

Policies on reception, return and integration arrangements for, and numbers of, unaccompanied minors in Hungary



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1. Executive summary

The specific aim of the study is to provide information on the numbers of unaccompanied minors received by Hungary and safe reception arrangements (policies and practices) in Hungary, including information on assessment of success, costs and lessons learned. The study gives an overview of national rules and regulations and the practice evolved regarding reception arrangements, entry and asylum procedures, provided care and integration measures for unaccompanied minors. A comprehensive approach is followed in identifying the practice at national level in providing care for unaccompanied minors who are entering the asylum procedure or are being cared for by the mainstream child protection system.

The main aim of the current study is to present an overview of the present legal framework, policies and practices on reception and integration arrangements for unaccompanied minors.

According to the current legislation there is a clear distinction between unaccompanied minors claiming asylum and foreigner minors lacking parental care. A distinction is made in the course of the study concerning the differences of entry and reception arrangements of unaccompanied minor asylum seekers and irregular migrant or illegally staying unaccompanied minors. Unaccompanied minor asylum seekers fall under the regulations of the Act on Asylum. Following their status determination recognised refugees and the beneficiaries of subsidiary protection fall under the personal scope of the Child Protection Act. This Act provides wider provisions on children's rights and the duties of local authorities concerning care arrangements for children lacking parental care. The Child Protection Act also stipulates provisional protection measures concerning irregular migrant or illegally staying unaccompanied minors.

The Act on Asylum is in line with the 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; the Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers; the Council Directive 2004/83/EC of 29 April 2004 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 and the Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status.

The issue of unaccompanied minors is relevant in the EU, however in Hungary there are not many publications on this topic. The internet research has resulted mainly press articles on this topic. From this perspective, as there is a clear lack of publication the present study is aiming to fill a knowledge gap at national level. This study is considered important also in the context of further developing a comprehensive strategy regarding the situation of unaccompanied minors. The findings of the current study provide a base for future field research.



The available statistical data on the number and the key demographic characteristics of unaccompanied minors is neither accurate nor consistent. The Hungarian Central Statistical Office publishes data on the number and the main demographic characteristics of all asylum seekers without any details regarding unaccompanied minors. The Office of Immigration and Nationality could provide data on the numbers of unaccompanied minor asylum seekers only starting from the year 2004. Child protection authorities were able to provide only rough estimation on the number of irregular migrant or illegally staying unaccompanied minors. One of the main difficulties during the research was that only a few cases could be identified in some aspects of the provision for unaccompanied minors thus we cannot speak as yet of consistent practice.

Chapter 3 provides background information on possible reasons why unaccompanied minors seek entry into Hungary. The lack of research, publication, analysis regarding the situation of unaccompanied minors in Hungary made it difficult to identify known reasons on the background and motivations of unaccompanied minor asylum seekers. In order to complete the requirements of the specification for the present study a questioner has been drafted and carers involved in supporting unaccompanied minor asylum seekers have been asked to answer it.

Chapter 4 provides information on entry procedures, legal regulation and details on refusal of entry and detention.

Chapter 5 presents the reception arrangements for unaccompanied minors: the asylum process, the placement, protection arrangements as well as the key aspects of the integration.

As it is outlined in the concluding remarks, it is evident that all procedures and the practice which has evolved concerning unaccompanied minors attempts to focus on the best interest of the child. However gaps and shortcomings could be identified in the course of the research. Until recently (2007) the number of unaccompanied minors in Hungary was very low. It was possible to develop and implement reception arrangements without further regulations, policies or frameworks. As in 2008 the number of the unaccompanied minor asylum seekers has significantly increased there is a clear need for such policies.

A comprehensive policy / strategy on the provision for unaccompanied minors (from the entry procedures to the after care support) focusing on the best interest of the child and specifying the duties and responsibilities of all actors involved should be developed.

2. Introduction

2.1. Background information, purpose and methodology followed

The specific aim of the study is to provide information on the number of unaccompanied minors received by Hungary and reception arrangements (policies and practices) in Hungary, including information on the current legislative framework, costs, challenges and lessons learned. The study gives an overview of national rules and regulations and the practice evolved regarding reception arrangements, entry and asylum procedures, provided care and integration measures for unaccompanied minors. A comprehensive approach is followed in identifying the practice at national level in providing care for unaccompanied minors who are entering the asylum procedure or are being cared for by the mainstream child protection system.

The study follows the technical specification drafted by the European Migration Network¹ and it has been completed by desk-research. The sources of information were legislative acts policy documents, statistics, publications and other media sources. In completing the study officials involved in procedures and care related to unaccompanied minors (representing both governmental and non-governmental organisations) were consulted: e.g. Office of Immigration and Nationality (Bevándorlási és Állampolgársági Hivatal), National Police Headquarters (Országos Rendőr Főkapitányság), Metropolitan Child Protection Service (Fővárosi Területi Gyermekvédelmi Szakszolgálat), Guardianship Office of the 5th District in Budapest (Budapest V. Kerületi Gyámhivatal), Hungarian Interchurch Aid (Magyar Ökumenikus Segélyszervezet), Hungarian Helsinki Committee (Magyar Helsinki Bizottság), etc.

The main data used was data made available on request by the relevant state agencies. Data published on the internet was also used. The available data and statistics shows the current situation only partially as there is a lack of consistency regarding data collection. Table templates provided in the specification of the study have been adapted to the data available in Hungary.

2.2. Legal background

The main national legislative provisions on the entry and asylum procedures, reception conditions, provided care and integration measures for unaccompanied minors are:

- Act LXXX of 2007 on Asylum (hereinafter referred to as Act on Asylum)²

¹ MIGRAPOL European Migration Network Doc 147

² The Act on Asylum has implemented and therefore it is in accordance with the following EU Directives:

- Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers;



- Govt. Decree 301 of 2007 on the implementation of the Act on Asylum
- Act XXXI of 1997 on the Child Welfare and Guardianship Administration (hereinafter referred to as Child Protection Act)
- Govt. Decree 149 of 1997 on Public Guardianship Authority in Child Protection and Guardianship Administration
- Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence
- Govt. Decree 113 of 2007 on the implementation of the Act on the Admission and Residence of Persons with the Right of Free Movement and Residence
- Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals
- Govt. Decree 114 of 2007 on the implementation of the Act on the Admission and Right of Residence of Third-Country Nationals

According to the current legal framework there is a clear distinction between unaccompanied minors claiming asylum and foreign minors lacking parental care.

Unaccompanied minor asylum-seekers fall under the scope of the Act on Asylum. After recognition as a refugee or as a beneficiary of subsidiary protection they fall under the mainstream national child care regulations³. The Child Protection Act also stipulates provisional protection measures concerning irregular migrant or illegally staying unaccompanied minors.

2.3. Definitions

The terms used within the study are defined and described as follows:

Persons requiring special treatment: a vulnerable person, in particular, a minor, unaccompanied minor, elderly or disabled person, pregnant woman, single parent raising a minor and a person who

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- Council Directive 2004/83/EC of 29 April 2004 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;
 - Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status

³ The personal scope of the Child Protection Act applies on the children and young adults recognized by the relevant authorities as refugees, beneficiaries of subsidiary protection, stateless, persons authorized to stay. Also provisional protection measures should be undertaken in case of foreigner children – residing on the territory of the Republic of Hungary – would be at risk or would suffer unavertable damage.



has undergone torture, rape or any other grave form of psychological, physical or sexual violence and has special needs because of his/her individual situation.⁴

Unaccompanied minor: a third-country national not having reached the age of eighteen years who entered the territory of the Republic of Hungary without the company of an adult responsible for his/her supervision on the basis of a rule of law or custom, or remained without supervision following entry; as long as s/he is not transferred under the supervision of such a person.⁵

Case guardian (representative ad litem): if the person seeking recognition is an unaccompanied minor, the asylum authority shall forthwith provide for the appointment of a case guardian serving to represent the minor during the asylum procedure.⁶

Shelter for Unaccompanied Minors: special institution (reception centre) providing accommodation for unaccompanied minor asylum-seekers, recognized refugees and beneficiaries of subsidiary protection.

Guardian: the person appointed by the Guardianship Office to a child placed under permanent care with the duty of the legal representation of the child. Guardians are mainly professionals in child protection matters employed by the Regional Child Protection Service.

Permanent care is a form of child protection support provided on the basis of the decision of the guardianship office. The child should be taken in permanent care if the parents cannot exercise their parental rights or the parents are unknown. The local authority has the duty to provide care for children up to the age of 18 lacking parental care.

After care support: following the termination of the permanent care children/young adults are entitled to after care support up to the age of 24.

Interim care: if a third-country national child – residing on the territory of the Republic of Hungary – is lacking parental care, is at risk or might suffer unavertable (inevitable) physical or psychological damage s/he should be taken in interim care. The decision on interim care can be issued by the local child protection authority, the guardianship office, the Police, the court or the Public Prosecutor's Office.⁷

⁴ Act on Asylum – 2. § k)

⁵ Act on Asylum – 2. § f)

⁶ Act on Asylum – 35. § (6)

⁷ Child Protection Act – 72. § - 76. §

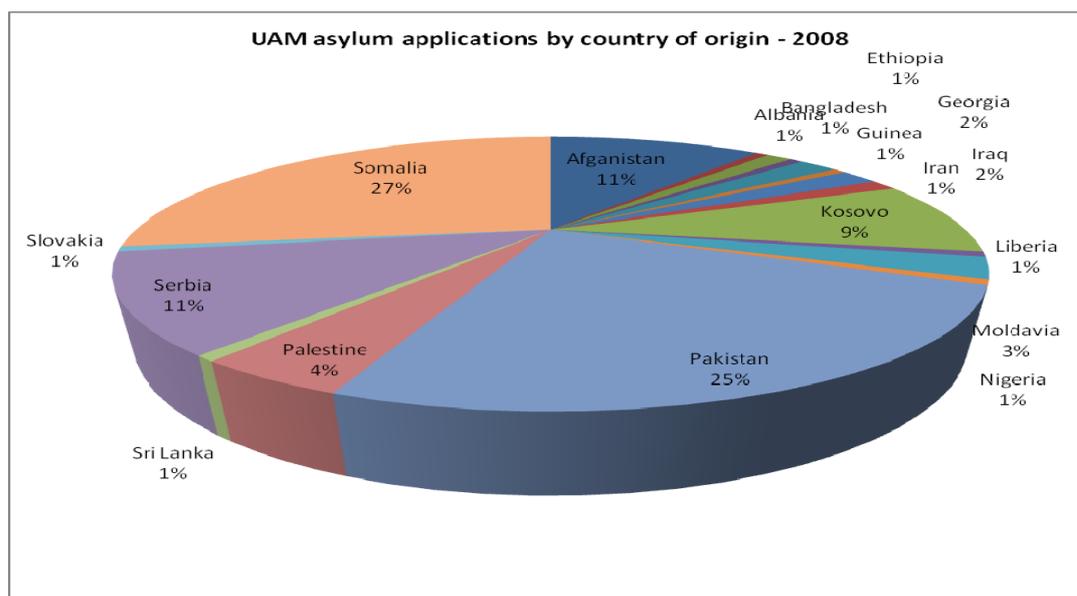


3. Motivation for seeking entry into Hungary

3.1. Unaccompanied minor asylum seekers

The EMN study specification formulated the need for information regarding the reasons why unaccompanied minors seek entry into the Member States. As mentioned in the introduction there is a lack of research, publication, analysis regarding the situation of unaccompanied minors in Hungary, therefore it was difficult to identify reasons on the background and motivations of unaccompanied minors.

Regarding the asylum-seeker unaccompanied minors a questioner has been drafted and social workers (carers) involved in supporting unaccompanied minor asylum-seekers have been asked to answer it. Although the outcome cannot be considered overall accurate, it provides some information through the views of the carers. In addition a diagram on the distribution of unaccompanied minor asylum-seekers by country of origin in 2008 is presented to help identifying possible patterns.



According to the answers received:

- In most cases unaccompanied minor asylum-seekers are not aware in which country they arrived. In this sense Hungary cannot be clearly identified as destination country. Their motivation is to be in safe place, meant by the EU and especially by the Schengen area.
- Except for a few cases nearly all unaccompanied minor asylum-seekers entered in Hungary illegally and claimed asylum following apprehension.

- One third of the unaccompanied minor asylum seekers fled conflict zones and they have either lost their families or have been sent to Europe by their parents.
- During 2008 there was a significant number of unaccompanied minors coming from Pakistan, Kosovo and Serbia. Shortly after arrival many of them left the Shelter. Presumably they continued their journey as their main destination country was either Italy or Spain.
- In 2008 the recognition rate among Somali and Afghan unaccompanied minor asylum-seekers was almost 100%.

3.2. Unaccompanied third-country national or EU national minors

There is a lack of information regarding these aspects in case of the unaccompanied third-country national or EU national minors. These minors are accommodated nationwide under interim care arrangements in different mainstream child protection residential units. Although there is a centralised data processing it is difficult to get a clear picture on this group of unaccompanied minors, their exact number, and the institutions they are accommodated at.

4. Entry procedures

The main legal provisions are in the Act II of 2007 and Act I of 2007 and their implementing decrees. In this regard Hungary does not have many special provisions for unaccompanied minors, normally the general rules apply for them as well.

Preferential provisions apply as some applications have to be evaluated within a shorter period. Regarding visa applications the competent consulate officer shall adopt a decision concerning applications for visas for a validity period not exceeding three months within thirty days from the time of receipt, but a visa application shall be evaluated immediately, within a maximum of seven days of receipt if it is application of persons with custody of an unaccompanied minor who are arriving to escort the minor home⁸. Another special rule applies in cases where regional directorate adopts a decision concerning applications for residence permits within thirty days from the time of receipt but applications shall be evaluated immediately within a maximum of seven days of receipt in case of applications for a residence permit of persons with custody of an unaccompanied minor who are arriving to escort the minor home⁹.

In the absence of the requirements for a residence permit an unaccompanied minor shall be granted a residence permit on humanitarian grounds. The validity period of such a residence permit shall be one year that may be extended by maximum one year at a time.

A residence permit granted on humanitarian grounds may not be extended, or it shall be withdrawn if a) any requirement for issue is no longer satisfied; b) the third-country national in question has disclosed false information or untrue facts to the competent authority in the interest of obtaining the right of residence; c) withdrawal is requested by the authority or body on whose initiative it was issued. In case of an unaccompanied minor the residence permit may be withdrawn, or extension of the duration specified in his/her residence permit may be refused only if family reunification in the country of origin or in any other country liable to accept him/her is ensured, or if state or other institutional support is ensured.¹⁰

In practise there are no cases where the authorities responsible for border control have to deal with the refusal of entry of unaccompanied minors.

Section 40 of Act II of 2007 states that the authority carrying out border checks shall refuse the entry of third-country nationals seeking entry for stays not exceeding three months according to the provisions of the Schengen Borders Code, and shall return such persons – in due observation of its interests: to the country of origin of the third-country national in question; to the country that is liable to accept the third-country national in question; to the country where the

⁸ Govt. Decree implementing Act II of 2007 – 14. § (1)-(2) b)

⁹ Govt. Decree implementing Act II of 2007 – 49. § (1)-(2) b)

¹⁰ Act II of 2007 – 29. §



customary residence of the third-country national in question is located; to any third country prepared to accept the third-country national in question.

Act I of 2007 states that the authority carrying out border checks shall refuse the entry of an EEA national or his/her family member who does not fulfil all the entry conditions laid down in this Act, or if having been excluded from the territory of the Republic of Hungary. Special provisions can be prescribed within the framework of bilateral return agreements and Hungary has such agreements with different countries that contain provisions for special categories for example the return of children.

The legal basis of detention can be found also in Act II of 2007 and Act I of 2007. Both acts state that minors cannot be placed under detention. It is allowed only in case of adult foreigners for a period of seventy-two hours, and it may be extended by the court of jurisdiction for a maximum of thirty days.

As a special guarantee the Act II of 2007¹¹ also states that an unaccompanied minor may be expelled only if adequate protection is ensured in his country of origin or in a third country by means of reuniting him with other members of his family or by state or other institutional care.

4.1. Unaccompanied minor asylum-seekers

The vast majority of unaccompanied minor asylum-seekers come to the notice of the Border Police following illegal border crossing. According to the Border Police's report there have not been many cases of asylum applications at the border or at airports.

According to the Act on Asylum the general entry rules apply for the unaccompanied minor asylum-seekers. As they are persons requiring special treatment the airport procedure cannot be applied.¹² Following an initial interview unaccompanied minor asylum-seekers will be referred to the OIN and transferred to the Shelter for Unaccompanied Minors. Asylum procedures for

¹¹ Act II of 2007 – 45. § (5)

¹² Act on Asylum – 72. §

Where an alien lodges an application before admission into the territory of the Republic of Hungary, at the international airport frontier checkpoint, the provisions of the Chapter (Procedures for granting refugee status or subsidiary protection status) shall be applied subject to the exceptions set out in this Section. In the airport procedure the applicant does not have the right (a) to reside in the territory of the Republic of Hungary; (b) to undertake employment. The refugee authority shall place the applicant in the place of accommodation located in the airport transit area.

In airport procedures the preliminary examination procedure shall be completed within eight days. The refugee authority shall promptly communicate the decision adopted upon the preliminary examination procedure.

The applicant shall be admitted into the territory of the Republic of Hungary if:

a) the preliminary examination procedure is concluded with a ruling for submission for substantive proceedings; or b) eight days have lapsed since the submission of the application.

The airport procedure shall not apply to applications submitted by persons requiring special treatment.



unaccompanied minors shall be conducted as priority and the asylum authority shall forthwith provide for the appointment of a representative ad litem.

4.2. Illegally staying minors

The immigration and the guardian authority are the competent acting authorities regarding illegally staying minors. According to the Child Protection Act the exclusively competent guardian authority is the Guardianship Office of the 5th District of Budapest.

The immigration authority shall conduct immigration proceedings relating to a minor child who is a third-country national to investigate as to whether the provisions laid down in the Act II of 2007 and in its implementing Decree pertaining to unaccompanied minors apply to the child in question. The inquiry shall, in particular, aim to determine: a) whether the third-country national in question is in fact a minor; b) if there is an adult who can be held responsible for him/her whether by law or custom. For the protection of the rights of unaccompanied minors, the immigration authority shall take adequate measures at the beginning of the proceeding to have a representative ad litem appointed. With a view to provide support and care for the unaccompanied minor the immigration authority shall contact the competent guardian authority and the consular post of the country of origin of the minor in question in the Republic of Hungary. Meanwhile illegally staying unaccompanied minors are accommodated in mainstream child protection residential units.

An unaccompanied minor may be expelled only if adequate protection is ensured in his country of origin or in a third country by means of reuniting him with other members of his family or by state or other institutional care.

In case the unaccompanied minor does not claim asylum and the non-refoulement principle does not apply s/he can be refused entry and returned to the respective country. Legal representation must be assured for this procedure as well. Unfortunately a breakdown on the number of unaccompanied minors cannot be produced from the available statistical data. In 2008 a total number of 5.556 persons were refused entry which compared with the previous year is a decrease of 47.9%. The persons refused entry by nationality were: 2.397 Ukrainians, 1.491 Serbians and 472 Croatians. The main reasons for refusing entry were the lack of a valid visa – 5.070 cases; lack of a valid travel document – 4.295 cases, interdiction on entry and right of residence – 1.151 cases.¹³

¹³ Statistics of the National Police Headquarters (Rendőrségi statisztika – Határrendészeti helyzetkép), available on-line at: http://www.police.hu/statisztika/kozbiztstat/hat_szov.html accessed in April 2009



4.3. Border monitoring

A trilateral agreement between the Hungarian Helsinki Committee, the National Police Headquarters and the UNHCR constitutes the frame of a border monitoring project. The implementation of the project started in 2007. The agreement and the undertaken activities mean a good practice and an enhanced cooperation between governmental and non-governmental organisations.

The Hungarian Helsinki Committee's report on the year 2007 mentions only one case when an unaccompanied minor was refused entry¹⁴. In this report an overall improvement regarding the transparency of border control processes is reported.

¹⁴ Hungarian Helsinki Committee: Border Monitoring Report (page 37) - Magyar Helsinki Bizottság: A menedékkérők hozzáférése az ország területéhez és a menedékjogi eljáráshoz a Magyar Köztársaságban - Jelentés a határmegfigyelő program első évéről - 2008. December - (available on-line at: <http://helsinki.hu/Kiadvanyaink/htmls/547>; accessed in April 2009)



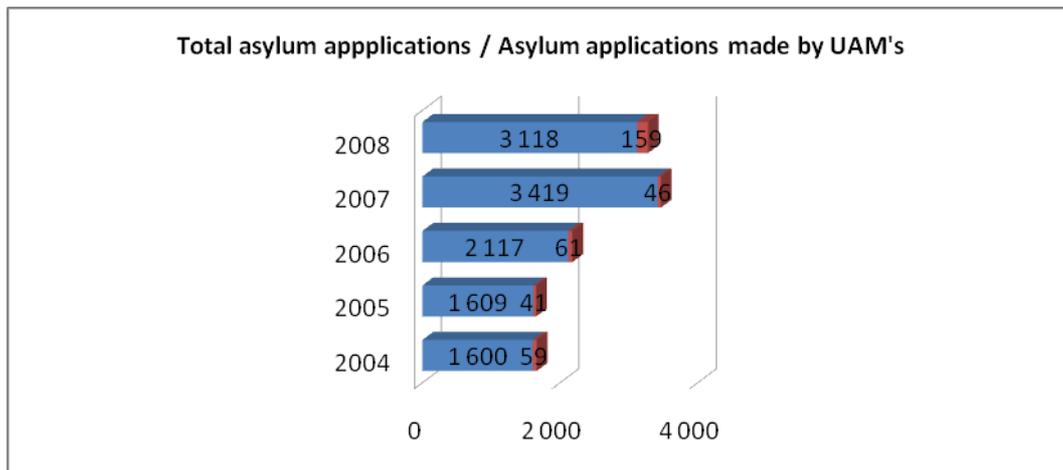
5. Reception arrangements and integration measures

5.1. Unaccompanied asylum seeking minors:

The Act on Asylum and its implementing Decree state some special provisions regarding unaccompanied minor asylum-seekers but in general the general rules apply to them. As unaccompanied minor asylum-seekers form part of the category persons requiring special treatment these preferential rules apply to them as well.

Statistical data

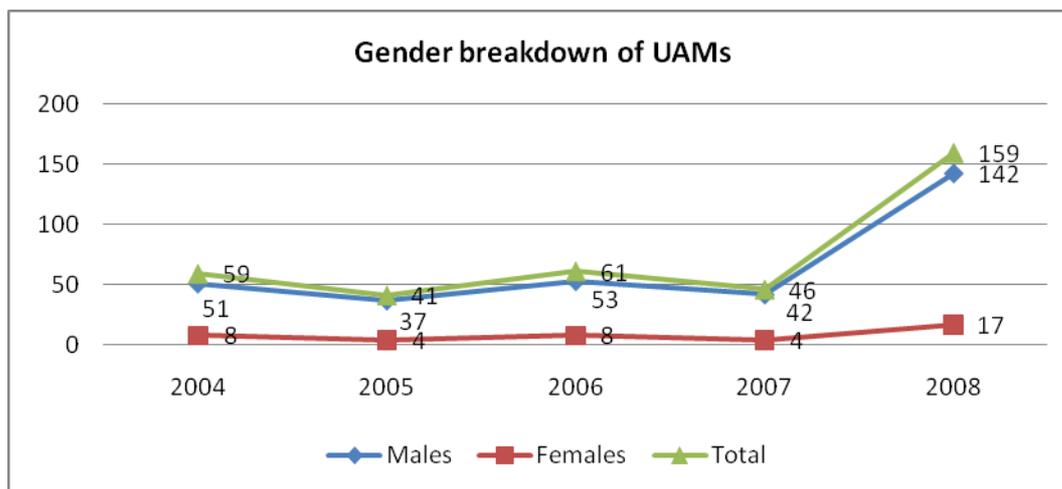
Consistent statistical data on the number of unaccompanied minor asylum-seekers is collected by the OIN since 2004 (*see table*).



An increasing trend can be seen in the number of asylum applications submitted by unaccompanied minors. In 2008 the number of submitted applications has tripled. This can be due to the legislative change which occurred on the 1st January 2008 when the Act on Asylum came into force. Another explanation for the phenomena might be that Hungary joined the Schengen zone on 21st December 2007. The percentage of asylum applications submitted by unaccompanied minors compared to the total asylum applications increased in 2008 to 5.1%, which is the highest rate since 2004. This figure was the lowest in 2007, only 1.3%.

In some cases there are relevant differences between the data provided by different organisations. For example: according to the OIN the number of asylum applications submitted by unaccompanied minors in 2007 was 46. At the same time according to the statistical data available on the UNHCR's website the number of applications for the same period was 73.

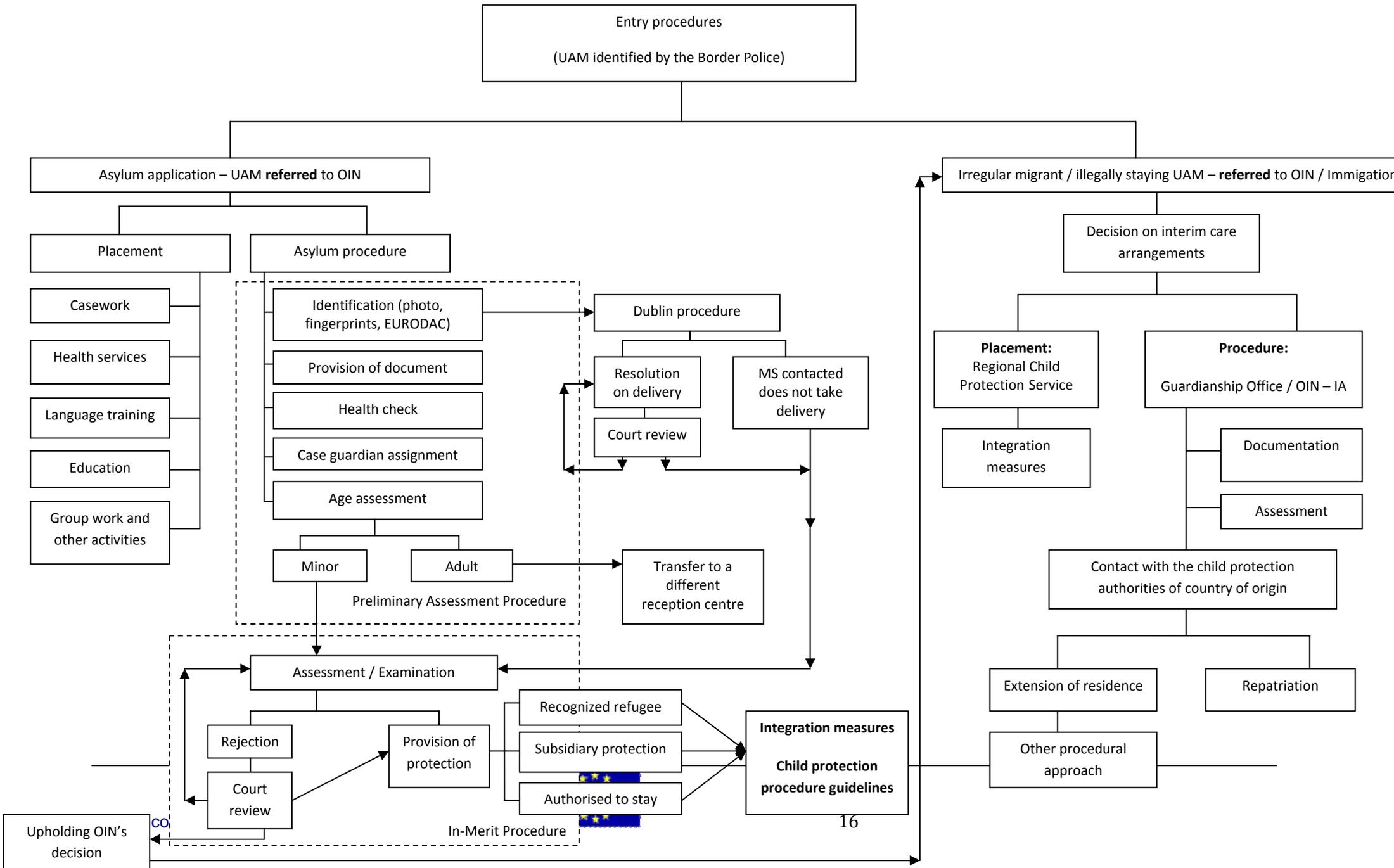
Unaccompanied minor asylum-seekers in Hungary are predominantly males. However in 2008 a significant increase can be seen in the number of asylum applications submitted by female unaccompanied minors (*see table above*). Statistical data is not being collected on the basis of an age breakdown, but practice shows that the dominating age-group in 2008 was between 14-18 years.



Asylum procedure

As a basic principle the Act on Asylum shall be applied taking into account the best interests and rights of the child. Furthermore the provisions of the Act shall be applied with a view to maintaining the unity of the family and with respect to persons requiring special treatment, taking due account of their special needs stemming from their specific situation.

With the aim to draw up a clear picture of the procedure and the reception arrangements concerning unaccompanied minors a flowchart has been drafted.



According to the the rules of the Act on Asylum an asylum procedure is instituted on the basis of an application for recognition submitted to the refugee authority¹⁵. The OIN should subject an application for recognition as a refugee or as a beneficiary of subsidiary protection to a preliminary assessment following its submission¹⁶. In the case of an unaccompanied minor, the conducting of the asylum procedure shall have priority.¹⁷ If the person seeking recognition is an unaccompanied minor, the asylum authority shall, without delay, provide for the appointment of a representative ad litem (case guardian) serving to represent the minor.

The case guardian is appointed on the request of the asylum authority by the local guardianship office. The case guardians are lawyers and their mandate covers only the legal representation in the asylum procedure and ends with the status determination. Due to the limited number of available lawyers and the increasing number of asylum application currently the duration of the asylum procedures of the unaccompanied minors sometimes extend the timeframes defined in the Act on Asylum.

The OIN shall also take steps towards aiming to identify an adult responsible for the unaccompanied minor except a) if there is a conflict of interest between the adult and the minor or b) if there is another reason taking into account the best interest of the child. The OIN may contact the Member States of the European Union, the authorities of third countries or may use the help of international organizations such as the UNHCR or the ICRC. This procedure cannot violate rules stated in the Act on Asylum¹⁸.

As part of the preliminary assessment procedure there is a registration phase, which includes the recording of photo, fingerprint and personal data in the EURODAC system. A humanitarian residence permit is issued to the unaccompanied minor within a timeframe of three days following the application.¹⁹

In the course of the preliminary assessment procedure, the refugee authority should examine whether the criteria of the Dublin Regulations exist. If it is established that a procedure is to be

¹⁵ Act on Asylum – 35. § (1)

¹⁶ Act on Asylum – 47. §

¹⁷ Act on Asylum – 35. § (6) – (7)

¹⁸ Act on Asylum – 42. § (1)

(1) Hungarian authorities or the court may not contact:

a) the country of origin of a person seeking recognition of refugee status;

b) any country if there are grounds to believe that it collaborates with the country of origin;

c) any person or organization who or that are or could be considered as potential actors of persecution of the person seeking recognition of refugee status, or who (that) collaborates with actors of persecution of the person seeking recognition of refugee status;

if contacting them would result in such actors being directly informed of the fact that an application has been made by the applicant in question, and would jeopardize the physical integrity of the person seeking recognition of refugee status and his/her dependants, or the liberty and security of his/her family members still living in the country of origin.

¹⁹ Act II of 2007 and its implementing Decree



conducted, the preliminary assessment procedure is suspended until the conclusion of the Dublin procedure. If the Dublin procedure is closed with the delivery of the applicant, the preliminary assessment procedure is terminated at the time of the delivery of the applicant. If the Member State contacted does not take delivery of the applicant and the assessment of the application, the preliminary assessment procedure has to be resumed.²⁰

According to the agencies contacted during the research there is little practice on Dublin procedure in the context of unaccompanied minors. In 2008 there were only examples of Dublin transfers coming from other Member States to Hungary. Another example was mentioned, where due to the best interest of the child (he was under medical treatment in Hungary) it has been decided that he should be not returned.

If any doubt emerges concerning the minor status of a person seeking recognition who claims to be a minor, a medical expert examination may be initiated for the determination of his/her age. The examination may only be performed with the consent of the person seeking recognition, or if the person seeking recognition is in a state which does not permit the making of such declaration, his/her guardian or other representative by law may agree to the examination. An application for recognition may not be refused solely on the grounds that the person seeking recognition, the representative by law or guardian did not consent to the performance of the examination. If the person seeking recognition, the representative by law or guardian does not consent to the expert examination aimed at determining the minor status, the special (mainly favourable) provisions relating to minors, with the exception of the provisions relating to the involvement of a legal representative or the appointment of a guardian, may not be applied to the person seeking recognition.²¹

The practice regarding age assessment does not show a consequent picture. There have been a number of cases when due to the outcome of the medical examination unaccompanied minor asylum-seekers have been transferred to a different reception centre. Following their status determination they have been returned to the Shelter for Unaccompanied Minors officially still being underage.

A person seeking recognition is obliged to subject him/herself to health tests, medical treatment prescribed as mandatory by law or required by the relevant health authority and to subject him/herself to the replacement of any missing vaccinations prescribed as mandatory by law and required by the relevant health authority in the case of the danger of disease.²²

²⁰ Act on Asylum – 49. §

²¹ Act on Asylum – 44. §

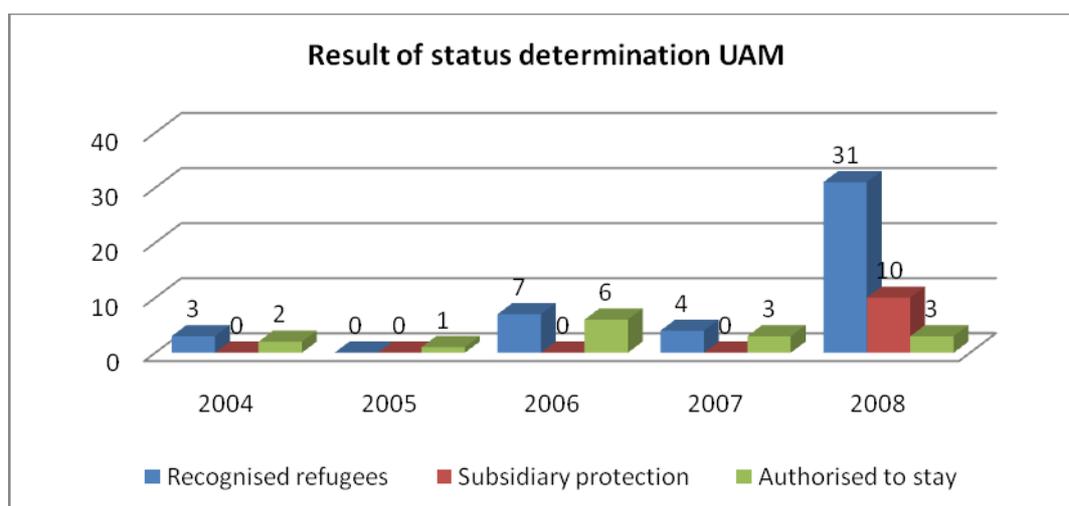
²² Act on Asylum – 5. §. This means screening for Tuberculosis, HIV, Leusz, Tiphoid, Hepatitis –B.



The preliminary assessment procedure should be completed within fifteen days. The preliminary assessment procedure is followed by the in-merit procedure. The in-merit procedure should be completed within sixty days, which can be extended by further thirty days. The refugee authority has to examine in the course of the in-merit procedure whether, the criteria of the recognition of the applicant as a refugee exist, and whether there is any reason for exclusion of the recognition of the applicant as a refugee.²³

As a special rule the unaccompanied minor must be interviewed in the presence of the case guardian and the prohibition of refoulement also prevails if the family reunification or any state or other institutional care is not possible either in his/her country of origin or in another state receiving him/her.

There was a remarkable increase in 2008 in the number of positive decisions given to unaccompanied minor asylum-seekers. The recognition rate amongst the unaccompanied minors was almost 30%. The recognition rate for the adult population is around 10%.



Recognized unaccompanied minor refugees and beneficiaries of subsidiary protection fall under the personal scope of the Child Protection Act (the mainstream child protection). The child protection procedure aiming the provision of further care arrangements within the child protection system takes up approximately 2-3 months. In this interim period there are certain processes which require the contribution of a responsible adult, such as procuring documents and the child protection procedure itself. The evolved practice is that the head of the Shelter is appointed as guardian to the unaccompanied minor refugee or beneficiary of subsidiary protection. As the result of the child protection procedure unaccompanied minor refugees and beneficiaries of subsidiary protection are taken into permanent care.

²³ Act on Asylum – 58. § (1)

Beneficiaries of international protection are entitled to family reunification.²⁴ From a family reunification perspective the family members of the unaccompanied minor refugees or beneficiaries of subsidiary protection are the parents or the guardian of the minor. No practice on family unification of unaccompanied minors could be identified in the course of the research. As explained above family tracing is an integrant part of the asylum procedure.

Reception arrangements

When reception arrangements are provided the needs and the best interests of the child shall be taken into account. The reception conditions provided to persons requiring special treatment (therefore to unaccompanied minors) cannot be withdrawn or refused.

Unaccompanied minors – under the age of eighteen – have to be accommodated separately, in a special reception facility. They can also be accommodated by a relative, if s/he engages him/herself in writing to accommodate, to board and to care for the unaccompanied minor and if it is obvious that this solution is in the best interest of the minor. The designated accommodation can only be changed in duly justified cases, if it is in the best interest of the child. The principle of the family unity should be assured by accommodating siblings together taking into account their age and degree of maturity.

A Shelter for Unaccompanied Minors has been established in 2003. Until 2004 the Shelter was in Békéscsaba operated by the Oltalom Association. Between 2005-2007 the Shelter was relocated to Nagykanizsa and it was operated by the Hungarian Red Cross.²⁵

In 2008 because of the legislative changes the Shelter has been repeatedly relocated. Currently it is situated in Bicske within the establishment of the refugee reception centre. A European Refugee Fund project is being implemented as a cooperation between the OIN, the Bicske Reception Centre and the Hungarian Interchurch Aid. The Reception Centre provides the infrastructure of the Shelter while the NGO is responsible for the staff, the professional work, care and support provided to the unaccompanied minors.

Based on previous experiences and the number of unaccompanied minors in previous years the Shelter was planed to provide accommodation for an average of ten minors. However since January 2008 the number of unaccompanied minor asylum-seekers has tripled. In the course of 2009 the number of unaccompanied minors accommodated within this Shelter was constantly over forty. Unaccompanied minor asylum-seekers aged 14-18 are accommodated in this facility.

²⁴ Act II of 2007

²⁵ Funding was also provided by the European Refugee Fund.



Although there has been no practice, unaccompanied minors under the age of 14 should be accommodated in children's homes operated by child protection authorities.

The Shelter provides 24 hour care and support to the minors, it is an open facility. A structured daily routine has been established to enable the integration of minors. Each unaccompanied minor has a designated social worker, individual care plans are in place with the specific aim to meet the individual needs of the minors. There are ten professionals assigned to provide care and support for the minors, they are social workers, psychologists, teachers and carers.

Taking into account the health status of the unaccompanied minor asylum-seekers – as persons requiring special treatment – they are entitled to health services, rehabilitation, psychological and psychotherapeutic support. Health care is usually provided by the health centre of the reception centre. The locally provided service appears to be sufficient, however it has been reported that medical services, hospitals cannot be easily accessed, mainly due to language and cultural barriers. Cooperation has been developed with the Cordelia Foundation which provides psychological support and psychotherapy for traumatized unaccompanied minors.

Children recognized as refugees or beneficiaries of subsidiary protection fall under the personal scope of the Child Protection Act. The competent guardianship office has to take measures in order to adequate care is ensured to the child. The unaccompanied minor is then integrated into the mainstream child protection system and s/he is taken into permanent care. Once taken into permanent care unaccompanied minors also become entitled to after care support between the age of 18 and 24.

The practice evolved on this field is that unaccompanied minor refugees and beneficiaries of subsidiary protection are formerly taken into permanent care (they can benefit from the provisions of the child protection system) but continue to reside in the Shelter up to the age of eighteen. The reason is that similarly to the education system the child protection system is not prepared to receive a greater influx of children who do not speak Hungarian or their culture differs from the European one.

Those unaccompanied minor asylum-seekers who enter the procedure as minors but become eighteen before the status determination constitute a special group. As they are overaged at the time their procedure is completed they cannot be integrated into the child protection structures and they are not entitled to after care support. Therefore since January 2009 a special service for young refugee and subsidiary protected adults has been established. The Home for Young Adults aims to fill in the gap of the missing after care support and to provide support for this special target group. The Home for Young Adults is located in Bicske together with the Shelter for Unaccompanied minors. This solution ensures adequate and continuous care for these children while in the mainstream system it would be problematic. The problem is that the mainstream

system cannot answer the special needs of these children such as intercultural communication, special attendance, need for integration and language training.

Integration measures

There is no coordinated national strategy regarding intergration of these children but the organisations and the institutions supporting the unaccompanied minors developed professional and procedural frameworks. Professionals involved in the care of unaccompanied minors have a professional experience from the mainstream child protection services. Plans for the integration of the unaccompanied minors are developed at institutional level.

Due to reasons presented above the Shelter and the Home for Young Adults provide accommodation to unaccompanied minor asylum-seekers as well as for unaccompanied minor refugees and beneficiaries of subsidiary protection.

Language training courses are provided for the unaccompanied minor asylum seekers and recognised refugees residing in the Shelter. Children have access to a daily 1.5 hours language course, taught by teachers of Hungarian as foreign language.

According to the current regulation education is compulsory for all children in Hungary; therefore unaccompanied minors should be enrolled in schools. The education system is not prepared to receive and integrate larger number of children with migrant background. Schools which would enrol unaccompanied minors can hardly be identified. Currently there are only two institutions which provide education for unaccompanied minor asylum seekers and refugees.

Unaccompanied minors usually do not have any evidence on the school attendance from the country of origin. There are several aspects that need to be taken into account for the provision of the most appropriate schooling. The level and the transferability of their knowledge have to be assessed. Considering their age group they should attend secondary education. The entry requirement for secondary education is the certificate attesting the attendance of the eight years of the primary education. Unaccompanied minors primarily have to procure this certificate. Therefore special school programs have been developed. With the support of individual study plans and based on their individual strengths and abilities unaccompanied minors have the possibility to attend and take closing exams of the eight years of the primary education in one year.

5.2 Unaccompanied third-country national minors (irregular migrants / illegally-staying minors)

According to the Child Protection Act the guardianship office, the Police, the Court and the Public Prosecutor's Office has the legal duty to take decision and place any foreigner children at risk or exposed to unavertable (inevitable) damage residing on the territory of the Republic of Hungary under interim care.²⁶ The designated competent guardianship office which acts centrally for all such cases is the Guardianship Office of the 5th District of Budapest.

There are three main groups of unaccompanied minors being cared for in the mainstream child protection system:

- irregular migrant unaccompanied minors;
- illegally staying unaccompanied minors;
- so called children "left behind" – minors who were born in Hungary, but abandoned by their parents at birth – these children are of unknown nationality.²⁷

In all these cases unaccompanied minors are issued a humanitarian residence permit until their status is not clarified. The immigration authority issues these documents according to the Act II of 2007 and its implementing decree.

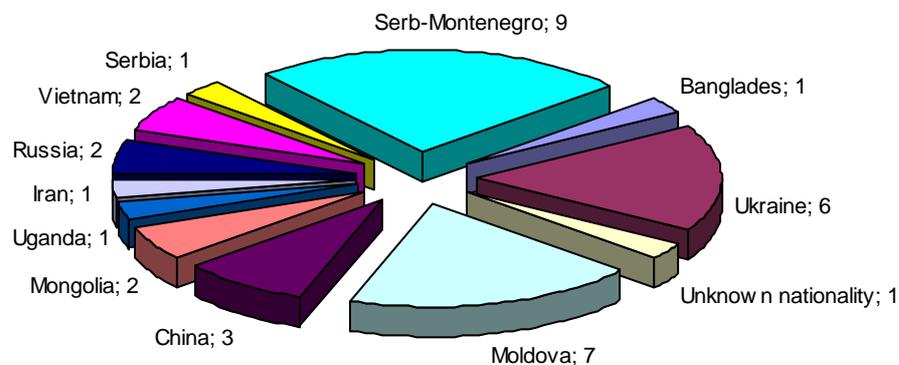
There is no accurate data on the number of these children. The Guardianship Office of the 5th District could only provide approximative data as due to the repeated change of the IT system of the registry some data could not be restored. Since 2004 altogether there were around 500 cases. On an annual basis it is estimated that the number of non-Hungarian children in interim care is around 90, which is 2-3% of all children being in care. Currently there are around 150 active cases of non-Hungarian children. Approximately more than one third of these children are EU nationals, mainly Romanian nationals.

According to the 2006 statistics there were only 36 third-country national unaccompanied minor placed under interim care (*see table*). In recent years – although that there are no exact statistics – these numbers arose.

²⁶ The Child Protection Act does not define unaccompanied minors.

²⁷ All foreigner children born in Hungary are registered as their nationality is unknown. It is the discretion of the parent to amend / change the registration by providing a consular certification.

Number and country of origin of unaccompanied minors placed under interim care in 2006



Illegally entering unaccompanied minors

When groups of illegally entering third-country nationals are discovered by the Border Police (usually at the Serbian-Hungarian border) it is not particularly rare that unaccompanied minors form part of the group. In these cases – as minors cannot be placed under detention – according to the Child Protection Act they will be placed under interim care. The guardianship office, the (Border) Police, the court or the Public Prosecutor’s Office has the legal duty to take such decision. Usually the local child protection service is contacted or the Border Police reaches such decision. The Guardianship Office of the 5th District – as the exclusively competent authority – has to be notified of such decisions and such decision can only be withdrawn by them.

In practice – according to the readmission agreements in force – the children spend only a few days in a foster home of the guardianship authority before they are sent back to their country (usually Serbia), if their nationality can be clearly identified. If not they stay until their nationality can be revealed. Every six months the Guardianship Office of the 5th District has to review and if necessary extend the duration of interim care. According to experineces the latter case is not typical at all.

6. Return practice

No policy or practice on return of unaccompanied minor asylum seekers could be identified in the course of the research. There are only isolated cases of assisted voluntary return. The only case which has been reported from 2008 was carried out by the International Organization for Migration and the Office of Immigration and Nationality.

Regarding unaccompanied third-country national minors see chapter 5.2.



7. Concluding remarks

This study is the result of a desk research and its main aim is to present an overview of the present legislative provision, policies and practices on reception and integration arrangements for unaccompanied minors.

The available statistical data on the number of unaccompanied minors is not accurate and consistent. The requirements regarding the disaggregation of available data by key demographic characteristics included in the specification of the current study could not be met.

It is evident that all procedures and the evolved practice with regards to unaccompanied minors attempts to focus on the best interest of the child. However gaps and shortcomings could be identified in the course of the research.

Until recently the number of unaccompanied minors in Hungary was very low. It was possible to develop and provide reception arrangements without further regulations, policies or professional frameworks. As the number of the unaccompanied minor asylum seekers has increased there is a clear need for such policies. The relevant legislative provision regarding asylum and child protection policies is progressive and it is in accordance with the EU legislation. Although the regulation is consistent it can only be introduced and applied in practice partially. The role and the special competences of the agencies involved in the care, the asylum and the child protection procedures of the unaccompanied minors needs to be further clarified but many times the lack of financial resources was identified as the obstructive element to improve the current situation.

A duality concerning the reception arrangements of the unaccompanied minors can be identified. Taking in consideration the legal status of the unaccompanied minors the reception arrangements differ. Many integration programmes in the Shelter for Unaccompanied Minors providing care for unaccompanied minor asylum seekers is project funded while children's foster homes are parts of the child protection system and they receive government and local authority funding. The quality of services and the intensity of support provided in these institutions might be at a different level.

The identified shortcomings mainly relate to the asylum and the child protection procedure:

- The arrangements for legal representation of unaccompanied minor asylum seekers should be more concise and effective. The case guardians appointed to represent the child in the asylum procedure sometimes have limited experience in asylum law cases. They have a limited mandate: they only represent the child in the asylum procedure. For all other aspects of legal representation – further

procedures must be undertaken for appointing another legal representative or enlarging the rights of the one's who is already appointed.

- The practice regarding the age assessment is not consistent. A concise and EU-wise applicable assessment framework should be developed, focusing on minimum standards and best practices.
- According to the current legislative provision unaccompanied minor refugees and beneficiaries of subsidiary protection should be integrated into the child protection system and their care should be provided by the local authorities. Due to a conflict of interests and financial problems between the Office of Immigration and Nationality and the Regional Child Protection Service at present this regulation seems to be inapplicable. Unaccompanied minor refugees and beneficiaries of subsidiary protection are formerly taken into care but the care arrangements are provided by the Shelter for Unaccompanied Minors.

Examples of good practice could also be identified:

- In spite of the difficulties concerning the access to education of unaccompanied minor asylum seekers well functioning model projects were set up.
- The Home for Young Adults is providing accommodation and support for those young adult refugees and beneficiaries of subsidiary protection who arrived to Hungary as unaccompanied minor asylum seekers but became eighteen of age prior to the status determination. This model assures that this special target group receives further support and assistance increasing their chances for a successful integration.

A comprehensive policy / strategy on the provision for unaccompanied minors (from the entry procedures to the after care support) focusing on the best interest of the child and specifying the duties and responsibilities of all the involved actors should be developed.

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