



## **EMN Ad-Hoc Query on Unaccompanied Minors – “Volunteer Tutor/Guardian”**

Requested by Stefania NASSO on 13th February 2018

### **Unaccompanied minors**

Responses from Austria, Belgium, Croatia, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Sweden, United Kingdom, Norway (21 in total)

#### Disclaimer:

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

## **Background information:**

In April 2017 Italy passed a new law on the protection of Unaccompanied Minors (Legge n.47/2017). One of the provisions of the new law regards the possibility, for Italian citizens (over age 25), to become volunteer guardian for unaccompanied minors. A volunteer guardian acts as the minor's legal representative and represents the minor's best interest, thus ensuring that the minor's rights are respected and recognized. Therefore, the role of the volunteer guardian entails providing assistance and support in all of the phases of the minor's integration process, monitoring the minor's reception conditions, promoting his psychological and physical well-being.

For instance, the volunteer guardian must:

- provide information to the minor about her/his rights;
- participate in the identification process of the minor;
- request the minor's permit of stay/present the minor's asylum application;
- report the minor's opinion about her/his voluntary return;
- act as contact person for social services, schools, the community/the foster family where the unaccompanied minor lives, the national healthcare system;
- provide information to the minor about the choices concerning her/his integration process (i.e. concerning training courses, language courses, educational activities...) and support her/him in these decisions.



All Italian juvenile courts have been called upon to create a list of candidates willing to become volunteer guardians for unaccompanied minors. Each selected candidate must attend a training course. The Ombudsman for Children selects the candidates and provides the training courses, while the Juvenile Court bears the responsibility to match the minor and with the volunteer guardian.

The figure of the volunteer guardian has been introduced to enhance the integration process of the minor in Italy, to guarantee that her/his rights are fully respected and to improve Italian reception's capacities concerning this group of vulnerable migrants.

## **Questions**

1. Does your country's reception system include a figure similar to the Italian volunteer guardian concerning unaccompanied minors?
2. Does your country's reception system include a figure similar to the Italian volunteer guardian concerning other categories of vulnerable migrants/other targets?
3. If the answer to question 1. and 2. is "yes", what kind of tasks does the volunteer guardian must perform in your reception system?

## Responses



	Country	Wider Dissemination	Response
	Austria	Yes	<p><b>1.</b> No. For an unaccompanied minor refugee the legal representation for proceedings before the Federal Office for Immigration and Asylum is ensured by a legal counsellor, starting with the unaccompanied minor's arrival in the initial reception centre. According to the law the legal counsellor in the admission procedure becomes the representative of the unaccompanied minor asylum seeker. From admission and allocation to a care centre in one of the provinces, the legal representation is passed to the local competent legal body of child and youth welfare. Locally competent is the legal body of child and youth welfare of the respective province, where the unaccompanied minor is accommodated.</p> <p><b>2.</b> No.</p> <p><b>3.</b> Since questions 1 and 2 were answered with „no“, question 3 cannot be answered. --- Source: Ministry of the Interior</p>
	Belgium	Yes	<p><b>1.</b> Yes, Belgium does have a system of guardianship for unaccompanied minors among which volunteer guardians. Do note that unaccompanied minors who do not live in reception facilities of the Fedasil (Federal Agency for the reception of asylum seekers) reception network are entitled to a guardian as well. So a guardian is always appointed, even if the UAM is staying with a family member or acquaintance. (Only when the UAM receives a permanent residence permit, the guardian's mandate can be terminated, subject to the appointment of a civilian guardian by the justice of the peace. The family member / acquaintance can then take on the civil custody.) The Guardianship Service is part of the Federal Public Service Justice in order to guarantee its independence with regard to various agencies such as the Immigration Office which is competent for the access to the territory, the residence, establishment and removal of foreign nationals and Fedasil, which is responsible for the reception of applicants for international protection. The Guardianship Service is in charge of the selection, coordination, training and supervision of the guardians. The Guardianship Service is responsible for the organisation of the identification and age assessment of</p>



			<p>the UAM. Once identified as being an unaccompanied minor according to Belgian legislation, the Guardianship Service will assign a guardian to assist, support and represent the UAM. There are some qualifications required to become a guardian. The guardian must be an adult and reside in Belgium or have a permanent residence permit. (S)he must explain his/her motivation to be a guardian, and must demonstrate that (s)he has particular competencies related to UAM, in particular with respect to migration and youth care law, guardianship law, psychological and pedagogical aspects related to UAM, and care for UAM, in particular its intercultural aspects. Further, the applicant guardian must submit an official attestation of “good behaviour, model 2”, the so-called 'minors' model, proof that there were no convictions related to offenses against children which is necessary for specific activities involving contacts with children and young people, such as upbringing, psycho-medical social counselling, providing assistance to youth, child protection, animation or supervision of minors. If these criteria are met, the Guardianship Service invites the applicant for an interview. The Guardianship Service will question the applicant about his/her motivation to become a guardian and his/her attitude towards the target group, and will try to explore the skills and knowledge of the applicant (is there a genuine concern with the issue of UAMs, relational skills, skills in the area of organisation and coordination, etc.). There are three different types of guardians for UAMs in Belgium:</p> <ul style="list-style-type: none"><li>• A guardian can be a private person who works as a volunteer and takes up to 5 guardianships a year.</li><li>• A guardian can be registered as an independent self-employed person. These professional guardian can have between 1 and 40 guardianships at the same time ;</li><li>• An “employee system”, where the guardian is an employee of an NGO or association that is active in the field of counselling of unaccompanied minors (for example: Red Cross and Caritas International) and receives subsidies for organising guardianship for UAM. The employee guardian will have around 25 guardianships at the same time. All guardians who have passed through the selection process must attend a training course. The basic training lasts 5 days. Topics covered include: the tasks / role of the guardian, the asylum procedure, the special residence procedure (durable solution), education, reception, social rights, voluntary return, integrated youth care, trafficking in human beings, psychosocial well-being (trauma, talking to the UAMs, building a relationship of trust, the social world of an UAM, cultural aspects). There is no exam or test at the end of the course. The Guardianship Service calls upon external experts to provide the training on the various themes, such as lawyers, psychologists, a staff member of the youth care services, a staff member of an organisation specialised in the accompaniment of victims of human trafficking, etc.</li></ul>
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Throughout the whole training, an experienced guardian is present who can always frame the role of the guardian in relation to the different topics and give examples with concrete cases. Furthermore, the Guardianship Service also provide annually additional training courses for all guardians. These can relate to different themes, in 2017, for example, about family reunification, radicalization, human trafficking, reception and psychosocial well-being). The guardianship will come to an end in the following situations : • if the minor is entrusted to the person exercising parental authority or guardianship; • when the minor reaches the age of 18; • in case of death, emancipation, adoption or marriage of the minor; • when the minor acquires the Belgian nationality or the nationality of a Member State of the European Economic Area; • when de minor disappears and the guardian has received no news from the minor during 4 months; • when the minor is removed from the territory, in that case, the guardianship ends when there are no more pending procedures concerning the minor; The Guardianship Service determines the end of the guardianship. The Immigration Office nor the Justice of the Peace can take the decision to terminate the care of the minor. The Justice of the Peace can end the mandate only if the guardian falls short in his/her assignment/tasks or in the event of a serious differences of opinion with the minor.

**2.** No, the Guardianship system as described above only applies to unaccompanied minors (regardless of their residence procedure/status).

**3.** Note: that the tasks of the guardian described below are not restricted to unaccompanied minors in the reception network. The Guardianship Act of 24 December 2002 and the General guidelines for guardians of unaccompanied minor foreign nationals of 2 December 2013 describe the assignments of the guardian. On the one hand the general guidelines aim to define a framework for guardians and harmonize the practices of guardians. On the other hand, the guidelines clarify the role of guardians vis-à-vis the various institutional and social actors. They also aim to improve collaboration between guardians and their partners. These guidelines specify the different legal guardian missions set out in Articles 9 to 13 of the Guardianship Act. The main tasks and responsibilities of the guardian are: • Legally represent and accompany the minor in all administrative or jurisdictional procedures (relative to the application for international protection, the immigration status or any other procedure); • Ensuring that all decisions are in the best interest of the child; • Appointing, without delay, a lawyer to represent the minor in the various procedures; • Being present at every hearing or interview; • Ensuring that the UAM is offered suitable care, accommodation (the guardian is not allowed to

			<p>accommodate the UAM in his/her own house), education, health care and psychological care (if needed); • Building a relationship of trust with the UAM and consult the minor to know his or her point of view before taking any decision in his name; • Contributing to and making proposals for a durable solution in coherence with the child’s best interest; • Respecting the religious or political views of the minor; • Exploring the possibility of family tracing and reunification with the child; • Administering the minor’s assets; • Reporting on the situation of the minor for both the Guardianship Service and the Justice of the Peace: a first report after a maximum of 15 days after the appointment, regular reports every 6 months and a final report at the end of the guardianship (15 days after the end of guardianship). Note: the task of legal guardians in Belgium is not to improve Belgian reception’s capacities as such but to ensure that unaccompanied minors are accommodated in the most suitable, adapted way within or outside the official reception network.</p>
	Croatia	Yes	<ol style="list-style-type: none"> <li>1. No.</li> <li>2. No.</li> <li>3. N/A</li> </ol>
	Czech Republic	Yes	<ol style="list-style-type: none"> <li>1. Yes, it does. The Czech figure of a guardian can be also a volunteer if it is in the best interest of child. But in most cases is the Socio-legal Child Protection Authority established as the guardian.</li> <li>2. Yes</li> <li>3. The guardian acts in any questions of the child rights. For instance, the guardian has to: - provide information to the minor about her/his rights; - participate in the identification process of the minor; - submit the minor’s residence permit /submit the minor’s asylum application; - report the minor’s opinion on her/his potential voluntary return; - act as contact person for social services, schools, the community/the foster family where the unaccompanied minor lives, the national healthcare system; - provide information to the minor about the possibilities concerning her/his integration process (i.e. training courses, language courses, educational activities...) and support her/him in these decisions.</li> </ol>



			The guardian has to act in the best interest of the child.
	Estonia	Yes	<ol style="list-style-type: none"> <li>1. No.</li> <li>2. No.</li> <li>3. N/A</li> </ol>
	Finland	Yes	<p>1. All unaccompanied minor asylum seekers are appointed a representative in Finland. According to Section 39 of the Act on the Reception of Persons Applying for International Protection, a representative is appointed without delay for a child applying for international protection, if the child in question is staying in Finland without a guardian or other legal representative. According to the Act on the Promotion of Immigrant Integration, a child who has been granted a residence permit within the refugee quota and a child who has been a victim of trafficking in human beings, and has been granted a residence permit, is also appointed a representative, if the child is in Finland without a guardian or other legal representative. A representative may also be appointed for another child who has been granted a residence permit and who is in Finland without a guardian. The application for a representative is filed by the accommodation unit where the unaccompanied minor has been registered as a resident. The representative is appointed in a district court. A legally competent, suitable and consenting person who is able to perform the required duties correctly may be appointed as a representative. A prerequisite for the appointment as the representative is that the person in question has provided an extract on his/ her own entries in the criminal records. Representatives are recruited mainly from the field of social welfare. Experience in child welfare is particularly appreciated, but training and work experience of some other kind may also provide a person with good qualifications to serve as a representative. Familiarity with and interest in migration-related issues are an advantage in the duties of a representative. Those serving as representatives are provided with common guidelines, pertaining to both the reception phase and the integration phase. The Finnish Immigration Service and the Ministry of Economic Affairs and Employment both also organise regular training for representatives. The representative's duty continues up until such time as the represented person reaches adulthood or is appointed a guardian or other legal representative in Finland. The representatives' fees and compensations for expenses, such as travel expenses are</p>



covered by the Finnish Immigration Service until the minor receives a residence permit. After the issuance of a permit, the fees and expenses are covered by the administration of the Ministry of Employment and the Economy.




**2.** If an (adult) individual is unable to take care of his/her responsibilities due to illness, for example, and there are no other appropriate arrangements in place, the District Court can appoint a public guardian for the individual in question. If the individual in question is an asylum seeker, a written application for the appointment of a guardian can be submitted by the reception center. There have not been many applications for a public guardian made by reception centres. As there is no uniform guidelines regarding this issue, there are differences between district courts readiness to appoint a guardian for an asylum seeker.

**3.** An unaccompanied minor's representative exercises a guardian's right to be heard in matters pertaining to the child's person and assets. The representative is tasked with making the child's views and opinions heard in decision-making situations and processes, and ensuring that the child's best interests are realized. The representative helps the child to take care of official affairs and takes part in the child's asylum interview, for instance. The duties of a representative do not include the daily care, education or other looking after of the child. However, the representative may participate in the preparation of the care and upbringing plans drawn up in the accommodation units. Following the issuance of a residence permit, the representative supports the minor in the integration path. The representative exercises the guardian's right to be heard in the child's school, social and healthcare matters and in other key questions related to the child's life. The representative functions as the child's legal representative in administrative and court matters pertaining to the child's person and assets. In addition, the representative may initiate a trace of the child's family through the tracing of the Finnish Red Cross and helps the child to keep in touch with relatives living in Finland and elsewhere if necessary. For an adult person, a (public) guardian is normally appointed to look after the client's financial affairs. The guardian can also be appointed to attend to a specific task on behalf of the client. Before making any important decisions that will affect the client, the guardian must consult him or her, if this is possible considering the client's condition. The guardian must also ensure that his or her client has access to appropriate treatment, care and rehabilitation.








	France	Yes	<p><b>1.</b> Once the minor status and isolation are recognized, the UAM is under State guardianship pronounced by a judge. The child welfare service of the French department in which the UAM lives acts as the guardian of the UAM. Besides care and protection by the child welfare service, some initiatives have been developed in order to facilitate the integration of UAMs in France. For example, a sponsorship system based on volunteers has been implemented by an association (France Parrainages). The sponsor does not act as a guardian but provides support in education, administrative procedures, labour market entry, etc. while facilitating the UAM's integration (French language and culture, etc.).</p> <p><b>2.</b> No.</p> <p><b>3.</b> See Q1.</p>
	Germany	Yes	<p><b>1.</b> Yes. Both officially appointed and volunteer guardians exist in Germany. The guardian represents the minor in place of the parents.</p> <p><b>2.</b> Responsibility for this area lies with more than 600 foreigners authorities at local government level. It is not organised at national level.</p> <p><b>3.</b> There are both officially appointed and volunteer guardians in Germany. These play a central role in providing care and support for unaccompanied minor refugees. While the requirements pertaining to placement under guardianship and the appointment of a guardian for an unaccompanied minor refugee by the family court are established upon the minor entering the country, the youth welfare office is not required by law to notify the family court of these circumstances until one month after the minor's arrival in the country. After one month, or in the course of the regular process which applies to taking minors into care, the youth welfare office is required to arrange for a legal guardian to be appointed promptly, that is, within 3 working days. When a person who appears suitable to take on this task is available, the youth welfare office proposes this person to the family court as a (voluntary) single guardian. If no-one is available or the family court does not consider the proposed person to be suitable, that is, not able to perform the role in the ward's interest, it appoints the youth welfare office as the official guardian. The youth welfare department then assigns this task to a professional guardian. In addition to legal representation, custody of the minor and care of the</p>

			<p>minor's property, a guardian's duties with regard to an unaccompanied minor refugee also include establishing and safeguarding the minor's prospects of remaining in Germany, representing the minor in asylum and residence proceedings, providing support in the area of family reunification and the subsequent migration of family members, healthcare, ensuring access to school education and vocational training, the acquisition of language skills and applications for required benefits (e.g. Book VIII of the Social Code).</p>
	Hungary	No	
	Italy	Yes	<p><b>1.</b> In April 2017 Italy passed a new law on the protection of Unaccompanied Minors (Legge n.47/2017). One of the provisions of the new law regards the possibility, for Italian citizens (over age 25), to become volunteer guardian for unaccompanied minors. A volunteer guardian acts as the minor's legal representative and represents the minor's best interest, thus ensuring that the minor's rights are respected and recognized. Therefore, the role of the volunteer guardian entails providing assistance and support in all of the phases of the minor's integration process, monitoring the minor's reception conditions, promoting his psychological and physical well-being. All Italian juvenile courts have been called upon to create a list of candidates willing to become volunteer guardians for unaccompanied minors. Each selected candidate must attend a training course. The Ombudsman for Children selects the candidates and provides the training courses, while the Juvenile Court bears the responsibility to match the minor and with the volunteer guardian. The figure of the volunteer guardian has been introduced to enhance the integration process of the minor in Italy, to guarantee that her/his rights are fully respected and to improve Italian reception's capacities concerning this group of vulnerable migrants. In the absence of a volunteer guardian, the head of the reception centre where the unaccompanied is legally responsible for the unaccompanied minor, acting as his/her guardian.</p> <p><b>2.</b> No, the "volunteer guardian" has been created only for unaccompanied minors.</p> <p><b>3.</b> For instance, the volunteer guardian must: - provide information to the minor about her/his rights; - participate in the identification process of the minor; - request the minor's permit of stay/present the minor's asylum application; - report the minor's opinion about her/his voluntary return; - act as</p>

			contact person for social services, schools, the community/the foster family where the unaccompanied minor lives, the national healthcare system; - provide information to the minor about the choices concerning her/his integration process (i.e. concerning training courses, language courses, educational activities...) and support her/him in these decisions.
	Latvia	Yes	<p><b>1.</b> N/A. If an unaccompanied minor submits the application on asylum the State Border Guard immediately informs the Orphan's court about the necessity to appoint a representative for the unaccompanied minor. The Orphan's court shall take a decision to appoint a representative, finding out the opinion of the Office of Citizenship and Migration Affairs (the 1st instance in the asylum procedure). During the asylum procedure the representative of a minor represents the unaccompanied minor in the personal and property relations. The Orphan's Court or a guardian appointed thereby, or the head of a child care institution may be appointed as a representative of unaccompanied minor.</p> <p><b>2.</b> N/A</p> <p><b>3.</b> N/A</p>
	Lithuania	Yes	<p><b>1.</b> No. Lithuania has an institutional care model, and a social institution, namely, the Refugee reception center, is appointed as a guardian/custodian of unaccompanied minors. Therefore the general practice is that the guardian is appointed from the staff of the institution where the minor is accommodated. Another legal representative might be appointed according to general procedure but this is not the common practice.</p> <p><b>2.</b> N/a</p> <p><b>3.</b> N/a</p>
	Luxembourg	Yes	<p><b>1.</b> Luxembourg legislation does not foresee the figure of a volunteer guardian. In the international protection procedure there are two figures that will assist the UAM: the ad-hoc administrator and the guardian. However, both have to be appointed by the Youth Judge. The care of UAMs begins before the status determination. In Luxembourg, the care for UAMs begins from the moment they apply for</p>

			<p>international protection.[i] As soon as possible the Directorate of Immigration will request the Youth judge the appointment of an ad-hoc administrator in order to assist him/her during all the procedure (administrative and judicial proceedings)[ii].[iii] The moment the minor applies for international protection, s/he will benefit immediately of all the reception conditions. The OLAI takes into account the particular material reception needs of the UAM.[iv] Also, the OLAI will grant a primordial attention to the best interest of the child and will guarantee adequate living standards for the UAM in order to guarantee his/her physical, mental, spiritual, moral and social development.[v] In order to do this, the OLAI takes into account the possibility of family reunification[vi], the well-being and social development of the minor in regard to his/her personal situation[vii], considerations on the safety and security, especially when the minor has been a victim of human trafficking[viii] and the minor's opinion depending on his/her age and maturity. Also, the housing of UAMs is done taking into consideration the best interest of the child placing them in convenient accommodation in accordance with their age.[ix] In any case a guardian is appointed by the Youth Court for handling all the day to day business of the minor. [x] The competent authorities try to find a prompt solution for the UAM not only in regard with the residence status of the UAM but also with the social support and assistance. Concerning UAM who are presumed victims of human trafficking a guardian is appointed to assist him/her during all the time it is necessary and until the minor is handled over to the authorities of his/her country of origin which must act in the best interest of the child[xi] and an ad-hoc administrator will be appointed to represent the minor during the administrative and judicial proceedings.[xii] [i] Article 5 (4) of the Law of 18 December 2015 on international protection and temporary protection. [ii] Article 5 (4) paragraph 2 of the Law of 18 December 2015 on international protection and temporary protection. [iii] Article 20 (1) of the Law of 18 December 2015 on international protection and temporary protection. [iv] Article 15 of the Law of 18 December 2015 on reception of applicants for international protection and temporary protection. [v] Article 19 (1) of the Law of 18 December 2015 on reception of applicants for international protection and temporary protection. [vi] Article 19 (2) a) of the Law of 18 December 2015 on reception of applicants for international protection and temporary protection. [vii] Article 19 (2) b) of the Law of 18 December 2015 on reception of applicants for international protection and temporary protection. [viii] Article 19 (2) c) of the Law of 18 December 2015 on reception of applicants for international protection and temporary protection. [ix] Article 21 (1) of the Law of 18 December 2015 on reception of applicants for international protection and temporary protection. [x] Article 20 of the Law of 18 December 2015</p>
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			<p>on reception of applicants for international protection and temporary protection. [xi] Article 3 of the amended law of 8 May 2009. [xii] Article 92 (2) of the amended law of 29 August 2008.</p> <p><b>2.</b> No.</p> <p><b>3.</b> N/A.</p>
	Malta	Yes	<p><b>1.</b> No. In Malta, once the minor is placed in one the reception centre for unaccompanied minors, the social worker assigned to the case applies to become the child’s legal guardian. This proposal needs to be approved by the Children and Young Persons Advisory Board of the Ministry for the family, children's rights and social solidarity. Whilst the guardian is officially the representative of the minor in all legal and administrative issues, in practice, his/her main role is that of supporting the minor in the asylum procedure. In this regard, Article 15 of Legal Notice 243 (Laws of Malta 2008) stipulates that "...the appointed representative of the unaccompanied minor is given the opportunity to inform the unaccompanied minor about the meaning and possible consequences of the personal interview and, where appropriate, how to prepare himself for the personal interview. The representative shall be present at the interview and may ask questions or make comments within the framework set by the person who conducts the interview". Whilst the guardians are officially the representatives of the minor in all legal and administrative issues, in practice, their main role is that of supporting the minor in the asylum procedure. In fact, when the appointment of a guardian is finalised, the Refugee Commissioner is informed and the process of claiming asylum commences.</p> <p><b>2.</b> No Please refer to explanation in question 1.</p> <p><b>3.</b> Please refer to explanation in question 1.</p>
	Netherlands	Yes	<p><b>1.</b> In the Netherlands we do not work with volunteer guardians for unaccompanied minors. There is also a limitation because of privacy regulations that stipulate that we are not allowed to store and exchange all information.</p> <p><b>2.</b> The same goes for vulnerable migrants, if only because we have not identified specific categories</p>

			<p>as 'vulnerable'. There is also a limitation because of privacy regulations that stipulate that we are not allowed to store and exchange all information.</p> <p><b>3. N/A</b></p>
	Poland	Yes	<p><b>1. no</b></p> <p><b>2. no</b></p> <p><b>3. n/a</b></p>
	Portugal	Yes	<p><b>1. No</b></p> <p><b>2. No</b></p> <p><b>3. NA</b></p>
	Slovak Republic	Yes	<p><b>1. No.</b></p> <p><b>2. No.</b></p> <p><b>3. N/A</b></p>
	Sweden	Yes	<p><b>1. In Sweden we have a system where the UAM has a legal guardian [god man], during the asylum procedure. Following an application of asylum, the unaccompanied minor is appointed with a legal guardian [god man]. He/she is appointed by the municipal chief guardian [överförmyndare] upon an application from the Migration Agency or municipal social services. An unaccompanied minor who is granted a residence permit is after that entitled to an appointed custodian [särskilt förordnad vårdnadshavare]. The assignment as legal guardian is in legal terms the same as for the custodian, i.e. responsibility for the unaccompanied minor's personal, economic and legal matters and a right and obligation to take decisions in these matters. However, a legal guardian or custodian is not involved</b></p>

			<p>in the care or supervision of the child or its need of financial support. Whereas the assignment for the legal guardian is limited to the period of the procedure of status determination, the assignment as custodian is rather more aimed at the long term planning of the unaccompanied minor's integration in society The custodian is appointed by the district court [Tingsrätten] following a report from the social services in the municipality where the unaccompanied minor is residing. The appointment as custodian is automatically discontinued when the unaccompanied minor reaches majority age (18 years). In Sweden, guardians and appointed legal custodians of unaccompanied minors are normally private persons that do this on a voluntary basis (on their free time) but get a small fee from the authorities for their work. To qualify as a legal guardian, a person needs to have relevant experience and be suitable for the assignment and particularly suited to work with minors in a vulnerable situation. He/she should be proficient in Swedish and have a good grasp of Swedish society and institutions (school, healthcare etc.). In addition, he/she shall act impartially in relation to the authorities and have knowledge about the asylum process. Municipalities have vetting procedures in place to assess candidates' suitability for the mission.</p> <p><b>2.</b> In Sweden we have a system where the UAM has a legal guardian [god man], during the asylum procedure. Following an application of asylum, the unaccompanied minor is appointed with a legal guardian [god man]. He/she is appointed by the municipal chief guardian [överförmyndare] upon an application from the Migration Agency or municipal social services. An unaccompanied minor who is granted a residence permit is after that entitled to an appointed custodian [särskilt förordnad vårdnadshavare]. The assignment as legal guardian is in legal terms the same as for the custodian, i.e. responsibility for the unaccompanied minor's personal, economic and legal matters and a right and obligation to take decisions in these matters. However, a legal guardian or custodian is not involved in the care or supervision of the child or its need of financial support. Whereas the assignment for the legal guardian is limited to the period of the procedure of status determination, the assignment as custodian is rather more aimed at the long term planning of the unaccompanied minor's integration in society The custodian is appointed by the district court [Tingsrätten] following a report from the social services in the municipality where the unaccompanied minor is residing. The appointment as custodian is automatically discontinued when the unaccompanied minor reaches majority age (18 years). In Sweden, guardians and appointed legal custodians of unaccompanied minors are normally private persons that do this on a voluntary basis (on their free time) but get a small fee from the authorities for their work. To qualify as a legal guardian, a person needs to have relevant experience</p>
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and be suitable for the assignment and particularly suited to work with minors in a vulnerable situation. He/she should be proficient in Swedish and have a good grasp of Swedish society and institutions (school, healthcare etc.). In addition, he/she shall act impartially in relation to the authorities and have knowledge about the asylum process. Municipalities have vetting procedures in place to assess candidates' suitability for the mission.

**3.** No normally not but a legal guardian can be appointed to anyone who is not able to take care of his/her own best interest for various reasons (not only within the migration process but in general in society)

**4.** No normally not but a legal guardian can be appointed to anyone who is not able to take care of his/her own best interest for various reasons (not only within the migration process but in general in society)

**5.** The assignment as legal guardian is in legal terms the same as for the custodian, i.e. responsibility for the unaccompanied minor's personal, economic and legal matters and a right and obligation to take decisions in these matters. It should be noted, however, that the legal guardian is not involved in the care or supervision of the child or providing financially for her/him. But whereas the assignment for the legal guardian is limited to the period of the procedure of status determination, the assignment as custodian is rather more aimed at the long term planning of the unaccompanied minor's integration in society. The appointment as custodian is automatically discontinued when the unaccompanied minor reaches majority age (18 years).

**6.** The assignment as legal guardian is in legal terms the same as for the custodian, i.e. responsibility for the unaccompanied minor's personal, economic and legal matters and a right and obligation to take decisions in these matters. It should be noted, however, that the legal guardian is not involved in the care or supervision of the child or providing financially for her/him. But whereas the assignment for the legal guardian is limited to the period of the procedure of status determination, the assignment as custodian is rather more aimed at the long term planning of the unaccompanied minor's integration in society. The appointment as custodian is automatically discontinued when the unaccompanied minor reaches majority age (18 years).





United Kingdom

Yes

**1.** The United Kingdom (UK) does not have a system whereby citizens can volunteer to become a guardian to unaccompanied children or for other categories of vulnerable migrants. All unaccompanied migrant children are referred to local authority children's services (social services) as soon as they are identified by the UK authorities. Local authorities have a statutory duty to ensure that they safeguard and promote the welfare of all children, regardless of their immigration status or nationality. Under these arrangements looked after children are provided with access to all their needs be they in relation to education, accommodation or health. In addition to a social worker, each child must also be allocated an independent reviewing officer (responsible for chairing reviews of care plans and arranging for the child's input) and have access to an independent advocate responsible for accurately representing the child's wishes and feelings. Many unaccompanied children are placed in to foster care by their local authority, particularly those below 16 years of age, and where this is the case, they will also benefit from support from their foster carer. Members of the public who want to become foster carers can apply to their local authority. In addition to assistance from the local authorities, assistance is available from an independent Panel of Advisors and legal representatives. The Panel of Advisors advise and assist unaccompanied children through the asylum process and support them in their interactions with the Home Office and other central and local government agencies. Furthermore, a responsible adult is always present at a substantive interview of an unaccompanied child to provide support to them and ensure that their welfare needs are sufficiently provided for. The responsible adult would usually be either the social worker, local authority key worker, relative, or foster carer. In Scotland, assistance is also available from the Scottish Guardianship Service, which is a statutory service that works with children and young people who arrive in Scotland unaccompanied and separated from their families and who are seeking asylum or who have been trafficked. The service supports them by helping them navigate the immigration and welfare processes, and feel supported and empowered throughout the asylum process. Guardians support them with their interactions with the Home Office and local authorities and other important agencies.

**2.** See Q1.

**3.** N/A



Norway

Yes

**1. YES.** As the final decision on the UAM's age is only made in the asylum decision itself, all persons who claim to be a UAM (except those who are deemed obviously over 18 by the police) are treated as minors during the application procedure. This means that they get a guardian/representative and a lawyer, and that the UDI's special unit for UAM cases (BFE/barnefaglig enhet) processes their case. In 2014 Norway reformed its legislation, policy and practice with regard to legal guardians for UAMs, now referred to as "representatives". In 2011 an on-call guardian service was set up to facilitate police registration of asylum applications for UAM asylum seekers. As a matter of principle, minors who do not have a parent present should have a guardian present in order to ensure that their interests are adequately represented when they are in contact with public authorities. Regulations regarding guardianship for unaccompanied minors in Norway were reformed in 2012 and went into effect in 2013. The term "representative" replaced the former "guardian" for those in the asylum system. In parallel, the Guardianship Act was revised (2010, in force 2013), but this act does not explicitly deal with asylum seekers or mention non-citizens. One of the tasks of the representative is to give consent to the age assessment procedure and the representative is therefore present when the UAM speaks to UDI. The Representative shall ensure that all decisions are made in the best interest of the child (including filing appeals on behalf of the child), ensuring that the child is heard and that it gets suitable care, housing, education, language support and health care. In addition to advocating on behalf of the child, the representative provides advice and assists in investigating whether parents can be traced. (EMN study 2014: "Unaccompanied minors in Norway: Policies, practices and data in 2014")

**2. NO** Norway does not provide guardians for other groups.

**3.** In order to make sure that minors receive the benefits due them and also to uphold their legal and financial interests, they are at all times assigned representatives (legal guardians) as well as an attorney who will help each minor to apply for asylum. As part of their responsibilities, the representative makes sure that decisions that are made, are in the child's best interest. That the representative must support the child by ensuring that the child receives suitable care, health care, language support, housing, as well as education. The legal guardians shall ensure that all decisions are made in the best interests of the children (including filing appeals on their behalf) and that they are heard. Legal guardians are expected to be present whenever minors speak to UDI and their lawyers. Again, the representative offers advice, does all the advocacy work for the child and even

			helps in the efforts to trace the child's parents (Staver and Lidén 2014, 15). Legal guardians are not responsible for children's day-to-day care.
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