatives or representatives of the authorities of the state responsible for child custody or protection (Article 22).</p> <p><b>3.</b> See answer to question 2 (however, it should be noted, that in recent years there were no cases of returning unaccompanied minor).</p>
	Luxembourg	Yes	<p><b>1.</b> Article 10 of the Return Directive has been transposed into national law by article 103 of the amended Law of 29 August 2008 on free movement of persons and immigration (Immigration Law). According to article 103 no return decision shall be issued against unaccompanied minor (UAM) with the exception of that based on imperative grounds of public security, except if the removal is necessary for the best interests of the child. The UAM is assisted by an ad-hoc administrator in the context of administrative and judicial procedures concerning the entry and stay on the territory. As the Immigration Law doesn't specify how the interests of the child are determined, on 7th July 2017, the Government Council decided to set up a commission to assess the best interests of UAMs seeking international protection. The commission will be composed of the representative of the child, and representatives of the ministries and departments who will be responsible for conducting an individual assessment of the best interests of the child, to decide whether to issue return orders and remove the minor applicant in an illegal situation in accordance with Article 10 of Directive 2008/115/EC, or to him/her an authorisation of stay. The members of the committee have not yet been appointed.</p> <p><b>2.</b> Since the creation of this commission is relatively recent and in the process of being set up, it is premature to report on the modalities of its operation. However, according to the Directorate of Immigration, it is envisaged that it will take into account all factors relating to the situation of the minor in the event of his/her return, including the grounds on which his/her application for international protection is based as well as the family environment of the minor. In order to do so,</p>

			<p>the Directorate of Immigration has concluded an agreement with an international organisation in order to carry out a family assessment of the family members of the minor in his/her country of origin.</p> <p><b>3.</b> If the return is carried out by an international organization, the unaccompanied minor will be handed over to his/her guardian upon return.</p>
	Malta	Yes	<p><b>1.</b> Subsidiary Legislation 217.12-Common Standards and Procedures for returning illegally staying Third-Country nationals regulations. Article 8-Return and removal of unaccompanied minors. 8. (1) An unaccompanied minor, prior to a decision on the issue of a return decision, shall be allowed to apply for asylum and shall be assisted in terms of the Children and Young Persons (Care Order) Act. (2) An unaccompanied minor shall not be removed from Malta before the Principal Immigration Officer, in coordination with the relative diplomatic representation of the third-country in question, is satisfied that he will be returned to a member of his family, a nominated guardian or adequate reception facilities in the State of return.</p> <p><b>2.</b> In the few cases that MT encountered where it was decided that the best interests of the child required his return to his home country, the minors involved were willing to return. Communication with their families was established with the help of their local Embassy. These were given all the details of the flight with which the minors were to arrive in order to ensure that they had the proper reception.</p> <p><b>3.</b> An assessment needs to be made in each case. As stated in the previous answer, in the cases we have encountered so far, the minors were willing to return and contact with the parents was established through an official channel. Therefore there was no need to have the minors accompanied on the flight and handed over.</p>
	Netherlands	Yes	<p><b>1.</b> In The Netherlands Article 10 of the Return Directive has been implemented in the Aliens Act implementation guidelines. This is a legally binding document. Authorities are by law (4:84 par1</p>

			<p>of the General Administrative Act) bound to act in accordance with this document, but are allowed to deviate from it when this is more favorable for the person concerned.</p> <p><b>2.</b> Unaccompanied minors (UAM) require extra supervision during the repatriation process. The R&amp;DS organises adequate shelter for the unaccompanied minors. The primary goal is to reunite the UAM's with their parents or family. If this is not possible, the Repatriation and Departure Service (R&amp;DS) will try to arrange adequate shelter in a general reception facility. A reception facility is found to be adequate if there is shelter available till the age of 18, availability of food, clothing and hygiene, access to education facilities and the presence of medical care.</p> <p><b>3.</b> The primarily starting point is that during the repatriation process the UAM is not travelling alone, as much as possible. There are two standard possibilities: 1) Escorted by the Dutch Marechaussee (if resistance is expected) or; 2) Escorted by Special Departure of the R&amp;DS (for the transfer and/or activities on the airport or on the homeward journey) In cases of 1 and 2 there is always consultation between all the concerned parties, including the legal guardian. In highly exceptional cases unaccompanied repatriation can take place. This exceptions depends on age, self-dependence, or travelling as UAM with special medical care of the transporter. In these cases the R&amp;DS ensures itself of the existence of adequate shelter for the unaccompanied minors in the Country of Origin.</p>
	Portugal	Yes	<p><b>1.</b> Return Directive has been transposed by Law 23/2007 July 4th and by Law 29/2012 August 9th</p> <p><b>2.</b> Unaccompanied minors can only be repatriated to their country of origin or to a third Country that is willing to host them if, on arrival, they are guaranteed adequate shelter and assistance. Portuguese authorities only return an unaccompanied minor if there is a guarantee of assistance, on arrival, by an adult who is responsible for the minor, namely one of the parents.</p> <p><b>3.</b> Articulation with the authorities of the third countries in question is not ruled out, but given the limited number of cases of unaccompanied minors that occur in Portugal, it is possible to ensure a personalized management of the different cases, handing over the minor to the family or attributing a residence document, under the terms of the Foreigners' Law. In cases of return, apart from promoting the necessary contacts in this context, if the minor in question is very young</p>






			and/or not sufficiently mature, it is possible that a member of the SEF staff or an element from the air transport company can accompany the said minor.
	Slovak Republic	Yes	<p><b>1.</b> It has been transposed as follows: • The Police unit informs the authority for social and legal protection of children and social guardianship about the finding of the minor from a third country in order to ensure the procedure according to the specific act. • The Police unit cannot administratively expel a child under 18 years of age; this does not apply in case it is in the best interest of the child. • The authority for social and legal protection of children and social guardianship participates in the search for their parents or other family members of the unaccompanied minor for the purpose of the family reunification. • The authority for social and legal protection of children and social guardianship informs the Diplomatic Mission of the country of habitual residence of the minor about the measures adopted for the purpose of return or transport of the unaccompanied minor and requests their return or transport to the country of habitual residence of the minor if it is evident that the habitual residence is in a safe country and is not subject to the international convention.</p> <p><b>2.</b> The return of UAMs are not carried out from the Slovak Republic, unless it is in the best interest of the child. UAMs can also apply for assisted voluntary return.</p> <p><b>3.</b> National legislation does not regulate such situation. If needed, such a situation would be handled on a case by case basis – i.e. depending on where the minor would be returned to, their age, anyone awaiting them upon their return in the country of return, a legal guardian traveling with them etc.</p>
	Slovenia	Yes	<p><b>1.</b> Provisions are laid in Article 82 of the Aliens Act as follows: (1) In cases where an alien minor is deported who is not accompanied by his parents or other legal representatives and resides illegally in the Republic of Slovenia, the police shall immediately inform a social work centre, which must immediately assign a guardian for special case to the alien minor. The police shall issue the alien minor with a return decision where his guardian for special case, having carefully considered all circumstances, establishes that this is in the best interests of the alien minor. (2) An alien minor referred to in the preceding paragraph may not be deported to his country of origin or</p>

			<p>to a third country which is willing to accept him, until reception is ensured for him there. Prior to deporting an alien minor, it needs to be ascertained that he will be returned to a member of his family, a nominated guardian or adequate reception facilities in the country of return. In no case may unaccompanied alien minor be deported in violation of the Convention for the Protection of Human Rights and Fundamental Freedoms, amended with Protocols Nos 3, 5 and 8 and supplemented with Protocol No 2, and its Protocols 1, 4, 6, 7, 9, 10 and 11 (Ur. I. RS-MP, 7/94), the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Ur. I. RS-MP, 1/94), or the Convention on the Rights of the Child (Ur. I. RS-MP, 9/92) and the European Convention on the Exercise of Children's Rights" (Ur. I. RS-MP, 26/99). The alien minor shall be permitted to stay pursuant to the provisions of this Act until his deportation. (3) An alien minor and a family with an alien minor shall be accommodated, in agreement with a guardian for special case, at adequate accommodation facilities for minors, where he will be guaranteed the rights referred to in the preceding paragraph. If this is not possible, an unaccompanied alien minor and a family with an alien minor shall be accommodated at the Centre. (4) Where the identity of an alien minor is not ascertained and it is suspected that the person is not a minor, the police may establish the age of the person through experts. Based on an expert opinion the police shall issue a declaratory decision on the age of the person. An appeal against the declaratory decision is permitted within eight days of service of the decision. The decision on the appeal shall be taken by the ministry responsible for the interior. (5) Strict police supervision may be imposed on an alien minor only exceptionally whereby he is accompanied by both or at least one of his parents. A stay under strict police supervision for an unaccompanied alien minor cannot be ordered.</p> <p>2. See above.</p> <p>3. The legal guardian is in charge and present during all the procedure, even in return cases.</p>
	Sweden	Yes	<p>1. National legislation was altered in order to harmonise with Article 10 of the Return Directive. The requisite that was implemented in May 2012 when the statutory change entered into force was that an unaccompanied minor cannot return if there is no family member, nominated guardian or adequate reception in place in the country of return to receive the minor.</p>

		<p><b>2.</b> The Swedish Migration Agency always strives to ensure that unaccompanied minors who have received legally enforceable return decisions are reunited with one or both of their parents in the first instance. If this is not possible then efforts will be made to reunite the child with another suitable family member. If these possibilities are exhausted then arrangements can be made for the child to be received by a nominated legal guardian or an adequate reception facility in the country of return. The responsible case officer within the Migration Agency has close contact with the minor and his or her legal guardian in Sweden throughout the return process. The case officer is responsible for informing the minor of the return decision and for working with the minor and the legal guardian to facilitate a voluntary return. The minor and his or her guardian are called to several meetings at the Migration Agency to discuss return. The minor is informed that he/she is obliged to leave Sweden within the deadline set out in the return decision. The following matters are also discussed during these meetings: • who will receive the minor when he or she arrives in the country of return • that the Migration Agency will help the minor if he or she chooses to travel back voluntarily • that the minor and his or her guardian are responsible for providing the names and contact telephone numbers of the minor's parents or relatives, so that the Migration Agency can contact them. In many cases the minor is able to provide contact details for their parents or relatives. In these cases, the case officer arranges to hold a telephone conference between the child and his or her guardian in Sweden and the parent(s) or relative(s) in the country of return. The purpose of the telephone conference is to establish whether the family member is able and willing to receive the minor upon return and also to assess the suitability of that person to receive the minor. The case officer always tries to obtain copies of documents which confirm the relationship of the relative to the minor. Following this telephone conference, the guardian is asked to give their view as to whether the family member is a suitable person to receive the minor. If the family member is considered to be suitable and it is considered to be in the best interests of the child to be reunited with the family member, then arrangements are made for the child to return. Minors are not permitted to travel alone when returning: they are always accompanied by escorts. Normally the escorts are staff from the Swedish Migration Agency. The Migration Agency has a pool of escorts who are responsible for escorting minors to their country of origin. These escorts are selected based on several factors such as the best interests of the minor, the country of return, the language skills of the escort and their experience and knowledge of returning minors. Occasionally minors can instead be escorted by another appropriate adult, such as a relative. If the minor has</p>
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			<p>lost contact with their family or does not have any family members with whom they can be reunited in the country of return then the Migration Agency can contact the responsible authorities in the country of return. This is firstly with a view to attempting to trace the parents or other family members who can receive the child. If this fails then the Migration Agency explores via the responsible authorities in the country of return whether adequate reception facilities can be arranged. A reception can be arranged either in the form of a nominated legal guardian in the country of return or alternatively the child can be returned to a suitable reception facility for unaccompanied minors in the country of return. This is not always possible and depends very much on the country in question and the availability of adequate accommodation and care facilities for minors. For any reception facility to be considered suitable, it must meet the minor's basic needs. In assessing whether a reception facility meets these needs, regard is had to both article 6 and article 27 of the UN Convention on the Rights of the Child (i.e. the child's right to life, the obligation to ensure to the maximum extent possible the survival and development of the child and also the obligation to ensure a standard of living adequate for the child's physical, mental, spiritual, moral and social development). If a minor is to be received either by an appointed guardian or via the responsible authorities in the country of return then the minor will be escorted to the country of return either by escorts employed by the SMA or by another appropriate adult such as a relative. These escorts ensure that the child is received in accordance with the agreed arrangements.</p> <p><b>3.</b> Minors who return voluntarily from Sweden to a non-Dublin country are always accompanied during the return journey either by escorts from the Swedish Migration Agency or by another appropriate adult such as a relative. The persons escorting the minor always seek to ensure that the minor is received in accordance with the pre-agreed arrangements, either by their parents or family members or alternatively by a legal guardian or the responsible authorities in the country of return. In most cases this is achieved by the escorts remaining with the minor until he/she is physically received by the correct person. Sometimes this is not possible, for example in Kabul where, due to security arrangements, the SMA's escorts cannot leave the airport. In these cases, when the escorts arrive in Kabul, the minor is handed over to the Afghan authorities. These authorities make sure that the minor is reunited with family members outside the transit area. The minor is always reunited with family members in close proximity to the airport. The SMA's escorts also telephone both the minor and the family members to ensure that they have been reunited according to plan.</p>
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	Switzerland	Yes	<p><b>1.</b> According to Article 64(4) of the Federal Act on Foreign Nationals (FNA; SR 142.20) the cantonal authorities in charge of issuing a removal order against illegally staying third-country nationals shall immediately appoint a representative for any unaccompanied minor to safeguard the minor's interest during the removal proceedings. For asylum cases a similar provision existed already since 2008: Article 17(3) of the Asylum Act (AsylA; SR 142.31). According to Article 69(4) FNA the competent authority shall ensure before the removal of unaccompanied minors that she or he will be returned in the State of return to a family member, a nominated guardian or reception facilities that guarantee the protection of the child. Thus, Article 10(2) of the Return Directive has been taken on almost literally.</p> <p><b>2.</b> The answers to question 2 and 3 base on the experience Switzerland made in the context of UMAs from Albania Switzerland undertakes every effort to return unaccompanied minors directly to a family-member, a nominated guardian or adequate reception facility in the State of return. Whenever possible the Swiss authorities are contacting the family or the competent Ministry before the repatriation to ensure that the person can return safely. These contacts are often carried out by the local Swiss representations (Embassy, Consulate or Immigration Liaison Officer).</p> <p><b>3.</b> Depending on age, capability and independence an unaccompanied minor can also travel all or at least a part of the homeward journey alone (check airline-/carrier-regulations; sometimes a name-tag or confirmation from parents/authorities is needed on the plane). In the first place the local authorities should be responsible to ensure the safe return of own unaccompanied minors. If deemed necessary a Swiss escort (Police, social or medical) can return with the minor to the final destination, if relatives are not in a position to travel to the airport. In such cases sometimes a transport for the relatives to the airport can be organized by the Swiss representations.</p>
	United Kingdom	Yes	<p><b>1.</b> The UK is not bound by the Return Directive, and therefore Article 10 has not been implemented in the UK's national legislation. However, Section 55 of the Borders, Citizenship and Immigration Act 2009 places a statutory duty on the Home Office to make arrangements for ensuring that its functions in relation to immigration, asylum and nationality are discharged having regard to the need to safeguard and promote the welfare of children who are in the UK. This includes that the best interests of the child must be a primary consideration in every decision taken</p>

			<p>in respect of them. It is also Home Office policy that a child would not be expected to return unless there are adequate and safe reception arrangements in the country of return.</p> <p><b>2.</b> If it is in the best interests of the child, the Home Office endeavours to trace the families of unaccompanied children as soon as is possible and appropriate after they make a claim for asylum, while ensuring that those endeavours do not jeopardise the safety of the child or their family. What family tracing steps are suitable depends on the individual circumstances, this may for example include requesting the assistance of the authorities of the countries the children’s families are thought to reside. The authorities would not be contacted until either it has been confirmed that the authorities are not the alleged actors of persecution within their claim for international protection, or where they are the alleged actors of persecution, they will only be contacted if the international protection claim is refused and any resulting appeal rights are exhausted. Decisions on whether it is appropriate to return unaccompanied children who do not need international protection to their home country, are carefully considered on a case-by-case basis. We would only expect an unaccompanied child to return to their country of origin if it is consistent with section 55 and we can demonstrate that there are safe and adequate reception arrangements in place. The child and their social worker will have a central role in this assessment and, if appropriate, contributions may be made by other relevant agencies/parties, though the ultimate decision rests with the Home Office.</p> <p><b>3.</b> The arrangements required to facilitate family reunification after the child’s arrival in the country of return will be carefully considered by the Home Office in advance of return, taking into account their age, vulnerability and overall best interests. In most cases (and in all cases where the child is under 16) the child would need to be met at the airport by a suitable person who will oversee the transfer of the child in to the family’s care. In determining the sort of arrangements that need to be in place, the Home Office may draw on information from other sources such as the child’s social worker.</p>
	Norway	Yes	<p><b>1.</b> additional reports: <a href="https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/29_norway_national_report_unaccompanied_minors_en.pdf">***https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/29_norway_national_report_unaccompanied_minors_en.pdf</a></p>

\*\*\*[https://www.udi.no/globalassets/global/european-migration-network\\_i/studies-reports/emn-final-report-unaccompanied-minors-2014.pdf](https://www.udi.no/globalassets/global/european-migration-network_i/studies-reports/emn-final-report-unaccompanied-minors-2014.pdf) Norway's reception system for UAMs (described in detail in chapter 4) is divided between one run by the national child welfare services (Office for Children, Youth and Family Affairs, henceforth called Bufetat) for those under 15, and one overseen by the Norwegian Directorate of Immigration (UDI), as part of the general reception system, for those aged 15-18. Evaluations have proposed to transfer responsibility for the 15-18 group to Bufetat, but this has so far been put off due to the prohibitive cost. The 15-18 age group receives generally adequate care in the ordinary reception system (either in specialised centres for UAMs or in separate units for UAMs at ordinary centres), but different concerns have been identified. These relate to access to adequate healthcare (especially specialist care and care for mental health issues), screening of and care for vulnerable groups, access to adequate nutrition, and access to education for those aged 16-18. Article 10 of the Return Directive has been implemented in Norwegian national legislation, through the Immigration Act section 90 (10): An unaccompanied minor may only be forcibly removed to a family member, an appointed guardian or to some other appropriate care arrangement. According to section 38 (2) a of the Immigration Act, importance may be attached to, among other things, whether the foreign national is an unaccompanied minor who would be without proper care if he or she were returned to the country of origin. The consideration of proper care in the country of origin is thus linked to the consideration of a permit on humanitarian grounds, as such not directly linked to the question of return.

**2.** When the UDI receives a request for return from an unaccompanied minor, then usually IOM uses their resources and routines to see if they can facilitate a safe return (Exception for application for return to Afghanistan where The Directorate of Immigration receives and handles the cases). IOM checks into an unaccompanied minor's family background based on information from the asylum applicant who often has telephone contact with their family. \* Questions about whether a return to a given area/country would be safe are considered by the Norwegian Directorate of Immigrations's (UDI) asylum Department. They consider whether it is safe to return a UAM to his/ her country of origin. First and foremost we consider whether the UAM will be in need of international protection or subsidiary protection. A UAM will only be considered for return if we are sure that the applicant will receive proper care upon return to his/ her country of

			<p>origin (the minor's contact with family/ minor's possibility of establishing contact with his/ her family is part of our assessment concerning proper care). Our assessment will mainly be based on information we receive from the applicant. We will also consider verification of information concerning the applicant's identity and/ or family tracing in countries where this is possible. However, verification and family tracing is not feasible in all countries of origin. All applicants receiving a rejection of their application of asylum have the right to appeal to an independent appeals board. If the Appeals Board (UNE) upholds UDIs decision of return we encourage the applicant to voluntarily return to his/her country of origin. *When the IOM organizes assisted return for an unaccompanied minor, they contact the minor's care persons/guardian in the CO in order to obtain agreement about the return. This is then a confirmation to the IOM that the guardian has agreed to take over responsibility for the minor after the minor has returned. *IOM contacts the minor directly with the persons that the minor identifies as their care persons, but does not do any further tracing of family members. IOM does require verification which proves the relationship to the minor, but no other evaluation or consideration is made about the identified care persons. If the unaccompanied minor does not apply for assisted return after receiving a final rejection of their application for asylum, the Norwegian Directorate of Immigration will attempt to establish contact with the care givers in the CoO in order to reunite the minor with his /here care givers.</p>
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**3.** An unaccompanied minor shall, according to the Immigration Act § 90 (10), as well as management practices, be escorted by Norwegian authorities or a cooperative organization/actor to his/her caregivers in the CoO. The caregiver could be a family member, a nominated guardian or the CoO's authorities.