



CZECH
REPUBLIC

MEMBER STATES' APPROACHES TO UNACCOMPANIED MINORS FOLLOWING STATUS DETERMINATION

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COMMON TEMPLATE

1 BACKGROUND AND RATIONALE FOR THE STUDY

The number of applications for international protection has significantly increased in the European Union over recent years, mostly related to the ongoing crisis in Syria. According to Eurostat, more than 1.3 million asylum applications were lodged in the EU Member States in 2015, and just under 1.3 million again in 2016, almost five times as many as in 2010. Within the larger group of international protection applicants, the number of unaccompanied minors has increased strongly as well, from about 10,600 in 2010 to over 96,000 in 2015, before decreasing to 63,000 in 2016. According to earlier EMN outputs, while most unaccompanied minors are considered to apply for asylum, a certain number of unaccompanied minors remain outside the asylum procedure.

The overall dramatic increase in people seeking international protection and the arrival of unaccompanied minors in particular resulted in substantial challenges for Member States, including as regards **integration** and **return** policies. Applicants granted international protection and/or another status need to be integrated into their new host societies, and those who are rejected need to return, preferably on a voluntary basis. Finding the right ways to deal with unaccompanied minors in this regard can appear particularly challenging, not least because unaccompanied minors have child-specific rights and enjoy special safeguards under international, EU and national laws.

A number of studies have been carried out in recent years on integration and return policies and practices, not least by the EMN (see "Relevant sources and literature" below). The EMN has also examined policies towards unaccompanied minors in particular. For example, the (voluntary) return of unaccompanied minors was touched upon in a 2014 EMN study on *Policies, Practices and Data on Unaccompanied Minors*. In 2008-2009, a comprehensive EMN study on *Policies on Reception, Return and Integration Arrangements for, and numbers of, Unaccompanied Minors* dealt explicitly with the integration of unaccompanied minors, among other aspects. Some of the information

included in these studies is somewhat outdated today, however. In addition, the 2016 EMN Annual Report on Migration and Asylum indicated that few Member States actively engaged in the return of unaccompanied minors. Overall, this suggests that an updated inventory of the experiences made in the Member States, and of the challenges at hand and any best practices, would be of importance for future policy-making (both with regard to integration and return measures for unaccompanied minors).

2 STUDY AIMS AND OBJECTIVES

The overall aim of the Study is to inform the EMN's target audiences (e.g. practitioners, policy officers and decision-makers at both EU and national level including academic researchers and the general public) on **Member States' approaches to unaccompanied minors following a final decision on their asylum/other status application**. Thus, the Study will not examine the specific status determination procedure for unaccompanied minors but rather what happens with unaccompanied minors **after its completion**, which, in principle, either consists of the protection status and hence a right to **residence** being granted, followed by integration into the new host society, or the (asylum) application being rejected, followed by the unaccompanied minors being obligated to **return**. In relation to the latter, the Study will also cover instances when an unaccompanied minor is ordered to leave the territory but the **return decision is not or cannot be enforced**. Statuses such as temporary and tolerated stay, those available to child victims of trafficking, as well as the situation of unaccompanied minors who disappear following a decision on status shall be included as well.

More specifically, the Study aims to:

> With regard to **return**:

- Examine Member States' approaches to **unaccompanied minors whose applications for asylum have been rejected and who are or cannot be (immediately) returned** or have disappeared following a decision on their application;
- Describe the **legal and organisational set-up** in Member States with regard to the **(voluntary) return** of an unaccompanied minor, including information on the stakeholders involved, what their roles are, and what measures the Member States take when unaccompanied minors are issued an enforceable return decision, to encourage voluntary return;
- Provide an overview of **challenges to return** and the measures taken to deal with such challenges, identifying good practices, including information and results of any AVR(R) programmes carried out for unaccompanied minors;

> With regard to **integration**:

- Examine integration approaches in the (Member) States regarding unaccompanied minors after positive decisions on admission or asylum/ other relevant procedures in key areas such as **housing, education and support in labour market entry**, including rights and entitlements awarded to unaccompanied minors (for example family reunification) and whether these are specifically geared towards unaccompanied minors. The Study shall also clarify in what way integration arrangements for unaccompanied minors are different than those for adults;

- Describe the **organisational set-up** in Member States with regard to the **integration** of unaccompanied minors, including information on which stakeholders are involved and what their roles are;
- Provide an overview of the **challenges to integration** and the actions taken to deal with such challenges, identifying good practices.

As many unaccompanied minors arriving in the EU are close to **passing the age threshold to adulthood**, the Study shall also examine whether there are any particular arrangements for unaccompanied minors who turn 18 around the point in time when they receive a final decision on status and what impact this may have on their integration trajectories or their return.

While most unaccompanied minors apply for asylum and hence this Study will focus on their situation after completion of the asylum procedure, it is important to keep in mind that not all unaccompanied minors who arrive in the (Member) States actually apply for asylum. If (Member) States receive unaccompanied minors outside their respective asylum procedures and have any other procedures in place to determine whether they are entitled to stay in the (Member) State or not, such procedures shall also be explored.

3 SCOPE OF THE STUDY

The overall focus of this Study are unaccompanied minors from third countries who, following status determination, are entitled to a residence permit, or are issued a return decision, and the approaches put in place by (Member) States to ensure their integration or (voluntary) return respectively. The scope of the Study may also include, at least in some Member States, any statuses given to unaccompanied minors who for some reason cannot be returned immediately (e.g. tolerated stay). Finally, the Study also aims to examine (Member) States' approaches to unaccompanied minors who have disappeared following a final decision on their application for asylum.

Thus, the Study does not cover the actual asylum or other relevant procedures in which the right of an unaccompanied minor to stay in a (Member) State is examined and decided upon.

4 EU LEGAL AND POLICY CONTEXT

The European Union, together with its Member States, has been active regarding unaccompanied minors for many years. The existing EU policies and legislation already provide a general framework for the protection of the rights of the child in migration, covering aspects such as reception conditions, the treatment of their applications, and integration. The EU Agenda on the Rights of the Child (2006) and the EU Action Plan on Unaccompanied Minors (2010–2014) (COM(2010) 213 final) have been instrumental in raising awareness about the protection needs of unaccompanied minors, and in promoting protective actions, such as training for guardians, public authorities and other actors who are in close contact with unaccompanied minors. More recently, the European Commission (the Commission) called for a comprehensive approach to all children in migration, including unaccompanied minors, in its Communication on the protection of children in migration (COM(2017) 211 final), the European Agenda on Migration (COM (2015) 240), the Communication on the state of play of its implementation (COM(2016) 85 final), as well as the EU Action Plan on Integration of Third-Country Nationals (COM(2016) 377 final).

Legally, there are certain ongoing changes in relation to key provisions on asylum that address the situation of unaccompanied minors, notably the:

- Recast **Asylum Procedures Directive** (2013/32/EU) which aims at fairer, quicker and better-quality asylum decisions, including greater protection of unaccompanied minors during the asylum procedure (which however is out of scope of this Study). In 2016, the Commission issued a proposal for a new Regulation establishing a sin-

gle common asylum procedure in the EU and repealing Directive 2013/32/EU (COM(2016) 467 final), which aims at upholding and further enhancing a high level of special procedural guarantees for unaccompanied minors, such as early identification of their needs, provision of support and guidance, appointment of a guardian, and consideration of the best interests of the child in relation to minors in general.

- Recast **Qualification Directive** (2011/95/EU), which aims to clarify the grounds for granting international protection, make asylum decisions more robust and improve the access to rights and integration measures for beneficiaries of international protection. It emphasises the obligation to take account of the best interests of the child (when relevant) and of gender-related aspects in the assessment of asylum applications, as well as in the implementation of the rules on the content of international protection. In 2016, a proposal for a new Qualification Regulation (COM(2016) 466 final) replacing the Qualification Directive, includes renewed provisions for unaccompanied minors in Article 36, such as appointment of a legal guardian, accommodation appropriate for minors, family tracing, as well as training for professionals working with minors.
- A proposal for a recast **Reception Conditions Directive** aims to further harmonise reception conditions in the EU (COM(2016)467 final), reinforce the assessment of the best interests of the child and ensure that reception conditions are adapted to the specific situation of children, whether unaccompanied or within families, with due regard to their security, physical and emotional care and provided in a manner that encourages their general development. The specific needs of children, in particular with regard to respect for the child's right to education and access to healthcare have to be taken into account.
- The proposal for a new **Dublin Regulation** (COM(2016) 270 final) envisages new rules for determining the Member State responsible

for examining an application lodged by an unaccompanied minor, clarifying that, in the absence of a family member or relative in another Member State, the Member State where the minor first lodged his or her application for international protection will be responsible, unless it is demonstrated that this is not in the best interests of the minor.

- The revised **Eurodac Regulation** (COM(2016) 272 final) proposes to lower the age for taking fingerprints and facial images from asylum-seekers and third-country nationals from 14 years to six years. This will help identify children in cases where they are separated from their families. It shall also strengthen the protection of unaccompanied minors, who do not always formally seek international protection and who can risk harm when absconding from care institutions or child social services.
- The proposal for Regulation transforming the existing European Asylum Support Office (EASO) into a fully-fledged **European Union Agency for Asylum** (COM(2016) 271 final) would expand Agency mandate regarding operational and technical assistance, including providing assistance to Member States in ensuring that all the necessary child rights and child protection safeguards are in place within the framework of their asylum and reception systems. The new Agency shall also assist Member States in developing training activities concerning the handling of applications for international protection made by unaccompanied minors, including as regards the assessment of the best interests of the child, specific procedural safeguards such as respect of the child's right to be heard and child protection aspects such as age-assessment techniques.
- The main legal instrument regulating the EU return policy is the 2008 **Return Directive** (2008/115/EC), which lays down common EU standards on forced return and voluntary departure, emphasising that voluntary return is preferred, while acknowledging the inevitable need for efficient means to enforce returns where nec-

essary. After the **Informal meeting of EU heads of state or government** held in Malta in February 2017 highlighted the need for a review of the EU's return policy,¹ the Commission published a **new EU Action Plan on Return**, along with an Annex listing the actions to be implemented by Member States to complete, along with a **Recommendation** on making returns more effective when implementing the Return Directive (C(2017) 1600 final),² specifying among others that decisions on the legal status and on the return of unaccompanied minors should always be based on individual, multi-disciplinary and robust assessments of their best interests. The Action Plan foresees the adoption of immediate measures by the Member States to enhance the effectiveness of returns when implementing EU legislation, in line with fundamental rights obligations. Based on the results achieved in the implementation of the Recommendation and depending on whether it is estimated that further action should be taken to substantially increase return rates, the Commission may present a proposal to revise the Return Directive.

In line with the **EU Charter of Fundamental Rights** (2012/C 326/02), applying the EU acquis containing child-sensitive provisions, the principle of best interests of the child must be a primary consideration.

Finally, the EU has committed to a number of international conventions which have placed an obligation to take appropriate protection and prevention measures in relation to migrants and/ or children, including the UN Refugee Convention and UN Convention on the Rights of the Child (CRC), the Hague Convention on the Protection of Children (HCCH), and the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

¹ Malta Declaration by the members of the European Council on the external aspects of migration: *Addressing the Central Mediterranean route*, 3 February 2017.

² Communication on a *More Effective Return Policy in the European Union – a Renewed Action Plan*, *op. cit.*

5 PRIMARY QUESTIONS TO BE ADDRESSED BY THE STUDY

The primary questions the Study will address include:

- To what extent are Member States able to effectively return irregularly staying third-country nationals?
- In which way have the EU standards and procedures on return been interpreted at the national level?
- How have the adoption and implementation of EU rules (in particular the Return Directive), including relevant case law, impacted on the systematic and effective return of irregularly staying third-country nationals?
- Which EU provision(s) and related EU case law have had the most impact over Member States' practice to enforce returns?
- To what extent are Member States able to use detention as a legitimate measure of last resort within the context of return procedures?
- To what extent do Member States use alternatives to detention in the return process?
- What good practices have Member States identified in their application of EU rules that guarantee an effective return?

6 RELEVANT SOURCES AND LITERATURE

EU Legislation

- Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals;

- Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals;
- Council Decision 2004/191/EC of 23 February 2004 setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals.

Commission policy documents

- Evaluation on the application of the Return Directive (2008/115/EC), 22 October 2013;³
- European Agenda on Migration, 13 May 2015;⁴
- EU Action Plan on Return, 9 September 2015;⁵
- Return Handbook, 1 October 2015;⁶
- A More Effective Return Policy in the European Union – A Renewed Action Plan, 2 March 2017;⁷

³ Available at: <http://ec.europa.eu/smart-regulation/evaluation/search/download.do?documentId=10737855>, last accessed on 4 April 2017.

⁴ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf, last accessed on 4 April 2017.

⁵ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/communication_from_the_ec_to_ep_and_council_-_eu_action_plan_on_return_en.pdf, last accessed on 4 April 2017.

⁶ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/return_handbook_en.pdf, last accessed on 4 April 2017.

⁷ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170302_a_more_effective_return_policy_in_the_european_union_-_a_renewed_action_plan_en.pdf, last accessed on 4 April 2017.

- Recommendation on making returns more effective when implementing the Directive 2008/115/EC of the European Parliament and of the Council, 2 March 2017;⁸

EMN Studies

- EMN (2007), 'Return Migration';⁹
- EMN (2011), 'Programmes and Strategies in the EU Member States Fostering Assisted Return to and Reintegration in Third Countries';
- EMN (2012), 'Practical Responses to Irregular Migration';¹⁰
- EMN (2014), 'The Use of Detention and Alternatives to Detention in the Context of Immigration Policies';¹¹
- EMN (2014), 'Good Practices in the Return and Reintegration of Irregular Migrants: Member States' Entry Bans Policy and Use of Readmission Agreements between Member States and Third Countries';¹²

⁸ Available at: http://europa.eu/rapid/press-release_IP-17-350_en.htm, last accessed on 4 April 2017.

⁹ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/return-migration/emn_return_migration_booklet_feb08_en.pdf, last accessed on 4 April 2017.

¹⁰ Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/irregular-migration/00a_emn_synthesis_report_irregular_migration_october_2012_en.pdf, last accessed on 4 April 2017.

¹¹ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf, last accessed on 4 April 2017.

¹² Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_reentry_bans_and_readmission_agreements_final_december_2014.pdf, last accessed on 4 April 2017.

- EMN (2016), 'The Return of Rejected Asylum Seekers: Challenges and Good Practices';¹³

EMN Informs

- EMN Inform (2016), 'The Use of Detention in Return Procedures';
- EMN Inform (2016), 'Obstacles to Return in Connection with the Implementation of Directive 2008/115/EC' (not for dissemination beyond the scope of the REG Practitioners);
- REG Inform (2017), 'The Correlation between Voluntary and Forced Return';
- REG Inform (2017), 'The Means to Incentivise Return'.

EMN Ad-Hoc Queries

- EMN Ad-Hoc Query, 'The Costs of the Issue and the Execution of the Decision on Return' – *requested on 2nd March 2015*;
- EMN REG Ad-Hoc Query, 'Use of Detention in Return Procedures' – *requested on 30 November 2015*;
- EMN Ad-Hoc Query, 'Enforcement of Expulsion Decisions' – *requested 11 December 2015*;
- EMN REG Ad-Hoc Query, 'Obstacles to Return in Connection with the Implementation of the Return Directive' – *requested 21 January 2016* (not for dissemination beyond the scope of the REG Practitioners);

¹³ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-studies-00_synthesis_report_rejected_asylum_seekers_2016.pdf, last accessed on 4 April 2017.

- EMN Ad-Hoc Query, 'Handing over of Personal Documents in the Framework of the Asylum and Return Procedure' – requested on 10 March 2016;
- EMN REG Ad-Hoc Query, 'Member States' Experiences with the Use of the Visa Information System (VIS) for Return Purposes' – requested on 18 March 2016;
- EMN Ad-Hoc Query, 'Motivation of Return Decisions and Entry Bans' – requested on 31 March 2016;
- EMN REG Ad-Hoc Query, 'The Means to Incentivise Return' – requested on 14 December 2016;
- EMN REG Ad-Hoc Query, 'The Correlation between Voluntary and Forced Return', - requested on 3 January 2017
- EMN Ad-Hoc Query, 'Accelerated Asylum Procedures and Asylum Procedures at the Border' – requested 17 February 2017 (Part 1 and 2).

Other studies and reports

- Ramboll (2013), 'Study on the Situation of Third Country Nationals Pending Return/Removal in the EU Member States and the Schengen Associated Countries';¹⁴
- Matrix (2013), 'Evaluation on the Application of the Return Directive (2008/115/EC)';¹⁵

¹⁴ Available at: http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/irregular-migration-return/return-readmission/docs/11032013_sudy_report_on_im-migration_return-removal_en.pdf, last accessed on 4 April 2017.

¹⁵ Available at: <http://ec.europa.eu/smart-regulation/evaluation/search/download.do?documentId=10737855>, last accessed on 4 April 2017.

- Fundamental Rights Agency (2011), 'Fundamental Rights of Migrants in an Irregular Situation in the European Union';¹⁶
- REDIAL Project (2016), 'European Synthesis Report on the Judicial Implementation of Chapter IV of the Return Directive, Pre-Removal Detention';¹⁷
- CONTENTION Project (2014), 'European Synthesis Report of the Project CONTENTION, The Extent of Judicial Control of Pre-Removal Detention in the EU'.¹⁸

7 AVAILABLE STATISTICS

EU level

The following statistics are available through Eurostat, and may be indicative of the scale of the problem in the Member States:

- Number of return decisions (by nationality)
- Number of return decisions effectively carried out (by nationality)
- Number of forced returns (by nationality) – data available since 2014;
- Number of voluntary return (by nationality) – data available since 2014.

¹⁶ Available at: http://fra.europa.eu/sites/default/files/fra_uploads/1827-FRA_2011_Migrants_in_an_irregular_situation_EN.pdf, last accessed on 4 April 2017.

¹⁷ Available at: http://cadmus.eui.eu/bitstream/handle/1814/45185/MPC_REDIAL_2016_05.pdf?sequence=1&isAllowed=y, last accessed on 4 April 2017.

¹⁸ Available at: <http://contention.eu/synthesis-reports/>, last accessed on 4 April 2017.

National level

The following data would be very useful for this Study, and should be included as far as possible:

- Total number of third-country nationals placed in detention;
- Detention capacity;

8 DEFINITIONS

The following key terms are used in the Common Template. The definitions are taken mostly from the EMN Glossary v4.0.¹⁹

'Absconding' is defined as an "action by which a person seeks to avoid legal proceedings by not remaining available to the relevant authorities or to the court".

'Applicant for international protection' is defined as "a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken".

'Application for international protection' is defined as "a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status, and who does not explicitly request another kind of protection, outside the scope of Directive 2011/95/EU, that can be applied for separately".

¹⁹ Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/docs/emn-glossary-en-version.pdf

'Assisted voluntary return' is defined as "voluntary return or voluntary departure supported by logistical, financial and/ or other material assistance".

'Asylum seeker' is defined in the global context as a person who seeks safety from persecution or serious harm in a country other than their own and awaits a decision on the application for refugee status under relevant international and national instruments; and in the EU context as a person who has made an application for protection under the Geneva Convention in respect of which a final decision has not yet been taken.

'Compulsory return' in the EU context is defined as "the process of going back – whether in voluntary or enforced compliance with an obligation to return – to:

- one's country of origin; or
- a country of transit in accordance with EU or bilateral readmission agreements or other arrangements; or
- another third country, to which the third-country national concerned voluntarily decides to return and in which they will be accepted.

'Final decision' is defined as "a decision on whether the third-country national or stateless person be granted refugee status or subsidiary protection status by virtue of Directive 2011/95/EU (Recast Qualification Directive) and which is no longer subject to a remedy within the framework of Chapter V of this Directive, irrespective of whether such remedy has the effect of allowing applicants to remain in the Member States concerned pending its outcome". Within the context of this Study, other statuses (than refugee status and subsidiary protection) are taken into account as well.

'Forced return' in the EU context is defined as "the process of going back – whether in voluntary or enforced compliance with an obligation to return – to:

- one's country of origin; or
- a country of transit in accordance with EU or bilateral readmission agreements or other arrangements; or
- another third country, to which the concerned voluntarily decides to return and in which they will be accepted.

'Integration' in the EU context is defined as "a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States."

'Irregular stay' is defined as "the presence on the territory of a Member State, of a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Art. 5 of the Schengen Borders Code or other conditions for entry, stay or residence in that Member State".

'Reintegration assistance' is defined as "support - either cash, in kind or combined, provided by a host country to a returnee, with the aim of helping the returnee to lead an independent life after return."

'Regularisation' is defined as "in the EU context, state procedure by which illegally staying third-country nationals are awarded a legal status".

'Residence permit' is defined as "any authorisation issued by the authorities of an EU Member State allowing a non-EU national to stay legally in its territory, in accordance with the provisions of Regulation 265/2010 (Long Stay Visa Regulation)."

'Rejected applicant for international protection' is defined as "a person covered by a first instance decision rejecting an application for international protection, including decisions considering applications as inadmissible or as unfounded and decisions under priority and accelerated procedures, taken by administrative or judicial bodies during the reference period".

'Return decision' is defined as "an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return".

'Return' is defined as "the movement of a person going from a host country back to a country of origin, country of nationality or habitual residence usually after spending a significant period of time in the host country whether voluntary or forced, assisted or spontaneous".

'Subsequent application for international protection' is defined as "a further application for international protection made after a final decision has been taken on a previous application, including cases where the applicant has explicitly withdrawn their application and cases where the determining authority has rejected an application following its implicit withdrawal in accordance with Art. 28 (1) of Directive 2013/32/EU."

'Third-country national' is defined as "any person who is not a citizen of the European Union within the meaning of Art. 20(1) of TFEU and who is not a person enjoying the Union right to free movement, as defined in Art. 2(5) of the Schengen Borders Code".

'Tolerated stay' also refers to the (temporary) suspension of removal of a third-country national who has received a return decision but whose removal is not possible either for humanitarian reasons (as their removal would violate the principle of non-refoulement or due to the third-country national's physical state or mental capacity) or for technical reasons (such as lack of transport capacity or failure of their removal).

due to lack of identification or the country of origin's refusal to accept the person) and for as long as a suspensory effect is granted in accordance with Art. 13(2) of Directive 2008/115/EC.

'Unaccompanied minor' is defined as "a third-country national or stateless person below the age of 18 years, who arrives on the territory of the Member States unaccompanied by the adult responsible for them by law or by the practice of the Member State concerned, and for as long as they are not effectively taken into the care of such a person. It includes a minor who is left unaccompanied after they have entered the territory of the Member States." Furthermore, within the context of this Study, unaccompanied minors approaching 18 years of age are generally understood to be in the final couple of years before reaching the age of majority, i.e. 16 to 18 years.

'Voluntary departure' is defined as compliance with the obligation to return within the time-limit fixed for that purpose in the return decision.

'Voluntary return' is defined as "the assisted or independent return to the country of origin, transit or third country, based on the free will of the returnee"

'Vulnerable person' is defined as "minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of trafficking in human beings, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation".

THE CONTRIBUTION OF THE CZECH REPUBLIC

LIST OF ABBREVIATIONS

<i>Czech Republic</i>	<i>CZ</i>
<i>Counselling Centre for Integration</i>	<i>PPI (Czech abbreviation; Poradna pro integraci)</i>
<i>Children's Home and School</i>	<i>DDŠ (Czech abbreviation; Dětský domov se školou)</i>
<i>Department for Asylum and Migration Policy</i>	<i>DAMP</i>
<i>Educational Institute</i>	<i>VÚ (Czech abbreviation; Výchovný ústav)</i>
<i>European Migration Network</i>	<i>EMN</i>
<i>Facility for Children of Foreign National</i>	<i>ZDC (Czech abbreviation; Zařízení pro děti-cizince)</i>
<i>Facilities for Children Requiring Immediate Assistance</i>	<i>ZDVOP (Czech abbreviation; Zařízení pro děti vyžadující okamžitou pomoc)</i>
<i>General Health Insurance Company</i>	<i>VZP (Czech abbreviation; Veřejná zdravotní pojišťovna)</i>
<i>International Organisation for Migration</i>	<i>IOM</i>
<i>International protection</i>	<i>IP</i>
<i>Ministry of Education, Youth and Sports</i>	<i>MoEYS</i>

<i>Ministry of the Interior</i>	<i>MoI</i>
<i>Office for International Legal Protection of Children</i>	<i>ÚMPOD (Czech abbreviation; Úřad pro mezinárodněprávní ochranu dětí)</i>
<i>Organisation for Aid to Refugees</i>	<i>OPU (Czech abbreviation; Organizace pro pomoc uprchlíkům)</i>
<i>Social and Legal Child Protection Authority</i>	<i>OSPOD (Czech abbreviation; Orgán sociálně-právní ochrany dětí)</i>
<i>State Integration Programme</i>	<i>SIP</i>
<i>Unaccompanied minor</i>	<i>UAM</i>

INTRODUCTION

GENERAL SUMMARY: UNACCOMPANIED MINORS, INCLUDING THOSE NOT APPLYING FOR INTERNATIONAL PROTECTION:

Unaccompanied minors (UAMs) applying for international protection and their status during proceedings and rights

- The administrative body that conducts proceedings concerning applications for international protection is the Department for Asylum and Migration Policy of the Czech Republic.
- By law, all persons under 18 years of age must be represented in international protection (IP) proceedings by a legal guardian (father, mother) or, if impossible by a different representative (e.g. other family member or appointed guardian), from the instant of lodging their application for international protection. If this proves impossible, the Department for Asylum and Migration Policy (DAMP) of the Ministry of the Interior (MoI) of the Czech Republic (CZ) shall appoint a guardian for the unaccompanied minor for the purposes of the proceedings who shall be present at all administrative acts from the start of proceedings, i.e. from submission of the application for international protection. This does not affect the guardian's fundamental option to seek legal assistance and have a legal representative during the proceedings. In other respects, the proceedings shall be conducted as standard in line with the Asylum Act with no other special measures. At the start of proceedings each applicant, including unaccompanied minors (or rather their guardian), receives instructions describing in detail all of the rights and obligations connected with the proceedings in the language in which the applicant

is able to communicate and which he/she selects at the start of proceedings. Furthermore, the foreign national (guardian) receives a list of non-government and international organisations operating in the territory of the CZ.

- Personal data, including family ties, shall be recorded in the course of the proceedings. In addition to this, the date and method of entry into the CZ, temporary address, visas held, religion, political orientation, place and date of birth, travel document, previous applications for IP, state of health and of course the grounds for the application are all registered. Each case is assessed individually.
- Although the Czech Republic pays close attention to minors in the course of proceedings, the Asylum Act does not specify any special form for the proceedings or special provisions. The exception is the provision in the Asylum Act which makes it impossible to reject an application for international protection as manifestly unfounded and also a provision which at the beginning of procedure identifies unaccompanied minors as one category of "vulnerable persons". If a person is identified as vulnerable according to the law (i.e. unaccompanied minors), he/she shall have immediate access to the territory of the CZ from the reception centre at an international airport, if this application was lodged at international airport. Unaccompanied minors are not further accommodated in a standard asylum facility for the duration of proceedings, but in an educational facility or a facility for children requiring immediate assistance where their interests are protected by the employees of the Social and Legal Child Protection Authority (OSPOD). The CZ has no special reception centres for unaccompanied minors. As for special measures, in cases worthy of special consideration (e.g. traumatised persons or rape victims) according to the law the applicant (i.e. also unaccompanied minors) has the opportunity to request that administrative acts and interpreting are performed by persons of the same sex. In cases of reasonable doubt about the claimed age of a minor, according to the law the MoI DAMP may demand medical examination to establish age.

- From the beginning of proceedings, i.e. from submission of their application, all applicants for international protection, including unaccompanied minors, have access to charge-free healthcare and social care and psychological care (if necessary). Unaccompanied minors also have access to education within the education system in the CZ, in the same way as citizens of the CZ. Facility for Children of Foreign Nationals (ZDC) in which minors are placed provide social care, including extra-curricular activities.
- Neither practices nor the legal status of the unaccompanied minor applicants in international protection proceedings have not changed over the past year.
- Unaccompanied minors may also enter the State Integration Programme (SIP)²⁰ and enjoy services and other benefits that this programme offers. The sole condition is to hold international protection and to assemble an individual integration plan within 12 months after the decision regarding the asylum (international protection) application enters into force. A large section of the SIP focuses on housing. UAMs accommodation is provided in Ministry of Education, Youth and Sport (MoEYS) facilities until they reach 18 years of age and independent housing is not permitted. Although all other services under the SIP may be provided. This covers validation of certificates, help with employment (part-time) or school (coaching) and

²⁰ SIP is a programme for holders of international protection which caters for their basic needs at the beginning of their integration and to give them a start in their life here. This concerns mainly needs in housing, education, employment, health and social areas. SIP provides material in the areas mentioned, SIP materially equips and also provides more abstract needs such as requalification, social advice, assistance and interpreting. The SIP is provided for a period of 12 months from the date of signing the Individual Integration Plan which serves as the main document for mapping the eligible person's needs. The eligible person must compile the Individual Integration Plan with the help of the responsible person from Refugee Facility Administration or its provider within 12 months after the decision regarding the international protection application enters into force. If he/she fails to do so, he/she will lose the right to benefit. Component to the SIP is a Czech language course involving 400 hours and a course covering basics of culture and democracy involving 20 hours. These courses are held by MoEYS via its providers. Although completion of the Czech language course has no time limit, the democracy course must be completed within two months.

also payment for prescription medicines (in individually assessed cases). Once they reach the age of 18, UAMs may also enjoy benefits in areas connected with housing, but only if at that time his/her individual integration plan is still valid (before 12 months has passed since signing the document).

UAMs not-applying for international protection

- Although Act on the Residence of Foreign Nationals does not contain an express provision on the placement of UAMs who have not applied for international protection, in practice, also such foreign nationals are placed particularly in the Facility for Children of Foreign Nationals or to other appropriate facilities (facility for children requiring immediate assistance, children's home).
- Specifically, once a minor is detained or identified in the territory of the Czech Republic, the legitimacy of their entry and stay is reviewed. If the statutory conditions are met, administrative proceedings are launched against the UAM concerning his/her expulsion and the Police immediately appoint him/her a guardian for the administrative expulsion proceedings. The Police shall notify the UAM that a guardian has been assigned to him/her and instruct him/her of the tasks a guardian must perform. If the very strict statutory conditions are met, the UAM may be detained for the purposes of their delivery or transit – in both cases, if it proves that the foreign national involved is a UAM, such person will be released from detention immediately and transferred to a ZDC. The law regulates procedures where the police suspect that the person is not an unaccompanied minor.

Procedure for ensuring statutory legal protection for children

- A child's situation is always conducted on an individual basis and an individual child protection plan is "tailor made" for the child concerned (see text below).

SUMMARY OF MAIN INFORMATION FROM THE STUDY FOCUSSING UAMs FOLLOWING STATUS DETERMINATION

In 2017, a total of **26 unaccompanied minors from third countries**²¹ (every year this concerns dozens of people) were accommodated in the specialised Facility for Children of Foreign Nationals (ZDC), and in the same year a total of **7 unaccompanied minors from third countries**²² requested international protection (the number of minor applicants for international protection is only in single figures every year).

According to statistics over the past three years (2015, 2016 and 2017), the most unaccompanied minors from third countries living in the Czech Republic are over 15 years of age, but not of an age approaching imminent adulthood. There is a clear predominance of males. The most frequent residents of the Facility for Children of Foreign Nationals were children from Afghanistan (14 persons) and from Vietnam (4 persons) during the year 2017.

Despite a rise in the numbers of unaccompanied minors in the Czech Republic during the migration crisis of 2015–2016, there are still very low numbers of the UAMs in comparison with other member states. In view of the continuing low number of unaccompanied minors in the Czech Republic, the matter of unaccompanied minors is not a big issue at a national level.

Neither practices nor the status of unaccompanied minor applicants have changed over the past year. No change in legislation, policy or practice has occurred over the past few years directly impacting the status of the UAMs once proceedings concerning their application for asylum or other resident status have finished.

²¹ Source: Facility for Children of Foreign Nationals

²² Source: Facility for Children of Foreign Nationals

All UAMs in the CZ are subject to the **Act on Social and Legal Protection of Children**. They are in the care of the state on the basis of a preliminary injunction or meritorious decision²³ (institutional care order or a decision concerning care in the hands of a different natural person or foster care).

The **Social and Legal Protection Authorities** (OSPODs) are informed of the presence of a UAM in the territory of the Czech Republic. Care of the UAM commences immediately once the UAM has been accepted into care by an OSPOD employee who is obliged to act in the best interests of the child and provide him/her appropriate care. The vast majority of essential measures adopted are petitions for the imposition of preliminary court injunctions ensuring the placement of the UAM in an appropriate environment. The court must decide on a petition within 24 hours.²⁴ **Once a preliminary injunction has been issued, the UAM gains authorisation to stay in the territory of the Czech Republic.** The Facility for Children of Foreign Nationals at Radlická 30, Prague 5 may not be always the only suitable environment, although in practice most UAMs are placed in this Facility.

The Czech Republic has created a **system of substitute care**, both in the **form of substitute family care** (in the care of another natural person, foster care, temporary foster care and adoption), and **institutional care** (facilities for children requiring immediate assistance, children's homes for children under 3 years of age and educational facilities for administering institutional care and preventive educational care). This system however is applied with respect to all children, and the only special measure with respect to UAMs is the **Facility for Children of Foreign Nationals** at Radlická 30, Prague 5. Under law it is possible for secondary school and university students to remain in this facility even after reaching the age of majority. However, this applies only to clients who were accepted as UAMs.

²³ A decision on the case at hand

²⁴ Section 452 et seqq. of Act No. 292/2013 Coll., on Special Court Proceedings.

On 6 September 2012, the Government of the CZ approved the ***Policy for Protection and Care of Unaccompanied Minors including Applicants for International Protection***, which established a new system of care for unaccompanied minors which is to be based on individual assessment and analysis of the needs of each child, on the basis of which the most appropriate type of care is to be chosen (care by relatives, close persons, substitute family care or placement in an accommodation facility such as facilities for children requiring immediate assistance, or else institutional care and preventive educational care facilities operating throughout the Czech Republic). The policy states that the entirely determining factor in placement of a child in a specific facility is the **best interests of the child**. A procedure for assessment and identification of the best interests of a child is not expressly addressed in Czech law either in general terms, or specifically with respect to UAMs. With regard to ensuring the statutory legal protection of children via statutory social and legal authorities, the fundamental instrument in place is on-going assessment which can be described as an instrument for social work based on analysis and identification of the best interests of the child. The Social and Legal Protection Authority is required to perform a regular **situation assessment**²⁵ and to create an **individual protection plan for each individual child**²⁶ on the basis of such a situation assessment. Both assessment of the child's situation and the individual protection plan include issues concerning provision of care for the UAM, or potentially other provisions for the UAM, and issues concerning the residential status of the UAM in the territory of the Czech Republic and his/her integration, even after reaching 18 years of age, and potentially departing from the territory of the Czech Republic (having reached 18 years of age).

²⁵ Cf. Section 10(3)(c) of Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

²⁶ Cf. Section 10(3)(d) of Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

Furthermore, an **individual personality development** plan and **individual education plan** is created for each client at the ZDC. On the basis of these documents the client is guided towards gradual integration into the Czech education system and the Czech society.

Section 1

OVERVIEW OF THE SITUATION OF UNACCOMPANIED MINORS IN THE CZECH REPUBLIC

Q1. Please provide an overview of the current **public debate** with regard to unaccompanied minors who have received a final decision on their application for asylum/another status in your (Member) State.

The total number of foreign national unaccompanied minors (UAMs) from third countries accommodated in the specialised Facility for Children of Foreign Nationals (ZDC) is in double figures (in **2014 22 children** were placed in this facility, in **2015** the number increased to **79 children**, in **2016 43** and in **2017** the total was **26 children**)²⁷ and the number of unaccompanied minors amongst applicants for international protection was mainly in single figures (**2014 – 6 persons**²⁸, **2015 – 14 persons**²⁹, **2016 – 4 persons**³⁰, **2017 – 7 persons**³¹).³²

²⁷ Source: Facility for Children of Foreign Nationals

²⁸ Source: MoI DAMP

²⁹ Source: MoI DAMP

³⁰ Source: Facility for Children of Foreign Nationals

³¹ Source: Facility for Children of Foreign Nationals

³² The number of children in the Facility for Children of Foreign Nationals does not represent the total number of unaccompanied minors in the territory of the Czech Republic, since such children may also have been placed in the ordinary substitute care network – typically in facilities for children requiring immediate assistance, in the ordinary network of educational facilities for administering institutional education,

Despite a rise in the numbers of unaccompanied minors in the Czech Republic during the migration crisis of 2015–2016, there are still very low numbers of the UAMs in comparison with other Member States. The status of unaccompanied minors once they have received a final decision on their application for international protection is not currently a topic of public debate in the Czech Republic.

Q2. Are unaccompanied minors that fall in this category a **national policy priority**, including those turning 18 years of age? Has this changed over the last few years, i.e. since 2014 onwards? Has there been a shift in focus within policy issues concerning unaccompanied minors?

In view of the prevailing low numbers of unaccompanied minors in the Czech Republic (despite the temporary rise in the number of such children during the migration crisis of 2015–2016) unaccompanied minors are not a major issue in terms of national policy priorities.

in the case of the very youngest foreign national children abandoned in the territory of the Czech Republic, these are also placed in children's homes for children up to 3 years of age and also in various forms of substitute family care. The Czech Republic does not have a unified system recording the numbers of all UAMs apprehended in the country. Children of EU citizens may also be placed in Facilities for Children of Foreign Nationals and the children are not necessarily unaccompanied minors. However, the cited statistics and the study concern exclusively children from third countries.

Q3. a. Please provide an overview of **recent changes to law, policy and practice** in relation to what happens with unaccompanied minors after they have received a final decision on their application for asylum/another status in your (Member) State since 2014 onwards. Please provide an account of such changes also in relation to those unaccompanied minors turning 18 years of age, as well as unaccompanied minors disappearing from guardianship/care and/or following a return decision.

Over the past years, no change in legislation, policy and practice relating to matters concerning the status of UAMs after they have received a final decision on their application for asylum/other residence status in the Czech Republic occurred.

The Czech Republic continues to act according to the *Policy for Protection and Care of Unaccompanied Minors* of 6 September 2012, according to which UAMs should be placed primarily in the normal substitute care network (family and institutional – children’s homes or facilities for children requiring immediate assistance) and specialised Facilities for Children of Foreign Nationals should be used only in exceptional and disputed cases where the claimed age of the UAM has yet to be verified or the UAM hails from a completely different cultural and social environment, or burdened with traumatic experiences (armed conflicts, etc.), or neither speaks nor understands Czech.

In view of the rise in the numbers of UAMs arriving in the CZ mainly in the years 2015–2016, the capacities of separate facilities and with respect to the nationality of those children (hailing from culturally and socially dissimilar environments), in practice the children of foreign nationals are mainly placed in the abovementioned Facility for Children of Foreign Nationals.

In September 2015 in connection with the rising number of received UAMs due to the migration crisis, the Ministry of Education, Youth and Sport approved a document³³ entitled *Information concerning Unaccompanied Minors in Facilities for Administering Institutional Care and Preventive Educational Care*. This document was used by the MoEYS to stabilise the new system of care for UAMs. New care centres were set up under the methodological guidance of the Facility for Children of Foreign Nationals for foreign national children, intended for long-term care of unaccompanied minors. Children were placed in these facilities for capacity-related reasons, during the abovementioned period of a rise in the number of minors.

It should be noted that this policy of placement of children in these facilities as practised especially between 2015 and 2016 by the MoEYS for administering care to UAMs is not completely according to the *Policy for Protection and Care of Foreign National Unaccompanied Minors* of 2012.

Q3. b. Please indicate **any planned changes** to law/policy/practice regarding the care/integration/return of unaccompanied minors going forward.

No legislative changes are planned for this area. We must wait for the adoption of the new asylum acquis which is currently being negotiated by European Union bodies. Then we shall have to react in legislation.

³³ Ref. MSMT-3839/2015-3

Q4. What **statuses** does your (Member) State typically grant to unaccompanied minors and in what circumstances (e.g. asylum, humanitarian protection, temporary/tolerated status, etc.)?

All UAMs are subject to the Act on Social and Legal Protection of Children. They are in the care of the state on the basis of a preliminary injunction or meritorious decision (decision on the case at hand). UAMs in the CZ are subject to the Act on Social and Legal Protection of Children.

Children entrusted to substitute care on the basis of a **preliminary injunction** become entitled to stay in the territory of the Czech Republic without a visa. In the case of a child entrusted to the care of a natural person on the basis of a preliminary injunction, according to the law, the entitlement of the UAM to permission to stay in the territory of the Czech Republic is not conditional on the obligation of the said natural person to hold authorisation to stay in the territory of the Czech Republic on a permanent basis.

With a **meritorious decision** on substitute care for UAMs (in the form of an institutional care order or entrustment into the care of a natural person or into foster care), UAMs gain entitlement to permanent residence valid until they reach the age of 18 years. A foreign national entrusted to substitute care by meritorious decision by an appropriate body is entitled to remain in the territory permanently if at least one natural person to whom he/she has been entrusted is registered for permanent residence or the institution where the child is placed lies in the territory (so-called legal fiction of permanent residence – for the purposes of rights and obligations, the foreign national is considered to be a foreign national with authorised permanent residence). Upon reaching 18 years of age, the foreign national may lodge an application

for permanent residence³⁴, specifically an application for a residence authorisation for humanitarian reasons.

If the foreign national is entrusted to the care of the Facility for Children of Foreign Nationals, the opportunity for the client to remain even after reaching 18 years of age when he/she is no longer subject to the judicial decision is a significant benefit. After reaching the age of 18 years the ZDC lodges an application for permanent residence (attaching its support, the residence agreement and confirmation of study), which tends to be accepted, since the client has student status and remains in the care of the ZDC on the basis of their contractual relationship which is admissible under the Act on Administration of Institutional Care.

If a foreign national requests international protection (international protection proceedings continue alongside proceedings for entrusting the child to substitute care), in the course of the application process, the grounds for granting asylum and subsidiary protection are always appraised. In the event that the Ministry of the Interior decides to grant subsidiary protection, the UAM is entitled to remain in the territory of the CZ until such time as the grounds for which subsidiary protection was granted have passed.

If the UAM has not been granted international protection and, after reaching the age of 18 years, legal steps towards legalisation of his/her stay (application for permanent residence, see above)³⁵ have not been taken, the Ministry of the Interior of the CZ shall issue him/her with a departure order with a deadline by which he/she must leave the CZ. The deadline for lodging an application for residence is 60 days after reaching the age of 18 years.³⁶

³⁴ According to provision Section 87(7)(a) Act on the Residence of Foreign Nationals.

³⁵ Section 66(1)(a) Act on the Residence of Foreign Nationals.

³⁶ According to provision Section 87(7)(a)(4) Act on the Residence of Foreign Nationals.

Q5. a. Please provide any further qualitative information available in your (Member) State on the **characteristics of unaccompanied minors**, as follows:

> Are unaccompanied minors **mostly close to the age of majority** when a final decision on their application for asylum/another status is issued, or (much) younger?

According to statistics over the past three years (2015, 2016 and 2017), the most unaccompanied minors from third countries living in the Czech Republic are over 15 years of age, but not of an age approaching imminent adulthood.

> Are they **boys or girls** predominantly?

According to data over the past years (2015, 2016 and 2017) males clearly predominate.

> Are they **resettled and/or relocated** unaccompanied minors whose right to reside in your (Member) State has been clarified?

The Czech Republic has not resettled or relocated any unaccompanied minor to the CZ. Persons who were relocated or resettled were in some cases children, but accompanied (this involved whole families).

> Please provide any other qualitative information available not covered above, for example, unaccompanied minors not presenting themselves to the authorities, etc.:

The clients of the Facility for Children of Foreign Nationals were most frequently from Afghanistan (14 persons) and Vietnam (4 persons).

Despite the statement on lower age due to concerns, some of the clients accepted to Facilities for Children of Foreign Nationals proved to be over 18 years of age. According to representatives of Facilities for Children of Foreign Nationals, the opportunity to verify a client's age by means of multidisciplinary assessment which would objectivise data provided by the client, thereby making it more difficult to abuse the substitute family care system, is not available in the Czech Republic – in this context, the pilot project of the Ministry of the Interior, UNHCR and the Ombudsman's Office is being prepared to test another methods (non-medical ones) of age determination.

Some children did not apply for international protection in the Czech Republic, but had applied for it earlier in a different EU Member State. Dublin proceedings are not conducted in such a case and the child remains in the Czech Republic. If a minor submits an application for international protection in the Czech Republic, the Dublin proceedings are conducted and implemented only in the case of established family ties, if it is in the interest of the child.

Q5b. Please provide the **national statistics**, if available.

The Czech Republic does not have a unified system recording the numbers of all UAMs apprehended in the country. Only statistics regarding UAMs from third countries who were accommodated in the specialized Facility for Children of Foreign Nationals and statistics of UAMs coming from third countries who asked for international protection in the Czech Republic are available (see question number 1).

The number of children in the Facility for Children of Foreign Nationals does not represent the total number of unaccompanied minors in the territory of the Czech Republic, since such children may also have been placed in the ordinary substitute care network – typically in facilities

for children requiring immediate assistance, in the ordinary network of educational facilities for administering institutional care and preventive educational care, in the case of the very youngest foreign national children abandoned in the territory of the Czech Republic, these are also placed in children's homes for children up to 3 years of age and also in various forms of substitute family care. Children of EU citizens may also be placed in Facilities for Children of Foreign Nationals and the children are not necessarily unaccompanied minors. However, the cited statistics and the study concern exclusively children from third countries.

Q6. a. Please provide a general overview of what happens with unaccompanied minors in your (Member) State **when they turn 18 years of age**, including a brief description of the approach (e.g. transitional measures/plans) of your (Member) State:

> When an unaccompanied minor has received a **final negative decision** on his/her application for asylum/another status as a minor (please elaborate below):

If proceedings concerning the UAM's application for international protection definitely finish with rejection of the application, or if the UAM's subsidiary protection has been withdrawn or if the period for which subsidiary protection was granted has expired without extension, the UAM's authorisation to stay in the territory of the CZ according to the Act on the Residence of Foreign Nationals terminates.

However, if the UAM is **still a minor** at this point, the eligibility of his/her stay, similarly as in the situation where UAMs are not applicants for international protection, will be based on the judicial decision under which the UAM was entrusted to some form of substitute care in the territory of the CZ, i.e. on a **preliminary injunction** or a **meritorious decision on substitute care for the UAM**.

UAMs in the CZ are subject to the Act on Social and Legal Protection of Children. All UAMs, whether they were originally staying in the CZ legally or illegally, have their stay legalised from the date on which they were entrusted to substitute care on the basis of a preliminary injunction or meritorious decision until they reach the age of 18 years, regardless of whether or not they seek international protection.

If a child is entrusted to substitute care on the basis of a **preliminary injunction**, that child does not gain authorisation for permanent residence in the territory of the Czech Republic, but only authorisation for temporary stay in the territory of the CZ without a visa (Section 18(d) (4) of the Act on the Residence of Foreign Nationals). The preliminary injunction expires with the meritorious decision or at latest at the moment that the UAM reaches the age of 18 years. In second mentioned case the UAM also loses authorisation to stay in the territory of the CZ.

If a foreign national is entrusted to the substitute care of a natural person registered for permanent residence in the CZ or placed in an accommodation facility on the basis of the **meritorious decision**, he/she gains authorisation for permanent residence in the territory of the CZ from the date on which he was entrusted to substitute care until he reaches 18 years of age, regardless of whether or not he/she seeks international protection. If the meritorious decision has been issued and becomes enforceable before the foreign national reaches the age of 15 years, according to the Act on the Residence of Foreign Nationals that foreign national shall acquire standard permanent residence authorisation upon reaching the age of 15 years. If the above occurs after the foreign national reaches the age of 15 years, that foreign national shall merely acquire permanent residence authorisation which ends upon reaching the age of 18 years – the validity of the permit does not terminate if the legal capacity of this person was restricted by the court decision or if the foreign national subsequently lodged an application for permanent residence within 60 days³⁷, specif-

³⁷ According to provision Section 87(7)(a) Act on the Residence of Foreign Nationals.

ically an application for a residence permit for humanitarian reasons. Such applications tend to be obliged. The opportunity for the client to remain in the Facility for Children of Foreign Nationals even after reaching the age of 18 years when he is no longer subject to the judicial decision is of significant benefit. The ZDC attaches its support, the residence agreement and confirmation of study to the application. The client is still fully dependent and gaining legalised stay is easier. To make it possible to lodge an application for permanent residence if a previously issued administrative expulsion decision exists, it is essential that the foreign national use the legal options available for annulling that decision. The Police may cancel the validity of an administrative expulsion decision in the case of foreign nationals entrusted to substitute care, who have reached 18 years of age and according to the Social and Legal Child Protection Authority report making an effort to integrate in the territory.³⁸ For the purposes of permanent residence proceedings, the onus is on the foreign national to obtain other essential documents required by law to facilitate a decision on such applications – a valid travel document and proof of securing accommodation in the territory.

Upon reaching 18 years of age, the situation changes fundamentally and the stay of each young foreign national must be treated individually – the range of rights and obligations differs according to whether or not the foreign national has been granted international protection. If the foreign national has not been granted international protection, on the day the he/she reaches 18 years of age, he/she may lodge an application for permanent residence within 60 days (see paragraph above concerning meritorious decisions and reaching the age of majority) specifically an application for a residence permit for humanitarian reasons.

If legal steps have not been made to legalise the former minor's stay, the Ministry of the Interior of the CZ shall issue him with a departure order with a deadline by which he/she must leave the CZ.

³⁸ According to provision Section 122 (5)(c) and (6)(b) Act on the Residence of Foreign Nationals.

> When an unaccompanied minor is **granted a status as a minor** (please elaborate below):

A foreign national who has been granted some form of international protection gains a residence permit for the territory of the CZ (in the case of asylum, permanent residence in the territory remains valid while the asylum decision is valid – unlike with subsidiary protection, with asylum the duration of permanent residence is not limited in advance in the decision, whereas with subsidiary protection residence is permitted for a period stipulated in the subsidiary protection decision) and his/she receives a permit card for a beneficiary of international protection. As a beneficiary of international protection he/she is allowed to join the *State Integration Programme* (no age restriction).

Q6. b. Please describe how unaccompanied minors who are approaching 18 years of age are **identified** in your (Member) State so that transitional measures/plans can be introduced as part of their care/integration/return. How often is this review being done, e.g. every month, etc.?

In all cases, the Social and Legal Child Protection Authorities are informed of the presence of a UAM in the territory of the Czech Republic³⁹. Those UAMs in the territory of the Czech Republic who:

- a) have permanent residence;
- b) have permitted permanent residence or are registered as staying in the territory of the Czech Republic for a period of at least 90 days;
- c) have lodged an application for international protection in the territory of the Czech Republic;
- d) are entitled to stay in the Czech Republic on a permanent basis;

³⁹ Cf. Section 2(2) Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

- e) are an asylee or person enjoying subsidiary protection,
- f) come under the personal care of the Social and Legal Child Protection Authorities (however the law counts also with the children who have not yet legal stay – the social and legal protection is also provided to children who have not yet permitted permanent residence or are not registered as staying in the territory of the CZ for a period of at least 90 days⁴⁰).

In view of the fact that this concerns children without parents, who moreover are typically entrusted to some form of substitute care, such children are registered in social and legal records as **vulnerable children, i.e. children under the statutory protection of the state**. The Social and Legal Child Protection Authority is required to regularly evaluate the situation⁴¹ and, on the basis of such evaluation, to create an **individual protection plan for the child in question**⁴². The Act does not specify any precise time interval for review of the evaluation and the child's approved individual protection plan for the child; in this respect the Act states that regular assessment of the situation of a child and his/her family should be conducted as necessary based on the development of the child's situation which should in all cases be mapped out both in the evaluation and in the child's individual protection plan, if relevant from a point of view of provision of statutory protection of the child. Both evaluation of the child's situation and the individual child protection plan involve both practical questions regarding provision of care for the UAM or potentially other provisions for the UAM, and issues concerning the residential status of the UAM in the territory of the Czech Republic and his/her integration, even after reaching 18 years of age, and potentially departing from the territory of the Czech Republic (having reached 18 years of age). With this in mind, the MoEYS issued procedural recommendations to help employ-

⁴⁰ Cf. Section 2(2) Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

⁴¹ Cf. Section 10(3)(c) Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

⁴² Cf. Section 10(3)(d) Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

ees orient themselves in various matters relating to the residential status of the UAM in the territory of the Czech Republic and the significance of reaching the age of majority (18 years of age).

Furthermore, an **individual personality development plan** and an **individual education plan** exist for each client of ZDC. On the basis of these documents the client is guided towards integration into the Czech education system and Czech society. Each client is allocated a guarantor – a specialised pedagogue who, together with the client, creates both plans and subsequently, once every six months, reviews the plans. Subsequently, the guarantor presents the results of the review at a meeting of pedagogues where the plans may be expanded at the recommendation of other specialists. The stipulated tasks of individual programmes also focus on preparing children for their departure from the facility.

If the foreign national is also beneficiary of international protection, he/she may apply to join the *State Integration Programme* which provides services and benefits in the areas of housing, education, employment and health and social care.

Q6. c. When are **transitional measures/plans** for those unaccompanied minors turning 18 years of age likely to commence in your (Member) State, e.g. how many months/years before? And for how long can such measures continue after the unaccompanied minor reaches adulthood, e.g. is there any age threshold?

The specialised activities with the UAM begin immediately upon reception to the Facility for Children of Foreign Nationals. Each client undergoes an 8-week diagnostic stay, the result of which is comprehensive appraisal of his/her needs and situation and a final report. On the basis of these findings, the aforementioned plans (**individual personality**

development plan and **individual education plan**) are created. Plans are revised on an ongoing basis until the departure of the client from the ZDC up to a maximum of 26 years of age, i.e. until completing vocational preparation. However, the client must satisfy student status, i.e. must be a full-time student of secondary school, university or equivalent.

Social and Legal Child Protection Authorities do not have any deadline set regarding when preliminary measures related with reaching the age of majority should begin to be implemented. This always depends on the specific circumstances of the case and the needs identified on the basis of evaluation of the situation of the child and his/her family. The ability of the UAM to lead an independent life and be prepared for adulthood should be reinforced throughout provision of intervention by the Social and Legal Child Protection Authorities. Specific questions concerning the child's residence status in the territory of the Czech Republic will depend on the specific circumstances of the case.

The Social and Legal Child Protection Authorities do not have the authority to continue in intervention once the child reaches the age of 18 years. According to social and legal protection quality standards⁴³ they must ensure that services are not interrupted. At very least, the Social and Legal Child Protection Authority should arrange contact between the UAM and different forms of assistance, for instance with a municipal social worker, who can be of further help to the UAM in resolving his/her affairs. However, unlike intervention by the Social and Legal Child Protection Authority, the use of any further services is dependent on the consent of the UAM.

⁴³ Annex No. 1 to Ordinance No. 473/2012 Coll., on implementation of certain provisions of the Act on the Social and Legal Protection of Children.

Section 2

CARE ARRANGEMENTS FOR UNACCOMPANIED MINORS, INCLUDING AFTER-CARE FOR UNACCOMPANIED MINORS TURNING 18 YEARS OF AGE

OVERVIEW OF CARE PROVISIONS AND ORGANISATIONAL SET-UP IN THE (MEMBER) STATE

Q7. a. What **priority** is given to the care for unaccompanied minors in your (Member) State (over their return, for example)? When does the care for unaccompanied minors commence, i.e. before or after status determination?

Minors

The *Policy for Protection and Care of Unaccompanied Minors including Applicants for International Protection* (approved by the Government of the Czech Republic on 6 September 2012) has established a new system of care for unaccompanied minors based on individual approach to every child's needs which should determine the most suitable type of care (care through relatives, close persons, substitute care or placement in an accommodation facility such as one of the facilities for children requiring immediate assistance or institutional care facilities in the territory of the Czech Republic). The ultimate determining factor for the child's placement in a particular facility should always be their best interests and not their nationality.⁴⁴

⁴⁴ Source: The Policy for Protection and Care of Unaccompanied Minors including Applicants for International Protection (approved 6 September 2012)

Upon detection of a UAM in the territory of the Czech Republic, who in such cases is typically arrested by the Police of the Czech Republic, the Social and Legal Child Protection Authority (OSPOD) is notified immediately. Care for the UAM starts immediately after an OSPOD employee takes in the UAM, assuming full responsibility to act in the child's best interests and provide them the help they need. This institution has the obligation to take all necessary measures to protect their life and health and to secure their basic needs to the required extent, including health care⁴⁵, whether or not the UAM is staying in the territory of the Czech Republic legally. The necessary measures taken mostly take the form of a petition for a preliminary injunction placing the UAM in an appropriate environment. The court must decide within 24 hours.⁴⁶ Upon issuance of a preliminary injunction, the UAM gains entitlement to stay in the territory of the Czech Republic. The appropriate environment does not have to be the Facility for Children of Foreign Nationals located on the address Radlická 30, Prague 5, although the majority of UAMs is usually placed there. Once a preliminary injunction has been issued, all necessary care for the UAM will be provided by the Facility for Children of Foreign Nationals with cooperation of OSPOD, whose employee will be designated as carer for the child. The facility's activity with respect for the child's best interests and the respect of all statutory norms is also regularly inspected by the public prosecutor with local jurisdiction. The UAM may also be placed in a facility for children requiring immediate assistance or into foster care for a temporary period of time, or possibly into the care of a natural person (e.g. a relative, if they are already staying in the territory of the Czech Republic).

After the placement of the UAM his/her situation is further assessed in order to ascertain if it is in the UAM's best interests to stay in the territory of the Czech Republic, be reunited with relatives in a different

⁴⁵ Section 37 Act No. 359/1999 Col., on the Social and Legal Protection of Children.

⁴⁶ Section 452, Act No. 292/2013 Col., on Special Judicial Proceedings.

state or be repatriated to their state of origin. The Social and Legal Child Protection Authority is primarily responsible for such evaluation. OSPOD should also simultaneously inform the UAM about his/her right to apply for international protection in the territory of the Czech Republic and explain the application process to him/her. If it is deemed to be in the UAM's best interests is to stay in the territory of the Czech Republic, or if the UAM applied for international protection, actions must be taken without delay towards the meritorious modification of his situation and securing substitute care not only in terms of precautionary measures, but based on the judgement of the court. The UAM may be placed again into any form of substitute care, in practice usually institutional.

As for returns of UAMs, even though forced returns are not prohibited by law, they are not implemented in practice. Returns of unaccompanied minors are always on a voluntary basis. Most of the children from third countries are not returned, because they show no interest.

Adults

Upon reaching the age of majority, a foreign national who has not yet applied for international protection must take legal steps towards legalising his/her stay (lodge an application for permanent residence); if he/she fails to do so, the Ministry of the Interior issues him/her a departure order with set time period within which he/she must leave the territory of the Czech Republic. The time limit for lodging an application for permanent residence is 60 days of reaching the age of 18 years.

A foreign national who has been granted some form of international protection gains a permit to stay in the territory of the Czech Republic and is issued a residence permit for beneficiaries of international protection. A foreign national with a status of a beneficiary of international protection has identical rights and obligations as a Czech citizen, with the exception of the right to vote and certain restrictions

concerning employment in state administration. They may also, if they meet the legal conditions, apply for citizenship. As a beneficiary of international protection, he/she is granted access to the State Integration Programme (the programme has no age limitations).

A foreign national who has reached the age of 18 years and is still in the asylum procedure may be relocated to a Refugee Facilities Administration accommodation centre for adult applicants for international protection.

Q7. b. Please provide a summary overview of the provisions in place in your (Member) State for the **care** of unaccompanied minors following their status determination, including accommodation, guardianship, etc., indicating in particular how the legal status of the unaccompanied minor defines his/her specific care arrangements (e.g. refugees, unaccompanied minors not seeking asylum, etc.).

When a **preliminary injunction** is issued, the UAM is granted an entitlement to stay in the territory of the Czech Republic without a visa, which lasts during the whole period of preliminary injunction (max until 18 years of age).

In the case of **meritorious entrustment** (the court's final decision) to substitute care, it applies according to the law that all UAMs, whether they were staying in the Czech Republic legally or illegally, are granted permission to stay in the territory from the day on which the court places them into substitute care, provided there is at least one natural person that has care over the foreign national and has permanent residence in the territory, or there is a facility in which the child is placed (this is known as legal fiction of permanent residence – the foreign national is viewed as a foreign national with legal permanent residence for rights and obligations purposes).

By imposing institutional care for the unaccompanied minor or by entrustment to substitute family care, the UAM gains the right to be viewed as a citizen of the Czech Republic and identical legislative conditions apply to the UAM as to a Czech child. They have right to direct all-round provision, education, public health insurance and equal access to all services. They receive the right for permanent residence until 18 years of age.

As for the method of providing care, there is no specific blanket arrangement for UAMs (public service protection is provided to all children equally). Also from a point of view of providing care, whether or not the UAM has applied for international protection is irrelevant.

The UAM is subject to the general rules for the given form of substitute care in which they were placed (most commonly that of an institutional facility). The only exception is the Facility for Children of Foreign Nationals at Radlická 30, Prague 5, which is not set out in law (in the eyes of the law it is a youth detention centre, i.e. a custodial facility where also children prone to displays of dangerous behaviour with habitual residence in the territory of the Czech Republic are placed), but administered by ordinance.⁴⁷ According to the law, such a facility may hold up to 48 children, the Facility for Children of Foreign Nationals at Radlická 30, Prague 5, has the capacity to hold 18 children.

At the start of the provision of essential care, the UAM may be placed in a facility for children requiring immediate assistance, which are crisis facilities for children for which the Ministry of Labour and Social Affairs is responsible. The stay in the facility should not exceed a period of 6 months; its objective is to provide a secure environment to the child until a more stable solution to their situation is found. By law, highest possible capacity for such a facility is 28 children.⁴⁸ The law

⁴⁷ Ordinance No. 438/2006 Coll.

⁴⁸ Section 42(3) Act No. 359/1999 Col., on the Social and Legal Protection of Children.

dictates that the facility must have one carer per 4 children.⁴⁹ An ordinance on quality standards requires the facility to have 1 social worker per 10 children.⁵⁰

Representation of the UAM is provided through **guardianship**⁵¹. If none of the legal representatives can represent the UAM during legal proceedings, according to the law the Social and Legal Child Protection Authority as public guardian is authorised to represent him/her⁵². In everyday affairs, the UAM's carer too is authorised to represent the UAM – the head of a facility, or a person that has the UAM placed in their care. Where it is apparent that the UAM's stay in the territory of the Czech Republic will be longer-term and their legal representatives cannot protect the UAM's interests efficiently (which can be assumed if their legal representatives are in a different country), a guardian must be appointed. The head of the facility where the UAM is placed should not be appointed as guardian, nor should any of the employees of the facility, nor another person dependent upon that facility, to avoid potential conflict of interests. The law stipulates the hierarchy when choosing a guardian that applies for UAMs:

- a person identified by the parents;
- a relative or close person to the child or their family, unless the parent explicitly excludes such person;
- a different suitable person.⁵³

⁴⁹ Section 42(4) Act No. 359/1999 Col., on the Social and Legal Protection of Children.

⁵⁰ Annex No. 3, Ordinance No. 473/2012 Col.

⁵¹ Section 928 (1) Act No. 89/2012 Col., the Civil Code, defines situations in which the child may be appointed a guardian (and thus entitles OSPOD to serve as a guardian in urgent legal proceedings directly as a public guardian) – there is none of the parents who, in relation to the child: 1) has and 2) performs full parental responsibility.

⁵² Section 929 Act No. 89/2012 Col., Civil Code.

⁵³ Section 931 Act No. 89/2012 Col., Civil Code.

Appointment of a guardian for a UAM is always dependent on the consent of the potential guardian. If such a person is not found, or does not consent, the Social and Legal Child Protection Authority will be appointed as the UAM's guardian, as the only entity unable to refuse guardianship.

Q7. c. Please describe the procedure (if any) in place in your (Member) State to determine the **best interests of the child** with regard to the care for unaccompanied minors following a positive decision on status. Is this set out in legislation or any other internal administrative regulations?

Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Territory of the Czech Republic and on amendment to certain Acts does not contain any specific provision concerning this matter.

The Policy for Protection and Care of Unaccompanied Minors including Applicants for International Protection (approved by the Government of the Czech Republic on 6 September 2012) has established a new system of care for unaccompanied minors based on individual approach to every child's needs which should determine the most suitable type of care (care through relatives, close persons, substitute care or placement in an accommodation facility such as one of the facilities for children requiring immediate assistance or facilities of institutional care in the Czech Republic territory).

A procedure for assessment and identification of the best interests of a child is not expressly addressed in Czech law either in general terms, or specifically with respect to UAMs. With regard to ensuring the statutory legal protection of children via statutory social and legal authorities, the fundamental instrument in place is **on-going assessment** which can be described as an instrument for social

work based on analysis and identification of the best interests of the child. On the basis of evaluation of the child's and their family's situation, an individual protection plan is created for the child. The law stipulates that the child's **individual protection plan** must be created as of beginning of provision of social and legal protection by the Social and Legal Child Protection Authority, within 1 month of the child's registration in the Social and Legal Child Protection Authority's records⁵⁴. The areas of evaluation of the child's and their family's situation are the following⁵⁵:

a) on-going assessment of the child's situation, which includes

1. determination of the degree of threat to the child's rights and interests,
2. definition of the social, health or other risks the child is facing,
3. assessment of the level of physical and mental development considering the child's age,
4. evaluation of the course of the child's education and expectations for further education,
5. determination and assessment of the child's individual needs and interests,
6. specification of the child's traits and abilities, current or potential,
7. determination and definition of the child's wishes and opinions, considering the child's age and mental capacity,
8. other details necessary for the evaluation of the child's specific situation,

b) on-going assessment of the family's situation, which includes

1. analysis of the family's situation and the family environment,
2. analysis of the causes of crisis in the family,
3. evaluation of the relationship between the child and the parent,

⁵⁴ Section 10(5) Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

⁵⁵ Section 1, Ordinance No. 473/2012 Coll.

4. determination of the family's needs,
5. determination of the family's options, mainly concerning the family's relationship, their financial and social situation
6. determination of the family's capability to educate and nurture the child, evaluating potential risks concerning the child's upbringing,
7. assessment of the family's material and financial living conditions,
8. other details essential for evaluating of the child's specific situation,

c) on-going assessment of the family's broader environment, which includes

1. defining the options in the broader family, including options concerning the broader family's relationships, their financial and social situation, their benefit for the family,
2. defining the options in the family's broader social environment, including the availability and quality of social, health, educational and community services and the safety of the location,
3. other details necessary for the evaluation of the family's broader environment specifically.

Since the adoption of the policy, a "big amendment" of the Act No. 359/1999 Coll. on the Social and Legal Protection of Children, implemented by Act No. 401/2012 Coll., and the related Ordinance No. 473/2012 Coll., which more clearly enshrined on-going assessment of the child's situation as the basic instrument for providing statutory protection of the child's profitable development.

Q8. Which **national/regional/local authorities and organisations** (including NGOs where relevant) are responsible for the care of unaccompanied minors following status determination? Please describe in particular the competent authorities responsible for the provision of accommodation, guardianship, etc., what their specific remits and roles are, any authorities specifically ensuring the principle of the 'best interests of the child' is taken into account, etc.

Name of national competent authority/organisation	Brief description (e.g. remit/role, etc.)	Main activities/responsibilities
<i>Up to 18 years of age:</i>		
<u>Natural person with the child in their care</u>	The child's or his/her family's relative or close person.	<p>Providing personal care for the UAM.</p> <p>Representing the UAM in day-to-day situations.</p> <p>Managing the UAM's other affairs, but only in day-to-day matters.</p>
<u>Foster parent</u>	Relative or non-relative, person appointed by the state, entrusted by the court with provision of personal care (care supported by the state, in the form of material security and provision from the special services network, known as "guiding").	<p>Providing personal care for the UAM.</p> <p>Representing the UAM in day-to-day situations.</p> <p>Managing the UAM's other affairs, but only in day-to-day matters.</p>

Name of national competent authority/organisation	Brief description (e.g. remit/role, etc.)	Main activities/responsibilities
<u>Guardian with personal care</u>	<p>Relative or non-relative, person appointed by the state, appointed as guardian by the court to whose care the UAM is entrusted.</p> <p>(in question Q7b is stated the hierarchy when choosing a guardian that applies for UAM).</p>	<p>Providing personal care for the UAM.</p> <p>Representing the UAM in the manner a parent would, needs court approval in affairs other than day-to-day matters.</p>
<u>Adoptive parent</u>	<p>A relative (very rarely – between relatives are chosen in vast majority cases another forms of substitute care – foster care, entrusting the child to care of another natural person, guardianship), though more commonly a person appointed by the state, that has an interest in forming a legal bond with the child, comparable to the bond between a child and their parent.</p> <p>(There may be newborns amongst UAMs – foreign nationals, who were abandoned in the</p>	Gains parental status to the full extent.

Name of national competent authority/ organisation	Brief description (e.g. remit/role, etc.)	Main activities/ responsibilities
	territory of the Czech Republic; they are placed in infant care institutions, facilities for children requiring immediate assistance or are adopted.)	
<u>Facilities for Children Requiring Immediate Assistance (ZDVOP)</u>	<p>Crisis (asylum) accommodation centres for children, in which the child's stay should not extend a 6-month period.</p> <p>Facilities are run by regional offices, municipalities or private persons. The Ministry of Labour and Social Affairs is responsible for those facilities.</p>	<p>Direct all-round provision (primarily accommodation, meals, clothing, care).</p> <p>Representing the UAM in day-to-day affairs.</p> <p>Managing the UAM's other affairs, but only in day-to-day matters.</p>
<u>Homes for children up to 3 years of age (child care institutions)</u>	<p>Institutional facilities providing care for children younger than 3 years of age (however, children commonly stay on until pre-school age).</p> <p>These facilities are managed by regional offices; one facility is run by the Ministry of Health.</p>	<p>Direct all-round provision (primarily accommodation, meals, clothing, care).</p> <p>Representing the UAM in day-to-day affairs.</p> <p>Managing the UAM's other affairs, but only in day-to-day matters.</p>

Name of national competent authority/ organisation	Brief description (e.g. remit/role, etc.)	Main activities/ responsibilities
<u>Facility for Children of Foreign Nationals (ZDC)</u>	A custodial facility, run by the Ministry of Education, Youth and Sports.	<p>Direct all-round provision (primarily accommodation meals, clothing, care), therapeutic and supportive services, education, intensive work on the integration process, preparation for future independent life.</p> <p>All facilities for administering institutional and preventive education providing care to UAMs run by the MoEYS (also ZDC) cooperate with OSPOD and are overseen by a public prosecutor. All facilities are subject to prescribed care standards for institutions. The role of ZDC in relation to other care centres for UAMs is especially methodological and supportive.</p> <p>Representing the UAM in day-to-day affairs.</p> <p>Managing the UAM's other affairs, but only in day-to-day matters.</p>

Name of national competent authority/ organisation	Brief description (e.g. remit/role, etc.)	Main activities/ responsibilities
<p><u>Educational administering care and educational care facilities for institutional preventive</u></p>	<p>Institutional facilities designated for long-term residence of children based on a court decision.</p> <p>These facilities are run by the regions (children's homes), or the Ministry of Education, Youth and Sports (custodial facilities – children's home and school, educational institutes).</p> <p><u>Facilities where the UAM's may also be placed:</u></p> <p>Educational care centre Klíčov</p> <p>Educational institute (VÚ) Višňové</p> <p>Children's home and school (DDŠ) Sedlec Prčice</p> <p>The departments (sections) that are designated for the care of the UAMs in the above mentioned facilities are under the methodological guidance of the ZDC and operate in a different regime.</p>	<p>Direct all-round provision (primarily accommodation, meals, clothing, care).</p> <p>Representing the UAM in day-to-day affairs.</p> <p>Managing the UAM's other affairs, but only in day-to-day matters.</p>

Name of national competent authority/ organisation	Brief description (e.g. remit/role, etc.)	Main activities/ responsibilities
<p><u>Social and Legal Child Protection Authorities (OSPODs)</u></p>	<p>Public administration facility – municipal councils of municipalities with extended powers or districts of Prague (there are more than 200 OSPODs in the Czech Republic).</p>	<p>Assessing the child's and his/her family's situation.</p> <p>Compiling an individual protection plan for the child as a basic coordination instrument for provision of statutory protection.</p> <p>Performance of the office of public guardian.</p> <p>If designated to do so by the relevant authority, plays the role of the UAM's guardian in various proceedings concerning the UAM's residence status and international protection proceedings.</p>
<p><u>Office for International Legal Protection of Children (ÚMPOD)</u></p>	<p>Guardianship of the UAM with respect to their rights and interests in the territory of the Czech Republic, if so ordered by the court. Search for the UAM's parents, who have not applied for international protection, if the</p>	

Name of national competent authority/ organisation	Brief description (e.g. remit/role, etc.)	Main activities/ responsibilities
	<p>foreign national so desires. Provides comprehensive social and legal protection of children in relations with foreign countries, including protection of the UAM.</p> <p>According to Section 37 Act No. 359/1999 Coll. on the Social and Legal Protection of Children, municipal authorities have an obligation to inform ÚMPOD of how an UAM's situation is resolved.</p>	
Ministry of the Interior	State Integration Programme	Programme run by the Ministry of the Interior aimed at helping beneficiaries of international protection with their integration into society. Participation in the programme is not limited by age.
Non-profit organisations	Guardianship over the UAM with respect to their rights and interests in the territory of the Czech Republic (if appointed as the UAM's guardian,	

Name of national competent authority/ organisation	Brief description (e.g. remit/role, etc.)	Main activities/ responsibilities
	either by the court or the administrative authority conducting the procedure in the UAM's case)	
After reaching adulthood:		
Facility for Children of Foreign Nationals (ZDC)	Student flat Training flat	See question Q9d. A programme is aimed at students from secondary schools and universities or colleges. The aim is to gain a full education in the chosen field with support of full integration into Czech society. Component to the programme is to arrange permanent residence or another form of legalisation of their stay. It is possible to apply for Czech citizenship during this phase.
Ministry of the Interior	State Integration Programme	A programme run by the Ministry of the Interior aimed at helping beneficiaries of international protection with their integration into society. Participation in programme is not limited by age.

ACCOMMODATION ARRANGEMENTS

Q9. a. Please provide information on the **accommodation** options available for unaccompanied minors in your (Member) State following status determination, as follows:

> Accommodation specifically for minors?

The Czech Republic has created a system of substitute care, involving both family and institutional forms of substitute care. This system is applied to all children, and the only special measure with respect to UAMs is the setting up of the Facility for Children of Foreign Nationals at Radlická 30, Prague 5. Under the Act, students of secondary school and university students may remain in this facility even after reaching the age of majority. This concerns only clients who were accepted into the facility as UAMs.

Forms of substitute care in the Czech Republic:

- Care of another natural person (typically a relative or close person; without state support)
- Foster care (related or non-related persons, state assistance in the form of material aid and services)
- Temporary foster care (semi-professional form of foster care for the child by unrelated persons, state assistance in the form of material aid and services)
- Adoption (fictive parent-child relationship)

Institutional care in the Czech Republic:

- Facilities for children requiring immediate assistance (crisis facilities for a period not exceeding 6 months; children of 0–18 years of age; social facilities)
- Children's homes for children up to 3 years of age (longer-term placement; children 0-6/7 years of age; healthcare facilities)
- Educational facilities for administering institutional care and preventive educational care (longer-term placement; children usually between the ages of 3 to 18 years, their stay may be extended on a voluntary basis up to 26 years of age, if the child continues in vocational preparation; educational facilities)

Homes for the disabled (these facilities are not primarily intended for children, but for persons with disabilities in general; children are placed in these facilities due to their disability; placement is not limited by age; social facilities)

> General accommodation with special provisions for minors?

No

> Specialised accommodation for unaccompanied minors with specific identified needs?

ZDC provides clients specific care according to their current situation, personal needs and possibilities and in accordance with their best interests. For each client an individual personality development plan and individual educational plan are drawn up. Every client is provided with, in addition to regular prevention, highly specialized healthcare. In cooperation with NGO they provide clients with legal advice and they deal with the legalization of residence.

If a UAM has a disability, he/she may be placed in a home for the disabled. However, this facility is not intended exclusively for children. Children are placed here together with adults. The current trend, however, is to reduce the number of children placed in homes for the disabled, since it is a very segregating environment.

> Specialised accommodation for (unaccompanied) minors victims of trafficking?

There is no specialised accommodation, however, in the ZDC the special care to minors victims of trafficking is provided.

> Accommodation with a foster family?

Yes. Substitute family care is an option.

> Other types of accommodation for unaccompanied minors, e.g. accommodation with adults if the unaccompanied minor is over 16 years of age, etc.?

The Act does not exclude the possibility of children over the age of 16 living independently, although such measures are not systematically applied or encouraged. Even in the case of these children, the policy of “substitute care” is still applied (see above, answer to question a.).

Q9. b. Please provide an estimate of the **costs** associated with the accommodation of unaccompanied minors, as well as how these are measured/defined in your (Member) State, e.g. per day/child, etc.

The facilities providing care to unaccompanied minors are almost all directly operated by MoEYS (an exception facilities for children requiring immediate care, which are operated by the Ministry of Labour and Social Affairs) and are fully financed from the state budget. The budget is not created normatively, but according to the current needs of the facility. The ZDC provides constant care, 24 hours a day, 365 days a year, provides full direct support, covering expenses connected with education, extra-curricular activities and further specialist care. Furthermore, numbers of children who are placed here change considerably from year to year. Therefore even an estimate of costs for 1 child would be thoroughly fictitious.

Q9. c. Please provide information on the **staff** responsible for the care of unaccompanied minors, for example, main tasks, any child-specific training received, etc.

Staffing requirements for separate forms of care differ depending on the form of substitute care involved and in the case of institutional care it depends also on what type of services the facility in question offers. It should be emphasised that the law does not place any special requirements on the qualifications of substitute carers in connection with their provision of care to UAMs.

Substitute family care

The law requires in general that the person to whose care the child has been entrusted must provide a guarantee to provide due care.⁵⁶ In the case of adoption, the adopter is required to guarantee that he/she will be a good parent to the child on the basis of his/her personal characteristics and way of life and also the reasons that lead him/her to consider adoption.⁵⁷ In the case of substitute family care provided for the child by unrelated persons, applicants for any of these forms of care (temporary foster care, foster care, adoption) go through a process known as specialist assessment focussing on their personality traits, mental condition and state of health, comprising assessment as to whether or not the applicant's mental, physical and sensory state of health would be an obstacle to long-term care for the child, suitability for being brought up, motivation that led to the application for adoption or entrustment to foster care, stability of the marriage and family environment, the social environment, especially housing and household, ethnic, religious and cultural background of the applicant, and potentially other aspects decisive for adopting or fostering a child.⁵⁸ If the applicant is deemed to be eligible to provide the form of care in question, an administrative decision is issued ordering his/her registration in the appropriate register kept by the regional office which then makes an assessment of whether he/she is suitable for a particular child.

Care in facilities for children requiring immediate assistance

In the case of children care in facilities for children requiring immediate assistance, the law stipulates the qualification requirements both for a direct carer⁵⁹ (1 to 4 children), and for a social worker⁶⁰ (1 to 10 children). Satisfaction of these qualification requirements is subject to

⁵⁶ Section 954(1), Section 961(1) Act No. 89/2012 Coll., Civil Code.

⁵⁷ Section 799(1) Act No. 89/2012 Coll., Civil Code.

⁵⁸ Section 27(2)(b) Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

⁵⁹ Section 49a Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

⁶⁰ Section 110 Act No. 108/2006 Coll., on Social Services.

verification by the regional office and, in the case of a social worker, also subject to inspection of provision of social and legal protection of children performed by designated regional branches of the Public Employment Office. The standards for quality of providing social and legal protection to children by facilities for children requiring immediate assistance⁶¹ additionally include a standard for "employee professional development" which imposes the obligation on the facility to have a written procedure for regular employee evaluation containing the setting, development and achievement of professional goals and the further professional qualification needs of the employee and a plan for the continuing education of individual workers, in addition to the obligation to secure the support of an independent qualified specialist for its employees. According to the law, a social worker must undergo at least 24 hours of continuing education per year, in a form specified by the law.⁶²

Qualifications in educational facilities – MoEYS

Facility employees are divided into pedagogical and non-pedagogical personnel.

Pedagogical workers are university-educated specialists in the field of special needs pedagogy, teaching, child care, psychology and psychotherapy. The qualification of pedagogical staff is regulated by the Act on Educational Workers. In addition, every pedagogical worker exercising his/her activity in facilities to undergo institutional and protective education is legally obliged to prove his/her mental capacity. This means that he/she has to undergo a psychological examination at an accredited workplace that will issue the necessary proof. Without this document, the worker cannot be employed. Moreover every facility prepares an educational plan for pedagogical staff every year – it is given by the legislation.

⁶¹ Annex No. 3 to Ordinance No. 473/2012 Coll.

⁶² Section 111 Act No. 108/2006 Coll., on Social Services.

Non-pedagogical workers include university-educated social workers, accountant, then housekeepers, cooks, cleaning staff and a maintenance worker.

The ZDC fully support the further education of workers to raise or enhance their qualifications. Every year, the management holds a cycle of seminars according to the needs of the facility and also supports individual educational activities of individual employees.

In case the ZDC organizes educational events regarding the UAMs, always invites also care centres which are under its methodological guidelines.

Qualifications for children's homes for children up to 3 years of age - Ministry of Health

We do not have more information to this section.

Q9. d. What are the implications of unaccompanied minors' **transition** from the age of minority to 18 years of age for their accommodation arrangements up to that stage?

> Do these unaccompanied minors turning 18 years of age change accommodation, or do they stay in the same accommodation, for example, until they reach a certain age? If so, what is the age threshold?

In the case of substitute family care, it applies that:

- care of another natural person (relative or close person to the child) terminates upon the child reaching the age of 18 years at the latest. With respect to the fact that the carer in these cases is the child's relative or close person, it can be assumed that cohabitation with the UAM will continue even after his/her reaching the age of 18 years, if the UAM needs such cohabitation to continue;

- foster care terminates upon the child reaching the age of 18 years at the latest, although material aid of this form of care (fostering fee, child needs allowance) does not terminate if the child remains dependent in foster care, i.e. typically in a situation where the child continues in vocational preparation and lives permanently and shares in payment of the costs for his/her needs with the person who was his/her foster parent before reaching the age of 18 years. Material aid is maintained for the duration of the child status of a supported child. Material aid lasts for the duration of the child's dependency, until the child reaches the age of 26 years at the latest.⁶³ Upon termination of foster care, the child is entitled to a material aid payment of CZK 25,000⁶⁴;
- adoption is in essence identical to the parent-child relationship. It lasts until the child reaches the age of 18 years. Adoptive parents have the obligation to support the child which continues until the child is able to support him/herself independently.

In the case of placement of a child in a facility for children requiring immediate assistance, continuation in such placement upon reaching 18 years of age is no longer possible. With respect to the asylum-related (critical) nature of the service which does not anticipate a long-term stay in such facilities, no material allowance, which the child would receive upon reaching the age of 18 years and departure from the facility, is stipulated.

In the case of a stay in the Facility for Children of Foreign Nationals

The Facility for Children of Foreign Nationals comprises:

1. Diagnostic facility
2. Primary school
- 3. Student department**
- 4. Training flat**
5. Educational care centre

⁶³ Section 47f(2) and Section 47i(1) Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

⁶⁴ Section 47h Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

Student department

This detached department of the ZDC houses secondary students upon reaching 15 years of age, as a rule upon completing primary school education. These students have been prescribed institutional care until they reach the age of 18 years, and may be extended to 19 years of age in exceptional cases. Upon reaching the age of majority, student clients have the opportunity to remain in this facility on the basis of residence agreement. This agreement ensures for the student the continuing right to direct all-round provision, i.e. paid accommodation, meal allowance, clothes allowance, public transport fares and school and extra-curricular activities. The agreement may be extended annually up to 26 years of age, i.e. up to the same age as Czech children may enjoy the benefits of being a student. Students live at the detached facility of the Student's Department, Prague 4 – Háje. All students attend schools, as a rule secondary vocational school or secondary school, and in exceptional cases they attend the primary school at ZDC. Students cook, clear up and do the laundry for themselves. Cooking courses attended by carers are held regularly. Extra-curricular activities include all-day excursions (as part of getting to know the CZ), going swimming, playing football, attending various cultural events, cinema, concerts and festivals. The capacity of the student department is 8 students. The activities provided by the Facility are intended to cater for the individual needs of individual students and preparation for an independent life.

Start-up – Training Flat

Since the spring of 2015, a Training Flat for students has been in operation for the final phase of the students' stay. Students who have reached the age of majority live in this Flat on the basis of a residence agreement. The capacity of the Flat is 4 students. The main aim of the Flat is to prepare students for an independent life after leaving the ZDC. The students in the Flat live alone, according to the rules for use of the Flat. A pedagogical worker is responsible for maintaining contact with the students and overseeing everyday life in the Flat, making regular visits to the Flat. The students alone have to organise

their own everyday life in the Flat from making meals for themselves to dealing with problems, e.g. contacting repair men etc. Regular social training takes place in the Flat as part of preparations for departure from the ZDC after completing their studies. Students are guided towards the responsibilities that living alone involves, towards financial literacy, organising their time, achieving excellent results in their studies, independent contact with authorities and schools, towards maintaining social contacts in the Czech communities and independent life in Czech society.

> Does your (Member) State have any measures in place to support the unaccompanied minor before the transition, e.g. information provision?

Coordination of solutions for the UAM's situation with respect to provision of basic living and housing needs for the duration of the UAM's stay in the Czech Republic, until the UAM reaches the age of 18 years, is the job of the Social and Legal Child Protection Authority. The Authority works **on the basis of regular on-going assessment of the UAM's situation, on the basis of which it creates the child's individual protection plan**. Both on-going assessment and the child's individual protection plan must be updated regularly.⁶⁵ In addition, the Social and Legal Child Protection Authority must ensure further seamless provision of protection by other natural and legal persons to the quality standards as defined at ordinance level⁶⁶. According to these aforementioned standards the Social and Legal Child Protection Authority is therefore required, amongst other things, to concentrate intensively on preparing children over 16 years of age in institutional care, substitute family care or in the care of curators for an independent life. UAMs also fall into this category. **The Social and Legal Child Protection Authority is therefore required as a part of individual planning of providing public law child protection to focus its attention on the fact that**

⁶⁵ Section 10(3)(c) and (d) Act No. 359/1999 Coll., on the Social and Legal Protection of Children, and Standard No. 9 of Annex No. 1 to Ordinance No. 473/2012 Coll.

⁶⁶ Standard No. 14 of Annex No. 1 to Ordinance No. 473/2012 Coll.

the child is approaching the landmark of 18 years of age and to prepare the child for the transition into adult life in all areas that are important for the child in question, which for the UAM may mean the necessity to resolve his/her residence status once he/she reaches the age of 18 years.

If the UAM has been placed in the specialised Facility for Children of Foreign Nationals, an **individual personality development plan** and **individual education plan** will be created for him/her at the facility. On the basis of these documents, the client is gradually guided towards gradual integration into the Czech education system and into Czech society. The tasks of the separate programmes include activities that prepare the children for leaving the facility. A **socialisation programme** is also created for individual clients by the specialists at the facility. About 1 year before their departure from the facility, each client begins preparations for entering an independent life, receives important information concerning their rights and available assistance, important contact information (curator, public employment office, foreign police, health insurance company, embassy, non-profit organisations etc.) and altogether they seek accommodation and employment options. UAMs who are long-term clients of the facility and are students in secondary or higher education move from the diagnostic facility to the diagnostic facility study department. The rules and regime in this facility are focused towards greater independence and taking responsibility for their own actions. Despite this, clients at the study department are still in the company of specialist workers, proceeding according to the individual plans in place for each client.

Clients are provided both support and social and legal advice by non-profit organisations, specifically the Organisation for Aid to Refugees (OPU), InBaze, Meta and the Counselling Centre for Integration (PPI).

> Does your (Member) State have any measures in place to support the unaccompanied minor during the transition, e.g. pathway plan, personal adviser, etc.?

Although provision of social and legal protection of children ends upon reaching the age of 18 years, with the child's consent, the child's individual protection plan should be adapted to ensure seamless provision of services after the child crosses the milestone of 18 years of age.⁶⁷ Therefore, before reaching the age of 18 years the child may be introduced to a social curator (municipal social worker) who can take on the child's case, if the child consents to this. Similarly, the child may be connected up with other sources of assistance and support, including specialised organisations and services. Upon reaching the age of 16 years, the child's individual protection plan should concentrate intensively on preparing the child for independent life.

The law does not provide for a special institute similar to a "pathway plan" nor a "personal adviser" appointed to a specific child. Therefore neither does a similar institute exist for UAMs. A similar role is currently played by the municipal social worker.

Support is also provided to the foreign nationals by the specialist workers of ZDC in the course of their transition from the facility (see answer above). Moreover, after leaving the ZDC, workers of non-profit organisation OPU also remain in contact with former UAMs and continue to provide them with social and legal advice, in particular social assistance while looking for accommodation, housing or during negotiations with the authorities.

> Does your (Member) State have any measures in place to support the unaccompanied minor after the transition, e.g. formal follow-up or after-care service, open-door policy at accommodation facility, etc.?

OPU workers remain in contact with former UAMs who have reached the age of majority even after their departure from the ZDC and continue to provide them with social and legal advice, in particular

⁶⁷ Standard No. 14 of Annex No. 1 to Ordinance No. 473/2012 Coll.

social assistance while looking for accommodation, housing or during negotiations with the authorities. The OPU also has the opportunity to provide short-term accommodation in a “Half-Way” flat once they leave the Facility for Children of Foreign Nationals.

The Ministry of the Interior runs the *State Integration Programme* for helping beneficiaries of international protection in their integration into society. This programme has introduced the option for UAMs who have been granted asylum of an **individual integration plan** under which the minor is provided individual assistance according to his/her needs. This programme may be applied even after reaching the age of majority.

Q9. e. Is there any research available in your (Member) State on:

> The **standards of accommodation** provided to unaccompanied minors?

No. However, for instance facilities for children requiring immediate assistance must comply with quality standards described in Annex No. 3 to Ordinance No. 473/2012 Coll. and compliance with these standards is subject to socio-legal protection of children inspections conducted by regional branches of the Public Employment Office.

> The **effects** of accommodation arrangements on the integration of the unaccompanied minors, including those turning 18 years of age (as conducted by relevant authorities, academics, NGOs, etc.)?

No.

GUARDIANSHIP ARRANGEMENTS

Q10. a. Please describe the arrangements for **guardianship** of unaccompanied minors in your (Member) State following status determination, specifying in particular who can become a guardian to an unaccompanied minor, the guardian's role, e.g. legal representation, etc., which unaccompanied minors (e.g. asylum/non-asylum seeking) are entitled to a guardian and until what age, etc.

In legislation on guardianship or custodianship of a child, foreign child status is irrelevant with respect to whether or not the UAM has applied for international protection. If a child is in substitute care in the territory of the Czech Republic, even just on the strength of a preliminary injunction and if it is clear that he/she does not intend to depart from the territory in the near future and that his/her legal guardians are not able to represent the child in the territory of the Czech Republic, a custodian or guardian is appointed for the child. More often a custodian is appointed, since it can be assumed that the legal guardians will not be able to represent the child to the full extent⁶⁸. Furthermore the law invests the Social and Legal Child Protection Authority with the right to appoint a guardian or custodian to the UAM as an essential measure aimed at ensuring protection of the life, health and provision of basic needs, even in a situation where the UAM does not fall under the jurisdiction of statutory child protection.⁶⁹ The court decides on appointment of a guardian or custodian and until this decision is issued, the public guardian, which is the Social and Legal Child Protection Authority, is entitled to represent the child.⁷⁰

⁶⁸ Section 928 Act No. 89/2012 Coll., Civil Code.

⁶⁹ Section 37(3)(b) Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

⁷⁰ Section 929 Act No. 89/2012 Coll., Civil Code.

The head of the facility where the UAM is placed should not be appointed as guardian⁷¹, or any of the employees of the facility, nor another person dependent upon that facility, to avoid potential conflict of interests. The law stipulates the hierarchy when choosing a guardian that applies for UAMs:

- a person identified by the parents;
- a relative or close person to the child or their family, unless the parent explicitly excludes such person;
- a different suitable person.⁷²

Appointment of a guardian for a UAM is always dependent on the consent of the potential guardian. If such a person is successfully identified, but does not consent, the Social and Legal Child Protection Authority will be appointed as the UAM's guardian, as the only entity unable to refuse guardianship. The same rules apply also to appointment of a custodian for the child.⁷³

The guardian is entitled to act on behalf of the child to the same extent to which the child's parents would be entitled. Therefore the guardian is entitled to represent the child in those legal matters for which the UAM is not yet of a legal age. A custodian is entitled to represent the child in those legal matters described in the operative part of the judgement that charged the custodian to his/her/its function.

Every decision made by the guardian or custodian in matters which cannot be described as day-to-day is subject to approval by the court.⁷⁴

⁷¹ Section 928 (1) Act No. 89/2012 Coll., the Civil Code, defines situations in which the child may be appointed a guardian (and thus entitles OSPOD to serve as a guardian in urgent legal proceedings directly as a public guardian) - there is none of the parents who, in relation to the child: 1) has and 2) performs full parental responsibility.

⁷² Section 931 Act No. 89/2012 Coll., Civil Code.

⁷³ Section 944 Act No. 89/2012 Coll., Civil Code.

⁷⁴ Section 934(1) Act No. 89/2012 Coll., on the Social and Legal Protection of Children.

Both guardian and custodian of the child are required by the court to send regular reports on the child's welfare and development and to present account statements concerning administration of the child's assets at least once a year, unless the court stipulates a shorter interval. The court may relieve the guardian of the obligation to send detailed accounts of the child's assets if income from his/her property probably will not exceed the costs of maintaining such assets and of the child's upbringing and meals.⁷⁵

The child should be represented also in administrative proceedings relating to the child's residence status and the granting of international protection. At the moment at which such proceedings are launched, the UAM will not yet have a court-appointed guardian/custodian to represent the child in such proceedings. Therefore the court is required to appoint a so-called proceedings guardian for the child.⁷⁶ According to the law, the person to be appointed guardian should be someone who already has the child in his/her care, or a different suitable person. This person is required to accept the office of guardian unless serious reasons prevent him/her from doing so. However, the appointed guardian must not be a person whose interest in the result of proceedings gives reason to fear that he/she does not intend to duly protect the interests of the person he/she represents.⁷⁷ If no other suitable person exists who could be appointed as guardian to the UAM, the Social and Legal Child Protection Authority shall be appointed as public guardian. It should be added, however, that the Social and Legal Child Protection Authority is staffed by social workers and not lawyers and so they are seriously underqualified to act in proceedings on the residence status of the UAM or on international protection.

⁷⁵ Section 934(2) Act No. 89/2012 Coll., on the Social and Legal Protection of Children.

⁷⁶ Section 32(2)(a) Act No. 500/2004 Coll., Administrative Code.

⁷⁷ Section 32(4) Act No. 500/2004 Coll., Administrative Code.

Q10. b. What are the implications of unaccompanied minors' transition from the age of minority to 18 years of age for their guardianship arrangements up to that stage, e.g. are these unaccompanied minors still entitled to a guardian and until what age, or are they expected to become fully autonomous, also in terms of finances, etc.? What measures (if any) are in place to support the unaccompanied minor before, during and after the transition, e.g. information provision, informal follow-up with guardians, etc.?

According to the Czech law, a person gains capacity to perform legal acts gradually. A child is at all times eligible to act in such matters that correspond to the intellectual and volitional maturity of the child's age (an objectivising criterion).⁷⁸ However, a minor is never eligible to act in matters where even his/her legal representative would need the consent of the court.⁷⁹ Such matters are those concerning legal proceedings that concern the child's existing or future assets or separate components of such assets, unless this concerns day-to-day matters, or also an extraordinary matter that, however, involves an insignificant sum of money. The consent of the court is needed in all cases (i.e. the minor is not entitled to act independently) for legal proceedings under which the child:

- acquires real property or part thereof and wishes to dispense with;
- encumbers property as a whole or a significant part thereof;
- acquires a gift, inheritance or legacy of significant value, or refuses such gift, inheritance or legacy, or provides such gift or gift that represents a significant part of his/her property, or

⁷⁸ Section 31 Act No. 89/2012 Coll., Civil Code.

⁷⁹ Section 36 Act No. 89/2012 Coll., Civil Code.

- enters into a contract which imposes the obligation of long-term performance, a credit or similar contract, or a contract concerning housing, namely a rental contract.⁸⁰

No rules exist on how the guardian or custodian should prepare the child for the transition to full legal capacity, how he/she should proceed in that transition and what support to provide after transition. It applies generally that for the duration of guardianship and custodianship, the child should be involved to the extent that his/her developing abilities permit, including providing the child with necessary information. In the event that the guardian or custodian is OSPOD, this obligation follows from Section 8(2) and (3) of Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

Guardianship and custodianship of a child expires upon the child acquiring legal capacity, which occurs, with some exceptions, upon reaching the age of 18 years. No subsequent support measures exist.

Q10. c. Is there any research available in your (Member) State on:

- > The standard of guardianship provided to unaccompanied minors?
- > The effects of guardianship on the integration of the unaccompanied minors, including those turning 18 years of age (as conducted by relevant authorities, academics, NGOs, etc.)?

In both cases we are unaware that any such research has been conducted.

⁸⁰ Section 898 Act No. 89/2012 Coll., Civil Code.

CONSEQUENCES OF A TEMPORARY RESIDENCE PERMIT ON THE CARE ARRANGEMENTS FOR UNACCOMPANIED MINORS

Q11. What impact does the expiration of a **temporary residence permit** have on the above-mentioned care arrangements for unaccompanied minors in your (Member) State, e.g. unaccompanied minors disappearing from care, etc.?

If the child is entrusted to substitute care on the basis of a preliminary injunction, that child does not gain permanent residence entitlement for the territory of the Czech Republic, but merely entitlement for temporary stay in the territory of the CZ without a visa (Section 18(d)(4) of the Act on the Residence of Foreign Nationals).

The preliminary injunction expires by meritorious decision or on the day on which the UAM reaches the age of 18 years. In second mentioned case, the UAM also loses entitlement to stay in the territory of the CZ. Unlike UAMs entrusted to substitute care on the basis of a meritorious decision of the court, the provision according to which entitlement to stay in the territory of the CZ may be extended if the UAM applies for permanent residence for humanitarian reasons within 60 days does not apply.

A preliminary injunction does not cease to apply upon the UAM disappearing from care. It ceases to apply either upon expiry of its duration which may be set for 1 month (may be repeatedly extended, but in all cases only by 1 month), or for 6 months (in cases where the international jurisdiction of the Czech courts does not apply). It may also cease to apply by cancellation.

CHALLENGES AND GOOD PRACTICES

Q12. Please indicate the main **challenges** associated with the care of unaccompanied minors in your (Member) State experienced by both unaccompanied minors, including those turning 18 years of age, and/or the competent authorities (e.g. based on existing studies/evaluations, information received from competent authorities, NGOs/IGOs, case law, etc.) and how these challenges could be overcome. Please provide references.

The views of the actors on the system of substitute care for the UAM are different for each of the actors involved in the topic of minors.

According to representatives of the Facility for Children of Foreign Nationals, the problem lies in protracted administrative and judicial proceedings and decision making on the UAM's case. Particularly when working on family reunification to another EU Member State, the process is unnecessarily drawn-out, taking 6 months at least. Another problem in their view is age verification. In their opinion, they lack a committee of experts to objectively appraise the actual age of a UAM.

According to the representatives of the Ministry of Labour and Social Affairs, one of the biggest challenges in the area of care for the UAMs is the creation of an appropriate environment of substitute care. UAMs are mainly located in the Czech Republic in institutional facilities, although formally they can be entrusted to some form of substitute family care. However, in their opinion, there are not enough candidates for substitute family care who would be able to take care of the UAM and also according to them the system of mediation of substitute family care is set, in terms of claims placed on those people who are interested in the substitute family care, rather on the Czech

population and it may not be acceptable and appropriate for potential foreigner candidates who have the necessary residence status in the Czech Republic and can ask for mediation of some of the forms of substitute family care.

The Facility for Children of Foreign Nationals provides clients specific care according to their current situation, personal needs and possibilities and in accordance with their best interests. Moreover, if it is in the child's best interests, after the initial phase, the facility is looking for possibilities of substitute family care. In their opinion, the care of a close person is ideal, in some cases foster care is appropriate, but the host care is more used.

Q13. Please describe any examples of **good practice** in your (Member) State concerning the care of unaccompanied minors, including those turning 18. *Please identify as far as possible who considers the practice in question as successful, since when the practice has been in place, its relevance and whether its effectiveness has been proven, e.g. through an (independent) evaluation. Please reference any sources of information supporting the identification of the practice in question as a 'good practice' (e.g. evaluation reports, academic studies, information received from competent authorities, NGOs/IGOs, etc.).*

Representatives of the Facility for Children of Foreign Nationals stated that an integrated and legislatively firmly enshrined system of care for UAMs has already been in existence for 14 years.⁸¹ It thus guarantees optimum conditions for the individual development of separate clients and equal conditions for nurture and education as apply for Czech

⁸¹ On 1. 11. 2003 MoYES established the Facility for Children of foreign Nationals and Centre for Education Care with headquarters at Radlicá 30, Prague 5. The first children arrived on 15. 6. 2004.

children. The work of the facility is regularly monitored by state inspection authorities and by the Ombudsman of the CZ, which guarantees that the work of the facility's specialists is always in the best interests of the child. The facility provides its clients specialised educational, psychological, psychotherapeutic, health and socio-legal services via its employees. Therefore it does not rely on external, costly specialists. It also works in cooperation with the non-profit sector, so in the course of collaboration on certain projects they can take advantage of wider options available to optimise care for the UAM. This concerns legal advice, enhanced options for education, extra-curricular activities.

From the point of view of the representatives of the Ministry of Labour and Social Affairs, the good practice in the care of UAMs can be considered to be the fact that, if the UAMs is detected, a worker of OSPOD is always called to deal with his case, whether the UAM is legally or illegally present in the Czech Republic, shall take the measures necessary to ensure the protection of its life and basic life needs, typically in the form of filing an preliminary injunction requesting the UAM to be placed in an appropriate environment. Good practice can certainly be said that with the injunction provision, UAM will obtain a residence permit in the Czech Republic, albeit only temporary.

Section 3

INTEGRATION OF UNACCOMPANIED MINORS, INCLUDING TRANSITIONAL ARRANGEMENTS FOR UNACCOMPANIED MINORS TURNING 18 YEARS OF AGE

OVERVIEW OF INTEGRATION PROVISIONS AND ORGANISATIONAL SET-UP IN THE (MEMBER) STATE

Q14. a. What **priority** is given to the integration of unaccompanied minors in your (Member) State (over their return, for example)?

In this area, the Czech Republic follows the *Policy for Protection and Care of Unaccompanied Minors including Applicants for International Protection*, adopted in 2012. This Policy established rules for dealing with unaccompanied minors who arrive in the Czech Republic without a legal guardian, and also established a new system of care and conditions for integration of this group. The system of care for unaccompanied minors should be based particularly on individual assessment and evaluation of the needs of each child, on the basis of which the most suitable type of care should be chosen. The absolute decisive factor for placement of a child in a specific facility should be his/her best interests and not his/her nationality.

Returns of unaccompanied minors to their country of origin take place only in exceptional circumstances and solely on a voluntary basis in

the Czech Republic. For the forced return of the UAM to the country of his origin it is necessary to demonstrate the fulfilment of international obligations under the Convention on the Rights of the Child, that is to say, that in the country of origin he/she will be given sufficient care, ideally by his parents or other family members, or as the last resort within the substitute care systems. Given the fact that most of the UAM argue that in the country of origin does not have parents or suitable family members or that they are not in touch with them or that they are of unknown origin, and the level of "substitute family care" is in the countries from which these persons originate on the zero level or deeply under the standards which are requested by the Convention on the Rights of the Child either because of the security situation (Iraq, Afghanistan, Syria) or economic situation of the country, is not real to carry out the forced returns of UAM to these countries. For this reason, no special Czech state mechanisms exist aimed at integration in the country of return. Most children from third countries are not returned, since they do not show interest in being returned.

14. b. Please provide a summary overview of the provisions in place in your (Member) State for the **integration** of unaccompanied minors following their status determination, indicating in particular how the legal status of the unaccompanied minor defines his/her specific integration trajectory (e.g. refugee, beneficiary of subsidiary protection, other statuses granted, etc.).

According to the law, it applies in general for foreign nationals that all UAMs, whether they were originally staying in the CZ legally or illegally, are entitled to stay in the territory on a permanent basis as of the day on which the court entrusts them to substitute care, under condition that at least one of the natural persons to whose care the UAM is entrusted has permanent residence in the territory or the institution where the child is placed lies in the territory (so-called legal fiction of

permanent residence – for the purposes of rights and obligations, the foreign national is considered to be a foreign national with authorised permanent residence).

Unaccompanied minors have access to free education in the CZ and are provided accommodation, social and legal advice. They are covered by public health insurance. The *State Integration Programme* of the Ministry of the Interior helps beneficiaries of international protection (both adults and minors) with job hunting. All former UAMs are helped towards success in the labour market by the Facility for Children of Foreign Nationals and non-profit organisations.

Q14. c. Do the above provisions **differ** from those for accompanied minors, as well as for adults and if so, how?

Unaccompanied minors applying for international protection also have access to free education in the CZ and are provided accommodation, social and legal advice. They are covered by public health insurance.

In the same way, adults applying for international protection also have access to free social and legal advice and they are provided meals and accommodation. They have access to public health insurance.

Beneficiaries of international protection are helped by the Ministry of the Interior's *State Integration Programme*.

Q14. d. Please describe the procedure (if any) in place in your (Member) State to determine the **best interests of the child** with regard to the integration of unaccompanied minors. Is this set out in legislation or any other internal administrative regulations?

The Act on the Residence of Foreign Nationals does not contain such provisions.

The *Policy for Protection and Care of Unaccompanied Minors including Applicants for International Protection* (2012) states that the absolutely decisive factor for placement of a child in a specific facility is the best interests of the child.

A procedure for assessment and identification of the best interests of a child is not expressly addressed in the Czech law either in general terms, or specifically with respect to UAMs. With regard to ensuring the statutory legal protection of children via statutory social and legal authorities, the fundamental instrument in place known as **on-going assessment** can be described as an instrument for social work based on analysis and identification of the best interests of the child. On the basis of evaluation of the child's and their family's situation, an **individual protection plan** is created for the child. The law stipulates that the child's individual protection plan must be created as of beginning of social and legal protection provision by the Social and Legal Child Protection Authority, within 1 month of the child's registration in the Social and Legal Child Protection Authority's records.⁸²

⁸² Section 10(5) Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

Q15. Which **national/regional/local authorities and organisations** (including NGOs where relevant) are responsible for the integration of unaccompanied minors following status determination? Please describe in particular the competent authorities responsible for the provision of education, employment support, etc., what their specific remits and roles are, any authorities specifically ensuring the principle of the 'best interests of the child' is taken into account, etc.

Name of national competent authority/organisation	Brief description (e.g. remit/role, etc.)	Main activities/responsibilities
<u>Facility for Children of Foreign Nationals (ZDC)</u>	A custodial facility, run by the Ministry of Education, Youth and Sports.	Direct all-round provision (namely accommodation, meals, clothing, care). Representing the UAM in day-to-day affairs. Managing the UAM's other affairs, but only in day-to-day matters.
<u>Educational Facilities for Administering Institutional Care and Preventive Educational Care</u>	Institutional facilities designated for long-term residence of children based on a court decision. These facilities are run by the regions (children's homes), or the Ministry of Education, Youth	Direct all-round provision (namely accommodation, meals, clothing, care). Representing the UAM in day-to-day affairs. Managing the UAM's other affairs, but only in day-to-day matters.

Name of national competent authority/organisation	Brief description (e.g. remit/role, etc.)	Main activities/responsibilities
	and Sports (custodial facilities – children's home and school, educational institute) <u>Facilities where the UAM's may also be placed:</u> Educational care centre Klíčov Educational institute (VÚ) Višňové Children's home and school (DDŠ) Sedlec Prčice The departments (sections) that are designated for the care of the UAMs in the above mentioned facilities are under the methodological guidance of the ZDC and operate in a different regime.	
<u>Facilities for Children Requiring Immediate Assistance (ZDVOP)</u>	Crisis (asylum) accommodation centres for children, in which the child's stay should not extend a 6-month period. Facilities are run by regional offices,	Direct all-round provision (primarily accommodation, meals, clothing, care). Representing the UAM in day-to-day affairs.

Name of national competent authority/ organisation	Brief description (e.g. remit/role, etc.)	Main activities/ responsibilities
	municipalities or private persons. The Ministry of Labour and Social Affairs is responsible for those facilities.	Managing the UAM's other affairs, but only in day-to-day matters.
<u>Children's Homes for Children of up to 3 Years of Age (infant care institutions)</u>	Institutional facility for provision of care for children of under 3 years of age (although children often remain until school attendance age). The facilities are run by the region, and one facility is run by the Ministry of Health.	Direct all-round provision (primarily accommodation, meals, clothing, care). Representing the UAM in day-to-day affairs. Managing the UAM's other affairs, but only in day-to-day matters.
<u>Social and Legal Child Protection Authorities (OSPODs)</u>	Public administration facility – municipal councils of municipalities with extended powers or districts of Prague (there are more than 200 OSPODs in the Czech Republic)	Assessing the child's and his/her family's situation. Compiling an individual protection plan for the child as a basic coordination instrument for provision of statutory protection. Performance of the office of public guardian.

Name of national competent authority/ organisation	Brief description (e.g. remit/role, etc.)	Main activities/ responsibilities
		If designated to do so by the relevant authority, plays the role of the UAM's guardian in various proceedings concerning the UAM's residence status and international protection proceedings.
<u>Public Employment Office</u>	An administrative authority that operates nationwide (its superior administrative authority is the Ministry of Labour and Social Affairs).	Upon reaching the age of majority, all persons may be provided advice concerning the labour market, choosing a profession and finding a job; this applies both to registered job seekers and members of the general public.
<u>Czech Social Security Administration</u>	An administrative authority subordinate to the Ministry of Labour and Social Affairs.	Provides financial and material aid in various life predicaments.
<u>Non-Governmental Non-Profit Organisations</u>	<u>Organisation for Aid to Refugees (OPU)</u> <u>InBaze</u> <u>Meta</u>	Social and legal advice, social assistance in seeking employment, housing or in dealings with the authorities. Support of the UAM even after

Name of national competent authority/ organisation	Brief description (e.g. remit/role, etc.)	Main activities/ responsibilities
	<u>Counselling Centre for Integration (PPI)</u>	reaching the age of majority. Since January 2017, OPU has been implementing the "Home in a new Country" project aimed at improving the status of minors applying for asylum and foreign nationals who arrive in the territory of the CZ unaccompanied by their parents or other relatives and are placed in one of the specialised institutional facilities.
<u>Ministry of the Interior (MoI) – Department for Asylum and Migration Policy</u>	Granting permanent residence. MoI State Integration Programme	If a foreign national fails to apply for international protection while still a UAM, upon his/ her reaching the age of majority the MoI processes an application for permanent residence (for humanitarian reasons). State Integration Programme (for beneficiaries of international protection) –

Name of national competent authority/ organisation	Brief description (e.g. remit/ role, etc.)	Main activities/ responsibilities
		opportunity to enter the programme, while still a minor or even after coming of age, condition: entry 1 year after the decision to grant international protection becomes enforceable.
Other organisations providing services to UAMs:	UAMs are equally entitled to use all of these services as Czech children.	
<ul style="list-style-type: none"> ▪ Social prevention department of the local authorities ▪ Pedagogical and psychological advice centres ▪ Special pedagogy centres ▪ Probation and Mediation Service of the Czech Republic ▪ Police of the Czech Republic ▪ Courts ▪ Healthcare facilities 		

ACCESS TO HEALTHCARE

Q16. a. When providing access to healthcare to unaccompanied minors in your (Member) State following status determination, how are the following aspects dealt with?

> Is access to healthcare automatic for unaccompanied minors upon obtaining a permit to stay which is not covered by the Qualification Directive (as it is for refugees and beneficiaries of international protection)? Does this group of unaccompanied minors have the same right to healthcare as nationals of the (Member) State?

Participation in public health insurance is dependent on **permanent residence** or **employment in the CZ**. **Asylum seekers, persons enjoying subsidiary** and **temporary protection** are also entitled to public health insurance. Applicants for international protection receive charge-free healthcare services to the same scope as ordinary participants in public health insurance.

Since the amendment of the Act on the Residence of Foreign Nationals No. 314/2015 became effective (since 18. 12. 2015), participation of UAMs in public health insurance is dependent on the enforceability of **preliminary injunctions** which, in the case of so-called fast-track preliminary injunctions, become enforceable at the instant of issuance (if a preliminary injunction is imposed with respect to a UAM, that UAM's participation in public health insurance should begin on the date on which the said preliminary injunction becomes enforceable, which coincides with its date of issuance, according to the provisions cited in the following paragraph). In the case of a preliminary injunction according to Section 18(d)(4), the precondition of permanent residence of the natural person to whose care the child is entrusted does not apply, in contrast to the legislation governing meritorious custody.

This conclusion follows from Section 18(d)(4) in combination with Section 48(f) of the Act on the Residence of Foreign Nationals. On the basis of the cited provisions, for the purposes of payment for provision of healthcare services UAMs placed in a facility for children requiring immediate assistance or in a child care institution on the basis of a preliminary injunction or entrusted to the care of a natural person on the basis of a preliminary injunction of the relevant authority or decision of the relevant Social and Legal Child Protection Authority are considered to be foreign nationals with residence entitlement for the purposes of provision of **temporary protection in the territory, i.e. foreign nationals enjoying temporary protection**.

According to Section 32(2) of Act No. 221/2003 Coll., on Temporary Protection of Foreign Nationals, it applies that for the purposes of provision of healthcare services a foreign national enjoying temporary protection is considered to be a foreign national with permanent residence. This means that for the purposes of participation in public health insurance, even foreign national minors with a preliminary injunction of the court are considered to be persons with permanent residence in the territory of the CZ according to Section 2(1)(a) of Act No. 48/1997 Coll. In accordance with Section 7(1)(p) of Act No. 48/1997 Coll., the state pays for public health insurance for a foreign national with residence entitlement for the purposes of provision of temporary protection in the territory according to Act No. 221/2003 Coll., if they do not have income from employment or self-employment, i.e. also on behalf of the UAMs who have been placed in substitute institutional or family care in the territory of the CZ on the basis of a preliminary court injunction.

A problem may arise if in certain cases a preliminary injunction is not issued.

A foreign national entrusted to substitute care by meritorious decision of a relevant authority is entitled to stay in the territory on a permanent basis at least one of the natural persons to whose care the UAM is

entrusted has permanent residence in the territory or the institution where the child is placed lies in the territory (so-called legal fiction of permanent residence – for the purposes of rights and obligations, the foreign national is considered to be a foreign national with authorised permanent residence).

Therefore, the UAM gains entitlement to public health insurance on the date on which the preliminary injunction or judicial decision on entrustment to substitute care becomes enforceable (Section 87(1) of Act No. 326/1999 Coll.). Public health insurance is provided by the General Health Insurance Company - Všeobecná zdravotní pojišťovna (hereinafter referred to as VZP), in accordance with Section 2(1)(a) of Act No. 48/1997 Coll., on public health insurance. Immediately upon receiving an UAM, an employee of the educational facility must report to the VZP that the UAM has been accepted to the facility and may therefore be examined by a contracted practitioner.

> Please describe what this access to healthcare **includes**, for example, emergency treatment, basic medical care, essential or specialised medical care, counselling, etc.?

Provided and covered healthcare services include the following categories: emergency treatment, general practitioner treatment, specialist treatment and care of a clinical psychologist.

> Does the (Member) State undertake any form of **individual assessment** to ensure that the medical care provided to unaccompanied minors corresponds to the minor's specific physical, as well as mental health needs?

Yes, each client is registered with a contracted paediatrician who closely monitors and evaluates his/her state of health.

Q16. b. What are the implications (if any) of unaccompanied minors' **transition** from the age of minority to 18 years of age for their access to healthcare, including counselling up to that stage? What measures (if any) are in place to support the unaccompanied minor before, during and after such a transition, e.g. information provision, etc.?

The status of a UAM after reaching the age of majority depends on whether or not he/she applied for international protection before reaching that age. If he/she has been granted asylum, his/her access to healthcare remains unchanged after reaching the age of majority (he/she is a participant in public health insurance). If he/she has not applied for international protection and not taken steps towards gaining permanent residence (which facilitates access to public health insurance), he/she will receive a departure order from the Police and will have to leave the territory.

However if, after reaching the age of 18 years, the UAM enters into a residence agreement with the ZDC, he/she continues to be treated as a student and he/she gains the right to public health insurance paid for by the state. The ZDC organises a type of legal residence for the UAM – either he/she applies for international protection or, in most cases, the foreign national applies for permanent residence, which students usually have no problem in securing.

The obligation to perform on-going assessment of the child, individual planning continues to apply as well as the obligation of the Social and Legal Child Protection Authority to arrange for seamless provision of services even for the period after the child reaches the age of 18 years, if the child consents thereto.

Q16. c. Is there any research available in your (Member) State on:

- > The **quality of healthcare, including counselling**, provided to unaccompanied minors?
- > The **effects** of the access to healthcare on the integration of unaccompanied minors, including those turning 18 years of age (as conducted by relevant authorities, academics, NGOs, etc.)?

In both cases no such research is known to any of the authorities approached.

ACCESS TO EDUCATION

Q17. a. When providing access to **education** to unaccompanied minors in your (Member) State following status determination, how are the following aspects dealt with?

- > Is access to education **automatic** for unaccompanied minors who have obtained a status which is **not** covered by the Qualification Directive (as it is for refugees and beneficiaries of international protection)? Does this group of unaccompanied minors have the same right to education as nationals of the (Member) State?

Yes. In the Czech Republic, foreign national children (both applying and not applying for international protection) have according to the law equal access to education as children of the Czech population. At pri-

mary school level this is a legal obligation, at secondary school equal access and a choice of school according to their potential, abilities and professional orientation is guaranteed. If academic certificates exist in the country of origin, the child may apply for them to be nostrified which makes entering the chosen channel of education easier. UAMs have equal access guaranteed in the area of extra-curricular activities, school meals and leisure activities.

- > Does the (Member) State undertake any form of **individual assessment** to ensure that the education provided to unaccompanied minors is adapted to the age, level of education in the country of origin, degree of language barrier of the unaccompanied minor, etc.?

Yes. At the beginning of his/her stay in the ZDC, each child undergoes comprehensive appraisal of his/her needs and situation (appraisal of psychological, special pedagogical, educational, social and legal and health needs) and based on the results of this appraisal, an individual personality development plan and individual education plan are created.

In facilities specialising in foreign national children, care is provided by expert employees and specialists. In the faculty an environment is created that takes into account ethnic and religious diversity, so that foreign nationals can practice the socio-cultural customs that they brought with them from their country of origin. An essential priority is elimination of the language barrier. Individual programmes for children with mental trauma are also created at the facility. Care, education and adaptation programmes are adapted to the environment from which the children hail.

If clients are then placed in follow-up institutional care facilities, the ZDC provides methodological support to the follow-up facility. A carefully planned system is in place for exchange of information and monitoring of the client's situation under the methodological procedures of both facilities and in the course of collaboration on individual child personality development plans.

If a child is entrusted to substitute family care or is with its parents in a MoI facility, the ZDC does not provide these comprehensive services. However, if the legal guardian or foster parent approaches the Facility for Children of Foreign Nationals, it will provide advisory and other specialised services on an out-patient basis.

- > Are any **special measures** to support access to education specifically for unaccompanied minors available in the (Member) State, in particular language training*, guidance regarding the national education system, etc.?

* Are there specialised institutions for the language training of unaccompanied minors? Does language training take place in public schools, in specialised language courses for unaccompanied minors or minors in general, or within adult language learning programmes for foreign citizens?

Language training is provided by legislation for children from EU states – each region provides 70 language training hours in a classroom at one of the schools that it runs. Other foreign nationals are provided language training in their own schools in the form of electable subjects, voluntary subjects, clubs, tutoring. Such tuition is funded from MoEYS projects. Each region has a designated representative for education of the children of foreign nationals who provides methodological assistance and advice for all schools.

- > Do unaccompanied minors receive education in accommodation centres, or as part of the mainstream schooling system? Or are there other education arrangements for unaccompanied minors in your (Member) State?

The ZDC lays emphasis on Czech language tuition. During tuition at the facility's school, the main focus is on Czech language lessons and Czech lessons may also be arranged in the form of coaching and individual courses. If individually suitable, clients enrol in extracurricular and

leisure time activities outside the facility, giving them the chance to mix with their Czech contemporaries.

Q17. b. What are the implications (if any) of unaccompanied minors' **transition** from the age of minority to 18 years of age for their access to education up to that stage, e.g. do unaccompanied minors have the possibility to continue compulsory education post-18, to progress to third-level education, vocation studies and training, etc.? What measures (if any) are in place to support the unaccompanied minor before, during and after such a transition, e.g. information provision, education pathway/plan, personal adviser, etc.?

The opportunity exists for clients to remain in the ZDC until 26 years of age, if studying. Individual development of personal qualities according to set plans.

Q17. c. Is there any research available in your (Member) State on:

- > The **quality of education** provided to unaccompanied minors?
- > On the **educational performance** of unaccompanied minors?
- > The **effects** of the access to education on the integration of unaccompanied minors, including those turning 18 years of age (as conducted by relevant authorities, academics, NGOs, etc.)?

In all above mentioned cases we have no information of such research. We only have data concerning the success rate of ZDC clients.

ACCESS TO (SUPPORT TO) EMPLOYMENT

Q18. a. When providing **access to employment**⁸³ to unaccompanied minors in your (Member) State following status determination, how are the following aspects dealt with?

> Is the access to employment for unaccompanied minors **limited** in any way, for example, open only to unaccompanied minors of a certain minimum age after status determination, or restricted for a certain period and/or limited to a maximum number of days per year? Are these limitations for unaccompanied minors same as those applied to minors who are nationals of the (Member) State?

It is possible to work in the Czech Republic from 15 years of age. Exceptions are listed in the Labour Code. Special conditions apply for employing youths under 18 years of age.

From the point of view of access to employment, minors have the same conditions as adults.

A foreigner who has been granted permanent residence, asylum or subsidiary protection on the territory of the CZ may become a candidate or job seeker and he/she has open access to the labour market.

⁸³ Please note that this need not apply to unaccompanied minors who are still in full-time education.

These foreigners have the right to mediate employment, i.e. to look for a suitable job, advice and information on job opportunities. The Regional Branch of the Czech Labour Office can provide retraining for these persons.

> Are any **special measures** to support access to employment specifically for unaccompanied minors available in the (Member) State, in particular vocational guidance, jobseeker allowance for unaccompanied minors not able to find employment, etc.?

The ZDC has developed a support plan and social programme for preparing minors for an independent life. This programme is part of the policy for working with UAMs and each client undergoes the programme before leaving the facility. In practice this means that each client leaves the ZDC with secured accommodation, an employment contract and also receives financial support according to fixed criteria which may reach a maximum of CZK 25,000, which again is dictated by law.

Q18. b. What are the implications (if any) of unaccompanied minors' **transition** from the age of minority to 18 years of age for their access to employment up to that stage? What measures (if any) are in place to support the unaccompanied minor before, during and after the transition, e.g. ongoing employment support as part of integration pathway/plan, personal adviser, etc.?

The ZDC devotes great care to the choice of profession, using all available results of diagnostic activities, including identification of the client's professional orientation, visits open days with clients, job fairs and schools and provides clients with all available information on the education options in the CZ. Over the course of their stay in the facility, short-term placements are arranged for students in various organisations to facilitate gentle integration and orientation in the labour market.

The ZDC also focuses its attention on searching for accommodation and future employment for the hitherto UAM by negotiation with employers etc.

Beneficiaries of international protection may join the State Integration Programme under which they are provided assistance in areas including job hunting and improving employment prospects.

Q18. c. Is there any research available in your (Member) State on:

- > The **quality of employment access support** provided to unaccompanied minors?
- > The **effects** of the access to employment on the integration of unaccompanied minors, including those turning 18 years of age (as conducted by relevant authorities, academics, NGOs, etc.)?

In both cases we have no information about such research at national level.

FAMILY REUNIFICATION OF UNACCOMPANIED MINORS

Q19. a. Please provide here any *updated information* on the **possibility for family reunification** for unaccompanied minors since the 2016 EMN Focussed Study on "Family Reunification of Third-Country Nationals in the EU plus Norway: National Practices," including any information on the effects of family reunification on the integration of unaccompanied minors in your (Member) State (e.g. based on existing studies/evaluations/other sources or information received from competent authorities).

No legislative changes have occurred concerning unaccompanied minors in the Act on the Residence of Foreign Nationals.

Q19. b. What are the implications (if any) of unaccompanied minors' transition from the age of minority to 18 years of age for their access to family reunification up to that stage, for example:

- > Is there any cut-off of family reunification rights when unaccompanied minors reach 18 years of age?

An accompanied minor ceases to be such immediately upon reaching the age of 18 years. Family reunification is possible under other legislation. Upon reaching the age of majority, a former unaccompanied minor may apply for permanent residence.

- > Does your (Member) State have any measures in place to support the unaccompanied minor before, during and after such a transition (please specify these measures)?

This is not addressed by the Act on the Residence of Foreign Nationals.

Q19. c. Is there any research available on the **effects** of family reunification on the integration of unaccompanied minors, including those turning 18 years of age (as conducted by relevant authorities, academics, NGOs, etc.)?

No such research is known to any of the authorities approached.

SOCIAL WELFARE SUPPORTING UNACCOMPANIED MINORS

Q20. a. Does your (Member) State provide any **social welfare/assistance** to support unaccompanied minors?

If yes, please provide information on this below, citing any evidence on the **effects** of social welfare/assistance on the integration of the unaccompanied minors where available (e.g. based on existing studies/evaluations/other sources or information received from competent authorities).

If institutional care is imposed on UAMs, they are in the full direct provision of the state. In other words, the state fully finances all of the UAM's needs. The facility may also apply for a social benefit – Child Allowance.

Q20. b. What are the implications (if any) of unaccompanied minors' **transition** from the age of minority to 18 years of age for their access to social welfare/assistance up to that stage, for example:

> Is there any benefits cut-off when unaccompanied minors reach 18 years of age?

The Czech social security system is based on the concept of dependency of the child.⁸⁴ A child's dependent status may last until 26 years of age if the child:

- attends full-time education in preparation for a future career;
- is unable to attend full-time education in preparation for a future career or perform gainful employment due to illness or injury, or
- due to a long-term medical condition is unable to perform full-time gainful employment.

If the child dependency endures, he/she may also remain in substitute care – either in a facility or in foster care with the same material aid as before reaching the age of 18 years. If a child in foster care remains "dependent", i.e. typically in a situation where he/she continues in full-time education in preparation for a future career while living permanently and, together with the person who had been the child's foster parent before the former reached 18 years of age, shares in covering the costs for his/her needs. Material aid endures for the duration of the child's dependency, up to a maximum of 26 years of age.⁸⁵ Upon termination of foster care, the child is entitled to material

⁸⁴ Section 11 Act No. 117/1995 Coll., on State Social Support.

⁸⁵ Section 47f(2) and Section 47i(1) Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

aid of CZK 25,000.⁸⁶ If the child is in an educational facility, he/she receives same degree of full direct provision as before reaching the age of 18 years. Material aid upon leaving a facility may be up to CZK 25,000, although a minimum is not stipulated by law.⁸⁷ The condition for such aid for a UAM is that his/her residence status is in order (has residence entitlement for the territory of the CZ) even after reaching the age of 18 years.

If the UAM is a full-time student, he/she may remain in the full direct provision of a facility.

> Does your (Member) State have any measures in place to support the unaccompanied minor before, during and after such a transition (please specify these measures)?

See the programme for preparing for an independent life under policy of ZDC.

Q20. c. Is there any research available on the **effects** of social welfare on the integration of unaccompanied minors, including those turning 18 years of age (as conducted by relevant authorities, academics, NGOs, etc.)?

No such research is known to any of the authorities approached.

⁸⁶ Section 47h Act No. 359/1999 Coll., on the Social and Legal Protection of Children.

⁸⁷ Government Ordinance No. 460/2013 Coll.

FURTHER MONITORING OF UNACCOMPANIED MINORS' TRANSITION TO ADULTHOOD

Q21. Further to any information on after-care already provided above, please describe any (other) **monitoring mechanisms/reviews/evaluations** ensuring the effective transition of unaccompanied minors to adulthood, including the types of measure(s) undertaken and the duration of the monitoring period after unaccompanied minors reach 18 years of age.

If, after reaching the age of majority, clients remain in the Facility for Children of Foreign Nationals, work with them continues according to their existing individual plans. If they leave for an independent life, they have the opportunity to work with non-profit organisations which have various projects for supporting young adult foreign nationals. They may also turn for assistance to the Facility for Children of Foreign Nationals, if necessary. A great benefit offered in the CZ is the possibility for clients to return to the facility a year after leaving in order to continue their studies.

CONSEQUENCES OF A TEMPORARY RESIDENCE PERMIT ON THE INTEGRATION OF UNACCOMPANIED MINORS

Q22. What impact does the expiration of a **temporary residence permit** have on the above-mentioned integration measures for unaccompanied minors in your (Member) State, e.g. possibility for education-related extension of a temporary residence permit originally granted on grounds of international/humanitarian protection, etc.?

If a child is entrusted to substitute care on a **preliminary injunction**, that child does not gain entitlement to permanent residence in the territory of the Czech Republic, but only entitlement to temporary stay in the territory of the CZ without a visa.⁸⁸ The preliminary injunction expires by the meritorious decision or at the latest at the moment that the UAM reaches the age of 18 years. In second mentioned case, that UAM's residence entitlement for the territory of the CZ expires.

⁸⁸ According to Section 18(d)(4) of the Act on Residence of Foreign Nationals.

CHALLENGES AND GOOD PRACTICES

Q23. Please indicate the main **challenges** associated with the integration of unaccompanied minors in your (Member) State experienced by both unaccompanied minors (including those turning 18 years of age), and/or competent authorities (e.g. based on existing studies/evaluations, information received from competent authorities, NGOs/IGOs, case law, etc.) and how these challenges could be overcome. Please provide references.

According to representatives of ZDC quiet lengthy process of nostrification.

Q24. Please describe any examples of **good practice** in your (Member) State concerning the integration of unaccompanied minors – including those turning 18 – identifying as far as possible who considers the practice in question as successful, since when the practice has been in place, its relevance and whether its effectiveness has been proven, e.g. through an (independent) evaluation. Please reference any sources of information supporting the identification of the practice in question as a 'good practice' (e.g. evaluation reports, academic studies, information received from competent authorities, NGOs/IGOs, etc.).

Again no study, research or published evaluation exists. All data come from Facility for Children of Foreign Nationals statistics and work records. Many examples of best practices exist according to the aforementioned facility, but, according to representatives of the facility, the most significant example is clients successfully completing their secondary school or university education.

Section 4

RETURN OF UNACCOMPANIED MINORS

OVERVIEW OF THE RETURN PROCEDURE AND ITS LEGAL AND ORGANISATIONAL SET-UP IN THE (MEMBER) STATE

Q25. a. Does your (Member) State foresee the **return** of unaccompanied minors?

If so, please provide a brief overview of the provisions in place in your (Member) State with regard to the **return** of unaccompanied minors to the country of origin when the minor receives a negative decision on his/her application for asylum/another status:

> Possibility for an unaccompanied minor to return to the country of origin through a **voluntary return**?

If yes, please describe the procedures/processes under which an unaccompanied minor may be returned voluntarily to the country of origin according to national legislation/policy and practice, including any challenges.

Yes, it is possible. Returns of minors can take place on a voluntary basis. Most children from third countries do not express an interest in voluntary return. When searching for family members, the authorities proceed mainly on the basis of information provided by the child him/herself because, especially in the case of children from third countries, this is often the only information available.

The relevant Social and Legal Child Protection Authority has the obligation to inform the country of origin of minors who are not applicants for international protection.⁸⁹ Pursuant to this provision and various consular agreements, this authority generally informs the embassy of the relevant country in the CZ and ÚMPOD. These institutions then search for the parents or establish other relevant information about the child. After investigation of the situation, the children are either passed on directly to the parents or are passed to the care of institutions providing institutional care in their country of origin. During their return journey, the children are accompanied by either a parent or a person designated by the court to be authorised to take custody of the child and ensure his/her return – in practice this tends to be an embassy employee, a representative of the local child protection authority or representative of the IOM. Also present during the return journey is a representative of the Voluntary Returns Unit of the Department for Asylum and Migration Policy of MoI CZ. Collaboration also takes place with non-profit organisations in the country of origin.

The CZ is obligated to provide such children protection and care until such time as their parents or other responsible person are located.⁹⁰

In practice the number of returns of unaccompanied minors from third countries is almost equal to zero.

⁸⁹ According to provision Section 37 Social and Legal Protection of Children Act.

⁹⁰ Ditto.

> Possibility for an unaccompanied minor to return to the country of origin through an **assisted voluntary return**?

If yes, please describe the Assisted Voluntary Return and Reintegration (AVRR) programme available in your (Member) State and the procedures/ processes under which an assisted voluntary return of an unaccompanied minor may be carried out, including any challenges.

Yes, it is possible. Returns of minors can take place on a voluntary basis. Most children from third countries do not express an interest in voluntary return. When searching for family members, the authorities proceed mainly on the basis of information provided by the child him/herself because, especially in the case of children from third countries, this is often the only information available.

The relevant Social and Legal Child Protection Authority has the obligation to inform the country of origin of minors who are not applicants for international protection.⁹¹ Pursuant to this provision and various consular agreements, this authority generally informs the embassy of the relevant country in the CZ and ÚMPOD. These institutions then search for the parents or establish other relevant information about the child. After investigation of the situation, the children are either passed on directly to the parents or are passed to the care of institutions providing institutional care in their country of origin. During their return journey, the children are accompanied by either a parent or a person designated by the court to be authorised to take custody of the child and ensure his/her return – in practice this tends to be an embassy employee, a representative of the local child protection authority or representative of the IOM. Also a representative of the voluntary returns unit of the Department for Asylum and Migration Policy of MoI CZ is present during the return journey. Collaboration also takes place with non-profit organisations in the country of origin.

⁹¹ According to provision Section 37 of the social and Legal Protection of Children Act.

The CZ is obligated to provide such children protection and care until such time as their parents or other responsible person are located.⁹²

In practice the number of returns of unaccompanied minors from third countries is almost equal to zero.

> Possibility for an unaccompanied minor to return to the country of origin through a **forced return**?

If yes, please describe the procedures/ processes under which an unaccompanied minor may be subject to a forced return to the country of origin according to national legislation/ policy and practice, including any challenges.

Although forced returns of UAMs do not take place in practice, the law does not exclude them. However, in accordance with the *acquis*, it stipulates that "In the case of an unaccompanied minor, the Police shall perform the expulsion only after the state to which the unaccompanied minor is to be deported states that the unaccompanied minor will be provided a reception appropriate to his/her age."

Q25. b. Please describe the procedure (if any) in place in your (Member) State to determine the **best interests of the child** once a negative decision has been reached. Is this set out in legislation or any other internal administrative regulations?

If proceedings concerning the UAM's application for international protection finish definitively with rejection of the application, or if the UAM's subsidiary protection has been withdrawn or if the period for which subsidiary protection was granted has expired without exten-

⁹² Ditto.

sion, the UAM's authorisation to stay in the territory of the CZ according to the Act on the Residence of Foreign Nationals.

However, if the UAM is **still a minor** at this point, the eligibility of his/her stay, similarly as in the situation where UAMs are not applicants for international protection, will be based on the judicial decision under which the UAM was entrusted to some form of substitute care in the territory of the CZ, i.e. on a **preliminary injunction** or a **meritorious decision on substitute care for the UAM**.

According to the law, it applies in general for foreign nationals that a foreign national entrusted to substitute care on a meritorious decision is entitled to stay in the territory on a permanent basis as of the day on which the court entrusts them to substitute care, if at least one of the natural persons to whose care the UAM is entrusted has permanent residence in the territory or if the institution where the child is placed lies in the territory (so-called legal fiction of permanent residence – for the purposes of rights and obligations, the foreign national is considered to be a foreign national with authorised permanent residence).

In practice the Czech Republic does not return unaccompanied minors; the exception are situation where the UAM him/herself requests it (which is also exceedingly rare).

According to the MoEYS Methodological Advice No. 1/2016 for procedure by municipal authorities of municipalities with extended powers when providing social and legal protection to unaccompanied minors, in the process of assessment and identification of the best interests of the child in connection with the matter of his/her repatriation the authorities must consider:

- the standard and safety and other conditions in the UAM's country of origin, including socio-economic conditions;

- the method of provision of care of the UAM in question in his/her country of origin;
- the opinion of the UAM and persons providing care to him/her;
- the degree of integration of the UAM in the host country, as well as the length of time that the UAM has spent outside his/her country of origin;
- the right of the child to maintaining his/her identity, including ethnicity, name, religion and cultural and linguistic heritage.

This Methodological Advice also states that repatriation of the UAM may not be performed if the child were to face likely infringement of his/her fundamental rights and freedoms. Similarly, repatriation may not be performed if it cannot be ensured that the UAM will receive due care and appropriate representation in his/her country of origin.

Q26. Which **national authorities and organisations** (including NGOs where relevant) are responsible for the return of unaccompanied minors? Please describe briefly the competent authorities involved in return, family tracing, etc., as well as any other stakeholders concerned, what their specific remits and roles are, any authorities specifically ensuring the principle of the 'best interests of the child' is taken into account in the return of the minor, etc.

In practice, returns of unaccompanied minors are exceedingly rare. Below are the institutions that would be involved in the process if a return took place.

Name of national competent authority/ organisation	Brief description (e.g. remit/role, etc.)	Main activities/ responsibilities
<u>Social and Legal Child Protection Authorities (OSPODs)</u>	<p>With children not applying for IP, the obligation to inform the country of origin (embassy of relevant country in the CZ) and ÚMPOD.</p> <p>If the authority of the state of which the minor is a citizen fails to take measures for care of the minor, the Social and Legal Child Protection Authority shall provide the foreign national appropriate substitute care (family or institutional).</p>	
<u>Office for International Legal Protection of Children (ÚMPOD)</u>	Search for parents of UAM not applying for IP.	
<u>Embassies of separate countries</u>	<p>Search for parents of UAM not applying for IP.</p> <p>If necessary an embassy employee may accompany a child during return.</p>	

Name of national competent authority/ organisation	Brief description (e.g. remit/role, etc.)	Main activities/ responsibilities
<u>International Organisation for Migration (IOM)</u>	If necessary an IOM employee may accompany a child during return.	
<u>Voluntary Returns Unit of DAMP MoI CZ</u>	If necessary a Voluntary Returns Unit DAMP MoI CZ employee may accompany a child during return.	
<u>Non-profit organisations in the country of origin</u>	May help in search for parents.	
<u>Foreign National Detention Facility</u> (the facility is operated by the Refugee Facilities Administration which falls under the Alien Police Service Directorate)	The UAM could only be detained if he/she were over 15 years of age and serious grounds existed for detention (almost unknown in practice).	
<u>Police</u>	In the event of a forced return, the Police of the Czech Republic would be involved, which realizes the forced returns in the CZ.	

Name of national competent authority/ organisation	Brief description (e.g. remit/role, etc.)	Main activities/ responsibilities
Courts	Courts decide to abolish the court decision to entrust UAM to substitute care in the territory of the Czech Republic.	

ENFORCEMENT OF RETURN DECISIONS AND KEY ARRANGEMENTS PRE/DURING/POST DEPARTURE

Q27. What is the estimated timeframe within which your (Member) State **implements** a return decision following a rejection of an unaccompanied minor's application for asylum/another status? If there are delays (deviating from this timeframe), what are the usual reasons for such delays?

In practice, returns of unaccompanied minors are exceedingly rare.

See more information provided above.

This question cannot be answered due to lack of experience from practice.

Q28. Please describe the measures (if any) taken by your (Member) State to:

> encourage **voluntary return** when an enforceable return decision is issued to an unaccompanied minor:

If all legal conditions and procedures (see Q. 25b) have been satisfied, the DAMP Voluntary Returns Unit may accede to the request of the UAM's guardian and the declared enthusiasm of the UAM with respect to voluntary return. Reduction of the period of ban from the territory by half might prove to be an incentive. In practice, however, returns of unaccompanied minors are extremely rare.

> **enforce** return decisions against unaccompanied minors; please clarify in particular how your (Member) State perceives the forced return of unaccompanied minors, as well as what is considered effective in this context:

No experience.

> mitigate any negative impact (please specify) of a return decision on the **well-being of unaccompanied minors**:

The Czech Republic does not perform forced returns on UAMs. Even voluntary returns are almost unheard of.

Q29. a. Please provide an overview of key arrangements for the **return of unaccompanied minors** to the country of origin, in particular information, support, services and preparation before departure, safeguards for unaccompanied minors during the operation, transfer of custodial care, etc.

See above. Returns are extremely rare in the CZ.

Q29. b. Please describe the policy/practice of your (Member) State with regard to **family tracing** in the country of origin, including when such measures are taken, which authority/organisation is responsible, as well as the contribution and responsibility of the guardian.

The relevant Social and Legal Child Protection Authority has the obligation to inform the country of origin of minors who are not applicants for international protection.⁹³ Pursuant to this provision and various consular agreements, this authority generally informs the embassy of the relevant country in the CZ and ÚMPOD. These institutions then search for the parents or establish other relevant information about the child. After investigation of the situation, the children are either passed on directly to the parents or are passed to the care of institutions providing institutional care in their country of origin. During their return journey, the children are accompanied by either a parent or a person designated by the court to be authorised to take custody of the child and ensure his/her return – in practice

⁹³ According to the provisions of Section 37 of the Social and Legal Protection of Children Act.

this tends to be an embassy employee, a representative of the local child protection authority or representative of the IOM. Also a representative of the voluntary returns unit of the Department for Asylum and Migration Policy of MoI CZ is present during the return journey. Collaboration also takes place with non-profit organisations in the country of origin.

Q29. c. How does your (Member) State interpret the term '**adequate' reception facilities** in the country of origin, as one of the requirements for removing an unaccompanied minor from EU territory according to the Return Directive?⁹⁴ Does your (Member) State return unaccompanied minors to care centres or parents, relatives, etc.?

Returns of unaccompanied minors to their country of origin take place only in exceptional circumstances and solely on a voluntary basis in the Czech Republic. For the forced return of the UAM to the country of his origin it is necessary to demonstrate the fulfilment of international obligations under the Convention on the Rights of the Child, that is to say, that in the country of origin he/she will be given sufficient care, ideally by his parents or other family members, or as the last resort within the substitute care systems. Given the fact that most of the UAM argue that in the country of origin does not have parents or suitable family members or that they are not in touch with them or that they are of unknown origin, and the level of "substitute family care" is in the countries from which these persons originate on the zero level or deeply under the standards which are requested by the Convention on the Rights of the Child either because of the security situation (Iraq,

⁹⁴ Art. 10(2) of Directive 2008/115/EC stipulates that before removing an unaccompanied minor from the territory of a Member State, the authorities of that Member State shall be satisfied that she/he will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return.

Afghanistan, Syria) or economic situation of the country, is not real to carry out the forced returns of UAM to these countries. For this reason, no special Czech state mechanisms exist aimed at integration in the country of return. Most children from third countries are not returned, since they do not show interest in being returned.

Q29. d. Please provide information on the **follow up** of unaccompanied minors once they have returned, such as duration of such follow up, competent service, etc.

Voluntary returns of UAMs are almost equal to zero, and therefore more detailed information regarding the situation of UAMs upon return to their countries of origin is impossible.

Q30. a. Does your Member State provide any **reintegration assistance** to unaccompanied minors returning to their countries of origin (*please cross-reference/summarise here to any aspects of the reintegration support for unaccompanied minors already covered under the EMN study on return (see above) and provide any additional information*):

> through **voluntary return**?

If yes, please describe the kind of supports available before, during and after the voluntary return of an unaccompanied minor.

No special state mechanisms aimed at integration in the country of return exist in the CZ, due to the fact that most children from third

countries are not returned to their country of origin because they show no interest (and return only on a voluntary basis).

> through **forced return**?

If yes, please describe the kind of supports available before, during and after the forced return of an unaccompanied minor.

In practice the CZ does not return UAMs.

Q30. b. Please describe the **monitoring mechanisms** (if any) in place in your (Member) State to ensure the effective reintegration of unaccompanied minors, including the types of measure undertaken and the duration of the monitoring period.

See above; the CZ almost never returns UAMs. Only on a voluntary basis. If the child's parents come to the territory to pick up the child, the return of that UAM is no longer monitored by the CZ.

ALTERNATIVES TO RETURN

Q31. Does your (Member) State provide for any **alternative solutions to stay** for unaccompanied minors, such as regularisations, etc.? How do you **inform** unaccompanied minors of such possibilities to stay following a negative decision on their application for asylum/another status?

Regularisation is not addressed in the law in the CZ.

DEALING WITH UNACCOMPANIED MINORS WHO CANNOT BE IMMEDIATELY RETURNED

Q32. Please describe the procedure of dealing with **unaccompanied minors who are not/cannot be returned immediately** in your (Member) State, specifying the circumstances whereby the enforcement of a return decision has been deferred/postponed, for how long such a deferral/postponement is possible, where unaccompanied minors are housed during the deferral/postponement period, whether unaccompanied minors have the possibility to be granted a status/right to stay in the (Member) State (e.g. tolerated status), etc.

In the event of a serious breach of return procedure, UAMs would theoretically continue to be housed in facilities and would be granted residence entitlement which would authorise them to stay for the time necessary to solve any complications. However, this is a theoretical situation; in practice, a solution would be made according to the type of situation and position of UAM.

CHALLENGES AND GOOD PRACTICES

Q33. Please describe any examples of **good practice** in your (Member) State concerning the return of unaccompanied minors. *Please note that, in order to comply with children's rights and EU policy positions,⁹⁵ good practices in return of unaccompanied minors should only include voluntary return following a robust, individual BID procedure with all procedural safeguards, as well as holistic support, preparation and reintegration assistance.*

The Czech Republic does not return UAMs.

⁹⁵ For example, the Commission Recommendation on making returns more effective when implementing the Directive 2008/115/EC, C(2017) 1600 final, see above.

Section 5

DISAPPEARANCES OF UNACCOMPANIED MINORS FROM GUARDIANSHIP/ CARE FACILITIES AND/ OR FOLLOWING A RETURN DECISION

Q34. Is the **disappearance of unaccompanied minors** an issue in your (Member) State? If so, can this be linked to i) the decision on their application for asylum/another status in terms of the point in time, i.e. before/after a decision on status is issued, and ii) in terms of the outcome of the procedure, i.e. positive/negative decision?

Yes. Disappearances of foreign nationals have been a major issue both in the past and in recent years. Even in 2017 some disappearances occurred, although the numbers were small (9 cases in 2017 – these were probably persons over 18 years of age). As a rule this concerns clients whose intended destination was another EU state where they have contacts and potentially a pre-arranged job. Very often these are clients older than 18 years of age who claimed a younger age upon being detained.

It is impossible to say whether the disappearances involved a prevalence of clients who were or were not applicants for international protection. Nor can a prevailing nationality be specified. These were all individual cases.

Most often children disappear still during their diagnostic stay (the initial phase of the stay in the Facility for Children of Foreign Nationals) and many of them never return.

Q35. If your (Member) State has recorded cases of **unaccompanied minors disappearing from accommodation facilities and/or guardianship care** following a decision on status, what are the possible **reasons** for such disappearances (e.g. running away from guardianship/care facilities, expiration of a temporary residence permit, etc. as cited in existing evaluations/studies/ other sources or information received from competent authorities, *please provide references*)?

Also, what are the **consequences** of their disappearance on their permit to stay? For example, can their status and/or residence permit be withdrawn?

As a rule this concerns clients whose intended destination was another EU state where they have contacts and potentially a pre-arranged job. Very often these are clients older than 18 years of age who claimed a younger age upon being detained. A special category is clients who were victims of trafficking. Exceptional cases of abduction occur.

Immediately after disappearing, clients are reported to the Police of the Czech Republic and a nationwide hunt is launched for them. If the client returns, this does not affect his/her residence status in any way. The search for the client will continue for the entire duration of the judicial decision (the preliminary injunction).

Q36. Does your (Member) State have any procedures/measures in place to:

- > **Prevent and react** to disappearances of unaccompanied minors from guardianship/care facilities, e.g. support services, national hotlines for missing children, missing persons alerts in the Schengen Information System, Missing Children Europe and its member organisations, fingerprinting/photographing unaccompanied minors as an aid for tracing, etc.?

From the point of view of the ZDC, they have very good cooperation with the Police of the Czech Republic. The Facility for Children of Foreign Nationals passes all identification details including a photograph to the Police of the CZ on a special form. A hunt for the disappeared person is announced in the SIRENE and Interpol networks.

- > **Report and respond** to disappearances of unaccompanied minors from guardianship/care facilities, e.g. protocols among authorities, standardised procedure for dealing with disappearances, etc.?

Yes, see above.

Q37. If your (Member) State has cases of **unaccompanied minors disappearing following a return decision**, please describe the actions (if different from the above) taken by your (Member) State to decrease the **risk of such disappearances**, as well as any **follow-up measures** in case of disappearances.

In view of the almost zero UAM returns, no special measures have been adopted. Each client is treated individually, is duly examined by specialists and steps are taken in his/her best interests.

Q38. Please indicate the main **challenges** associated with the disappearance of unaccompanied minors in your (Member) State for the competent authorities, as well as the minors themselves and the measures (that could be) taken to overcome these challenges. For example, do you have evidence of instances of disappearances of unaccompanied minors linked to any negative consequences for the minors (e.g. exploitation, radicalisation, etc.)? *Please base this information on existing studies/evaluations, information received from competent authorities, NGOs/IGOs, case law, etc. and provide references.*

A special category is clients who were victims of trafficking. Exceptional cases of abduction occur. With different children the pressure from the traffickers is very strong, and children are often coerced into doing things and refusal to obey an order to escape from the ZDC could affect the children themselves or their families.

In the opinion of representatives of the Facility for Children of Foreign Nationals, it would be sensible to the future to aim to work more in-

tensively in the field of prevention through cooperation with OSPOD, which would help towards timely detection of trafficking with UAMs. To encourage clients towards a feeling of safety and provide their protection and support not only in the form of psychological and therapeutic treatment but also social and legal advice. To use the services of non-profit organisations. These children must be offered the chance to show or develop their competencies and responsibility for their own future.

Q39. Please describe any examples of good **practice** in your (Member) State concerning the issue of disappearances of unaccompanied minors. *Please identify as far as possible who considers the practice in question as successful, since when the practice has been in place, its relevance and whether its effectiveness has been proven, e.g. through an (independent) evaluation.*

In view of the small number of UAMs in the CZ, each client can be worked with individually. Also preventive programmes involve workshops and other group forms of work concerning various issues focused on the clients' protection and safety. Some lectures are held and organised in cooperation with non-profit organisations.

The content of this study

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