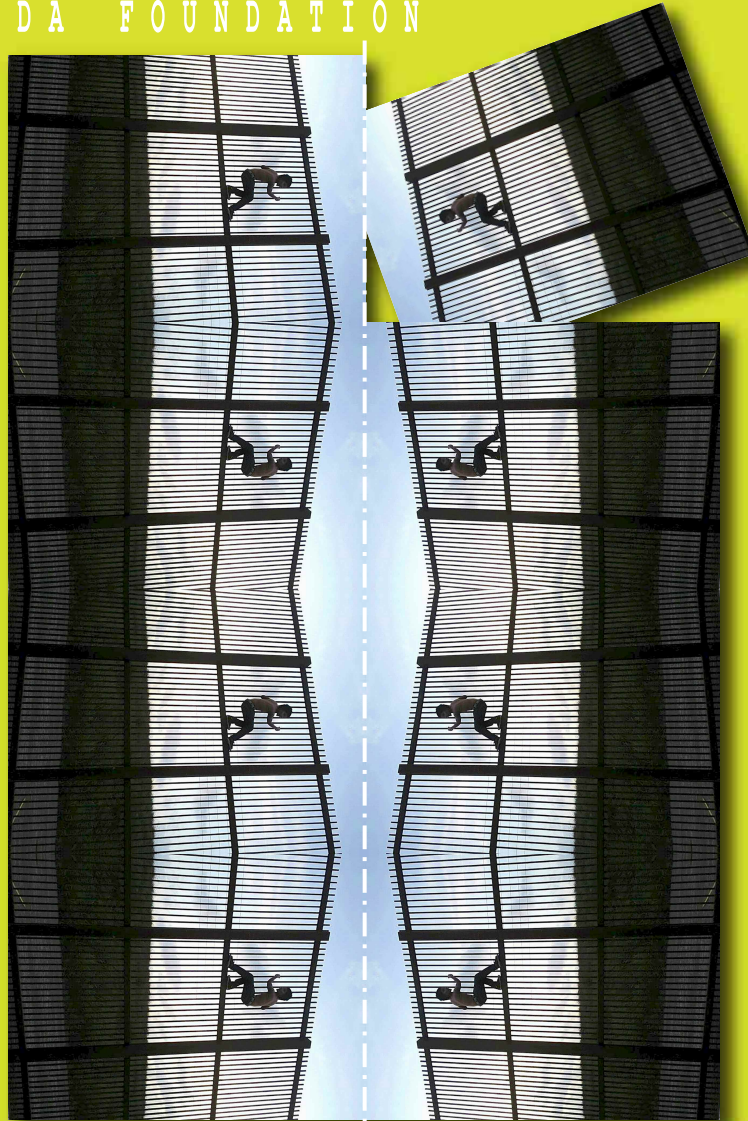




SPANDA FOUNDATION



# ON THE MOVE

UNACCOMPANIED  
**FOREIGN MINORS**  
IN THE  
EUROPEAN UNION



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# ON THE MOVE

UNACCOMPANIED  
FOREIGN MINORS  
IN THE  
EUROPEAN UNION



SPANDA

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## ACRONYMS



<b>CGRS</b>	COMMISSIONER GENERAL FOR REFUGEES AND STATELESS PERSONS
<b>CIR</b>	CONSIGLIO ITALIANO PER I RIFUGIATI
<b>CM</b>	EUROPEAN COMMISSION
<b>CPR</b>	PORTUGUESE REFUGEE COUNCIL
<b>EASO</b>	EUROPEAN ASYLUM SUPPORT OFFICE
<b>ECHR</b>	EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
<b>EMN</b>	EUROPEAN MIGRATION NETWORK
<b>ERPUM</b>	EUROPEAN RETURN PLATFORM FOR UNACCOMPANIED MINORS
<b>EU</b>	EUROPEAN UNION
<b>EURODAC</b>	EUROPEAN DACTYLOSCOPY
<b>EUROSTAT</b>	STATISTICAL OFFICE OF THE EUROPEAN COMMUNITIES
<b>FRA</b>	EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS
<b>HRW</b>	HUMAN RIGHTS WATCH
<b>IOM</b>	INTERNATIONAL ORGANIZATION FOR MIGRATIONS
<b>i-RED</b>	INSTITUTE FOR RIGHTS, EQUALITY AND DIVERSITY
<b>MS</b>	MEMBER STATE
<b>NGO</b>	NON-GOVERNMENTAL ORGANIZATION
<b>RS</b>	REPUBLIC OF SLOVENIA
<b>SAR</b>	STATE AGENCY FOR REFUGEES
<b>SBC</b>	SCHENGEN BORDERS CODE
<b>SEF</b>	ALIENS AND BORDERS SERVICE
<b>TCN</b>	THIRD COUNTRY NATIONAL
<b>TEU</b>	TREATY ON EUROPEAN UNION
<b>TFEU</b>	TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION
<b>UAM</b>	UNACCOMPANIED MINOR
<b>UAMAS</b>	UNACCOMPANIED MINOR ASYLUM-SEEKER
<b>UFM</b>	UNACCOMPANIED FOREIGN MINOR
<b>UNESCO</b>	UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION
<b>UNHCR</b>	UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES







## EXECUTIVE SUMMARY



**E**VERYDAY HUNDREDS OF MIGRANTS TRY TO CROSS THE EUROPEAN UNION (EU) BORDERS. UNACCOMPANIED FOREIGN minors (UFMs), seeking a better life in the Old Continent, are a significant part of them. Unaccompanied minors (UAMs) are defined as those non-EU national or stateless persons under 18 years of age, who arrive in an EU member state without any adult or legal guardian responsible for him or her.

Exact numbers are difficult to record; the European Commission (CM) estimated around 30.000 unaccompanied minors in 2008. However, the most reliable data available are those on unaccompanied minors who applied for asylum. In 2013, 12.430 asylum applications were filled in by UAMs in all 28 member states.

Governments and European institutions are often unable to welcome this vulnerable group of migrants and may not adopt the proper measures of assistance and protection. In addition, the main European statistical offices do not provide exhaustive data on this increasing phenomenon, burdening the job on organisations and institutions working with UAMs.

The main reason that has led us investigate further on the topic has been the lack of a comprehensive research able to provide updated and detailed information on UAMs' presence in the EU. In an attempt to raise awareness and shed light on the topic, we have developed a comprehensible report on the European overall situation. We provide a general overview of laws and provisions inserted in the European legal framework, regarding unaccompanied foreign minors asylum and non-asylum seekers. Furthermore, a picture on the phenomenon for each of the 28 EU member states has been drawn. The resulting country fact sheets have been created following the same structure: definition of unaccompanied foreign minor; facts and figures on UAMs and unaccompanied foreign minors asylum seekers (UAMAS); and reasons for leaving the country of origin.

Differences and peculiarities among member states have come to light. Among the group of countries mostly challenged by migration flows, the Mediterranean countries – Greece, Italy and Spain – welcome a significant number of UAMs but receive few requests of asylum, while others – Germany, Sweden and the UK – host an equally large number of UAMs and UAMAS. On the other hand, the Baltic States and Luxembourg have very little familiarity with UAMs.

We have recorded statistical findings and issues covering the detention, guardianship system, reception facilities and voluntary return programmes of UAMs and UAMAS. Overall, we believe that an in-depth analysis on the problem of data collection is essential in order to better shape policies and researches regarding this unprotected group of young migrants. Institutions and organisations in charge of data collection and elaboration on the topic should address this task with a common perspective, adhering to shared guidelines, establishing a fixed period of reference, a single unit of measures, and defining unitary methods and modalities.

Considerations have been made on countries' shortcomings and good practices that could be considered as exemplar. Besides the improvement in data collection, we strongly recommend that detention of minors should be avoided under any circumstances, *ad hoc* facilities should be created and information about asylum procedures should be provided for UAMs' support. We consider these to be the foremost steps on the way to improve UAMs' conditions at European level.







**M**IGRATION IS A WORLDWIDE PHENOMENON, WHICH HAS ALWAYS BEEN PART OF HUMAN HISTORY. NOWADAYS, MIGRATION flows constitute one of Europe's greatest concerns and they represent an increasingly relevant issue in the European Union agenda. In the Nineties, the European institutions started to realize the need for an appropriate migration policy response, after some member states had experienced a significant number of migrants' arrivals, including unaccompanied foreign minors. Unaccompanied foreign minors are defined as those non-EU national or stateless persons under 18 years of age, who arrive in one of the 28 member states without any adult or legal guardian responsible for him or her. According to the data published by the CM, UAMs reached 30.000 units in 2008. Since then, the rising number of unaccompanied minors detected in most members states has stressed the need to investigate and reading up further on this aspect.

Despite the difficulties in finding overall data on UAMs crossing the EU borders, it is possible to grasp the width of the phenomenon just by analysing minors' asylum applications. In 2013, unaccompanied foreign minors, mostly coming from the African and Asian continent, have filled in 12.430 asylum applications. Consequently, it is necessary to explore the reasons why UAMs, especially the youngest, flee the country of origin, facing disparate treatments in the country of destination. The EU has been chosen as the research focus because of its strategic geographical location. The Old Continent's location has ever allowed an easy access to its territory, however, the EU fragmented political situation, especially to the extent of foreign policy, has led member states to tackle migration issues with rather differing approaches. The research aims to shed light on the drawbacks and shortcomings of the European approach toward the issue of UAMs and tries to draw attention on matters of practical relevance.

As a result, we recommend the European Union to proceed further in the effort of systemising procedures and building a comprehensive and coherent framework for UAMs, so that the EU will be able not just to 'face emergencies', but also to act as a unique body. The outcomes of the study are therefore intended for all the entities dealing with UAMs, including international and non-governmental organisations, and especially governmental and intergovernmental bodies and the EU institutions.

The research process has been structured in various sections; a broad investigation has been undertaken in the internet, collecting a wide range of literature that represents the outcome of the work of many institutions and organisations involved in this field. Shortcomings have been found since the initial steps: it has been difficult to gather data for all EU member states, especially updated ones, and obvious divergences have been found.

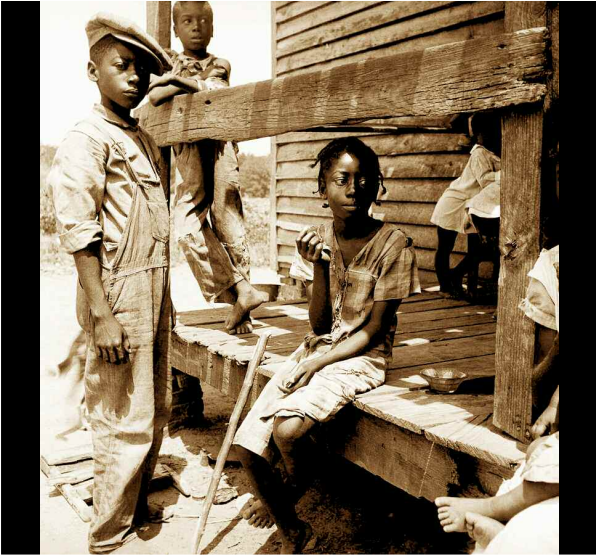
An overview of the EU legislative framework regarding UAMs has been given, starting with a definition and following with an overview of all relevant European provisions.

Furthermore, 28 country fact sheets have been drawn in total, one for each of the EU member states, providing numbers and figures in addition to specific information on national provisions. Every country fact sheet has been structured homogeneously:

- definition of unaccompanied foreign minor;
- facts and figures on UAMs and UAMAS;
- reasons for leaving the country of origin;
- peculiar provisions regarding UAMs, such as asylum applications; disappearances; guardianship; reception facilities; voluntary return programme; deportation; detention; apprehension; age assessment.

Finally, a summary of the main findings, grouped by countries' shared characteristics, has been provided. A special attention has been given to those data, which have been proven to be inconsistent or missing. We have endorsed specific recommendations to overpass issues related to data collection and UAMs' treatment, suggesting feasible solutions and good practices.





## 2 ~ THE EUROPEAN LEGAL FRAMEWORK ON UNACCOMPANIED FOREIGN MINORS



### 2.1 ~ A GENERAL OVERVIEW

**A**CCORDING TO THE DATA PRESENTED BY THE EUROPEAN MIGRATION NETWORK (EMN), THERE HAVE BEEN THOUSANDS OF UAMS coming to the EU every year<sup>1</sup>. In May 2010, the CM adopted the Action Plan on UAMS 2010-2014, to show that the issue was not resolved yet and deserved further elaboration on European and consequently on national levels. Three levers of action were proposed to increase the overall protection of UAMS: i) prevention of unsafe migration and increasing protection capacities in non-EU countries; ii) increasing protection by procedural guarantees and other measures; iii) finding durable solutions<sup>2</sup>. Besides the proposed amendments of legislation, the CM wants to reach the needed goals by sharing best practices and including as many actors as possible, i.e. the countries of origin, transit countries, civil society organisations and international organisations operating on the ground. As it is stated at the end of the Action Plan, the CM was supposed to report on its implementation by 2012 and once again by 2015.

A key challenge of the research on UAMS is the data collection. As mentioned in the Action Plan, data are “most comprehensive and comparable for those UAMS who apply for asylum”<sup>3</sup>, since, according to the Statistics Regulation<sup>4</sup>, supplying the statistics on UAMS who are applicants for international protection is the only obligation that the Member States (MSs) have. However, these are not the only UAMS concerned. On other types of flows of UAMS (as victims of trafficking; irregular migrated etc.), data are not sufficiently gathered at the European level. Nevertheless, as the CM states in its Report on the implementation of the Action Plan on UAMS, “significant improvements in the collection and exchange of data have been done in this sphere.”<sup>5</sup> It includes work of EMN, Frontex, European Asylum Support Office (EASO), and other such bodies.

The EU legislation on asylum, immigration and trafficking in human beings include specific provisions on the protection of the interests of UAMS. It is based on the standards of the United Nations Convention on the Rights of the Child. The common European approach is based on the principle of the best interest of the child. The EU definition of UAM is identical or having the same meaning in all instruments following below. For example, according to Article 2(i) of the Qualification Directive<sup>6</sup>, UAMS means Third Country Nationals (TCNs) or stateless persons below 18 years of age, who arrive on the territory of the member states unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person; it includes minors who are left unaccompanied after they have entered the territory of the MSs. That implies that EU MSs nationals cannot be subject to rules and conditions set out by any of these Directives and Regulations. EU MSs are bound by this definition. The situation is different for UK, Ireland and Denmark. These countries enjoy specific regime in relation to the whole European Area of Freedom, Security and Justice<sup>7</sup>. To find out whether they decided to take part or not, we need to search individually in preamble of each legal Act<sup>8</sup>.

### 2.2 ~ THE EU MIGRATION LAW PROVISIONS ON UAMS

Even though there is no separate EU legislation dedicated to UAMS, specific provisions on them can be found in other European primary and secondary law.

#### 2.2.1 ~ THE CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

*Charter of Fundamental Rights of the European Union, 2012/C326/02*<sup>9</sup>.

Children’s rights are included in the Charter of EU. The rights relating to UAMS are: rights of the child<sup>10</sup>; right to education<sup>11</sup>; and prohibition of child labour<sup>12</sup>. There are no provisions related exclusively to UAMS.

The Lisbon Treaty<sup>13</sup> gives the Charter of EU the same legal value as the constituting Treaties, i.e. Treaty on European Union (TEU) and Treaty on the Functioning of the European Union (TFEU). Therefore, in the EU, there are two different levels of obligation aimed to respect children’s rights. Firstly, the obligation of EU bodies and member states according to the Charter of EU<sup>14</sup>. Secondly, there is a simultaneous obligation of the MSs according to international law. So far, in contrast to its member states, the EU itself has not been bound by international law agreements. However, since the adoption of the Lisbon Treaty, the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) has been in progress. It is likely that it will happen in the near future. The exact model of cooperation between European and international law has not been resolved yet.

### 2.2.2 ~ THE RECEPTION CONDITIONS DIRECTIVE

*Council Directive 2003/9/EC of 27 January 2003 Laying Down Minimum Standards for the Reception of Asylum Seekers in Member States (MSs)*<sup>5</sup>.

The purpose of this Directive is to lay down minimum standards for the reception of asylum seekers in MSs<sup>16</sup>. Some provisions apply to all minors, while others specifically to UAMs.

As in the other legislation on EU migration law, the child best interest is stressed as a condition for implementation of the Directive<sup>17</sup>. Moreover, in the second paragraph, the Article provides for rehabilitation services for minors who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment, or who have suffered from armed conflicts, for appropriate healthcare and qualified counselling. As a general principle, Article 17 provides that in the national legislation relating to material reception conditions and health care, MSs shall take into account the specific situation of vulnerable persons, such as minors and UAMs. Moreover, there are general rules on schooling, education of all minors<sup>18</sup> and on their lodging<sup>19</sup>.

Article 19 of the Directive relates specifically to UAMs. It requires MSs to ensure their necessary representation. Authorities shall make regular assessment for this purpose. Representation is a crucial element for child protection, because separated minors are not able to protect themselves without appropriate help.

Furthermore, there are rules for family unity and accommodation of UAMs, according to which they shall be placed with adult relatives, with foster families, in reception centres with special provisions for minors or in other suitable accommodation. As far as possible, siblings shall be kept together and changes of residence shall be limited to a minimum. MSs shall also ensure that people taking care for UAMs have appropriate training. Finally, MSs shall endeavour to trace the members of UAM's family, respecting the safety and confidentiality<sup>20</sup>.

### 2.2.3 ~ THE QUALIFICATION DIRECTIVE

*The Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted*<sup>1</sup>.

The purpose of this Directive is to lay down minimum standards for the qualification of TCN or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted<sup>22</sup>.

The Qualification Directive contains many provisions on UAMs similar to the Reception Conditions Directive. Firstly, the provisions on the best interest of the child and on taking into account the specific situation of vulnerable persons, such as UAMs and others. Secondly, it contains the same or similar provisions on necessary representation, family unity and accommodation, placing of siblings, changes of residence and training for personnel. When dealing with family unity and accommodation, the views of the child shall be taken into account in accordance with his or her age and degree of maturity. Moreover, since reunion with the original family is the most preferred option in many situations, MSs shall make all possible effort to find the family of the UAM and to reunite him or her with the family, respecting the safety and confidentiality<sup>23</sup>.

### 2.2.4 ~ THE ASYLUM PROCEDURES DIRECTIVE

*Council Directive 2005/85/EC of 1 December 2005 on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status*<sup>24</sup>.

The purpose of this Directive is to establish in the MSs minimum standards on procedures for granting and withdrawing refugee status. In other words, it contains procedural rules for application for international protection<sup>25</sup>.

This Directive is closely related to the Qualification Directive. When dealing with official authorities, procedural guarantees are meant to balance the disproportionate relation between the institution and the applicant. Article 17 contains procedural guarantees for UAMs. MSs should always have in mind the best interest of the child, while ensuring representation for the examination of the application for international protection. Even though some exceptions are available, this is the most fundamental procedural guarantee. Due to the complicated process, the representative shall be given the opportunity to inform UAMs about the meaning and possible consequences of the personal interview. Moreover, the representative shall be allowed to be present at the interview. Institutional staff dealing with UAMs shall be appropriately trained with special focus on UAMs.

Sometimes medical examination is used to determinate UAMs' age and to certify minor status. Because of the sensitivity of the examination, MSs shall ensure that information about the examination is provided as well as the person consent<sup>26</sup>.

### 2.2.5 ~ THE DIRECTIVE ON THE MINIMUM STANDARDS FOR TEMPORARY PROTECTION

*Council Directive 2001/55/EC of 20 July 2001 on Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts Between Member States in Receiving such Persons and Bearing the Consequences Thereof*<sup>27</sup>.

The purpose of this Directive is to establish minimum standards for giving temporary protection in case of a mass influx of displaced persons from third countries that are unable to return to their country of origin. Another purpose is to promote a balance of effort between MSs in receiving and bearing the consequences of receiving such persons<sup>28</sup>.

Article 16 contains provisions on UAMs requiring their necessary representation and placement; the views of the child regarding the placement shall be taken into consideration in accordance with their age and maturity.

### 2.2.6 ~ THE DUBLIN II REGULATION

*Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national*<sup>29</sup>.

The purpose of this Regulation is to lay down criteria and mechanisms for determining the MS responsible for examining an application for international protection lodged in one of the MSs by a TCN or a stateless person<sup>30</sup>.

There are a number of rules specifically addressed to UAMs. The primary guarantee for all minors is respecting their best interest<sup>31</sup>. However, the Dublin II Regulation, in contrast with other EU migration law legislation, specifies some assessment tools for consideration of their best interest. MSs shall, in particular, take into account the possibility of family reunification, well-being and social development, safety and security, and the minor's views in accordance with their age and maturity. Furthermore, necessary representation and assistance with respect to all procedures provided for in this Regulation have to be provided<sup>32</sup>.

The MSs, where the UAM lodged an application for international protection, shall, as soon as possible, take appropriate action to identify the family members, siblings or relatives of the UAM on the territory of MSs. For that purpose, MSs may call for the assistance of international or other relevant organisations, and may facilitate the minor's access to the tracing services of such organisations<sup>33</sup>. The determination of the MS responsible for examining an application for international protection is based on hierarchical system. It means that the conditions need to be followed one by one and the one first met will be applied. Such rules are necessary in order to resolve TNC's claims and disputes between MSs about the responsibility for such examination. According to Article 8 of the Dublin II Regulation, the MS responsible for examination of the application of an UAM shall be the one where a family member or a sibling of the UAM is legally present. According to paragraph 16 Preamble, the presence in another MS territory of a family member or relative who can take care of him or her should also become a binding responsibility criterion.

Where the applicant is a married minor whose spouse is not legally present on the territory of the MSs, the MS responsible shall be the one where the father, mother or other adult responsible for the minor, or sibling is legally present, whether by law or by the practice of that MS. In case the applicant is an UAM who has a relative legally present in another MS, then an individual examination can establish that the relative can take care of him or her. In this way the MS may unite the minor with his or her relative and become the MS responsible<sup>34</sup>. In the absence of a family member, a sibling or a relative, the MS responsible shall be the one where the UAM has lodged the application for international protection<sup>35</sup>.

### 2.2.7 ~ THE DIRECTIVE ON THE RIGHT TO FAMILY REUNIFICATION

*Council Directive 2003/86/EC of 22 September 2003 on the Right to Family Reunification*<sup>36</sup>.

The purpose of this Directive is to determine the conditions for the exercise of the right to family reunification by TCNs residing lawfully in the territory of the MSs<sup>37</sup>.

The Directive contains many provisions related to minors. However, there is only one advantageous provision on UAMs, in the part relating to family reunification of refugees. According to Article 10(3), if the refugee is an UAM, the MSs shall authorise the entry and residence for the purposes of family reunification of his/her first-degree relatives in the direct ascending line (i.e. parents) without applying stricter, general conditions ("*shall*" provision, as an obligation in comparison with "*may*" provision, as an option in Article 4(2)).

If the refugee has no relatives in the direct ascending line or such relatives cannot be traced, the MSs may authorise the entry and residence for the purposes of family reunification with his/her legal guardian or any other family member<sup>38</sup>.

## 2.2.8 ~ THE SCHENGEN BORDERS CODE

*Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)*<sup>39</sup>.

The Schengen Borders Code (SBC) is the Regulation establishing a Community Code on the rules governing the movement of persons across borders. The Community Code provides rules governing border control of persons crossing the external borders of the EU's MSs<sup>40</sup>, although it gives very little information in regards to UAMs. The only provision on UAMs (actually amended in 2013 by Regulation 610/2013<sup>41</sup>) obliges MSs to ensure that the border guards are specialised and properly trained professionals for detecting and dealing with situations involving vulnerable persons, such as UAMs and victims of trafficking<sup>42</sup>.

For provisions on minors, there is a reference to the *Special rules for certain categories of persons* in Annex VII to SBC<sup>43</sup>.

In general, border guards shall pay particular attention to minors, whether traveling accompanied or unaccompanied; and minors crossing an external border shall be subject to the same checks on entry and exit as adults<sup>44</sup>.

In the case of accompanied minors, border guards shall ensure that the accompanying persons have parental care over them, especially where minors are accompanied by only one adult and there are serious grounds for suspecting that they may have been unlawfully removed from the custody of the person(s) legally exercising parental care over them<sup>45</sup>.

In the case of UAMs, border guards shall ensure, by means of thorough checks on travel and other supporting documents, that minors do not leave the territory against the wishes of the person(s) having parental care over them<sup>46</sup>.

## 2.2.9 ~ THE RETURN DIRECTIVE

*Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals*<sup>47</sup>.

The Return Directive is the Directive on common standards and procedures in MSs for returning illegally staying third-country nationals.

The Directive sets out common standards and procedures to be applied in MSs for returning illegally staying TCN, in accordance with fundamental rights as general principles of Community law, as well as international law, including refugee protection and human rights obligations<sup>48</sup>.

Return and removal is a very sensitive issue. When UAMs return and removal is due to the age, the situation is even more sensitive. Before deciding to issue a return decision, MSs are obliged to provide UAMs with assistance given by appropriate bodies and not by authorities enforcing return. Furthermore, before removing an UAM, the authorities have to be sure that he or she will be returned to a member of his or her family, to a nominated guardian or to adequate reception facilities in the country of return<sup>49</sup>. This is a clear requirement to provide appropriate unbiased protection.

Detention is one of the most controversial parts of the Return Directive. UAMs shall only be detained as a measure of last resort and for the shortest appropriate period of time. They should be supplied with accommodation in institutions provided with personnel and facilities which take into account the needs of persons of their age<sup>50</sup>. If placed in detention, they shall have access to leisure activities and, depending on the length of stay, also to education<sup>51</sup>.

## 2.2.10 ~ THE DIRECTIVE ON PREVENTING AND COMBATING TRAFFICKING IN HUMAN BEINGS AND PROTECTING ITS VICTIMS

*Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA*<sup>52</sup>.

The Directive's aim is to prevent and combat trafficking in human beings, to protect its victims, and to replace Council Framework Decision 2002/629/JHA by establishing minimum rules in the definition of criminal offences and sanctions about this topic<sup>53</sup>. The provisions are relevant for UAMs and oblige MSs to take required measures in order to ensure that specific actions to assist and support human trafficking's child victims take into account of the circumstances of the unaccompanied child victim<sup>54</sup>. That means actions to assist and support their physical and psychosocial recovery undertaken following an individual assessment, with a view to find a durable solution<sup>55</sup>. The durable solution could be return and reintegration into the country of origin or into the country of return, integration into the host society, granting of international protection status or granting of other status in accordance with national law of the member states<sup>56</sup>. Moreover, MSs are obliged to ensure their necessary representation by a guardian or a representative in order to safeguard minor's best interests<sup>57</sup>.





### 3 - COUNTRY FACT SHEETS



#### 3.1 - AUSTRIA

IN THE AUSTRIAN LEGAL FRAMEWORK, THE EUROPEAN DIRECTIVES AND THE AUSTRIAN SETTLEMENT AND RESIDENCE ACT define unaccompanied minors. Furthermore, at federal level the Basic Welfare Act of Salzburg and Tirol contains definitions of UAMs.

In Austria, there are different terms, which refer to unaccompanied minors, such as unaccompanied minor foreigner, mostly meaning children who did not apply for asylum, and unaccompanied minor refugee, which can also mean asylum-seeking unaccompanied minor. Problems regarding the terminology can arise in the data collection process.

The decisions that push unaccompanied minors to reach Austria are varied; the decision to migrate can be taken independently by the minor, by the parents, or lastly by other family members or guardians. In other cases, minors arrive in Austria “as designated child of another family, mostly for the purpose of slavery and exploitation, or he/she could get separated from family members during the flight transfer.”<sup>58</sup>

The reasons leading UAMs migrate to Austria can be summarized as the following:

- political reasons: this was the most quoted cause for unaccompanied minors coming to Austria. Some of these minors experienced threats and persecutions; political instability; war; riots and torture in the country of origin.
- economic reasons: such as the lack of perspectives in the country of origin, disastrous living conditions, lack of resources and poverty, and also the need to support the family via remittances.
- social reasons: child-exploitation and child-abuse, the loss of central family members and the general aspiration for a life in Europe.
- family reunification
- transit to other countries
- misleading information: unaccompanied minors often received misleading information in the country of origin regarding the possibility of applying for asylum.
- victims of human trafficking

The EMN states that 1.121 unaccompanied minors were present in Austria in 2011, whereas the year after the number rose to 1.631.

The International Organization for Migration (IOM) and the Statistical Office of the European Communities (Eurostat) report the number of UAMAS in Austria from 2005 to 2013. As evident from the table below, there are some inconsistencies between the two sources, however FIGURE 1 shows a common trend regarding the decrease in the number of UAMAS from 2005 to 2007 and a high peak in 2009 and 2013.

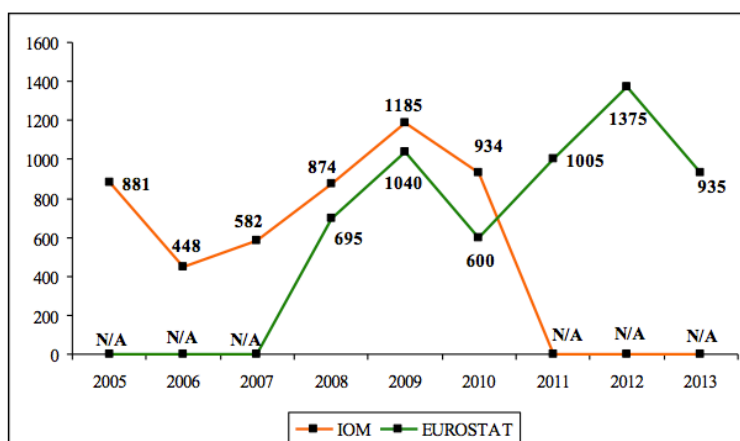


FIGURE 1 - Number of UAMAS in Austria 2005-2013 – Sources: Tabulation of IOM 2011; Eurostat 2014.

The majority of unaccompanied minors coming to Austria are from Afghanistan followed by Moldova.

COUNTRY OF ORIGIN	UAMS PERCENTAGE
Afghanistan	32%
Moldova	9%
Nigeria	8%
Somalia	7%
Russian Federation	7%
Other countries	23%

TABLE 1 - UAMS in Austria by country of origin from 2004 to 2008 – Source: Statistik Austria 2012.

UAMS arriving in Austria can apply for asylum regardless of their age, although children younger than 14 years of age are assigned to a legal adviser who submits their asylum claims, while the others can submit their own application in person and then they are assigned a legal adviser.

The Austrian Asylum Act states that in case that UAMS' best interest cannot be taken care of by the parents, legal advisers and the Youth Welfare Authority should be responsible for their legal representation.

Austria developed a specific project related to the reception of unaccompanied refugee minors: Project Welcome. The Project provides UAMS with primary care, individual or group psychosocial support, plus German language courses and leisure activities in the Caritas residential home to foster integration. In Austria there are specialized accommodation centres for young asylum-seekers.

The national legislation does not envisage any specific regulation on the guardianship of UAMS; usually the Youth Welfare Authority is in charge of this function and it has the right to delegate duties to third parties.

### 3.2 ~ BELGIUM

The Belgian legal framework refers to an unaccompanied foreign minor as a person that meets the following four conditions:

- being less than 18 years old;
- being without the guidance of a person with parental authority or a (guardian) person that has guardianship over the minor;
- originating from a country that does not belong to the European Economic Area;
- being a person who has applied for asylum or does not fulfil the conditions to enter or reside in Belgian territory.

This implies that Bulgarian and Romanian children are not accounted as unaccompanied minors.

In Belgium, two institutions are in charge of data collection: the Guardianship Office and the Federal Agency for the Reception of Asylum Seekers. Unfortunately these two institutions do not collect data uniformly, which leads to different results.

Belgium receives on average 1.800 UAMS per year. 70% of unaccompanied minors are male and 60% are between 16-18 years of age. The EMN accounts 3.850 UAMS present in Belgium in 2011 and 2.081 in 2012. Only 30%-40% of unaccompanied minors are asylum-seekers. FIGURE 2 displays the number of asylum applications from 2006 to 2013.

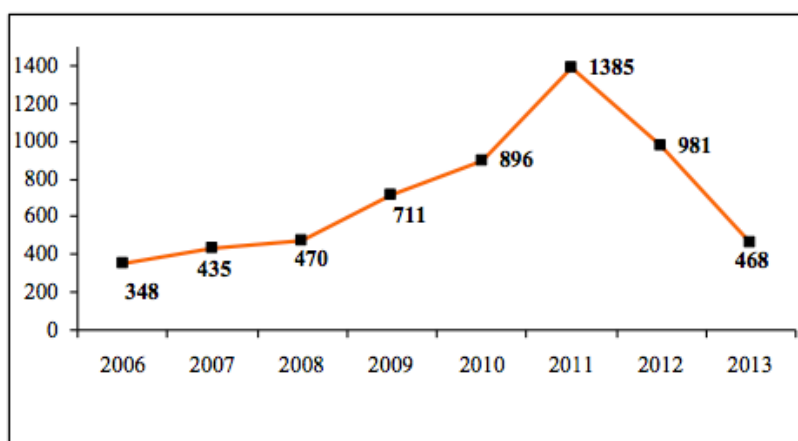


FIGURE 2 - Number of UAMAS in Belgium 2006-2013 – Source: Tabulation of Office of the CGRS, IOM 2014.

Data from the EMN and Eurostat differs from the one represented in FIGURE 2. In fact, Eurostat reports slightly different figures for the years 2010 and 2012, while the EMN reports completely different ones for the years 2010, 2011 and 2012, when respectively 1.080, 2.040 and 1.530 UAMAS were detected.

COUNTRY OF ORIGIN	NUMBER OF UAMS
Afghanistan	120
Guinea	82
RD Congo	52
Albania	17
Siria	16
Other countries	181
<b>TOTAL</b>	<b>468</b>

TABLE 2 - Number of UAMAS by country of origin in 2013.  
Source: Office of the Commissioner General for Refugees and Stateless Persons (CGRS) 2014.

Belgium can be considered mainly a transit zone, since most UAMs declare to Belgian authorities that they are trying to go to the United Kingdom or Scandinavian countries.

As soon as minors have been identified, they are transferred to the Guardianship Office, where they are appointed to a legal guardian. The reception procedure adopted by Belgium is defined by “the observation phase followed by an orientation to the most appropriate reception structures.”<sup>59</sup>

The UNESCO underlines the fact that “a few countries have created an exclusive network of specialized facilities for the reception of unaccompanied children. Currently, Belgium is the main example of this approach.”<sup>60</sup> However, the EMN points out UAMs’ disappearances as one of the major concerns. Moreover, it is important to state that most disappearances take place within the first days after the arrival; most of those minors come from Maghreb or are Roma people.

### 3.3 - B U L G A R I A

The Bulgarian law defines an unaccompanied foreign minor as: “a minor or underage foreigner staying on the territory of the Republic of Bulgaria who is not accompanied by his parent or other adult responsible for him by virtue of a law or a custom.”<sup>61</sup>

The Bulgarian law distinguishes between two categories of children: minors, from 0 to 14 uncompleted years of age, and juveniles, from 14 to 18 completed years of age. The Bulgarian law prescribes that a guardian has to be appointed for a minor, whereas a trustee for a juvenile.

National statistics do not report anything specific on UAMs, but they do report general data on immigration flows. In 2012, 1.964 minors immigrated to Bulgaria; the majority of them were male between 15-19 years of age. In 2010, 19 UAMs were found in Bulgaria, while 25 in 2011 and 64 in 2012.

The State Agency for Refugees (SAR) and the Council of Ministers of the Republic of Bulgaria collect, keep and update regular data concerning applications and registrations of unaccompanied minors seeking asylum.

The table below shows the total number of UAMAS, mostly Afghanis and Iraqi, seeking protection in Bulgaria between January 2007 and September 2011.

		AGE GROUP			
		0-13	14-15	16-17	TOTAL
GENDER	Boys	3	18	38	59
	Girls	1	2	3	6
<b>TOTAL</b>		<b>4</b>	<b>20</b>	<b>41</b>	<b>65</b>

TABLE 3 - Total number of UAMAS in Bulgaria between January 2007 and September 2011 – Source: IOM 2012.

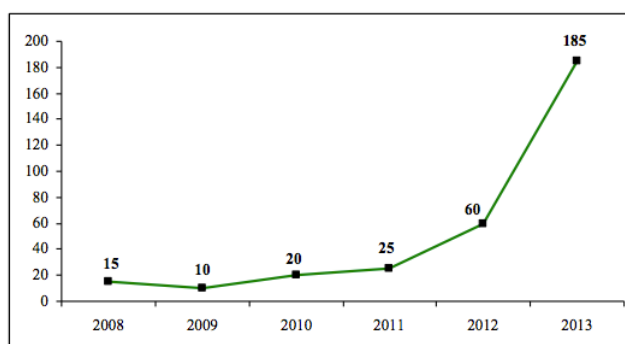


FIGURE 3 - Number of UAMAS in Bulgaria 2008-2013 – Source: Tabulation of Eurostat 2014.

The Bulgarian legislation lays down particular provisions and institutional mechanisms regarding the status of refugees and the right of asylum for UAMs. The measures taken with regard to unaccompanied children refugees are in compliance with the international criteria for best practices.

Bulgaria is also a country of emigration. A study made by the University of Fribourg lists some of the root causes of UAMs migrating from Bulgaria, being the following: poverty; unemployment; domestic violence; lack of family support; lack of access to education and in the case of Roma children; discrimination; social exclusion and marginalisation.

### 3.4 ~ C R O A T I A

The Croatian legislation defines an unaccompanied foreign minor as an unaccompanied child who “is a foreigner below the age of eighteen who arrives in the Republic of Croatia unaccompanied by his/her parents or legal guardian, or who is left unaccompanied on the territory of the Republic of Croatia.”<sup>62</sup>

UAMs make up 10% of the total number of foreigners staying illegally in the Republic of Croatia, although “a systematic study on unaccompanied children has not been undertaken in the Republic of Croatia so far.”<sup>63</sup> The table displays UAMs arriving to Croatia by categories.

	2005	2006	2007	2008	2009	2010
Illegal border crossing	418	581	584	149	103	172
Asylum seekers	5	1	10	4	20	43
Victims of trafficking in persons	3	2	1	0	1	2
TOTAL	426	584	595	153	124	217

TABLE 4 - Number of UAMs in Croatia 2005-2010 – Source: UNHCR Croatia 2011.

Data on the country of origin are also available.

UAMs MIGRANTS	UAMs ASYLUM SEEKERS	UAMs VICTIMS OF HUMAN TRAFFICKING
Afghanistan	Afghanistan	Bosnia and Herzegovina
Albania	Azerbaijan	Bulgaria
Bosnia and Herzegovina	India	Romania
Serbia	Iran	Ukraine
Turkey	Iraq	
	Pakistan	
	Republic of Congo	
	Sri Lanka	

TABLE 5 - UAMs' countries of origin by categories – Source: UNHCR Croatia 2011.

Eurostat gathered data on UAMAS in Croatia for the years 2012 and 2013, when respectively 70 and 55 UAMAS were detected.

The United Nations High Commissioner for Refugees (UNHCR) confirms “the existence of serious shortcomings in the collection of statistical data on unaccompanied children staying illegally in the country. The related statistical data are incomplete and, for the same period of time, different institutions provide different data. Each of the institutions participating in the study deals exclusively with a selected segment of the problem that falls under its own competence. Consequently, it is not possible to collect data on reasons for leaving the country of origin, family related data, data on the gender, age and education of the child, the way of arriving and period of stay in the Republic of Croatia, the health and psycho-physical state of the minor and the method of returning to the country of origin.”<sup>64</sup> Issues arise also for what regards the guardianship and the accommodation system. Unaccompanied children are in fact placed in the Reception Center for Foreigners for administrative reasons, while considering the vulnerability, risk of exploitation, abuse and neglect that UAMs constantly face, they should receive special protection and care.

### 3.5 ~ C Y P R U S

The Cypriot legislation adopts the definition of unaccompanied foreign minor in accordance to the European Directives (see Section 2).

In Cyprus, there is a general hostile environment toward migrants and asylum seekers. The UNHCR and national institutions apparently do not provide any figures on UAMs at national level; the respective ministries record neither statistics on education nor on the healthcare system. Little information is available on the topic: under the umbrella of the Cyprus Refugee law, unaccompanied minors should be granted access to education, including language extra classes, and free medical care.

From 2004 to 2007 “there have been 65 cases of unaccompanied minors referred to the Social Welfare Services, which include unaccompanied minors asylum seekers, unaccompanied minors with alleged Guardians (relatives, friends etc.) for whom their capacity as guardians was not verified before entering the Republic. The countries of origin were Russia, Yugoslavia, Ukraine, Moldavia, Congo, Ethiopia, Sri Lanka, Nigeria, Cameroon, Egypt, Syria, Iraq, Iran, Palestine and Turkey.”<sup>65</sup> Moreover, from 2010 to 2012 the EMN reports 51, 15 and 20 UAMs respectively.

According to Cyprus Asylum Services, 71 unaccompanied children requested asylum in 2008, whereas the number decreased to 22 in 2009. Eurostat provides more recent data on UAMAS, which are displayed in FIGURE 4.

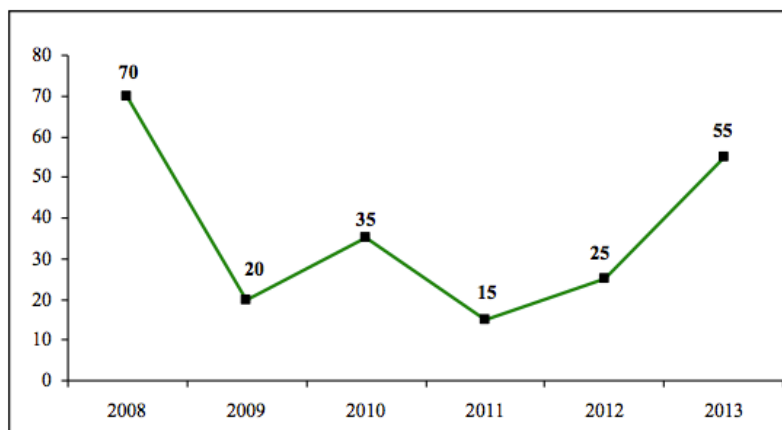


FIGURE 4 - Number of UAMAS in Cyprus 2008-2013 – Source: Tabulation of Eurostat 2014.

### 3.6 - CZECH REPUBLIC

The definition of unaccompanied foreign minor in Czech Republic is covered by Section 2 of the Article 11 of the Law on Asylum; it states that “a person under 18 years of age who comes to the territory unaccompanied by any adult person who should be responsible for the minor, according to the legal system of the State in which the minor is a citizen or, if the minor is stateless, according to the legal system of the country in which the minor was most recently resident, for the period of time for which the minor’s legal representative is unable to take responsibility for the child. An unaccompanied minor is also a person under 18 years of age who was left unaccompanied after their arrival in the territory.”<sup>66</sup>

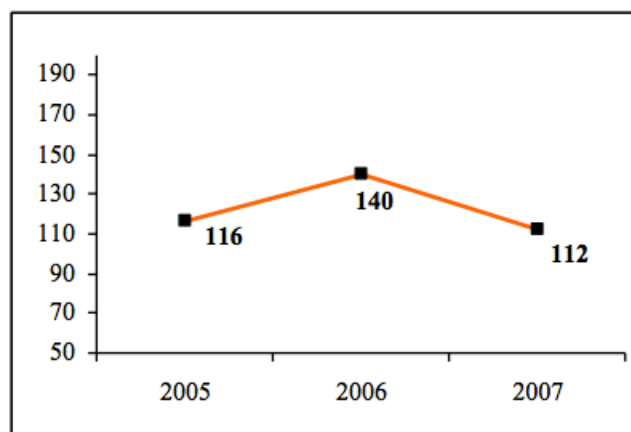


FIGURE 5 - Number of UAMs in Czech Republic 2005-2007 – Source: Tabulation of IOM 2008.

The official statistical institutions do not provide updated and detailed data on UAMs in Czech Republic. However, the IOM provides some data covering the time span 2005-2007, but still, data on the phenomenon of UAMs in Czech Republic are out-dated and missing.

The majority of UAMs arriving in the country are male, between 15-18 years of age and come from Vietnam, China, India, and Slovakia.

The number of UAMAS in Czech Republic is usually very low; only 5 UAMAS were detected by Eurostat in 2010, 10 in 2011, 5 in 2012, whereas none in 2013.

In case of detection of a UAM, a guardian must be appointed, until the minor reaches 18 years of age. However, the Czech law does not provide a specific definition for the guardian figure and role, since he/she is “usually someone close to the child who is in the Czech Republic and who is able to take care of the child, in the absence of the child’s parents.”<sup>67</sup>

COUNTRY OF ORIGIN	YEARS		
	2005	2006	2007
Bulgaria	11	3	2
Congo	0	9	2
India	15	19	1
Slovakia	4	15	11
Viet Nam	29	30	42
Other countries	57	64	54
<b>TOTAL</b>	<b>116</b>	<b>140</b>	<b>112</b>

TABLE 6 - Number of UAMs in Czech Republic by country of origin 2005-2007 – Source: IOM 2008.

After the reception procedure, which includes a medical examination, UAMs are transferred to a special facility for children called the Blue School, “a facility for children of foreign nationals, younger than 18 years who are in the territory of the Czech Republic without parents or other legal representatives, that serves as a diagnostic facility, children’s home with school, educational institute, educational care centre, primary and special school.”<sup>68</sup>

Minors have the right to stay in the territory of Czech Republic and they are also ensured a wide range of rights, including social, psychological and medical care, as well as the right to education and asylum.

UAMs’ disappearances used to be a concern for Czech Republic until 2007, when more than half of the children staying in reception centres ran away. More recent data on UAMs’ disappearances are not available.

### 3.7 - DENMARK

“In Denmark, an unaccompanied minor is defined as a person less than 18 years of age who enters the country without parents or other persons who are responsible for the child, e.g. siblings or grandparents. Also children who enter the country accompanied, but who are later abandoned, are treated as unaccompanied. An unaccompanied child can have parents or other close relatives in the home country or in third countries, but can also be an orphan.”<sup>69</sup>

The Danish National Statistic Institution does not provide detailed data on UAMs but it does provide general data on immigrated minors. In 2013, the total number of UAMs arriving in Denmark accounted to 8.801, 603 of which are Polish and 440 German. The number of females is slightly higher than the number of males, respectively 4.605 and 4.196. The Danish Immigration Service reports that the highest amount of UAMs come from Afghanistan, Somalia and Iraq. However as already mentioned, data on unaccompanied minors’ migration flows towards Denmark are scarce and out-dated. Inconsistencies in data regarding UAMAS are found between Eurostat and the EMN for the year 2010 and 2011. In addition, there is no detailed information on UAMs but only on UAMAS.

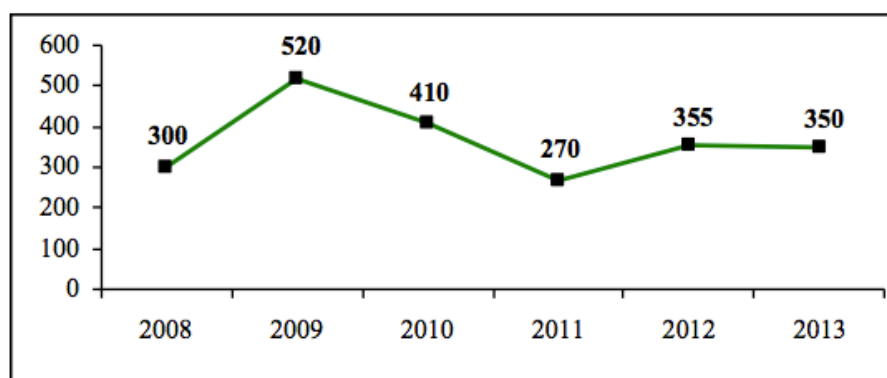


FIGURE 6 - Number of UAMAS in Denmark 2008-2013 – Source: Tabulation of Eurostat 2014.

The Human Rights Commission of the European Council states that the Danish legislation on asylum-seekers and immigrants needs to be revised in order to ensure better protection of their human rights. Due to its legal exceptions from the European Area of Freedom, Security and Justice, Denmark along with the United Kingdom and Ireland has no obligation to implement any EU legislation regarding UAMs, including the 2008 Return Directive (see 2.2.9). For the moment, no minors are being returned, although the Danish law allows for the return of minors to a reception centre, even when family members cannot be traced.

In 2012, a number of amendments of the Danish Aliens Act, regarding UAMs and family reunification rules, entered into force. With regard to family reunification, the Aliens Act has become one of the most restrictive in Europe.

In Denmark, there is a specific reference in the law to age assessment in the context of migration. The Immigration Service does not perform by the police but age assessment, only when it is not obvious from an immediate assessment that the applicant is either a child or an adult.

Together with the IOM, Denmark takes part in a project on return of vulnerable migrants, which also includes UAMs. The Danish Government considers important to establish reception and care facilities in the country of origin, in order to ensure safe return for UAMs who were not granted asylum in Denmark.

### 3.8 ~ ESTONIA

The Estonian law defines an unaccompanied foreign minor as “a person of less than 18 years of age who has arrived in Estonia or stays in Estonia without a parent or guardian.”<sup>70</sup>

The National Statistic Institution reports data for the year 2012 regarding internal and external migration flows, including minors. The total number of immigrants present on the Estonian soil between 0-19 years of age is 584, 302 male and 282 female.

Estonia has never experienced large flows of UAMs; “during 2012 there were 17 cases of alleged unaccompanied minors from which eleven undertook the age assessment test, concluding that ten of them were deemed to be adults. In addition there were two unaccompanied minors who had arrived in Estonia in 2011, but only applied for asylum at the beginning of 2012. In 2012, there was only one unaccompanied minor granted with international protection, and was provided with accommodation at a substitute home.”<sup>71</sup>

There are four different ways UAMs can enter into Estonia:

- legal and controlled entry;
- legal but uncontrolled entry;
- illegal entry;
- asylum-seeking.

Estonia has very little experience in the field of unaccompanied minors seeking asylum. Before 1997 there has been only one UAMAS in Estonia: a 16 years old Armenian girl coming to Estonia with her husband, even if the couple was not legally married, just married according to their tradition. She was treated as an unaccompanied minor and was appointed a guardian, but she lived with Armenian far relatives. After being denied the right of asylum, the couple disappeared.

Since 2011, 18 UAMAS have been detected in the Estonian territory, 9 girls and 9 boys. In 2013, Eurostat reports 5 UAMAS present in Estonia. Thus, unaccompanied minors seeking asylum can make no fundamental conclusions in this research regarding the tendencies and trends of entry into the country.

The Estonian Board of Border Guard estimates that about a thousand children enter Estonia daily. Unaccompanied minors holding an EU citizenship arrive in Estonia mainly for study purposes, such as student exchange program Erasmus and others.

### 3.9 ~ FINLAND

According to the Finnish law “a person entering the country is considered to be an unaccompanied minor if he or she claims to be under 18 years of age, and arrives in the country either alone or accompanied by a person other than his or her parent or guardian (or a person for whose guardianship there is insufficient evidence).”<sup>72</sup>

Generally, most unaccompanied minors getting to Finland have the intention of seeking asylum. The reasons to reach the country include:

- security issues in the home country;
- membership to a religious minority and fear of persecution;
- political involvement of a family member which constitutes a danger for the minor;
- domestic violence and sexual abuse.

“Very young minors rarely apply for asylum of their own accord. It is commonly the case that an acquaintance or relative brings the child to the police department to apply for asylum. Moreover, it is fairly evident that entry into the country and seeking of asylum also involves human smuggling and human trafficking.”<sup>73</sup>

Generally, unaccompanied minors are boys between 15-17 years of age coming from Iraq, the Russian Federation, Somalia, Nigeria and Afghanistan. In 2010, the EMN reports 330 UAMs present in the country, 150 in 2011 and 155 in 2012. The number of UAMs is very close to the number of UAMAS (see FIGURE 7), confirming the fact that most UAMs coming to Finland are also asylum-seekers.

Not many UAMAS from EU countries have been accounted for in the statistics, especially since Bulgaria joined the EU and therefore less asylum applications have been recorded.

Depending on their age, minors get an accommodation arrangement. Group and family homes are designated for those children of school age and under, who have been granted a residence permit. The main task of these institutions is to provide children with the opportunity to develop into adulthood surrounded by counselling and support

through independence, hobby activities and determinate studies. Minors can preserve their own language, culture and religion, but they need to learn Finnish language and culture. Welfare, health care and interpretation services, as well as leisure, legal and counselling services are provided.

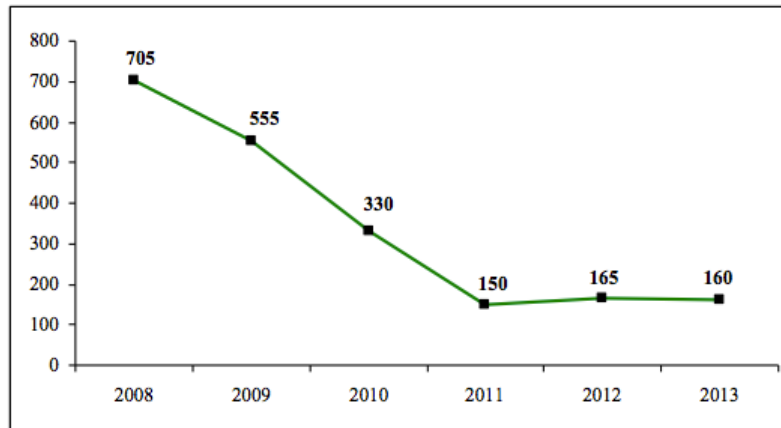


FIGURE 7 - Number of UAMAS in Finland 2008-2013 – Source: Tabulation of Eurostat 2014.

In September 2011, a new legislation came into force in Finland, prohibiting the detention of asylum seekers who are unaccompanied minors. “Minors are not placed in police detention facilities unless absolutely necessary. For reasons relating to the best interest of the child and reasonability the threshold for placing minors in detention is higher than that for adults.”<sup>74</sup>

### 3.10 ~ FRANCE

French law embraces the European Directives definition of unaccompanied foreign minors. The French legislation also considers that any minor present on French territory without a legal guardian is potentially a minor in danger.

The first UAMs appeared in France in the late Nineties. In 2007, the number of UAMs present on the French territory was estimated between 4.000 and 6.000, while every year around 500 newcomers are detected.

There are five categories of UAMs depending on their reasons for leaving the country of origin. They are the following:

- ~ children who are fleeing a region at war or persecutions, generally asylum seekers from Sub-Saharan African states
- ~ proxies sent to the West by their parents to study or work and send remittances to their families, generally from Asia;
- ~ exploited victims of trafficking, mainly from Eastern Europe;
- ~ runaways usually from North Africa and Eastern Europe;
- ~ wanderers who were living on the street in their home country.

In France, as in Spain and Greece, there are no reliable official data, which can be used to assess the situation nationwide, because data are managed by Non-governmental Organizations (NGOs) and national institution at local level, using different statistical methods. Data on UAMs’ countries of origin are therefore not exhaustive, and for this reason the EMN has to base its estimates on the number of asylum applications. In France there are more than 400 asylum applications per year, with a peak of 610 in 2010.

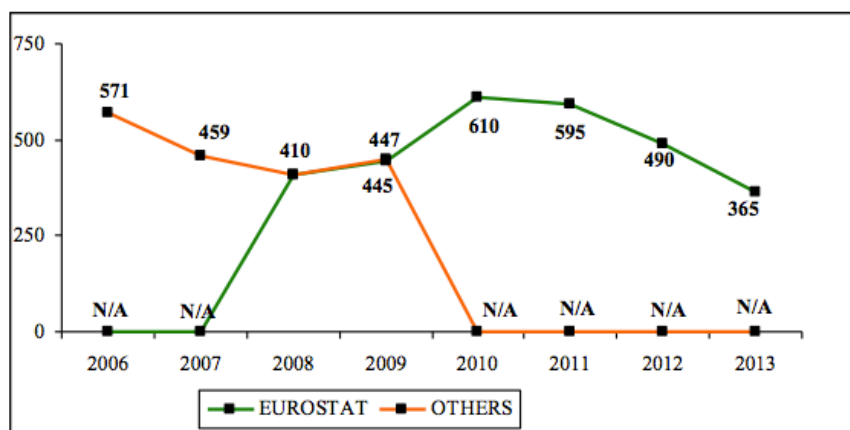


FIGURE 8 - Number of UAMAS in France 2006-2013 – Sources: Tabulation of Eurostat 2014; i-RED; CIR; France Terre d’Asile 2010.



The table below shows the percentage of UAMAS' countries of origin between 2006 and 2008.

COUNTRY OF ORIGIN	UAMAS PERCENTAGE
DR Congo	26%
Afghanistan	10%
Guinea	7%
Angola	6%
Sri Lanka	6%

TABLE 7 - Number of UAMAS in France by country of origin 2006-2008 – Sources: i-RED; CIR; France Terre d'Asile 2010.

Human Rights Watch (HRW) reports that every year in France 500 children are detained in transit zones at the borders, where they are denied protection. Unaccompanied foreign minors arriving in France should be admitted to enter the country and provided with shelter and care, while their immigration claims are decided. Of the 8.883 people held in transit zones in 2012, 416 were unaccompanied minors; 542 unaccompanied minors were detained in 2011. When an UAM arrives at the entry point, the border police are required to inform the public prosecutor who must then assign a guardian to assist the minor in the transit zones. The police are still able to pressure these children into signing paperwork before the children meet the *ad hoc* administrator to find out their rights and the procedures they face.

In France, even if forced removal measures against UAMs are against the law, from 2003 to 2009, 36 UAMs from Armenia, Afghanistan and China have been removed with force from France.

### 3.11 ~ G E R M A N Y

The definition of UAM in Germany is in accordance with the European Directives so that “minors entering the Federal Territory without any parents or legal guardians are counted as unaccompanied.”<sup>75</sup>

Under the German law, ‘*unbegleitete minderjährige Flüchtlinge*’ (unaccompanied minor refugees) is often use as a term, not in the strict sense of refugee but as a broader concept, including minors aspiring to refugee status or other forms of legal residence.

The main motivations pushing UAMs to reach Germany are:

- escaping from war, including the recruitment as child soldier, and human rights violations
- looking for better economic and educational conditions.

The detection and care of UAMs in Germany present some drawbacks, such as:

- lack of transparency in respect to the procedures and practices applied in each Land, regarding reception, care and accommodation of UAMs and the share of burden among federal states.
- need for more accurate data related to UAMs entering Germany, both legally and illegally, and their further integration in the country.
- need for data on the total amount of UAMs living in the country, especially for the age range 16-18, in order to make them comparable with the other European countries.

The regional Government of Berlin states that UAMs belonging to the first category amount to 25%, whereas to the second category 75%; this statement is not verified. In 2008, the overall proportion of UAMs applying for asylum and who were granted protection was 43.3%, this is the first year in which “all UAMs seeking asylum - that is, including 16-17 years olds - were recorded on a statistical level”.<sup>76</sup>

Germany represents a country of arrival for a big number of UAMs: 2.125 arrived to the country in 2011, while 1.790 in 2012. In 2008, the most frequent countries of origin among UAMs were Iraq, Ethiopia, Afghanistan, Eritrea and Guinea. These represent also the most frequent countries of origin for UAMAS. The number of male UAMAS is consistently higher than female’s; nevertheless, Ethiopia represents an exception: Ethiopian girls’ asylum requests are higher than boys’, since they have suffered from gender-specific forms of persecution, such as female genital mutilation.

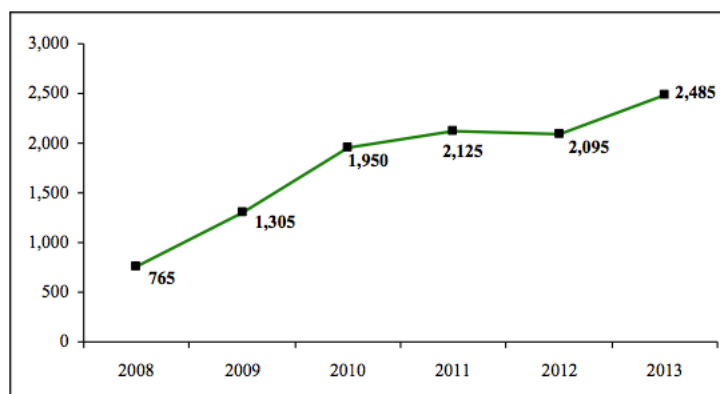


FIGURE 9 - Number of UAMAS in Germany 2008-2013 – Source: Tabulation of Eurostat 2014.

Germany lays down a peculiar asylum regulation, in fact minors applying for asylum are considered to be capable of taking part in the asylum procedure from the age of 16; this implies that in some cases minors can stay in Germany without appointing a guardian.

If an UAM arrives in Germany and the parents or relatives are not located within the German territory, he/she is handed over to the Youth Welfare Office, which then has to take the minor into care, appoint a legal guardian and find a suitable accommodation. In each branch office of the *Bundesamt für Migration und Flüchtlinge*, “asylum officials with special responsibilities”<sup>77</sup> are appointed and receive a specific training to deal with minors.

Once clearing procedures are concluded, accommodation in an institution for children or young persons, or some other form of supervised accommodation is found. The place varies depending also on the Federal State where the minor is found. In case the minor has relatives in Germany, or in an EU member state, the reunification should be granted. The IOM offices in Germany are involved in the organisation of the voluntary return of unaccompanied minors, although they found out that the percentage of minors who apply for the voluntary return procedure is very little.

Other particular provisions are envisioned by the German legislation, for example “if a minor traveling alone is not able to produce the requisite visa at the time of the attempt to enter Germany, then the border authorities, the German Federal Police, are entitled to refuse entry [...] irrespective of age.”<sup>78</sup>

### 3.12 ~ G R E E C E

Greek legislation defines an unaccompanied foreign minor as a person “belonging to a country outside the European Union or stateless person who has not reached 18 years of age and who enters Greek territory without being accompanied by a person responsible for this child by law or by custom [...] or who has been found alone after entry in the country.”<sup>79</sup>

Statistics regarding unaccompanied foreign minors are collected by the Hellenic Police; however, they cannot reflect the actual situation, because in many occasions UAMs enter Greece illegally. For this reason, registration is often a difficult task to perform. UAMs usually arrive in Greece from the Eastern borders, north-eastern border with Turkey and the islands of the Eastern Aegean Sea. When entering from the Evros area, on the north-eastern border with Turkey, they are arrested by police authorities when trying to reach the coasts of the Eastern Greece islands they are usually intercepted by the Coast Guard and then transferred to the police authorities. The Hellenic Police and the Coast Guard are not trained to deal with vulnerable groups of migrants and therefore even UAMs are treated as criminals trying to enter the country illegally without a visa.

Detailed data on UAMs are rare. The European Dactyloscopy (EURODAC) search confirmed that Greece remains the main point of entry in the European territory. UNHCR accounted around 6.000 entries in the country in 2008. In particular, Greece is the main point of entry for Afghan unaccompanied minors in the EU. An investigation carried out by the Norwegian National Police Immigration Service found out that 75% of Afghan unaccompanied minors arriving in Norway were first registered in Greece. The highest quota of UAMs in Greece come from Afghanistan and Albania, moreover a significant amount of Somalis entering the country were found.

In 2008, the largest group of UAMAS was Pakistanis, followed by Afghans, Nigerians and Iraqis. Most of Afghan UAMs, who enter the country, have the intention to leave Greece for Northern European countries such as Sweden, where they can benefit of a more generous asylum system. For this reason, most UAMs do not apply for refugee status in Greece, thus their statistical representation is reducing.

COUNTRY OF ORIGIN	NUMBER OF ASYLUM APPLICATIONS
Pakistan	130
Afghanistan	95
Nigeria	15
Iraq	14
Siria	11
Other countries	31
TOTAL	296

TABLE 8 - Number of UAMAS in Greece by country of origin in 2008 – Source: EMN 2009.

In July 2009, 8 reception centres were open to assist UAMAS. In Greece, statistics on asylum are kept by the Hellenic Police, although “their accuracy is challenged even by the state authorities themselves.”<sup>80</sup>

The Greek Aliens legislation provides for the issuance of residence permit to:

- unaccompanied minors accommodated in charitable institutions and legal entities;
- unaccompanied minors, the custody of whom is held by Greek nationals or families of third-country nationals who legally reside in the country or the adoption of whom is pending;
- minors victims of trafficking;
- minors subject to curative and/or educational measures by virtue of decision issued by the Juvenile Courts.

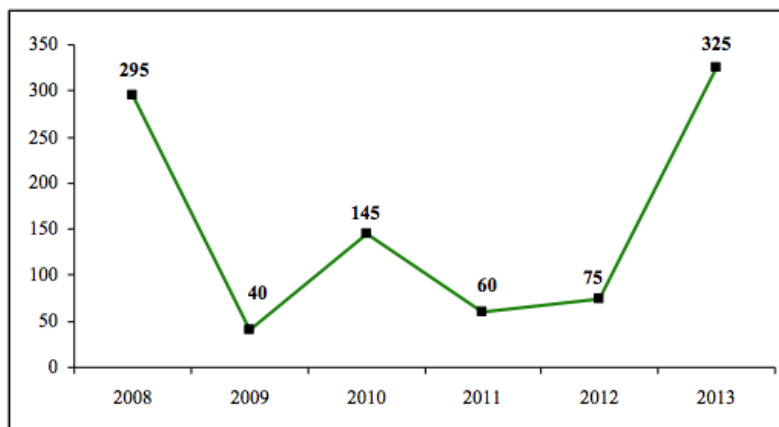


FIGURE 10 - Number of UAMAS in Greece 2008-2013 – Source: Tabulation of Eurostat 2014.

Differently from other European countries, Greek legislation does not exempt unaccompanied children from detention and deportation measures. Greek authorities are also found guilty of mistreatment of migrants, including unaccompanied minors. HRW reports frequent violations of personal rights concerning the detention of migrants in inadequate structures where UAMs are detained jointly with adults. Moreover, Greek authorities are often unaware of the European Directives on common standards and procedures for returning illegally staying third country nationals. As a result, UAMs without a guardian do not legally exist; therefore they cannot challenge the detention and deportation decision issued against them.

TABLE 9 reports the number of apprehensions and deportations of minors by the Greek authorities in 2008.

COUNTRY OF ORIGIN	APPREHENSIONS	DEPORTATIONS
Afghanistan	2.502	0
Albania	1.515	1.093
Somalia	1.071	0
Iraq	591	9
Palestine	97	0
Other countries	255	51
TOTAL	6.031	1.153

TABLE 9 - Number of apprehensions and deportations of UAMs in Greece by country of origin in 2008 – Source: EMN 2009.

### 3.13 ~ HUNGARY

Hungary has adopted the European Directives' definition of unaccompanied foreign minor. However, according to the current Hungarian legislation, there is a distinction between unaccompanied minors claiming asylum and foreigner minors lacking parental care. In 2011, legislative changes were made to asylum procedures, introducing compulsory placing for unaccompanied minor asylum seekers in the Hungarian child protection institutions. In 2010, 150 UAMs were detected in Hungary, 70 in 2011 and 94 in 2012, mostly male, between 14-18 years of age.

UAMAS fall under the scope of the Act on Asylum and under the national childcare regulations, which consider the principle of the best interest of the child.

As in 2008 the number of the UAMAS has significantly increased, a need for more accurate data and policies has been raised. Eurostat provides data on UAMAS from the time span 2008-2013 (see FIGURE 11).

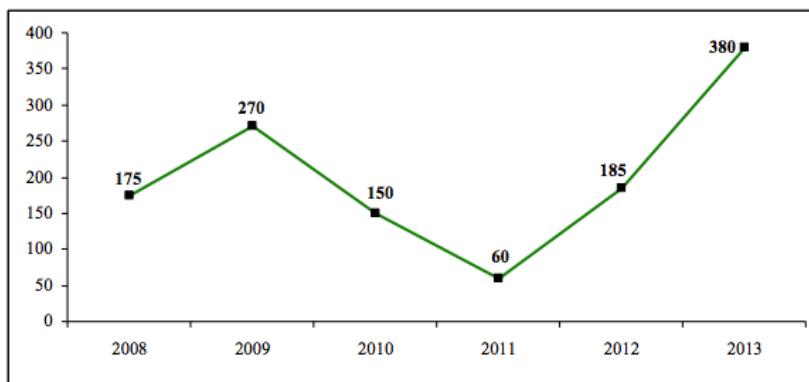


FIGURE 11 - Total number of UAMAS in Hungary 2008-2013 – Source: Tabulation of Eurostat 2014.

The IOM reports data on UAMAS: 41 UAMAS were present in Hungary in 2005, 61 in 2006 and 73 in 2007. TABLE 10 shows the number of UAMAS divided by country of origin in 2010. It is important to stress, “the proportion of UAMAS originating from Afghanistan has increased more than fivefold, while the number of those coming from Somalia decreased by two thirds.”<sup>81</sup>

COUNTRY OF ORIGIN	UAMAS PERCENTAGE
Afghanistan	59%
Palestine	7%
Kosovo	5%
Algeria	3%
Morocco	3%
Western Sahara	2%
Other countries	13%

TABLE 10 - Percentage of UAMAS in Hungary by country of origin in 2010 – Source: IOM 2012.

However, none of the data available includes irregular UAMs, minors staying illegally in Hungary and those called left behind, who are minors born in Hungary and abandoned by the parents. The only reliable way to obtain data for these categories of UAMs is to count third-national minors placed under interim care.

Data and information on UAMs in Hungary present some drawbacks. The Mario project has tried to address and shed light on this topic. 350 cases of UAMs, mostly of Romanian origin, who were subsequently and temporarily placed in childcare homes in Hungary, were reported in 2011.

The Mario project highlights other issues on the care and reception of UAMs in Hungary:

- shortage of information exchange among the institutions;
- UAMs’ obstacles in communication;
- need for more cultural sensitivity;
- lack of training for professionals dealing with UAMs, especially on child anti-trafficking activities.

According to the IOM, the number of UAMs’ voluntary return from Hungary is very low. No official statistics cover this aspect. “According to a 2007 research report, a single unaccompanied minor returned to his country of origin, in order to join his family between 2004 and 2007. A case of return implemented by the IOM is also indicated in 2008. One association indicates 2 returns of Kosovar minors to their country of origin in 2009.”<sup>82</sup>

Once again, the number of UAMs’ disappearances from the single Hungarian reception centre welcoming UAMs is quite high. “It is believed that children disappear mainly to continue their journey [...] in 2010, 51 disappearance cases were registered by the shelter for UAMAS, representing 29 per cent of all accommodated children.”<sup>83</sup>

### 3.14 ~ I R E L A N D

The definition of UAM adopted by the Irish legislation is conformed to the European directives, although UAMs are commonly addressed as ‘separated children’<sup>84</sup>.

The main motivations for UAMs entering the Irish territory are:

- reunification;
- asylum-seeking;
- looking for medical care and educational opportunities;
- being victim of human trafficking and exploitation.

UAMs coming to Ireland are mostly citizens of Nigeria, Romania and, recently, China. Other common nationalities include the Democratic Republic of Congo, Somalia and Moldova.

2005		2006		2007		2008	
COUNTRY	UAMS	COUNTRY	UAMS	COUNTRY	UAMS	COUNTRY	UAMS
Nigeria	378	Nigeria	226	Nigeria	162	Nigeria	163
Romania	65	Romania	68	China	22	China	20
Somalia	38	Somalia	35	Ghana	17	Zimbabwe	20
DR Congo	18	Guinea	13	Somalia	17	DR Congo	19
Moldova	14	China	12	Cameroon	9	Malawi	9
Other countries	128	Other countries	120	Other countries	94	Other countries	105
TOTAL	641	TOTAL	474	TOTAL	321	TOTAL	336

TABLE 11 - Number of UAMs in Ireland by country of origin 2005-2008 – Source: EMN 2019.

Data collection is delegated at local level, resulting in inaccurate statistics at national level. Data are indeed unreliable, due to double counting pitfalls and differing methods of calculation. Moreover, statistical records and publications are not available if the number of UAMs does not reach the threshold of 10 and above.

Data on UAMs were available from the beginning of 2000 when 520 unaccompanied foreign minors arrived in Ireland. By the next year this figure had more than doubled. Since the 2001 peak, the number of UAMs has steadily declined. Data on UAMs' gender are also available. In relation to gender, an anomaly must be noticed: the number of female and male UAMs is almost even.

Gender	2005		2006		2007		2008	
	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE
Percentage	50.9%	49.1%	47.3%	52.7%	46.4%	53.6%	52.1%	47.9%
No. of UAMS	641		514		321		336	

TABLE 12 - UAMs' gender breakdown in Ireland 2005-2008 – Source: EMN 2009.

Data on UAMAS are also available, and are graphically represented in FIGURE 12.

UAMs entering the Irish territory are normally not pushed back, whether they are seeking for asylum or not. However, some NGOs claim that detention or forced return is imposed at the borders without age-assessment.

UAMs' disappearances are a pressing issue in Ireland, as well as in other European countries, although it is worth mentioning that efforts to overcome this problem have been made.

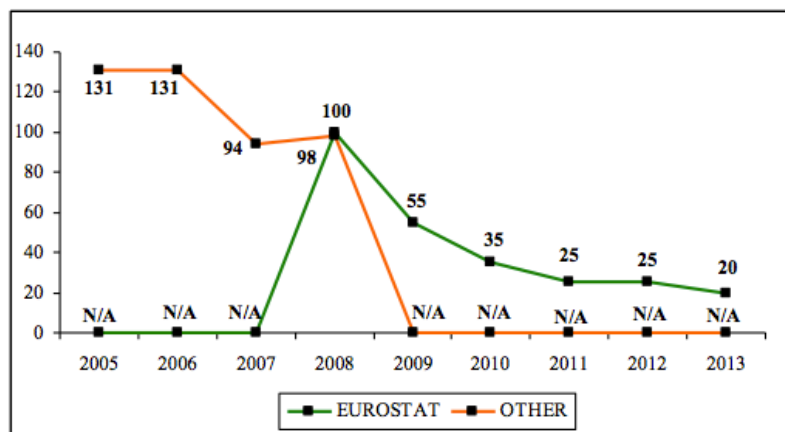


FIGURE 12 - Number of UAMAS in Ireland 2005-2013 – Source: Tabulation of EMN 2009; Eurostat 2014.

The IOM offices in Ireland are in charge for the voluntary return of UAM; data show that just 21 unaccompanied minors returned to their countries of origin between 2002 and 2008.

In addition, it is important to point out some peculiarities concerning the legislation on citizenship, which has influenced the migration flows in the last decade: “Prior to the enactment of the Irish Nationality and Citizenship Act, 2004 which commenced in 2005, Ireland granted citizenship to everyone born on the territory. [...] After a referendum in 2004 and a subsequent Constitutional amendment, changes in citizenship provisions were enacted which mean that any person born in Ireland after 1 January 2005 to non-Irish parents would not be automatically entitled to be an Irish citizen unless one of the parents was lawfully resident in Ireland for at least three out of the four years preceding the child’s birth.”<sup>85</sup>

### 3.15 - ITALY

Italy has adopted the definition of unaccompanied foreign minor contained in the European Directives (see Section 2). However, “the definition excludes minors who have requested exile, who have been the subject of a census and of special treatment.”<sup>86</sup>

The phenomenon of unaccompanied foreign minors began to be relevant from the early Nineties, when UAMs from the Former Republic of Yugoslavia came seeking refuge in Italy. Italy became the EU member state that welcomes the highest number of unaccompanied minors, predominantly arriving to the Italian coasts by boat. In 2011, the government declared humanitarian emergency after 62.692 migrants arrived in the country, among them 4.209 were unaccompanied minors. FIGURE 13 shows that the number of unaccompanied minors has drastically increased in 2013, reaching 8.461 minors.

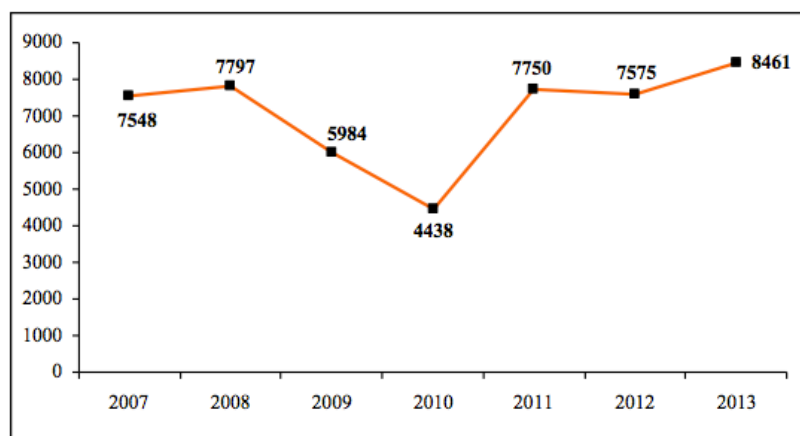


FIGURE 13 - Number of UAMs present in Italy 2007-2013 – Source: Tabulation of Ministero del lavoro e delle politiche sociali, Div. IV 2012-2013.

According to the statistics provided by the Italian Ministry of Labour, 94,2% of UAMs is male; 25% age 16, while 55,9% age 17. TABLE 13 shows the total number of UAMs in Italy divided by country of origin. In 2013, the highest quota of UAMs was from Egypt; follow by Bangladesh and Albania, whereas nowadays an increasing number of Syrian UAMs is arriving in Italy.

COUNTRY OF ORIGIN	UAMS PRESENT IN THE COUNTRY	UAMS UNREACHEABLE
Egypt	1.415	413
Bangladesh	1.063	44
Albania	779	25
Afghanistan	551	536
Somalia	475	457
Other countries	243	667
TOTAL	4.526	2.142

TABLE 13 - UAMs in Italy divided by country of origin in 2012 – Source: Ministero del Lavoro delle Politiche Sociali., Div. IV 2012-2013.

UAMs' motivations for seeking asylum in Italy are:

- improving socio-economic conditions;
- fleeing from war, persecution and conflict.
- believing that Italy is “the country offering the best socio-economic opportunities.”<sup>87</sup>

Italian reception centres for UAMs have been considered as inadequate. “Based on the ordinary childhood protection law, minors are initially placed in a secure site in case of particular protection emergency, before joining the reception system. The latter distinguishes the initial reception, which allows for an assessment and sets the initial care period, and the second reception in which an individual integration programme is set up.”<sup>88</sup> Then, social services start filling in the necessary documents for integration procedures for minors, including possible reunification with the family and/or repatriation, which is carried out along with the age assessment. UAMs receive a residence permit for placement as soon as repatriation is avoided. Moreover, minors residing within the Italian territory for a minimum of three years can receive an integration permit, and join an integration project. Unaccompanied minors can only be expelled for reasons of public order or State security.

In 2012, Italy adopted a series of measures to finance actions for the integration of unaccompanied minors in society and at work; “individual grants are allocated to each beneficiary when they reach the age of 18, to be used for active employment and integration policy services.”<sup>89</sup>

“In Italy, while the legislation forbids the forced removal of a minor, there is no corresponding provision with regard to refoulement at the border. Like adults, children can in theory benefit from the principle of non-refoulement due to risks of persecution resulting from the return, but this principle is not always put into practice since a youth is not always able to express his desire to seek asylum and can encounter difficulties with regard to the recognition of his status as a minor.”<sup>90</sup>

As shown in FIGURE 14, the number of UAMAS in Italy from 2008 to 2013 is quite high, reaching almost one thousand in 2012.

The Italian government should take into account a wide range of issues regarding UAMs, one of which deals with the appointment of guardians, that might take up to several months. UAMs' disappearances constitute a serious concern too; it is caused by fear and lack of information about asylum procedures and UAMs' rights. However, the Italian law provides “the right to receive all the information regarding the possibility of applying for asylum, and the connected consequences of the application according to the current legislation, as well as the right of expressing their own opinion.”<sup>91</sup>

UAMs arriving to Italy can also be victims of human trafficking: “from 2001 to 2007, 938 minors were recognized as being victims of trafficking. Amongst these minors, most were girls (69,1%) between 16-17 years of age (51,1%), and primarily coming from Nigeria (26,6%), Romania (19,1%), Morocco (16%) and Croatia (14,3%).”<sup>92</sup>

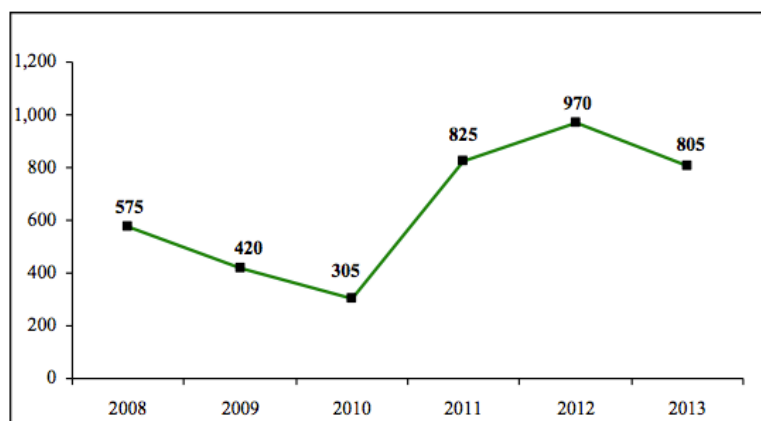


FIGURE 14 - Number of UAMAS in Italy 2008-2013 – Source: Tabulation of Eurostat 2014.

### 3.16 ~ L A T V I A

The Latvian legislation adopts the definition of unaccompanied foreign minor given by the Council Directives. Despite that, the 2005 Asylum Law does not include a clear definition of unaccompanied minor; in Section 11 it is stated: “if a minor is not accompanied by parents and wishes to submit an application himself or herself.”<sup>93</sup> Clearly, a similar term to unaccompanied minor is used in the Law, but no definition is given. Moreover, in the ‘Procedures by which Alien Minors Enter and Reside in the Republic of Latvia Unaccompanied by Parents or Guardians’, the term unaccompanied minor is indirectly used, but not explained. In all the articles of the Procedures, they are further abbreviated to the term ‘alien minor’.

Seven unaccompanied minors entered into Latvia from 2002 to 2008, while 6 from 2010 to 2012.

UAMs’ reasons for entering Latvia are to migrate to another MS of the EU, usually Germany or Denmark. Currently, the number of UAMs in Latvia is relatively small; it is not possible to make conclusions about concrete trends of flows of unaccompanied minors through or to Latvia. Data on UAMAS are available (see TABLE 14) but, as mentioned earlier, the number is so small that statistical representation is insignificant.

YEAR	NUMBERS OF UAMAS
2008	5
2009	0
2010	5
2011	0
2012	0
2013	5

TABLE 14 - Number of UAMAS in Latvia 2008-2013 – Source: Eurostat 2014.

In 2008, 4 foreign minors were found at Riga airport without identification documents. Latvian law states that if an unaccompanied minor, whose identity is unknown, wishes to cross the Latvian border, the State Border Guard’s Official immediately begins to identify his/her identity. In this case, identification was complicated, as some of them provided contradictory and false information about their identity, their parents and the conditions of entry.

At the moment, there is only one reception centre for UAMs, the Minor Prevention Division of the Public Order Police Department of the Riga Region Board of the State Police.

The State Border Guard, in cooperation with the competent institutions and NGOs, ensures UAMs’ repatriation to the country of origin. In case this operation threatens the minor’s life or security, on the basis of humanitarian considerations, a person designated by the Head of the Office of Citizenship and Migration Affairs decides whether to issue a temporary residence permit; until this moment no temporary residence permit has been issued.

### 3.17 ~ L I T H U A N I A

The Lithuanian law states “an unaccompanied minor foreign national is a foreign national under 18 years old, who entered the Republic of Lithuania without parents or other legal representatives or arrived accompanied by these individuals, but was left unaccompanied in the Republic of Lithuania.”<sup>94</sup> Moreover, it states that UAMAS must be granted the entry into the country. On the other hand, UAMs not looking for asylum are pushed back at the borders or they are treated as illegal immigrants, administrative custody is invoked in this case. This practice does not comply with the best interest of the child.

Lithuania's major problem regards the collection of data on unaccompanied minors not seeking asylum; data collection is fragmented at national level or non-existent at all. The data available on non-asylum seekers are obtained from Vilnius and Kaunas Police Headquarters. The majority of unaccompanied minors arriving in the country come from the Russian Federation, Afghanistan and Belarus; they are usually between 16-18 years of age and are predominantly male.

COUNTRY OF ORIGIN	NUMBERS OF UAMAS
Russian Federation	77
Afghanistan	23
Belarus	6
Uzbekistan	4
Stateless	10
Oter countries	27
TOTAL	147

TABLE 15 - Number of UAMs in Lithuania by country of origin 2000-2008 - Source: IOM 2009.

The EMN provides data on UAMs from 2010 to 2012, being respectively 9, 10 and 93. From 2000 to 2008, the IOM registered 137 UAMAS in Lithuania (see TABLE 16).

YEAR	IOM	EUROSTAT
2000	19	N/A
2001	41	N/A
2002	24	N/A
2003	24	N/A
2004	11	N/A
2005	9	N/A
2006	3	N/A
2007	5	N/A
2008	1	0
2009	N/A	5
2010	N/A	10
2011	N/A	10
2012	N/A	5
2013	N/A	0

TABLE 16 - Number of UAMAS in Lithuania 2000-2013 - Sources: Eurostat 2014; IOM 2009.

Asylum granting procedure in Lithuania is regulated and corresponds to the EU *acquis*. UAMAS are accommodated at the Refugees' Reception Center, if the appointed temporary guardian does not object.

Not a single unaccompanied minor was sent back to the country of origin under the Voluntarily Return Programme until 2009, additionally Lithuanian institutions do not collect data about UAMs' returns. The EMN and the IOM underline that the procedures defining the return of UAMs is not adjusted to the specific needs of the child.

### 3.18 - L U X E M B O U R G

In 2012, 16 unaccompanied minors introduced a request for international protection in Luxembourg. Since 2011, UAMs' rights have been reinforced by the Law of July 2011 modifying the Law of Immigration transposing the Return Directive. Also the Bill n° 6507 transposing the Qualifications Directive enforces the protection of UAM's rights, providing the obligation to take into consideration the specific situation of vulnerable groups.

Apart from the data from Eurostat on UAMAS (FIGURE 15), data on UAMs' arrivals in Luxembourg are practically inexistent. Data on UAMs in Luxembourg are fragmented. From 2003, when 88 UAMs mostly from Liberia and Sierra Leone were detected, in the country, to 2011 there are no data available on UAMs. The EMN reports 20 UAMs present in Luxembourg in 2011 and 16 UAMs in 2012.

From 2007 to 2009, the Luxembourg Red Cross with the financial support of the European Refugee Fund and the national government ran a project for vulnerable people seeking international protection, including unaccompanied minors. The objective of the project was to ensure better reception and caretaking of vulnerable groups, and integration of UAMAS in the society through education, as well as by assisting them in all administrative procedures, such as informing minors of their legal rights and assistance in the asylum process. Unaccompanied and undocumented children who are asylum seekers or refugees are particularly vulnerable to commercial sexual exploitation.



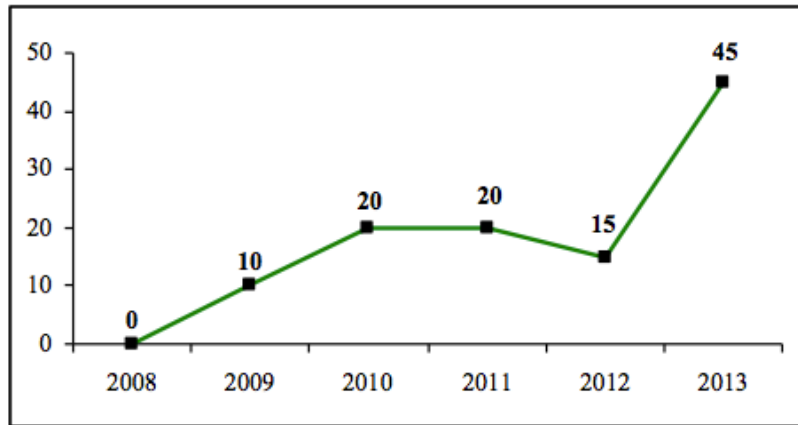


FIGURE 15 - Number of UAMAS in Luxembourg 2008-2013 – Source: Tabulation of Eurostat 2014.

### 3.19 - M A L T A

After Malta joined the European Union in 2004, the number of undocumented migrants and asylum seekers trying to reach the Maltese coasts increased drastically. The context, in which the island of Malta is inserted, requires particular attention. First of all, Malta is located halfway along the route taken by thousands of migrants, mainly sub-Saharan Africans travelling from Libya to Europe; in fact the main and only way to access the territory of Malta is by means of small boats departing from North Africa. The UNHCR ranked Malta as the country with the highest number of asylum applications received per 1.000 inhabitants; furthermore opinion polls show that a majority of Maltese consider immigration to be Malta's number one problem.

The topic of unaccompanied foreign minors started becoming relevant in 2002. In August 2005, the Ministry of Family and Social Solidarity finally developed a specific policy for UAMs, entitled Irregular Immigrants, Refugees and Integration. This policy “dealt with the protection and care of unaccompanied minors, including a fast-track procedure for them to leave closed accommodation centres after a shorter time.”<sup>95</sup> The policies outlined the protection and care of UAMs and introduced the guardianship system, along with regulations for age assessment; it also states that UAMs are not to be detained.

The EMN provides data regarding UAMs only for the year 2010 and 2012, when respectively 3 and 86 UAMs were claimed to be present in Malta.

In 2008, migrants who claimed to be unaccompanied minors filled 400 out of 2.223 asylum requests; only 7% of them were accepted to be so. Efforts to keep waiting claimants in special areas within detention, separated from non-claiming and non-vulnerable detained adults, have only partly succeeded.

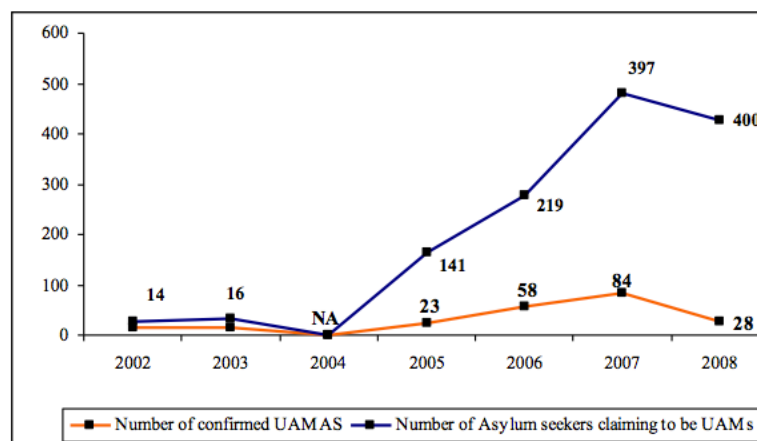


FIGURE 16 - Number of Asylum seekers claiming to be UAMs and number of confirmed UAMAS in Malta 2002-2008 – Source: Tabulation of Daphne II 2007.

YEAR	NUMBERS OF UAMAS
2008	20
2009	45
2010	5
2011	25
2012	105
2013	335

TABLE 17 - Number of UAMAS in Malta 2008-2013 – Source: Eurostat 2014.

Eurostat also records an increasing number of UAMAS in Malta from 2008 to 2013 (see TABLE 17).

For what regards UAMS countries of origin, most of them come from Eastern-African countries; Somalia, Eritrea and Ethiopia (see TABLE 18). There have been only 2 cases of UAMAS arriving from outside the African continent, one from Asia and one from an unknown country of origin.

COUNTRY OF ORIGIN	2008	2009
Somalia	18	33
Eritrea	0	9
Other African countries	3	3
Asia	0	1
Unknown	1	0
TOTAL	22	46

TABLE 18 - Number of UAMAS in Malta by country of origin 2008-2009 – Source: Malta National Statistics Office 2010.

One of the main problems regarding UAMS in Malta is the detention. Every minor, except if needing immediate hospital care, is detained for an unpredicted period of time. This means that UAMS are treated as adult immigrants. In addition, the National Immigration Act states “the possibility to detain persons who enter Malta through illegal methods, especially when arriving without documentation (Laws of Malta 1970).”<sup>96</sup> HRW was particularly concerned about the detention of minors in Malta and directly wrote to the Maltese Prime Minister: “we write to urge you revise Malta’s immigration laws in keeping with the recent European Court of Human Rights decisions *Suso Musa v. Malta* and *Aden Ahmed v. Malta*, and to inquire about the government’s progress taken with regard to immigration detention.”<sup>97</sup>

The asylum procedure is under the responsibility of the Commissioner for Refugees. In terms of the Refugees Act, in order to apply for asylum, irregular immigrants have to fill in a form, termed as the Preliminary Questionnaire; it is provided to UAMS at the point of arrival in Malta or in detention.

### 3.20 ~ NETHERLANDS

The Netherlands has adopted the European Directives on UAMS. Currently, the term ‘unaccompanied minor foreign nationals’ is mostly used in the national legal framework; the term includes both asylum applicants and non-asylum seekers. In accordance with the Dutch law, the term minor refers to a person who has not yet reached 18 years of age and who has never been married.

UAMS’ motivations to escape from the country of origin and arriving in the Netherlands are usually:

- war zones;
- forced marriage or human trafficking (especially for girls);
- working and education opportunities.

The EMN reports issues concerning the availability of statistical data on UAMS, although data on UAMAS are published by Eurostat. In the time span between 2002 and 2008, a total of 7.128 unaccompanied minors entered the Netherlands submitting asylum applications, reaching the total of 3.243 UAMAS just in 2002. As shown by FIGURE 17, from the year 2009 there has been a slow decrease in the number of UAMAS.

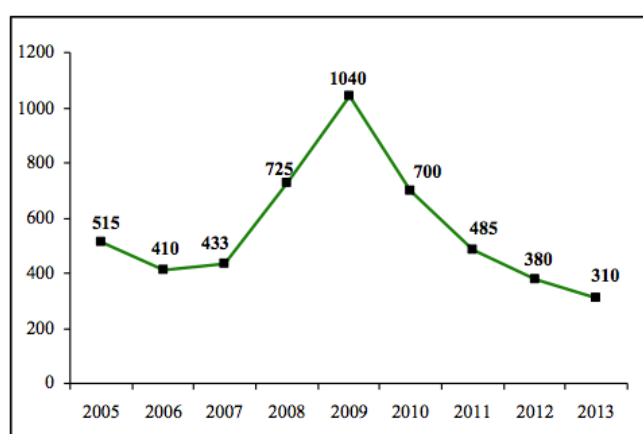


FIGURE 17 - Number of UAMAS in the Netherlands 2005-2013 – Sources: Tabulation of Eurostat 2014; INDIAC-NL EMN NCP 2010.

UAMs are not always granted entrance in the Netherlands, especially if they do not fulfil all the necessary requirements; in this case the DT&V proceeds for UAMs' return. TABLE 19 displays UAMs' share of voluntary departures and forced departures from the Netherlands from 2003 to 2006.

	2003	2004	2005	2006	TOTAL
Voluntary departure from the Netherlands	50	100	40	40	230
Forced departure from the Netherlands	50	50	30	15	145
TOTAL	100	150	70	55	375

TABLE 19 - Number of UAMs' voluntary or forced departures in the Netherlands 2003-2006 – Source: INDIAC-NL EMN NCP 2010.

In the Netherlands, UAMs are immediately appointed a temporary guardian, usually the Nidos Foundation, which then indicates a youth protector responsible for the minors' physical and emotional development. The Nidos Foundation makes effort to place UAMs within families sharing their culture and beliefs. The guardian's responsibilities are broad and can be divided in legal and pedagogical. "The juridical goal is providing in authority. The pedagogical goals are directed to learning the minors to actively and productively take part of the society where they are living. Guardians are thus active on the following domains: advocating, upbringing and care, and signalling and preventing abuse, disappearance, or illegality."<sup>98</sup>

The responsibility for the reception and guidance of asylum seekers, including unaccompanied minors, is delegated to the Central Agency for the Reception of Asylum Seekers, for children from 12 years old, and Nidos, for children younger than 12 years old.

In the Netherlands, UAMs can be detained, even if it is a short measure of last resort. However, data on detention are not consistent. The Directorate for Migration Policy reports that approximately 160 unaccompanied minors were placed in detention in 2008. The majority of these minors are boys, while the detention of girls only occurs sporadically; they are usually between 16-17 years of age, predominantly from Afghanistan, Iraq and Morocco.

COUNTRY OF ORIGIN	NUMBER OF UAMAS
Somalia	198
Iraq	184
Afghanistan	94
China	49
Guinea	33
Other countries	168
TOTAL	726

TABLE 20 - Number of UAMAS in the Netherlands in 2008 – Source: INDIAC-NL EMN NCP 2010.

UAMs arriving in the Netherlands are granted an education programme, which differs according to the municipality that provides the service. The IOM reports "experts had a positive assessment of the Netherlands' educational system and its acceptance of children, regardless of their residence status, into their schools."<sup>99</sup>

The Dutch concerns about UAMs' disappearances have been debated in the Parliament, resulting in intensive supervision for minors at risk. Moreover, the measures adopted after 2006 have successfully decreased the number of UAMs' disappearances

### 3.21 ~ POLAND

There is no uniform legislation in Poland regulating the situation of unaccompanied minors in a comprehensive manner. Nevertheless, "The Amendment Act of 12 March 2008 determines an unaccompanied minor as a foreign minor arriving to or staying on the territory of the Republic of Poland without an adult being responsible for the minor according to a law or a custom."<sup>100</sup>

In case UAMs do not apply for refugee status, family members are traced through recognition and then confirmed in cooperation with the relevant consulate.

Poland has always been a transit country until 1989; currently has become also a destination country.

There are no official data concerning UAMs staying in the Polish territory. It is only possible to estimate "the scale of the phenomenon by analysing the existing data gathered by the individual institutions."<sup>101</sup>

The EMN accounts 231 UAMs in Poland in 2010, 43 in 2011 and 244 in 2012. In addition, data provided by the Daphne Project differs from the ones provided by IOM and the ones provided by the EMN.

As shown by TABLE 21, most of unaccompanied minors applying for the refugee status are from the Russian Federation, from the Chechen Republic and the Republic of Ingushetia.

COUNTRY OF ORIGIN	NUMBER OF UAMAS
Russian Federation	358
Belarus	5
Viet Nam	3
Afghanistan	2
Iraq	2
Other countries	6
TOTAL	376

TABLE 21 - Number of UAMAS in Poland in 2008 – Source: EMN 2009.

Minors account for about 45% of asylum requests, but it is difficult to distinguish whether they are unaccompanied or living with parents or relatives, due to inconsistency of data. From 2002 to 2008, there has been an increase in the number of foreigners under 18 years of age who have applied for asylum in Poland, while from 2008 to 2012 there has been an average of 250 UAMAS per year.

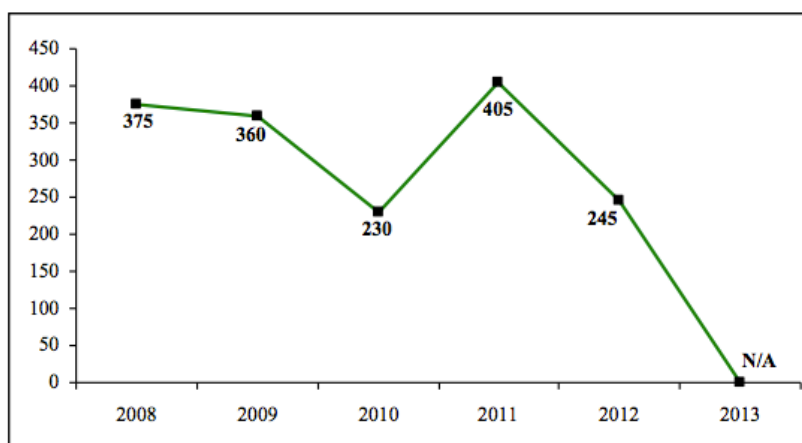


FIGURE 18 - Number of UAMAS in Poland 2008-2013 – Source: Tabulation of Eurostat 2014.

FIGURE 18 shows an increasing number of UAMAS in 2011, although this is in contradiction with the EMN, which reports only 43 UAMAS in 2011.

Minors can apply for the refugee status at the Polish borders or once arrived in Poland, even if they are illegally staying in the country at that moment. If UAMs do not fulfil terms and conditions to be granted refugee status, supplementary protection shall be granted in case repatriation could expose them to risky and harmful situations. Normally, minors are placed in the reception centre Orphanage No. 9 in Warsaw.

No reliable data exist to depict the true nature of children trafficking; UAMs who have suffered violence are placed in *ad hoc* institutions.

UAMs' disappearances occur because "the fact that children know their chances of being granted refugee status are slim is cited as one of the reasons why the majority of unaccompanied asylum-seeking children placed in various kinds of care units in Poland in 1999 and 2000 escaped from them. Indeed, approximately 80 per cent of children disappeared from such institutions without a trace and without anyone assessing the child's situation or asking questions."<sup>102</sup>

Among the weaknesses of the Polish system, the EMN and IOM list:

- UAMs' integration in the education system;
- lack of jurisdiction related to the provision of health care;
- missing data;
- UAMs' disappearances from reception centres.

### 3.22 ~ P O R T U G A L

Portugal has adopted the definition of unaccompanied foreign minor given by the European Directives.

UAMs' motivations for having fled the country of origin and arriving in Portugal are in most cases related to armed conflict or situations of deprivation.

The Portuguese institutions dealing with UAMs are:

- the Aliens and Borders Service (SEF), responsible for controlling the movement of individuals on national borders;
- the Portuguese Refugee Council (CPR), an NGO that provides legal and social support to asylum seekers;
- the Commissions to Protect Children and Youth at Risk.

Relatively few unaccompanied minors come to Portugal, mostly asylum seekers. “Of the applications lodged in the past three years, the majority are boys, coming from African nations, especially from countries of the Economic Community of West African States, aged between 16-18 years.”<sup>103</sup> Data regarding UAMs in Portugal cannot be analysed in details; in fact it was necessary to limit the circulation of data to protect personal information because of the limited dimension of the phenomenon. In addition, the availability of data is limited; the EMN reports data only for the year 2012 when 8 UAMs were detected.

However, it is important to highlight that in overall terms, the migratory pressure of unaccompanied minors to Portugal predominantly originates from Brazil. Moreover, the majority of refusal entries in Portugal pertain to unaccompanied minors coming from Brazil, as shown in TABLE 22.

COUNTRY OF ORIGIN	2006	2007	2008
Brazil	27	62	54
Bolivia	6	0	0
Angola	0	0	4
Other	7	8	6
TOTAL	40	70	64

TABLE 22 - Number of UAMs refused the entrance in Portugal by country of origin 2006-2008 – Source: EMN 2008.

When an unaccompanied minor formulates a request for asylum at the border, the SEF receives the application, commences the process and immediately informs the representative of the CPR. Then, “a special visa is issued on a separate sheet so as to enable the entry of the said unaccompanied minor into national territory.”<sup>104</sup>

The number of asylum applications between 2006 and 2008 has never exceeded the 7 units; accounting to an overall amount of 13 asylum seekers, while from 2009 there has been a slight change in trends as shown by TABLE 23.

YEAR	NUMBER OF UAMAS
2008	5
2009	0
2010	5
2011	5
2012	10
2013	55

TABLE 23 - Number of UAMAS in Portugal 2008-2012 – Sources: EMN 2012; Eurostat 2014.

Normally UAMs are placed in residential centres for youth at risk along with Portuguese minors. The voluntary return is available for UAMs but very little cases have been registered.

### 3.23 ~ ROMANIA

The Romanian legislation adopts the definition of unaccompanied foreign minor contained in the European Directives. In addition, the national law on asylum gives a precise definition of unaccompanied minors: “a minor, foreign citizen or Stateless person, who has arrived in Romania unaccompanied by either a parent or legal representative, or who is not in the care of another person by law or by custom, or a minor left unaccompanied after entering Romanian territory.”<sup>105</sup>

Romania, rather than being a country of immigration, is a country of emigration. Migration flows from Romania to other European countries have been facilitated since Romania has joined the European Union. Most of the UAMs leaving Romania are victims of trafficking for the purpose of sexual exploitation, forced labour, begging and illegal activities. Some of these minors are also frequently pushed by their families to leave the country to send remittances.

The Romanian Office for immigration reports a very low number of listed foreign minors: 50 in 2008.

Eurostat records data on the number of UAMAS in Romania from 2008 to 2013; these are graphically represented in FIGURE 19.

The only legal provisions regarding access to territory for unaccompanied minors in Romania relate to asylum. Indeed, UAMs are exempt from the procedure of asylum application at the border and are guaranteed immediate access to the territory. Minors, who do not apply for asylum or those who have been refused the status, following this procedure, are receiving the status of tolerated foreigner within the Romanian territory.

The Romanian Immigration Law states that if UAMs’ parents are identified, the minor must be sent to the country of residence for the purposes of family reunification. The same also applies for other family members who agree to accommodate the minor. The only exception regards minors who have been victims of trafficking; these minors must agree with their return.



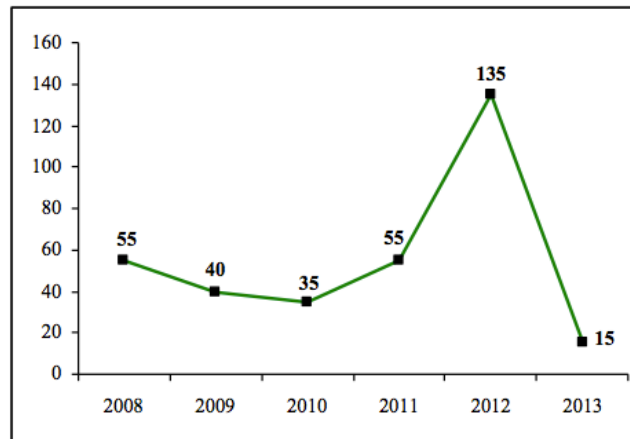


FIGURE 19 – Number of UAMAS in Romania 2008-2013 – Source: Tabulation of Eurostat 2014.

Lastly, UAMs arriving in Romania are assured the right to choose whether to live in a reception centre for asylum seekers or in a specialized centre for minors.

### 3.24 – S L O V A K I A

The definition of unaccompanied minor in Slovakia “rather than being guided by Council Directive 2001/55/EC, the Slovak legislature is considerably more influenced by Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers, in which the translation of the English text into Slovak uses the proper term unaccompanied minors.”<sup>106</sup>

Slovakia is mainly considered as a transit country. UAMs are typically males between 16-17 years of age, predominantly from Afghanistan, Moldova and Somalia.

TABLE 24 shows the number of unaccompanied foreign minors present on the Slovakian territory from 2005 to 2010.

YEAR	NUMBER OF UAMAS
2005	237
2006	343
2017	532
2008	176
2009	119
2010	259

TABLE 24 – Number of UAMs in Slovakia 2005-2010 – Source: IOM 2012.

The overall number of UAMAS has dropped by approximately 96% since 2007 with only 7 asylum applications in 2010, as shown by FIGURE 20.

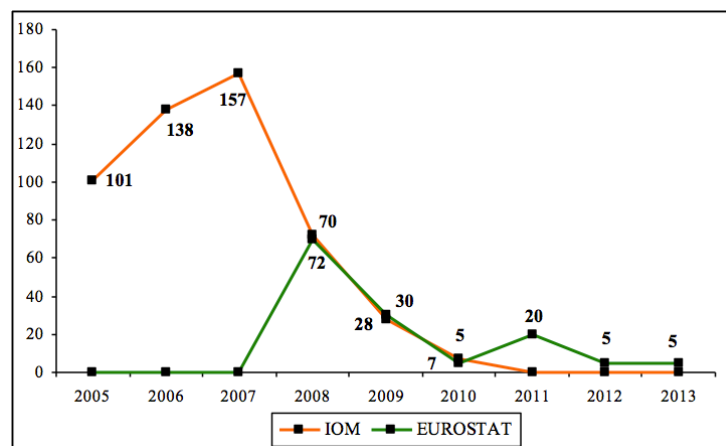


FIGURE 20 – Number of UAMAS in Slovakia 2005-2013 – Sources: Tabulation of Eurostat 2014; IOM 2012.

After the initial age assessment, UAMs are accommodated in a specialized children’s home in Horné Orechové near the town of Trenčín in Western Slovakia. However, minor asylum-seekers are relocated to the Reception Centre

Humenné in Eastern Slovakia, where migration officers interview them. Family tracing is not a common practice in Slovakia, mainly because it depends on minors' requests.

In addition, Slovakia faces the issue of UAMs and UAMAS' disappearances. In fact, many unaccompanied minors escape from reception canters since they "have no interest in staying in a country which dictates their daily routine, expects them to attend school and to meet other requirements, so they continue towards their original destination to realize the dream of earning money."<sup>107</sup> For the time being, no unaccompanied minors have been identified as victim of human trafficking.

The Slovak law provides UAMs with the same access to education as it extends to its citizens; there are no proper language courses for UAMs, even though being proficiency in Slovak language is a prerequisite to be enrolled at school.

The IOM manages the voluntary return programme, however, just 3 boys have been returned to Moldova between 2003 and 2008.

### 3.25 ~ S L O V E N I A

Slovenia has adopted the definition of unaccompanied foreign minor contained in the European Directives. In 2012, the International Protection Act was slightly amended and revised, introducing a set of new procedures for the determination of the age of unaccompanied minors.

For most UAMs, Slovenia is mainly a transit country; UAMs arriving in Slovenia are predominantly male, aged between 15-17 years old. The main reasons for UAMs to escape from the country of origin and arriving in Slovenia are:

- severe poverty; deprivation; inability to find work or access education - especially for UAMs coming from the Balkan states;
- military conflicts, social threats, discrimination and persecution especially for UAMs coming from Asian and African countries and minor Roma girls "who are sold to the Republic of Slovenia (RS) by their families. In RS they marry according to Roma customs and live in Roma communities."<sup>108</sup>

There are few unaccompanied minors in Slovenia: the EMN reports 2 UAMs in 2010, 60 in 2011 and 30 in 2012.

FIGURE 21 shows the number of UAMAS coming to Slovenia from 2008 to 2013. These numbers differ also from the number provided by the EMN for the years 2010, 2011 and 2012.

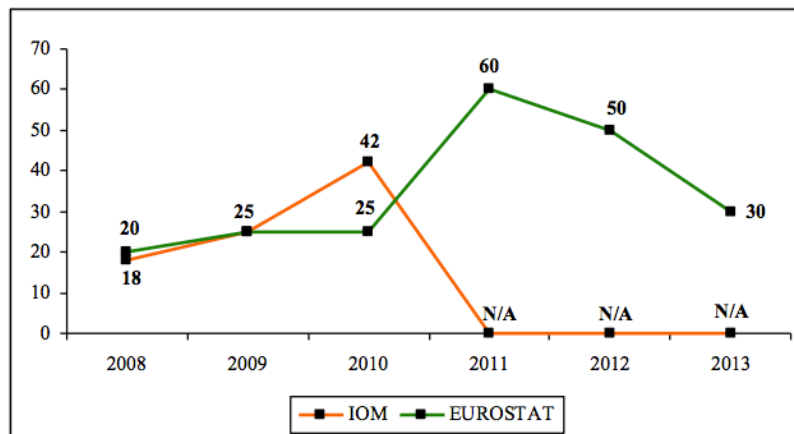


FIGURE 21 - Number of UAMAS in Slovenia 2008-2013 -Sources: Tabulation of Eurostat 2014; IOM 2012.

TABLE 25 displays UAMAS' top 5 countries of origin in 2001.

COUNTRY OF ORIGIN	NUMBER OF UAMAS
Afghanistan	66
Albania	21
Palestine	15
Serbia	13
Turkey	8
Other contries	39
TOTAL	162

TABLE 25 - Number of UAMAS in Slovenia 2006 - March 2011 - Source: IOM 2012.

The Slovene Philanthropy and the Ministry of Interior provide data on UAMAS, but they differ from the ones displayed above, underlying statistical inconsistencies. The police can place UAMs entering irregularly the territory of Slovenia in the department responsible for minors at the Centre for Foreigners in Postojna. In special cases a guardian



can be appointed. The Slovenian NGO *Slovenska Filantropija* has an important role in dealing with UAMs, and it is in charge of the following tasks:

- ~ performing custodial services and psychosocial aid to unaccompanied children;
- ~ appointing a guardian, establishing and coordinating a network of custodians and informal translators;
- ~ studying, helping and teaching Slovenian;
- ~ organizing social, sporting and cultural activities;
- ~ advocating;
- ~ cooperating in the Program for Unaccompanied Children in Europe.”<sup>109</sup>

After being identified, UAMs can apply for asylum and their requests are sent to the Ljubljana Asylum Home. UAMs applying for asylum are placed with juveniles with behavioural problem.

To the extent of UAMs’ returns to the countries of origin, the legal framework does not foresee any specific measure. “Over the period 2004 to 2008, a total of 163 unaccompanied minors were returned, including 19 in 2008.”<sup>110</sup>

### 3.26 ~ S P A I N

The national legislation in Spain does not provide a definition of unaccompanied foreign minor, although a definition is found in the European Directives.

Unaccompanied minors’ migration flows are not a new phenomenon in Spain. Since the mid-1990s a significant number of UAMs, especially from Morocco, began to be detected. In the late Nineties came the turning point: Spain became the European country with the largest population of UAMs. Just in 2010, 3.800 UAMs were detected by the EMN, while in 2011 the number dropped to 2.700, still representing one of UAMs’ biggest amounts in Europe.

The general profile of an unaccompanied foreign minor in Spain is a male with the average age of 15 and a half. In fact, the majority of them are between 16-17 years of age, although in recent years there has been an increase in the number of minors between 13-14, some even under 10 years of age. For clear reasons of proximity, most of UAMs arriving in Spain claim to be nationals of African countries from the regions of the Maghreb and the Sahel. 10% of these minors come from a caring and economically stable family, 40% from families in a caring atmosphere but with economic difficulties, 35% from poor or very poor and unstable families, and 15% were street children.

The first problem that Spanish authorities have to face is the lack of documentation. The majority of these minors enter Spain without any identity documentation, for fear of being returned. It is indeed true that being undocumented delays the return procedures, but it also delays the administrative regularization procedures.

Moroccan UAMs enter Spain illegally using different methods:

- ~ the most common consists of travelling by hiding in some of the vehicles crossing the Strait of Gibraltar, on ferries linking Morocco and Spain;
- ~ other minors enter Spain by car or plane accompanied by a family member or trusted family friend, from whom they separate once they reach the Spanish soil;
- ~ some Moroccan UAMs started to use the structures set up by the criminal gangs, which controls the crossing of the Mediterranean sea in small fishing boats called *pateras*, upon payment of a monetary amount.

It is difficult to count the number of Moroccan UAMs because the official numbers are not clear, and not all of them end up in the protection system, where they are officially counted. The result is that some Moroccan children are counted more than once, while others are not reported in the statistics because they live in the streets or are in fostering or domestic service situations. For these reasons and others, such as the diversity of existing sources of information and the lack of data from Child Protection Services, it is difficult to ascertain the number of UAMs entering Spain illegally. Local authorities manage data collection; while at local level NGOs and national institutions use different methods of calculations according to the autonomous community they belong to. In any case, the Ministry of Labour and Immigration collected data on UAMs (FIGURE 22).

Besides UAMs from Morocco, in recent years many unaccompanied minors coming from Senegal, Mali, Guinea Bissau, Guinea, Ghana, Cameroon, Gambia, and Mauritania arrived on the coasts of the Autonomous Community of the Canary Islands. Usually they arrive in Spain on board of traditional fishing boats called *cayucos*, usually departing from Mauritania, while more recently from Southern states such as Senegal and Gambia.

Looking at TABLE 26, it is clear that Moroccan unaccompanied minors are the vast majority in Spain and they decide to migrate for different reasons and with different modalities. Some of them decide to migrate without consulting with their family; some minors pressure their families to pay for the trip; others emigrate to obey the decision made by their family, hopeful to improve their economic situation; while some take advantage of the opportunity without prior reflection.

HRW calculated that more than 250 children have been placed in centres in the Canary Islands, which “do not meet the minimum reception standards and that have no occupancy limits.”<sup>111</sup> These centres exclusively accommodate unaccompanied minors; they are managed by NGOs within the framework of agreements signed with the



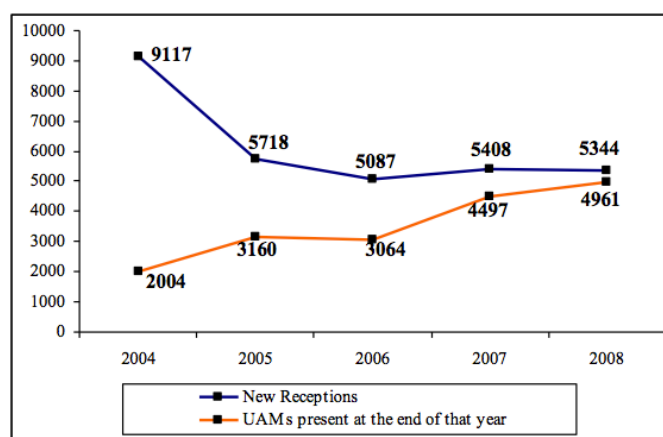


FIGURE 22 - New receptions and number of UAMs in Spain 2004-2008 – Source: Tabulation of Spanish EMN National Contact Point 2009.

authorities, with a multi-disciplinary and multi-cultural educational team. Many of these minors try to flee from the reception centres to arrive in other autonomous communities in search of a better situation, but the number of these UAMs is still unknown. Spain refuses access to its territory for foreign adults and children who are stopped at airport borders, land borders, in particular Ceuta and Melilla, or ports, if they cannot present the necessary documents for entry. The Spanish authorities consequently send them back to their country of origin by applying a legal provision intended for adults.

COUNTRY OF ORIGIN	UAMAS	PERCENTAGE
Morocco		69,9%
Mali		9,7%
Senegal		8,8%
Mauritania		3,6%
Algeria		2,7%
Other countries		5,3%

TABLE 26 - Percentage of UAMs by country of origin in Spain in 2008 – Source: Spanish EMN National Contact Point 2009.

YEAR	NUMBER OF UAMAS
2008	15
2009	20
2010	15
2011	10
2012	15
2013	10

TABLE 27 - Number of UAMAS in Spain 2008-2013 – Source: Eurostat 2014.

A relatively small portion of UAMs apply for asylum in Spain, only 13 in 2008. When UAMs decide to apply for asylum they are referred to the Child Protection Services to receive the necessary assistance and to assume guardianship. Nine months after UAMs have been taken into care by the protection services, and once repatriation is recognized as impossible, minors can then ask for a residence permit by applying to the establishment that exercises guardianship.

### 3.27 - S W E D E N

The Swedish legislation considers unaccompanied minors all those young people less than 18 years of age coming to Sweden without any legal custodial parent. Most of them are boys between 16-17 years of age coming from Iraq, Somalia and Afghanistan.

The EMN reports data for unaccompanied minors in Sweden, however, the numbers correspond to the one provided for unaccompanied minors asylum seekers. The number of unaccompanied minors seeking asylum in Sweden has been increasing (see FIGURE 23). In 2012, the largest groups of unaccompanied minors came from Afghanistan (54%), Somalia (13%) and Morocco (4%).

Local authorities are not concerned about UAMs' entries into the Swedish territory, in fact, minors are normally found within the territory, or "are authorized to enter it in order for the same procedures to be applied to them as would be the case in the event of arrest at the border."<sup>112</sup>

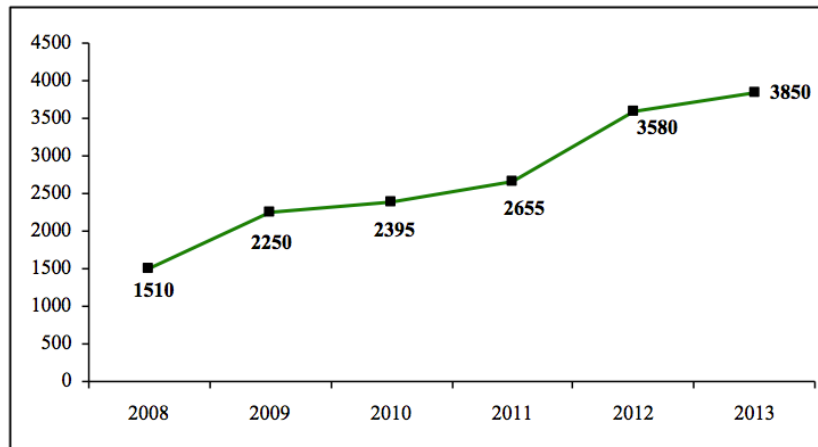


FIGURE 23 - Number of UAMAS in Sweden 2008-2013 – Source: Tabulation of Eurostat 2014.

UAMs have also the priority when their cases are processed: residence permits or refusal of entry should be made within three months, while adults' within six.

Most unaccompanied minors arrive in Sweden seeking for asylum. Generally, each minor receives a guardian *ad litem*; this figure takes the guardian's place and takes care of the minor's interests, personal, financial and legal.

Sweden is divided into 290 municipalities; these are the bodies responsible for housing and care since 2006. When a residence permit is given to UAMs, the municipalities ensure that they are placed in a family home or other appropriate structures. "The reception system for UAMs has thus been under enormous pressure and local communities faced difficulties in offering sufficient accommodation and care. In light of the increasing influx of UAMs, the Swedish Migration Board increased its efforts to facilitate their return, also through participation in the European Return Platform for Unaccompanied Minors (ERPUM)."<sup>113</sup>

### 3.28 ~ UNITED KINGDOM

The definition of unaccompanied foreign minor used in the United Kingdom only recognizes unaccompanied minors requesting asylum. UAMs requesting asylum are defined as following: "a child who is applying for asylum in his own right and is separated from both parents and is not being cared for by an adult who by law has responsibility to do so."<sup>114</sup> The age limit to be considered a minor is 18, except in Scotland, where the age of majority is 16.

In the UK, when authorities find a minor entering the territory illegally, they interview him/her to determine his/her identity, background and situation, before informing the local authority responsible for taking care of him/her. No legal counsel or responsible adult attends the interviews, which are usually held under difficult material conditions. Although the objectives of these interviews remain still vague, minors are not detained nor turned away at the borders if their minority is proven.

In the UK, "an unaccompanied minor must have an administrative status and must undertake the steps for this purpose before reaching the age of 18 years. The initiative, into which he is almost automatically directed, when accessing the territory, is the asylum application. His status is therefore linked to the progress and outcome of the asylum procedure."<sup>115</sup>

The EMN collects data on UAMs' presence in the UK; however, the numbers correspond to the ones provided for UAMAS.

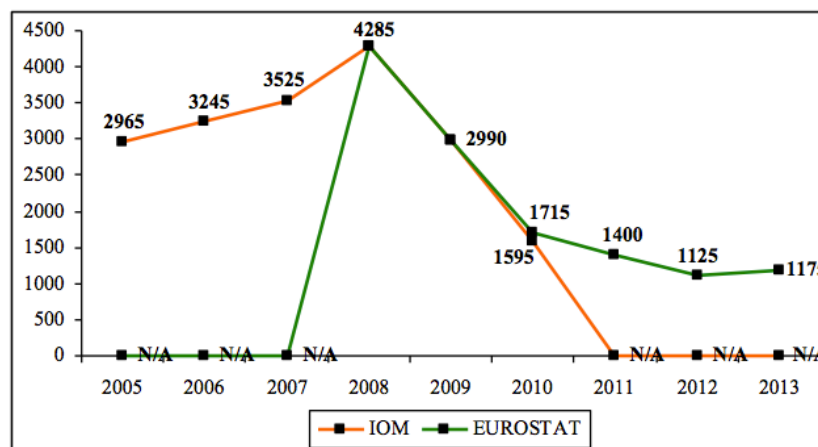


FIGURE 24 - Number of UAMAS in the UK 2005-2013 – Source: Tabulation of Eurostat 2014; IOM 2011.

A study conducted by the UK Border Agency reports that unaccompanied asylum seeking children come from clearly identified third countries. In 2008 the top 5 nationalities in decreasing order were: Afghan, Iraqi, Iranian, Eritrean and Chinese. Tabulated below are the top 10 nationalities of unaccompanied children applying for asylum in 2008.

COUNTRY OF ORIGIN	TOTAL
Afghanistan	1.800
Iraq	485
Iran	390
Eritrea	370
China	200
Other countries	1.040
TOTAL	4.285

TABLE 28 - Number of UAMAS in the UK by country of origin in 2008 – Source: UK Border Agency 2010.

The immigration law of 1971 allows for the removal of illegal immigrants, including UAMs, from the UK. Until this moment, British authorities have not removed any isolated minor, if the adequate conditions for his/her care cannot be assured in the country of return. In 2009, only 8 removals were concluded. However, a project created by the United Kingdom Border Agency, calls for the set-up of a reintegration centre in Afghanistan. Such project therefore allows the British authorities to remove unaccompanied minors to this centre, without having to ensure the existence of protection guarantees.







## 4.1 ~ GENERAL CONCLUSIONS



AS MENTIONED, THE INCREASING MIGRATION FLOWS IN SPECIFIC EU MEMBER STATES DEPEND ON DIFFERENT FACTORS:

- ~ proximity to the EU external borders;
- ~ reputation of being a welcoming country or easy provider of asylum permits;
- ~ cultural closeness to the country of origin.

Clearly, the phenomenon of UAMs deeply affects some MSs more than others. The countries hosting the highest share of UAMs and UAMAS are: Austria, Belgium, Germany, Greece, Italy, the United Kingdom, Spain and Sweden. Among this group, differences and peculiarities are found.

From 2008 to 2013, Austria and Belgium hosted an average number of 800 UAMAS. However, Italy reached the same number of asylum applications in 2013, even though the real number of UAMs on the territory was definitely higher, amounting to 8.461. It implies that only a small group of UAMs is willing to submit an asylum application to the Italian institutions. The situation in Spain is similar. Being one of the European countries with the largest population of UAMs, Spain received just 15 asylum applications in 2011, although the total number of UAMs amounted to over 3.800.

Greece does not allow such statistical comparisons because it lacks available updated data on UAMs. Despite this, the country remains one of the main entry-point after Italy and Spain due to its proximity to Turkey and the Middle East.

Germany, Sweden and the United Kingdom display a different situation to the Mediterranean countries, classifying themselves as final arrival destinations. These countries equally gather the highest number of asylum applications requested by UAMs in 2013, amounting to 1.175 in the UK, 2.485 in Germany and 3.850 in Sweden.

On the other hand, Estonia, Latvia, Lithuania and Luxembourg have very little acquaintance with UAMs. These countries represent mostly transit countries for those UAMs, who are looking to settle or apply for asylum in other destinations. The same holds true for Belgium, Hungary, Poland, Slovakia and Slovenia.

Both Cyprus and Malta are lacking comprehensive available data on UAMs. The UNHCR and Cypriot national institutions apparently do not provide any figures on UAMs at national level; the respective ministries record neither statistics on education nor on the healthcare system. Malta presents drawbacks regarding the detention of underage migrants. Moreover, every minor in Malta is detained for an unpredicted period of time, except if needing immediate hospital care, meaning that UAMs are treated as adult immigrants. This aspect has also been disputed at European level; UAMs shall only be detained as a measure of last resort and for the shortest appropriate period of time. However, despite national laws address the issue from different perspectives, questionable detention practices are currently encountered in Germany, Greece, Ireland, the Netherlands and Malta. As an example, Greece treats UAMs and UAMAS as they were criminals and legislation does not exempt unaccompanied children from detention and deportation measures.

UAMs' disappearances from reception centres are a matter of concern among the EU member states, making more complex the acquisition of data. Notwithstanding the considerable efforts made by the EU governments to face the problem, Belgium, Czech Republic, Hungary, Ireland, Italy, Poland and Slovakia are unable to decrease the number of disappearances.

Nowadays, it is impossible to draw a general profile of migrants arriving in Europe. Nevertheless, the European Union Agency for Fundamental Rights (FRA) published data representing the overall number of UAMAS, 12.225 in 2011, of which 80% was over 14 years of age, principally coming from Afghanistan. The Afghani population appears as the predominant group for both UAMs and UAMAS in Austria, Belgium, Bulgaria, Croatia, Greece, Hungary, Slovakia, Slovenia, Sweden and United Kingdom. UAMs arriving in Europe are mostly male, although Ireland appears as an exception since the gender breakdown is almost even between 2005 and 2008.

Most EU member states provide reception centres in attempting to aid straightaway all the vulnerable UAMs and UAMAS after their arrival. Some of these solutions have proved to be helpful in Austria, Belgium, Germany and many other countries, where primary care, psychological support, leisure activities and language courses are being offered to the young migrants. Unfortunately, this kind of treatment is not applied in all MSs.

Some MSs do not lay down any specific definition or provision regarding the guardianship system, as for example Croatia and Czech Republic. Some MSs deal with serious issues when appointing a guardian in the very beginning of the reception phase. In France, guardianship procedures can be fastened up by the border police, leaving UAMs often unaware of their rights. In the UK, the authorities can delay the process, interviewing minors in the absence of a legal counsel or responsible adult attending. Moreover, the guardian's appointment in Italy can take up to several months due to long bureaucratic procedures. In Greece, a guardian is not necessarily appointed, because local authorities are often unaware of the procedures. As a result, UAMs without a guardian do not legally exist.

#### 4.2 - DATA OVERVIEW

Difficulties in gathering sufficient and detailed data on this phenomenon have arisen in different occasions. As frequently stressed, there are several inconsistencies and drawbacks regarding data on unaccompanied foreign minors in the European Union. First of all, national statistical offices do not always report data in English and rarely disclose information on unaccompanied foreign minors. In addition, Eurostat does not produce up-to-date and specific data on UAMs, but only on the numbers of unaccompanied asylum applicants in each of the 28 member states. From 2008 to 2013, Eurostat figures have been rounded to the nearest 5 decimals without any given reason; this may create complications for data analysis. Moreover, this approximation of human lives definitely represents a matter of ethical concern.

As mentioned, inconsistencies among data from different sources are frequent and may generate misleading results. The IOM, Eurostat, the EMN and national statistical offices do not publish coherent and concise data on the number of unaccompanied minor asylum and non-asylum seekers. They often gather data by using different methods and considering distinct time-spans. As an example, Eurostat data on UAMAS in Denmark differ from the EMN both for 2010 and 2011; whereas, in 2010, data on UAMs in Slovenia provided by the EMN, Eurostat and the IOM do not match.

We believe that an improvement in the collection of data on migration flows, especially those involving UAMs, is needed. The institutions and organisations in charge of data collection and elaboration on UAMs and UAMAS should address this task with a common methodology, adhering to shared guidelines, which should include an established period of reference; a single unit of measure; and defined methods and modalities.

Following, there is a list of the found shortcomings and inconsistencies on data analysis and collection among the MS in question.

- Austria: inconsistencies in data provided by Eurostat and the IOM for the number of UAMAS in the country from 2008 to 2010;
- Belgium: divergent and imprecise data on UAMs collected by the Federal Agency for the Reception of Asylum Seekers and the Guardianship Office;
- Bulgaria: lack of detailed data on UAMs' characteristics - gender, age and country of origin;
- Croatia: incomplete and inconsistent data on unaccompanied children staying illegally in the country; fragmented data collection;
- Cyprus: lack of a comprehensive study on UAMs at national level;
- Czech Republic: no available data on UAMs since 2007;
- Denmark: lack of detailed data on UAMs and inconsistencies between the EMN and Eurostat on the number of UAMAS in 2010 and 2011;
- France: lack of detailed data on UAMs' numbers and characteristics;
- Germany: lack of data for UAMs between 16-18 years of age;
- Greece: shortage of data on UAMs and complications on recording the number of asylum applications by the Hellenic Police;
- Hungary: shortage of data on UAMs, especially those illegally staying in the country;
- Ireland: inconsistencies among data on UAMs at national and local level;
- Lithuania: fragmented data collection on UAMs at national level;
- Luxembourg: shortage of detailed data on UAMs' characteristics;
- Malta: shortage of data on UAMs' characteristics;
- Netherlands: missing and unavailable data on UAMs' number and characteristics;
- Poland: lack of official data on UAMs; complications when distinguishing between accompanied and unaccompanied foreign minors; inconsistencies among data from the Daphne Project, the EMN and the IOM;
- Slovenia: inconsistencies among data on UAMAS provided by the EMN, Eurostat, the IOM, Ministry of Interior and the Slovene Philanthropy;
- Spain: lack of documentation needed for the Spanish authorities to identify minors; shortage of official numbers on unaccompanied Moroccan minors; shortage of data from the Child Protection Services; authorities' different methods of calculations and inconsistent results accordingly to delegation of data collection at local level.



### 4.3 ~ GOOD PRACTICES

The legal provisions concerning UAMs constitute not only binding rules for the MSs, but also a systematisation of the good practices along with the guidelines prepared by the relevant organisations and institutions.

The good practices related to UAMs treatment and care we consider of primary importance are:

- ~ to avoid detention under any circumstances;
- ~ to provide *ad hoc* facilities;
- ~ to offer clear and concise information about asylum procedures in the reception phase and to support them through the process;
- ~ to train guardians in an all-inclusive manner to be a legal and pedagogical support in order to make uniform the guardianship system;
- ~ to offer educational opportunities, starting with extensive language classes
- ~ to guide the minors in the passage to age of majority;
- ~ to offer free health care system;
- ~ to take care adequately of minors involved in human trafficking and sexual exploitation.

Whilst weakness and replicable good practices have been underlined in the research, there are series of effort to be undertaken in order to raise awareness and to improve the condition of UAMs.

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<sup>7</sup> See Protocols No. 21 and 22 annexed to the Lisbon Treaty.

<sup>8</sup> For example, Qualification Directive, Provision 39 Preamble.

<sup>9</sup> European Union, *Charter of Fundamental Rights of the European Union*, 2012/C326/02.

<sup>10</sup> *Ibidem*, Art. 24.

<sup>11</sup> *Ibidem*, Art. 14.

<sup>12</sup> *Ibidem*, Art. 32.

<sup>13</sup> European Union, *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*, 2007/C306/01 (Lisbon Treaty), Art 6(1).

<sup>14</sup> Charter of EU, Art. 51.

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<sup>16</sup> Reception Conditions Directive, Art. 1.

<sup>17</sup> *Ibidem*, Art. 18.

<sup>18</sup> *Ibidem*, Art. 10.

<sup>19</sup> *Ibidem*, Art. 14(3).

<sup>20</sup> *Ibidem*, Art. 19.

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<sup>23</sup> *Ibidem*, Art. 30.

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<sup>25</sup> Asylum Procedures Directive, Art. 1.

<sup>26</sup> *Ibidem*, Art. 17.

<sup>27</sup> European Union: Council of the European Union, *Council Directive 2001/55/EC of 20 July 2001 on Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts Between Member States in Receiving such Persons and Bearing the Consequences Thereof*.

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<sup>30</sup> Dublin II Regulation, Art. 1.

<sup>31</sup> *Ibidem*, Art. 6.

<sup>32</sup> *Ibidem*, Art. 6(2).

<sup>33</sup> *Ibidem*, Art. 6(4).

<sup>34</sup> *Ibidem*, Art. 8(1)(2).

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<sup>36</sup> European Union: Council of the European Union, *Council Directive 2003/86/EC of 22 September 2003 on the Right to Family Reunification*.

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<sup>41</sup> European Union: Council of the European Union, *Regulation (EU) No. 7 of the European Parliament and of the Council of 26 June 2013 amending Regulation (EC) No. 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), the Convention implementing the Schengen Agreement, Council Regulations (EC) No. 1683/95 and (EC) No. 539/2001 and Regulations (EC) No. 767/2008 and (EC) No. 810/2009 of the European Parliament and of the Council*.

<sup>42</sup> Schengen Borders Code, Art. 15(1)(3).

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<sup>56</sup> *Ibidem*, Provision 39 Preamble.

<sup>57</sup> *Ibidem*, Art. 16(3)(4).

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