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Fourth focussed study 2017

## Approaches in France to unaccompanied minors following status determination

*French National Contact Point of the  
European Migration Network*

February 2018

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- French NCP website (in French):

<https://www.immigration.interieur.gouv.fr/Europe-et-International/Le-reseau-europeen-des-migrations-REM3>

# APPROACHES IN FRANCE TO UNACCOMPANIED MINORS FOLLOWING STATUS DETERMINATION

*Study conducted by the French National Contact Point  
of the European Migration Network (EMN)*

**February 2018**

**Disclaimer:**

*The information provided by the FR EMN NCP is considered to be up to date and objective, and thus in accordance with the context and aims of the study. However, this information may not be exhaustive and representative of the overall official policy in France. The FR EMN NCP shall not be held liable, under any circumstances, for the use which may be made of the information contained in this study.*

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## LIST OF ACRONYMS

ADF: Assembly of the French Departements (*Assemblée des départements de France*)

ASE: Child Welfare Services (*Aide sociale à l'enfance*)

CASF: Code on Social Action and Families (*Code de l'action sociale et des familles*)

Casnav: Academic centre for the education of newly-arrived children speaking other languages and children from homeless and travelling families (*Centre académique pour la scolarisation des enfants allophones nouvellement arrivés et des enfants issus de familles itinérantes et de voyageurs*)

CD: Departmental Council (*Conseil départemental*)

CESEDA: Code on Entry and Residence of Foreigners and the Right of Asylum (*Code de l'entrée et du séjour des étrangers et du droit d'asile*)

CFA: Apprenticeship Training Centre (*Centre de formation d'apprentis*)

DGCS: General Directorate for Social Cohesion (*Direction générale de la cohésion sociale*)

DGEF: General Directorate for Foreigners in France (*Direction générale des étrangers en France*)

DIRECCTE: Regional Directorate for Business, Competition, Consumer Affairs, Labour and Employment (*Direction régionale des entreprises, de la concurrence, de la consommation, du travail et de l'emploi*).

DPJJ: Directorate for the Judicial Protection of Young People (*Direction de la protection judiciaire de la jeunesse*)

MECS: Social Children's Home (*Maison d'Enfance à Caractère Social*)

UAM: Unaccompanied Minor

MMNA: Mission for Unaccompanied Minors (*Mission mineurs non accompagnés*)

OFII: French Office for Immigration and Integration (*Office français de l'immigration et de l'intégration*)

OFPRA: French Office for the Protection of Refugees and Stateless Persons (*Office français de protection des réfugiés et apatrides*)

PUMA: Universal health coverage (*Protection universelle maladie*)

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## Executive Summary

Although not a new issue, the subject of unaccompanied minors has **taken on new significance in recent years**. In a report<sup>1</sup> published in June 2017 as part of a fact-finding mission on care for unaccompanied minors, the French Senate specified that the number of minors in the care of the Departmental Councils was estimated at 4,000 in 2010 and had reached 13,000 by December 2016. The creation in 2013 of the Mission for Unaccompanied Minors (*Mission mineurs non accompagnés*, MMNA) within the Directorate for the Judicial Protection of Young People (*Direction de la protection judiciaire de la jeunesse*, DPJJ) facilitated a more accurate understanding of the **number of placement measures taken by the judicial authority, while monitoring the care arrangements for these young people and the harmonisation of practices and policies implemented in the various départements**.

It is important to stress at this stage that **the concept of 'unaccompanied minor' does not correspond to a legal category**. The joint instruction by several Directorates within the French Ministry of Justice of 11 July 2016<sup>2</sup> on application of the provisions of Article 375-5 of the Civil Code and Article L.221-2-2 of the Code on Social Action and Families (*Code de l'action sociale et des familles*, CASF) recalls that an unaccompanied minor is **either a minor who has entered France without being accompanied by an adult and who is temporarily or definitively deprived of the protection of their family, or a minor who has been left alone in France**.

Unaccompanied minors fall within the **scope of child welfare** as defined in Article L. 112-3 of the CASF, which makes no distinction on the grounds of nationality but is based on the **criteria of being a minor and in a dangerous situation**. Pursuant to the law of 5 March 2007 reforming child welfare,<sup>3</sup> this Article states that the aim of child welfare is to "prevent the difficulties facing **minors who are temporarily or definitively deprived of the protection of their families and ensure they are cared for**."

**One specific feature of French law** as regards caring for unaccompanied minors should be noted, therefore, in that it is based on **the fact that these children have the right to be protected**. When a third country national has been recognised as a minor and unaccompanied, they are covered by **common law on child welfare**, enabling them to be **cared for and provided with social, educational and legal protection until they reach the age of 18**. The protection of unaccompanied minors falls within the remit of the Child Welfare Services (*Aide sociale à l'enfance*, ASE) within the Departmental Councils, in line with Article 1 of the Law of 5 March 2007 reforming child welfare.<sup>4</sup> Caring for unaccompanied minors is a major challenge for public authorities, particularly for the départements, not only because of the **vulnerability of this group**, but also because of the **various related issues**, such as protection, integration, support and transitioning to adulthood. This heterogeneous group, which includes some individuals with specific needs, therefore calls for the establishment of **appropriate measures**.

This study aims to analyse **the approaches implemented in France to unaccompanied minors following a final decision on their status** (with regards to residence or international protection). More specifically, the study looks at **integration measures targeting unaccompanied minors** such as accommodation, education and access to the labour market. It also highlights **good practices**

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<sup>1</sup> French Senate, Mineurs non accompagnés: répondre à l'urgence qui s'installe, Information Report by Ms Elisabeth Doineau and Mr Jean-Pierre Godefroy, in the name of the Social Affairs Committee No. 598 (2016-2017), 28 June 2017 (in French).

<https://www.senat.fr/rap/r16-598/r16-5981.pdf>

<sup>2</sup> Joint instruction by the Directorate for Criminal Affairs and Pardons (*Direction des affaires criminelles et des grâces*, DACG), the Directorate for Judicial Protection of Young People (*Direction de la protection judiciaire de la jeunesse*, DPJJ) and the Directorate for Civil Affairs and the Keeper of the Seal (*Direction des affaires civiles et du sceau*, DACS) of 11 July 2016 concerning application of the provisions of Article 375-5 of the Civil Code and Article L.221-2-2 of the Code on Social Action and Families (*Code de l'action sociale et des familles*, CASF) (in French).

[http://www.infomie.net/IMG/pdf/depeche\\_conjointe\\_dacq-dpjj-dacs\\_11072016.pdf](http://www.infomie.net/IMG/pdf/depeche_conjointe_dacq-dpjj-dacs_11072016.pdf)

<sup>3</sup> Law No. 2007-293 of 5 March 2007 reforming child welfare (in French).

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000823100&categorieLien=id>

<sup>4</sup> *Idem*.

**and challenges** encountered by unaccompanied minors themselves and the various actors responsible for dealing with these individuals. Because many unaccompanied minors are **approaching the age of 18**, this study also examines provisions addressing the **transition into adulthood**.

It continues work carried out in 2014 by the European Migration Network on unaccompanied minors,<sup>5</sup> although the themes addressed here are different. This study concentrates on the measures implemented following a final decision on their status and does not, therefore, study the evaluation and protection stage of these young people.

This study is based on a **series of interviews and questionnaires** conducted with various actors working in the field of child welfare, particularly with unaccompanied minors. As the issue of unaccompanied minors has been the subject of various studies since the year 2000, this study also looks at various other reports.

The study begins by providing an **overview of the situation of unaccompanied minors in France**. This section also provides statistical data on the scale of the phenomenon and the profile of unaccompanied minors. Due to their age and isolation from their families, unaccompanied minors are not **required to hold a residence permit**. In addition, they may submit **an application for international protection, although few do so** (474 in 2016).<sup>6</sup> The growing number of unaccompanied minors and the many challenges relating to caring for this group have been the subject of many debates over recent months, examining the explosion in costs, the saturation of reception and management facilities, and the need to establish mechanisms which are appropriate to the specific needs of these young people. On 15 September 2017, as part of the work of the monitoring committee for the national protection, evaluation and orientation of unaccompanied minors programme, the Ministry of Justice and the Ministry of Solidarity and Health announced an increase in funding for the programme and presented the first outline of an **action plan for unaccompanied minors**.

Section 2 presents the **care arrangements for unaccompanied minors** in France, including support for these young people as they approach the age of adulthood and beyond. One of the first tasks of the ASE and the Departmental Council holding guardianship is to ensure the unaccompanied minors have **appropriate accommodation. Depending on their age and the number of places available in the departement**, unaccompanied minors may be accommodated in **different facilities**. Once their age and unaccompanied status have been recognised, **guardianship** must be provided by the "public authority responsible for child welfare" (Article 411 of the Civil Code), i.e., the **Departmental Council**.

Section 3 aims to study the **integration measures regarding unaccompanied minors in France**, particularly as regards **access to education and employment**. It also looks at measures to support unaccompanied minors as they reach the age of adulthood. **Transitioning to adulthood is a significant issue**, not only in terms of the young person's independence and their exit from the child welfare system, but also in terms of applying for a residence permit, which requires sufficient preparation.

Section 4 describes **the return measures regarding unaccompanied minors, as mentioned in the Return Directive**.<sup>7</sup> It is important to stress that unaccompanied minors in France cannot be returned. The voluntary return of unaccompanied minors to their countries of origin falls within a **specific mechanism** managed by the French Office for Immigration and Integration (*Office français de l'immigration et de l'intégration*, OFII), which organises the return of the minor, monitored by the ASE, **in the context of family reunification**, taking into account the best interests of the child.

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<sup>5</sup> French National Contact Point of the European Migration Network, Policies, Practices and Data on Unaccompanied Minors in 2014, November 2014.

[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/unaccompanied-minors/10a\\_france\\_uams\\_study\\_english\\_version\\_final.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/10a_france_uams_study_english_version_final.pdf)

<sup>6</sup> OFPRA, Rapport d'activité 2016, April 2017 (in French).

[https://ofpra.gouv.fr/sites/default/files/atoms/files/rapport\\_dactivite\\_ofpra\\_2016\\_1.pdf](https://ofpra.gouv.fr/sites/default/files/atoms/files/rapport_dactivite_ofpra_2016_1.pdf)

<sup>7</sup> Directive 2008/115/EC of the European Parliament and Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:en:PDF>

Section 5 examines the **situation of the disappearance of unaccompanied minors**. Various interviews conducted as part of this study revealed that when unaccompanied minors are in care, it is **relatively rare** for them to abscond or disappear in France.

The **Synthesis Report**, prepared on the European level on the basis of studies from the EMN national contact points, presents an overview of all measures introduced in EU Member States and Norway to unaccompanied minors following status determination, identifying relevant obstacles and good practices.



## Section 1: Overview of the situation of unaccompanied minors in France

This section aims to provide an overview of the situation of unaccompanied minors in France, in particular changes concerning the care, integration and return of unaccompanied minors. It sheds light on the growing scale of the phenomenon in recent years and describes the profile of these young people. It is also based on statistical data provided in an Appendix to this study.

### Q1. The current public debate with regard to unaccompanied minors who have received a final decision on their application for a residence permit/asylum in France.

The current mechanism for dealing with unaccompanied minors was established **in 2013 as part of the common law on child welfare**<sup>8</sup>. The role of the State and the involvement of the Departmental Councils are key to protecting this vulnerable group. The mechanism is based on the different stages of reception and assessment of age and their unaccompanied status.

The age assessment<sup>9</sup> is made to ensure the minority of the person and the isolation from the family on the French territory. The Departmental council of the place where a person presents as an unaccompanied minor carries out the first evaluation, according to the articles I and II of the decree of 24 June 2016<sup>10</sup>. The President of the Departmental council establishes temporary emergency accommodation lasting five days (article L. 223-2 of the Code on Social Action and Families). During the shelter phase, the child welfare services carry out investigations to confirm the person's minority and their unaccompanied status on the French territory. If the evaluation phase exceeds five days, the shelter phase is extended until a decision of the judicial authority (article IV of the decree). If the minority and the isolation from the family have been recognized within five days, the President of the departmental council informs the judicial authority of the place where the unaccompanied minor has been found. Based on the national mechanism, the judicial authority entrusts the young person to the departmental council by decision of judicial placement (articles 375-3 and 375-5 of the Civil Code).

The current mechanism sets out the principle that the judicial authority must request relevant information from the Ministry of Justice before deciding, in the strict interests of the child, **where they will be placed within the child welfare service**. Various texts set out the conditions for the reception and assessment of these minors in the départements and the conditions for the départements communicating quantitative data to the Ministry of Justice about these young people. *See Q3a.*

Before 2016, the concept of an isolated foreign minor (*mineur isolé étranger*, MIE) was used. During the Monitoring Committee of 7 March 2016, the Keeper of the Seals wished to change the term from 'isolated foreign minor' to '**unaccompanied minor**' in order to **comply with the Qualification Directive (recast) of 13 December 2011**,<sup>11</sup> thus focussing primarily on **child protection**.<sup>12</sup>

<sup>8</sup> The mechanisms implemented before this period have been detailed in a previous study of the European Migration Network on the UAMs in 2014.

[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/unaccompanied-minors/10a\\_france\\_uams\\_study\\_english\\_version\\_final.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/10a_france_uams_study_english_version_final.pdf)

<sup>9</sup> Mission for Unaccompanied Minors, Ministry of Justice, FAQ Unaccompanied Minors, updated 20 September 2016.

[http://www.justice.gouv.fr/art\\_pix/FAQ\\_mineurs\\_isoles.PDF](http://www.justice.gouv.fr/art_pix/FAQ_mineurs_isoles.PDF)

<sup>10</sup> Decree No. 2016-840 of 24 June 2016 taken under application of Article L. 221-2-2 of the Code on Social Action and Families (*Code de l'action sociale et des familles*, CASF) relating to the reception and conditions for evaluating the situation of minors who are temporarily or definitively deprived of the protection of their families (in French).

<sup>11</sup> Directive 2011/95/EU of the European Parliament and Council of 13 December 2011 on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted (recast).

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:en:PDF>

<sup>12</sup> Mission for Unaccompanied Minors, Ministry of Justice, FAQ Unaccompanied Minors, updated 20 September 2016.

The creation of the Mission for Unaccompanied Minors (*Mission mineurs non accompagnés*, MMNA) in 2013 within the Ministry of Justice made it possible to get a precise understanding of the number of placement measures made by the judicial authority, both in terms of flow (the number of decisions made each year) and in terms of stock (the number of measures under way). **In terms of stock**, the number of unaccompanied minors in Departmental Council care was **13,008 at 31 December 2016**, compared to around 10,194 at 31 December 2015<sup>13</sup>. **In terms of flow**, the MMNA dealt with **8,054 cases in 2016**, i.e., an increase of 34% compared to 2015 and 215% compared to 2013, the year in which it began to operate. The trend appears to have continued in 2017, with 4,065 referrals having been made in the first four months of the year.<sup>14</sup> MMNA statistics are based on **cases recorded by the unit**, upon which the judicial authority is required to rule. In addition to these figures, therefore, is the number of people declaring themselves to be unaccompanied minors as recorded by Departmental services and whose evaluation is under way, as well as all minors in France who have not been integrated into the care system, either because they have evaded after being recorded or because it has not been possible to identify them.<sup>15</sup>

As a consequence of the migration crisis which has hit Europe since 2015, the number of unaccompanied minors arriving in France has significantly risen. The issue of unaccompanied minors is complex because it combines **the areas of child welfare and migration**.

In recent months, the **rise in the number of unaccompanied minors** (from 4,000 in 2012 to 13,000 in 2016, and 25,000<sup>16</sup> in 2017<sup>17</sup>) and the **specific nature of certain profiles** led to a number of debates on the explosion of costs, the saturation of reception and processing facilities, and the need to establish appropriate procedures to meet the specific needs of this group.

This is why, as part of the **Monitoring Committee of the National Procedure for Protecting, Assessing and Orienting Unaccompanied Minors of 15 September 2017**, the Minister for Justice and the Minister for Solidarity and Health reaffirmed €6.5 million in government funding in 2017 to refund Departmental authorities for the period of assessing these minors, as well as the previous government's commitment to refunding 30% of the costs corresponding to managing the addition number of unaccompanied minors received at 31 December 2017 in comparison to 31 December 2016.

The **action plan to guarantee a balanced and controlled migration policy**,<sup>18</sup> announced by the Government on 12 July 2017, states that an **action plan to improve the reception of unaccompanied minors** would be prepared, in partnership with the Departmental Councils. On 15 September 2017, the Minister of Justice and the Ministry for Solidarity and Health chaired the monitoring committee on unaccompanied minors, in the presence of Departmental Councils, magistrates and relevant NGOs. The Ministers announced the launch of a **consultation phase with the départements in order to define an action plan to improve the reception of unaccompanied minors**. The plan is based around the **evaluation and protection phase, restrictions on age re-assessments, the fight against trafficking in migrants and trafficking networks, the quality of the care of minors and the arrangements for leaving the care of the child welfare services**.

However, in light of the announcement of reforms, the NGOs and the Défenseur des Droits<sup>19</sup> raised concerns over the **nationalisation** of age assessments and the evaluation of unaccompanied status, the care of these minors, and the establishment of a system which did not fall under

[http://www.justice.gouv.fr/art\\_pix/FAQ\\_mineurs\\_isoles.PDF](http://www.justice.gouv.fr/art_pix/FAQ_mineurs_isoles.PDF)

<sup>13</sup> Mission for Unaccompanied Minors (MMNA), Ministry for Justice, Rapport annuel d'activité 2016, March 2017 (in French).

[http://www.justice.gouv.fr/art\\_pix/1\\_RAA\\_MMNA\\_2016.pdf](http://www.justice.gouv.fr/art_pix/1_RAA_MMNA_2016.pdf)

<sup>14</sup> When this study was published, the official data for 2017 were not yet available (to be published in March 2018 in the Annual Report from the MMNA).

<sup>15</sup> French Senate, Mineurs non accompagnés : répondre à l'urgence qui s'installe, *op. cit.*

<sup>16</sup> French Senate, Mineurs non accompagnés : répondre à l'urgence qui s'installe, *op. cit.*

<sup>17</sup> This estimate comes from the Senate report, which was published in June 2017. The official data for 2017 will be available on 31 March 2018 in the MMNA Rapport annuel 2017.

<sup>18</sup> Action Plan, Guaranteeing right of asylum and better controlling migratory flows, 12 July 2017.

<https://www.gouvernement.fr/en/guaranteeing-the-right-to-asylum-and-improving-control-of-migration-flows>

<sup>19</sup> Défenseur des Droits, Rapport annuel, Droits de l'enfant en 2017, Au miroir de la Convention internationale des droits de l'enfant, 20 novembre 2017 (in French).

<https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/rae-2017.pdf>

common law, which tended to first consider people presenting as unaccompanied minors as foreigners, rather than as children in need of protection.

## Q2. A political priority in France

From 2013-2016, France established a **comprehensive programme to protect unaccompanied minors**. The situation of the individual presenting as an unaccompanied minor is initially examined **with regard to his or her isolation and potential age** to determine whether they can benefit from the child welfare system.

The **Law of 14 March 2016 on child welfare**<sup>20</sup> and the regulatory implementing texts led to a **national protection, evaluation and orientation programme for unaccompanied minors**, lending a **legal basis to the mechanism for the geographical distribution of unaccompanied minors**. The aim is to harmonise departments' practices during periods of protection, evaluation and orientation of the young person, guaranteeing and respecting the rights of young people and distributing young people declared as minors and confirmed as such by a legal decision, across the country. The national unit for orientation and support for the legal decision (*Cellule nationale d'orientation et d'appui à la décision judiciaire*), within the MMNA, is responsible for proceeding with the distribution. *See Q3a.*

Faced with the rise in the number of people presenting as unaccompanied minors in France, and the difficulties the departments are facing, the Government made **changes in the evaluation and protection mechanism, its funding and, more generally, the treatment of unaccompanied minors, a priority for 2018.**

The question of **minors who are victims of human trafficking** is also a point which has emerged from debates and discussions between relevant stakeholders. The vulnerability of people presenting as unaccompanied minors involved in situations of trafficking is a point of particular interest for national and international organisations dealing with trafficking.

## Q3a. Changes in legislation, policy and practice since 2014

Since March 2016, the concept of "isolated foreign minor" has been replaced by the term "unaccompanied minor". This change is a reminder that these children and teenagers fall under the **child welfare mechanism**. It also indicates that geographic origin has little bearing when it comes to protecting a child who has been deprived of the protection of their family.

The Circular of 31 May 2013 regarding the national protection, evaluation and orientation mechanism,<sup>21</sup> partially annulled by a decision of 30 January 2015 by the Council of State, presented ways for assessing age and unaccompanied status to which the **Law of 14 March 2016 on child welfare**<sup>22</sup> gave legal foundation. Article 48 states that: "The Minister of Justice sets the objectives for the proportionate distribution of these minors between the departments according to demographic criteria and geographic distance".

The **Decree of 24 June 2016** on the reception and conditions for evaluating the situation of minors temporarily or permanently deprived of the protection of their families<sup>23</sup>, set out the

<sup>20</sup> Law No. 2016-297 of 14 March 2016 on child welfare (in French).

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032205234&categorieLien=id>

<sup>21</sup> Circular NOR: JUSF1314192C of 31 May 2013 concerning the methods of caring for young, isolated foreigners: national protection, evaluation and orientation mechanism (in French).

[http://www.textes.justice.gouv.fr/art\\_pix/JUSF1314192C.pdf](http://www.textes.justice.gouv.fr/art_pix/JUSF1314192C.pdf)

<sup>22</sup> Law No. 2016-297 of 14 March 2016 on child welfare (in French).

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032205234&categorieLien=id>

<sup>23</sup> Decree No. 2016-840 of 24 June 2016 taken under application of Article L. 221-2-2 of the Code on Social Action and Families (*Code de l'action sociale et des familles*, CASF) relating to the reception and conditions for evaluating the situation of minors who are temporarily or definitively deprived of the protection of their families (in French).

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032770349&categorieLien=id>

**procedure for receiving and assessing the situation of people presenting as unaccompanied minors by the Departmental Councils.** The Decree also presented the system of a flat-rate reimbursement of the evaluation period, as well as the principle for calculating the distribution criteria enabling the national unit – the MMNA, within the Directorate for the Legal Protection of Young People – to provide information to the judicial authorities upon request when they wish to entrust unaccompanied minors to a child welfare service.<sup>24</sup> The ways in which this calculation is made are set out in the Order of 28 June 2016<sup>25</sup>. In addition, the Decree established a **monitoring committee for the national mechanism**, which has met three times since March 2016.

An **Order of 17 November 2016**<sup>26</sup> specified the ways in which age and isolation from family are to be evaluated.

In addition, an Interministerial circular, published on 25 January 2016<sup>27</sup>, aims to **coordinate and streamline relations between the centralised services and the départements** during the stages of assessing age and unaccompanied status, as well as caring for people presenting as unaccompanied minors.

## b. Planned changes to law and policy

See Q1.

A **national plan** on unaccompanied minors is under consideration. Consideration is mainly being given to four themes: **assessment of age and unaccompanied status, re-assessment of age and unaccompanied status, trafficking in migrants and trafficking in human beings** as well as **the care and exit from care of unaccompanied minors**.

## Q4. Different statuses granted to unaccompanied minors

The right to stay in France for unaccompanied minors is structured around different approaches.

Unaccompanied minors are exempt from the obligation to submit an application for a residence permit.

In addition, they may submit **an application for international protection, although few do so**. In 2016, 474 first applications were received (including four stateless people) and 274 positive decisions were issued (admission rate of 67.5%). Of these decisions, 173 obtained the status of refugee and 101 received the status of beneficiary of subsidiary protection.<sup>28</sup>

If the unaccompanied minor does not apply for asylum, they may also **apply for a residence permit for another reason, once they have reached the age of 18**. Various provisions provide

<sup>24</sup> Within the MMNA, the national unit for orientation and support for the judicial decision carries out operational activities to help magistrates reach decisions regarding the distribution of unaccompanied minors across the departmental child welfare services, under application of the Law of 14 March 2016. The distribution criteria for the number of unaccompanied minors distributed across the départements is calculated in line with the methods set out in the Order of 28 June 2016 and updated on 15 April each year. The orientation proposed may involve staying in the département which carried out the evaluation or being re-directed to another département.

<sup>25</sup> Order NOR: JUSF1617871A of 28 June 2016 taken under application of Decree No. 2016-840 of 24 June 2016 concerning the ways of calculating the distribution criteria for the orientation of minors who are temporarily or permanently deprived of the protection of their family (in French).  
<https://www.legifrance.gouv.fr/eli/arrete/2016/6/28/JUSF1617871A/jo>

<sup>26</sup> Order NOR: JUSF1628271A of 17 November 2016 taken under application of Decree No. 2016-840 of 24 June 2016 concerning the ways of evaluating minors who are temporarily or permanently deprived of the protection of their family (in French).  
<https://www.legifrance.gouv.fr/eli/arrete/2016/11/17/JUSF1628271A/jo/texte>

<sup>27</sup> Interministerial Circular NOR: JUSF1602101C of 25 January 2016 concerning the mobilisation of State services by Departmental Councils regarding minors who are temporarily or permanently deprived of the protection of their families and individuals presenting as such (in French).  
[http://www.textes.justice.gouv.fr/art\\_pix/JUSF1602101C.pdf](http://www.textes.justice.gouv.fr/art_pix/JUSF1602101C.pdf)

<sup>28</sup> OFPRA, Rapport annuel d'activité 2016,

for the issuance of residence permits to this group depending on their situation with regards to their age, unaccompanied status and personal situation (school, training, etc.).

For example, Article L. 313-11, 2<sup>o</sup>bis of the Code on Entry and Residence of Foreigners and the Right of Asylum (CESEDA) states that an “unaccompanied minor who has been in the care of the Child Welfare Services before the age of 16 and, on condition of the real and serious nature of the training, the nature of his or her relationship with his or her family in the country of origin, and the opinion of the host structure on the integration of this foreigner into French society” may be issued with a **temporary “private and family life” residence permit**. This residence permit may be renewed and allows the individual to exercise a professional activity in France.

This provision does not affect young people in the care of the Child Welfare Services after their sixteenth birthday. The Law on Immigration, Integration and Nationality of 16 June 2011<sup>29</sup> thus provided for a new case of **exceptional admission for residence** for young adults who entered France as unaccompanied minors and who were in the care of the Child Welfare Services (ASE) **after their sixteenth birthday**. This provision is codified in Article L. 313-15 of the CESEDA, which states that *“exceptionally and unless the individual’s presence is a threat to public order, the temporary “employee” or “temporary worker” residence permit mentioned in paragraph 1 of Article L. 313-10 may be issued in the year following their eighteenth birthday, to a foreigner who can provide evidence that they have followed a training course for at least six months, designed to provide a vocational qualification, on the condition that they have genuinely and seriously followed the training, the nature of the individual’s relationship with the family in the country of origin, and the opinion of the host structure on the integration of this foreigner in French society”*.

In the context of Article L. 313-15 of the CESEDA, the Prefect examines the situation of the foreign national taking into account **the real and serious nature of the course followed, the nature of the relationship with the family in the country of origin** and the **opinion of the host structure** of the integration of the foreign national into French society.

The **circular of 28 November 2012**<sup>30</sup> on the conditions for the admission and residence of foreigners irregularly staying specifies that there should be a **benevolent interpretation of the criteria of Article L. 313-15**, if the unaccompanied minor who becomes an adult has met the conditions set out in the Article and that the quality of their training course is such that they can be permanently integrated into French society.

It also specifies that it is possible, **in exceptional circumstances** under application of the Prefect's discretionary power, to issue a **temporary “student” residence permit** to young adults who, on condition of respecting the other criteria mentioned in Article L. 313-15, seriously and conscientiously follow secondary or university education, which cannot be considered as “vocational training” in the sense of the Education Code.

Unaccompanied minors are sometimes **victims of networks of trafficking in human beings**. Some may be forced into prostitution or be subject to domestic slavery or forced labour, or be forced to commit crimes. Article L. 316-1 of the CESEDA states that, on the condition that the individual’s presence does not constitute a threat to public order, a **temporary “private and family” residence permit** may be issued to a foreign national who **bears witness or presses charges** against a person that they accuse of having committed a crime against them relating to trafficking in human beings or procurement. This residence permit is issued for a minimum period of six months and can be renewed for the entire length of the judicial process. It also opens the right to exercise a **professional activity**. In the event that the person is convicted, a **residence permit** shall be issued to the foreign national who bore witness or pressed charges.

This permit may also be issued to people over the age of 18 who have been recognised as victims of trafficking in human beings when they were minors.

<sup>29</sup> Law No. 2011-672 of 16 June 2011 on immigration, integration and nationality (in French).

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000024191380&categorieLien=id>

<sup>30</sup> Circular INTK1229185C of 28 November 2012 relating to the conditions of admission and residence of foreigners irregularly staying (in French).

[http://www.justice.gouv.fr/publication/mna/circ\\_conditions\\_demandes\\_admission\\_sejour\\_2012.pdf](http://www.justice.gouv.fr/publication/mna/circ_conditions_demandes_admission_sejour_2012.pdf)

## Q5. a. The characteristics of unaccompanied minors in France

### Profile of unaccompanied minors in France

#### **A group which mostly comprises male teenagers**

According to the 2016<sup>31</sup> annual activity report by the MMNA,<sup>32</sup> there has been a **clear drop in the age at which unaccompanied minors** enter into the care of child welfare services. Nevertheless, **most unaccompanied minors are aged between 15 and 16.**<sup>33</sup> Analysis of the interviews and questionnaires carried out as part of this study also revealed that the different départements<sup>34</sup> **mostly receive teenagers** aged between 15 and 18. This preponderance of teenagers has **an impact** on the conditions for dealing with them and on the time scales for processing their cases. *See Q6 on what happens when unaccompanied minors reach the age of 18.*

It is clear from the various questionnaires and interviews carried out as part of this study that the unaccompanied minors are **mostly boys**. Between 1 January and 31 December 2016, 8,054 people recognised as unaccompanied minors were brought to the attention of the MMNA unit. **94.9% were boys**, i.e., 7,643 boys and 411 girls.<sup>35</sup> The Senate report states that boys represented 80% of the population of unaccompanied minors in 2001 and 87% in 2014. According to the same report, some of the under-representation of girls among the unaccompanied minors may be explained by their **greater vulnerability to human trafficking networks**. However, the preponderance of teenagers can also be explained by the fact that many of them have been **sent by their families who consider them most capable of undertaking a difficult journey**.

#### **Unaccompanied minors are principally from the African continent.**

Unaccompanied minors arriving in France are **largely from the African continent**, and particularly from sub-Saharan Africa. From the end of August 2016, there were more arrivals from Afghanistan, India and Bangladesh.<sup>36</sup> In 2017, most unaccompanied minors originated from Africa (71%) and to a lesser extent from Asia (20%). More specifically, these young people are mainly from Guinea, Côte d'Ivoire and Mali, according to the MMNA for 2017.<sup>37</sup>

#### **Constantly increasing flows**

To the knowledge of the national orientation unit of the MMNA, **14,908 cases of unaccompanied minors** were entrusted to French départements between 1 January 2017 and 31 December 2017 (2017 flows)<sup>38</sup>. One of the major characteristics in France is the **constant increase in flows in recent years**, which has given rise to a number of challenges which will be analysed in more detail in the following sections of this study. The Departmental Councils questioned for this study all raised the issue of the unprecedented increase in the arrival of unaccompanied minors since 2015, which has placed the accommodation and care facilities under strain. By means of example, the Département of Seine-Saint-Denis recorded an **increase of 54% in unaccompanied minors**

<sup>31</sup> When this study was published, the official data for 2017 were not yet available (to be published in March 2018 in the MMNA Annual Report).

<sup>32</sup> Mission for Unaccompanied Minors (MMNA), Ministère de la Justice, Rapport annuel d'activité 2016, Mars 2017 (in French).

<sup>33</sup> Interview carried out with representatives of the MMNA, Directorate for Judicial Protection of Youth (*Direction de la protection judiciaire de la jeunesse*, DPJJ), Ministry of Justice, January 2018.

<sup>34</sup> Interviews and questionnaires carried out with representatives of the Departmental Councils in the départements of the Gironde, Meurthe-et-Moselle, Maine-et-Loire, Nord, Paris, Seine-et-Marne, Seine-Saint-Denis, Val d'Oise and Vienne, January–February 2018.

<sup>35</sup> Mission for Unaccompanied Minors (MMNA), Ministère de la Justice, Rapport annuel d'activité 2016, March 2017 (in French).

<sup>36</sup> *Idem*.

<sup>37</sup> Interview carried out with representatives of the MMNA, DPJJ, Ministry of Justice, January 2018.

<sup>38</sup> *Idem*.

**in the care of the Child Welfare Services** in 2017 compared to 2016. Unaccompanied minors and young adults represent 23% of the total number of young people within the child welfare system.<sup>39</sup>

Of the **474 unaccompanied minors who had requested protection in France in 2016**, 76% were boys (compared to 70% in 2015) and 85.8% were aged between 16 and 17. In 2016, only 5.7% were under the age of 14.<sup>40</sup>

***They have different reasons for leaving their country of origin.***

The Senate report<sup>41</sup> describes the **reasons why unaccompanied minors leave their country of origin**: *"There are many reasons for this specific type of migration. Some are fleeing a country of origin where political or social unrest threatens their safety, others see France as a stepping stone in their migration route towards the United Kingdom, but the vast majority come to France to seek the **economic opportunities** that they can't find in their own country. This is, therefore, **a group which wishes to settle in the long term and which is not affected by the status of refugee**. Their arrival is often **organised by criminal networks** which must be combated. Finally, a significant number of young adults seek the protection that our law offers to minors."*

In a sociological study carried out in 2002, Angéline Etienne drew up a **typology of reasons why unaccompanied minors leave their countries of origin**,<sup>42</sup> depending on their history and the reasons why they left their country of origin. The sociologist stressed that the reasons driving unaccompanied minors to leave their country are far from personal, and that adults generally push them to leave. The author specifies that although the political, family and economic contexts are often intertwined making it difficult to pinpoint the exact reason for their departure, it is nonetheless possible to draw up a **profile** of unaccompanied minors. She distinguishes **five categories of would-be migrants**:

**"Exiled migrants"** who come from all regions which are devastated by war and ethnic conflicts;

**"Mandated migrants"** who are encouraged and helped by their parents or family and friends to escape poverty, either by continuing their studies, or by working and sending money back to the family in the country of origin;

**"Exploited migrants"** who are victims of trafficking in human beings in the hands of various networks;

**"Escapees"** who leave the place where they live (family or orphanage) because of conflict or abuse;

**"Nomads"** who were already in a nomadic situation in their home country, some for long periods of time.

This typology was updated and made more complex in 2012,<sup>43</sup> with the addition of **two new categories**:

**"Reunified minors"** planning to join a parent or member of the extended family;

**"Aspiring minors"**, engaged on a more personal quest and trying to emancipate themselves from their family and social environment. Seeking protection and/or better living conditions, this group is often more politicised.

<sup>39</sup> Questionnaire completed by a representative of the Departmental Council of Seine-Saint-Denis, February 2018.

<sup>40</sup> OFPRA, Activity Report 2016, April 2017.

[https://ofpra.gouv.fr/sites/default/files/atoms/files/rapport\\_dactivite\\_ofpra\\_2016\\_1.pdf](https://ofpra.gouv.fr/sites/default/files/atoms/files/rapport_dactivite_ofpra_2016_1.pdf)

<sup>41</sup> French Senate, Mineurs non accompagnés: répondre à l'urgence qui s'installe, *op. cit.*

<sup>42</sup> Etienne Angéline, Les mineurs isolés étrangers en France: évaluation quantitative de la population accueillie à l'Aide sociale à l'enfance, Les termes de l'accueil et de la prise en charge, Study carried out for the Directorate for Population and Migration, 2002 (in French).

[https://www.infomie.net/IMG/pdf/etude\\_sociologique\\_de\\_madame\\_etienne.pdf](https://www.infomie.net/IMG/pdf/etude_sociologique_de_madame_etienne.pdf)

<sup>43</sup> Etienne Angéline et Zanna Omar, Synthèse: "Des typologies pour faire connaissance avec les mineurs isolés étrangers et mieux les accompagner", a study carried out in 2012 as part of the research agreement "Actualiser et complexifier la typologie des motifs de départ du pays d'origine des mineurs isolés étrangers présents en France", Topik/Mission de Recherche Droit et Justice, June 2013 (in French).

[https://www.infomie.net/IMG/pdf/synthese\\_-\\_actualisation\\_typologie\\_mie\\_2013-2.pdf](https://www.infomie.net/IMG/pdf/synthese_-_actualisation_typologie_mie_2013-2.pdf)

**Table 1: Changes in the age of entry into the child welfare system in 2015 and 2016**

| Tranche d'âge   | 2016         | Pourcentage 2016 | 2015         | Pourcentage 2015 | Evolution 2015-2016 |
|-----------------|--------------|------------------|--------------|------------------|---------------------|
| Moins de 10 ans | 21           | 0,26%            | 11           | 0,18%            | 0,12%               |
| 10-12 ans       | 129          | 1,60%            | 64           | 1,07%            | 0,81%               |
| 13-14 ans       | 1 105        | 13,72%           | 653          | 10,90%           | 5,61%               |
| 15 ans          | 2 074        | 25,75%           | 1 496        | 24,97%           | 7,18%               |
| 16 ans          | 3 575        | 44,39%           | 2 761        | 46,09%           | 10,11%              |
| 17 ans          | 1 150        | 14,28%           | 1 005        | 16,78%           | 1,80%               |
| <b>TOTAL</b>    | <b>8 054</b> | <b>100,00%</b>   | <b>5 990</b> | <b>100,00%</b>   | <b>25,63%</b>       |

Source: Mission for Unaccompanied Minors (MMNA), Ministry for Justice, Rapport annuel d'activité 2016, March 2017 (in French).

**Legend:**

*Tranche d'âge:* Age range

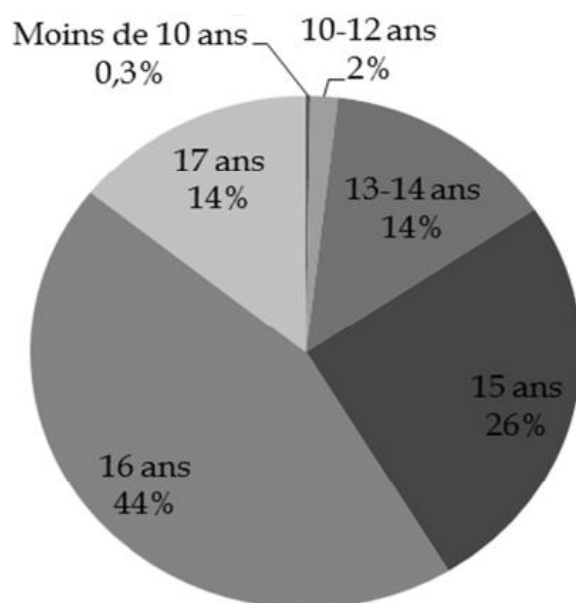
*Pourcentage 2016:* 2016 percentage

*Évolution 2015-2016:* 2015-2016 change

*Moins de 10 ans:* Under 10 years old

*10-12 ans, 13-14 ans, etc.:* 10-12 years old, 13-14 years old, etc.

**Graphic 1: Age of unaccompanied minors at time of entry into the child welfare system in 2016**





Source: DPJJ, extract from the French Senate information report<sup>44</sup>

**Legend:**

*Moins de 10 ans, 10-12 ans, etc.:* Under the age of 10, 10-12 years, etc.

- Are there **resettled or relocated** unaccompanied minors in France whose right to reside has been clarified?

In principle, France does not accept unaccompanied minors under resettlement or relocation provisions.

- Please provide any qualitative information available *not covered above*:

*See box on young absconding Moroccans in Paris (Q12)*

**b. Statistical data**

*See Appendix 1.*

**Q6. a. Measures for unaccompanied minors who reach the age of 18**

Unaccompanied minors from third countries are exempt from the obligation to apply for a residence permit and are protected individually against any removal measures.

As part of their care under the child welfare system, they may, between their 18<sup>th</sup> and 19<sup>th</sup> birthdays, apply for a **residence permit**. If they do not fulfil the criteria, particularly if they were not in the care of the ASE before or after their 16<sup>th</sup> birthday, they may apply for a **residence permit due to their studies or in the context of exceptional admission for residence**. *See Q4.*

*The opening of a **reception centre for young unaccompanied migrants** by Médecins Sans Frontières (MSF) should be noted. This centre is for young people whose have not been recognised as minors and who are, therefore, not in the care of the ASE.*

**b and c. Transitional measures for unaccompanied minors turning 18 years of age**

It is the responsibility of **each département** entrusted with the care of unaccompanied minors who are approaching the age of 18 to inform them, prepare them for adulthood and direct them as best possible towards:

- **advice** which may help them decide on which residence permit they wish to apply for;
- **social services** which may help them with regards to accommodation and following-up their social rights;
- **socio-professional integration services**.

It is necessary to anticipate all the procedures as far in advance as possible, with a view to avoiding any interruption to support at the age of 18.

<sup>44</sup> French Senate, Mineurs non accompagnés: répondre à l'urgence qui s'installe, *op. cit.*

However, given that the unaccompanied minors who arrive in France are generally aged 16 and 17, it is sometimes **difficult for the Departmental Councils to carry out this assessment** within the time scales set by the law.

In terms of providing support with being independent, a certain number of mechanisms can support unaccompanied minors who have turned 18 up until their 21st birthday to facilitate better socio-professional integration (e.g. a young adult contract, the professional integration platform established by the ASE of the Departement in Paris).

[See Q9d.](#)

## Section 2: Care arrangements for unaccompanied minors, including after-care for unaccompanied minors turning 18 years of age

*This section presents the care arrangements for unaccompanied minors in France, including supporting young people turning 18 and after-care measures.*

Unaccompanied minors fall within the **remit of child welfare** as defined in Article L. 112-3 of the CASF, which makes no distinction on the grounds of nationality but on the **criteria of being a minor and in a dangerous situation**. Pursuant to the law of 5 March 2007 reforming child welfare,<sup>45</sup> this Article states that the aim of child welfare is to “prevent the difficulties facing **minors who are temporarily or definitively deprived of the protection of their families and to ensure they are cared for.**” Article L.111-2 of the CASF confirms that there is no nationality condition as part of the child welfare arrangements. As soon as the young person is in the care of the ASE, he or she has the **same rights and the same support**, regardless of nationality.

### **Overview of care provisions and organisational set-up in France**

#### **Q7a. The priority given to the care for unaccompanied minors from the evaluation phase through to entry into the ASE system once age and unaccompanied status have been recognised**

**Temporary emergency accommodation** is provided **during the evaluation phase** for minors who are temporarily or definitively deprived of the protection of their families. The implementing Decree of 24 June 2016<sup>46</sup> states that: “*The chair of the Departmental Council of the place where a person presents as a minor and as temporarily or definitively deprived of the protection of their family will establish temporary emergency accommodation lasting five days from the first day of their reception, under the conditions set out in the second and third lines of Article L. 223-2*”.

This administrative measure is referred to as “**sheltering**”. It aims to ensure young people who are potentially unaccompanied minors are protected while the child welfare services carry out investigations to confirm this status. The young person is cared for by the departement in which the request for protection or the alert was made. This care may, however, be delegated to approved organisations. This temporary accommodation is funded by the State for the first five days.

**Once the person’s age and unaccompanied status have been recognised**, the Departmental Council informs the judicial authority that will take a decision to entrust the young person who is considered to be an unaccompanied minor to the **ASE of a departement**, after having sought the opinion of the national unit for orientation and support of the decision of judicial placement. This unit issues an orientation proposal,<sup>47</sup> prioritising **the best interests of the child** and basing it on the **distribution criteria** calculated in line with the Order of 28 June 2016<sup>48</sup>.

When a third country national has been recognised as an unaccompanied minor, they are covered by **common law on child welfare**, which covers minors in danger. This placement enables unaccompanied minors to benefit from **care and socio-educational and legal support until they reach the age of 18**. The task of protecting unaccompanied minors falls to the child welfare

<sup>45</sup> Law No. 2007-293 of 5 March 2007 reforming child welfare (in French).

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000823100&categorieLien=id>

<sup>46</sup> Decree No. 2016-840 of 24 June 2016 taken under application of Article L. 221-2-2 of the Code on Social Action and Families (CASF) relating to the reception and conditions for evaluating the situation of minors who are temporarily or definitively deprived of the protection of their families (in French).

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032770349&categorieLien=id>

<sup>47</sup>The orientation which is proposed may involve staying in the departement which carried out the evaluation or re-orientation to another departement.

<sup>48</sup> Order NOR: JUSF1617871A of 28 June 2016 taken under application of Decree No. 2016-840 of 24 June 2016 concerning the ways of calculating the distribution criteria for the orientation of minors who are temporarily or permanently deprived of the protection of their family (in French).

<https://www.legifrance.gouv.fr/eli/arrete/2016/6/28/JUSF1617871A/jo>

services (ASE) within the Departmental Councils, in line with Article 1 of the Law of 5 March 2007 reforming child welfare.<sup>49</sup>

The **quality of the care of minors** and the **ASE after-care mechanism** are currently part of discussions on drafting an **action plan aiming to improve the reception of unaccompanied minors**. See Q1.

## b. Overview of the provisions in place for the care of unaccompanied minors following their status determination

The current mechanism for dealing with unaccompanied minors was established **as part of the common law on child welfare**. However, given the scale of the phenomenon in recent years, **specific provisions** have gradually been established on the **local level**. These provisions are set out in more detail in the following sub-sections.

Article L. 221-1 of the CASF states that one of the roles of the child welfare services of a department is to **“provide material, educational and psychological support”** to minors in danger, as well as to adults under the age of 21 who are facing difficulties.

The care provisions for accompanied minors within the ASE takes the form of **the construction of a life plan for the young person**. Social workers provide daily support to promote independence and integration into French society.

For each minor in ASE care, a document known as a **“child plan”** is established. Article L. 223-1-1 of the CASF states that the child plan **“aims to guarantee the child’s physical, psychological, emotional, intellectual and social development”**. *This document accompanies the minor throughout their time within the child welfare system*. Preparation of the child plan includes **a medical and psychological assessment of the child** in order to detect any care needs which should be incorporated into the document. The chair of the Departmental Council is the **guarantor** for the child plan. The child is involved in creating the child plan, in line with procedures which are adapted to his or her age and level of maturity. It is updated to take into account changes in the child’s basic needs. Other documents relating to care for the child, particularly the individual care document and the reception in an establishment document are connected to the child plan.

Generally speaking, the establishments receiving unaccompanied minors provide specific care, including, for example, a **health assessment when they enter care**, work on **independence and integration into French society** (classes in French as a foreign language, help looking for internships, careers’ advice, etc.) as well as support for young people with regards to the **administrative procedures on regularisation**.

In a brochure on the reception and care of unaccompanied minors in France,<sup>50</sup> the NGO France Terre d’Asile **stresses the importance of the age assessment in the young person’s process**: *“The age of a young unaccompanied foreigner is key to the rights and guarantees which they can claim: care in the child welfare system, no forced return from France, education and ways of accessing residency after the age of 18. Age assessment is therefore a pivotal step in the young person’s journey.”*

<sup>49</sup> Law No. 2007-293 of 5 March 2007 reforming child welfare (in French).

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000823100&categorieLien=id>

<sup>50</sup> France Terre d’Asile, L’accueil et la prise en charge des mineurs isolés en France, L’essentiel No.1, October 2017 (in French).

<http://www.france-terre-asile.org/toutes-nos-publications/details/1/218-l-essentiel-l-accueil-et-la-prise-en-charge-des-mineurs-isolés-étrangers-en-france.html>

### c. Taking into account the best interests of the child

The concept of the best interests of the child is defined in Article 3 of the United Nations' Convention on the Rights of the Child. It refers to the obligation for bodies charged with social protection to consider the interests of the child to be primordial in all decisions concerning them.

The best interest of the child **forms part of French law**. Insofar as care for unaccompanied minors falls within **common law on child welfare**, the best interests of the child mentioned in the texts concern all minors in dangerous situations.

**Article L. 112-4 of the CASF** states that "*the interests of the child, taking into account his or her basic physical, intellectual, social and emotional needs, as well as respect for their rights must guide any decisions about them.*"

In a report<sup>51</sup> published as part of the European MINAS project<sup>52</sup> aiming to produce a comparative study on the concept of the best interests of the child as applied to unaccompanied minors, it is specified that although the interests of the child are mentioned several times in the **CASF**, there is only one mention of the 'best' interests. Article L. 221-1, on the role of the child welfare services (ASE) stresses the need to ensure that the "*emotional connections the child makes with people other than his or her parents are maintained and developed in his or her best interests*".

The **French Civil Code** also contains several mentions of the interests of the child, in particular Article 375-1, which states that the Children's Judge must "*rule taking the interest of the child into strict consideration*".

### Q8. Competent authorities responsible for the care of unaccompanied minors following status determination

The Senate report on unaccompanied minors<sup>53</sup> stresses that the complex nature of care for unaccompanied minors requires an **interministerial approach**, which is reflected in the Circular of 25 January 2016.<sup>54</sup> This Circular recalls the role that the various decentralised government services (services under the authority of the Departmental Prefect, regional health agencies, national education services) are required to play to **support the Departmental Councils in their task of caring for unaccompanied minors**.

| Competent authority                            | Description   | Main activities and responsibilities |
|--|---|--------------------------------------|
| Departmental Councils (child welfare services) | <b>Reception, protection and care for unaccompanied minors</b> as part of their competence in terms of <b>child welfare</b> . |                                      |

<sup>51</sup> Bailleul Corentin, Senovilla Daniel, Dans l'intérêt supérieur de qui? Enquête sur l'interprétation et l'application de l'article 3 de la Convention Internationale des Droits de l'Enfant dans les mesures prises à l'égard des mineurs isolés étrangers en France, Poitiers, MIGRINTER, 2016 (in French). [http://www.infomie.net/IMG/pdf/rapport\\_minas\\_def\\_version\\_web.pdf](http://www.infomie.net/IMG/pdf/rapport_minas_def_version_web.pdf)

<sup>52</sup> The MINAS project (*In Whose Best Interests?* Exploring unaccompanied minors' rights through the lens of Migration and Asylum Processes) was jointly funded by the European union as part of the PPUAM project ("Analysis of reception, protection and integration for unaccompanied minors in the EU"). Co-ordinated by the University of Primorska (Slovenia), it was conducted in partnership with the University of Brighton (UK) and the University of Vienna (Austria). Analysis of the French context was carried out by the Centre National de la Recherche Scientifique through the MIGRINTER laboratory.

<sup>53</sup> French Senate, Mineurs non accompagnés: répondre à l'urgence qui s'installe, *op. cit.*

<sup>54</sup> Interministerial Circular NOR: JUSF1602101C of 25 January 2016 concerning the mobilisation of State services by Departmental Councils concerning minors who are temporarily or permanently deprived of the protection of their families and individuals presenting as such (in French). [http://www.textes.justice.gouv.fr/art\\_pix/JUSF1602101C.pdf](http://www.textes.justice.gouv.fr/art_pix/JUSF1602101C.pdf)

|                     |   |   |
|---------------------|---|---|
| Government services | The interministerial circular of 25 January 2016 gave <b>the Prefects a role of mobilising and co-ordinating decentralised government services</b> (national education, health, vocational training, interior) in order to support the departements during the evaluation and care of unaccompanied minors. |   |
| NGOs                | Care for unaccompanied minors <b>delegated by the Departmental Councils to approved NGOs.</b>   | Depending on the NGOs and the departements: accommodation, educational and school support, help with labour market integration, medical-social support, administrative and legal support. |

### Accommodation arrangements

#### Q9a. The accommodation options available for unaccompanied minors in France following status determination

One of the first tasks of the ASE and the Departmental Council holding guardianship is to ensure that unaccompanied minors have **appropriate accommodation** (Article L.222-5 of the CASF). The Senate report specifies that most NGOs and Departmental Councils interviewed stress the **specific nature of the unaccompanied minor group** and the **need to develop care which takes this into account**, particularly concerning the issue of accommodation.<sup>55</sup>

Because this competence falls to Departmental Councils, the provision of accommodation **differs according to each edepartement. Depending on their age and the places available in the departement**, unaccompanied minors may be accommodated in **different structures**: children's homes (Departmental or NGO-run), foster families, social 'hostels', specialised structures (e.g.: social children's home (*Maison d'Enfance à Caractère Social*, MECS), or semi-independent structures for the oldest minors.

#### - Accommodation specifically for minors

##### **Social children's homes (Maison d'Enfance à Caractère Social, MECS)**

The MECS are social or medical-social establishments which specialise in the temporary accommodation of minors in difficulty. They fall within the competence of the Departmental Council which authorises them to receive children covered by the child welfare system.

##### **- Semi-independent accommodation**

Several Departmental Councils have adopted a strategy of directing the oldest unaccompanied minors towards **semi-independent housing**. Several interviews carried out for this study revealed that **accommodation in a shared apartment** is preferred in order to **encourage the young people to become independent**<sup>56</sup>. There are often three young people per apartment.

<sup>55</sup> French Senate, Mineurs non accompagnés: répondre à l'urgence qui s'installe, *op. cit.*

<sup>56</sup> Interview carried out with representatives of the Directorate for Foreign Isolated Minors, France Terre d'Asile (FTDA), December 2017.

The Senate report<sup>57</sup> states that "often, NGO reception facilities are used for the most vulnerable groups (in most cases, boys under the age of 15 and young girls) and young boys over the age of 15 who form the biggest group within unaccompanied minors, are received in more open structures, mainly shared accommodation with reduced supervision."

#### - General accommodation with special provisions for minors

Depending on the départements, the oldest unaccompanied minors may be placed in **homes for young workers**.

#### - Specialised accommodation for unaccompanied minors with specific identified needs

Some establishments, most often managed by NGOs, specialise in receiving unaccompanied minors. Several examples can be given:

##### - **The Maison d'Accueil et Accompagnement vers l'Autonomie pour Mineurs Isolés Etrangers de Boissy St Léger ("Stéphane Hessel"), managed by France Terre d'Asile:**

Prior to 1 January 2017, the "Maison d'accueil et accompagnement vers l'autonomie pour mineurs isolés étrangers de Boissy St Léger (Stéphane Hessel)" was known as the CAOMIE 94. Created in 1999, the Reception Centre for Unaccompanied Minor Asylum Seekers (*Centre d'Accueil des Mineurs Isolés Demandeurs d'Asile, Stéphane Hessel, CAOMIDA*) had 33 places to house asylum-seeking unaccompanied minors over the age of 15. In May 2015, the CAOMIDA became the Reception and Orientation Centre for Unaccompanied Foreign Minors (*Centre d'Accueil et d'Orientation pour Mineurs Isolés Etrangers, CAOMIE*), housing unaccompanied minors, not necessarily asylum seekers, covered by the Departmental Council of Val-de-Marne. Currently, the Stéphane Hessel home is responsible for the care of **46 young people between the ages of 14 and 18 as part of medium and long-term residence, to help them become independent and to encourage their successful integration into French society**. The type of accommodation is **determined by their degree of independence**. 26 young people live in the group home in the Maison d'Accueil and 20 young people live in shared apartments in the communes of Boissy-Saint-Léger and Créteil. The Maison d'Accueil is funded by the **Departmental Council of Val-de-Marne**.

##### - **A facility dedicated to unaccompanied minors in the Département of Seine-Saint-Denis,<sup>58</sup> managed by the NGO En Temps:**

The NGO En Temps provides 110 places for unaccompanied minors and young adults (either in host families or in dispersed accommodation with a reception and support hub – French as a foreign language, help with administrative procedures, looking for training, support with regularisation, psychological support, etc.).

#### - Specialised accommodation for unaccompanied minors victims of trafficking

There is no specific accommodation for unaccompanied minors who are victims of trafficking. An experimental scheme has been set up in Paris. [See box on trafficking in human beings at the end of this section.](#)

#### - Accommodation with a foster family

##### - **Family placements**

Although **placement in foster families** represents the majority of accommodation for minors covered by the child welfare services (more than 50%), it is not the option which is offered most often to unaccompanied minors, who are most often **housed in collective accommodation**.

<sup>57</sup> French Senate, Mineurs non accompagnés: répondre à l'urgence qui s'installe, *op. cit.*

<sup>58</sup> Questionnaire completed by a representative of the Departmental Council of Seine-Saint-Denis, February 2018.

There are different reasons for this, in particular their profile (often older) and their desire to integrate rapidly.<sup>59</sup>

- **Host programme with voluntary third parties**

The Law of 14 March 2016 on child welfare<sup>60</sup> establishes a **host programme with voluntary third parties, which has developed in some départements**. The Decree of 10 October 2016 on the long-term and voluntary hosting of a child by a third party<sup>61</sup> sets the framework for this scheme, by specifying that this provision may or may not be permanent, depending on the needs of the child.

During its plenary session of 3 July 2017, the Departmental Council of the Nord Département established a **local volunteer family host network**. Care for unaccompanied minors within this programme meets the following objectives:

- it encourages support for unaccompanied minors within a **family context**, notably for the **youngest minors** who cannot live in independent accommodation;
- it **diversifies the types of reception** open to the young people, by best adapting to their situations;
- it encourages their **social and cultural integration**;
- it promotes **the citizenship commitment of volunteer families** who invest in these young people.

This programme requires both a **care package and educational support which is adapted to the situation of the young person** (in terms of health, access to rights, education, training, etc.) and the **support of a volunteer family**. Currently, in the Nord Département, around twenty families host unaccompanied minors as part of this local host network.<sup>62</sup>

- **Local initiatives**

The Senate report<sup>63</sup> mentions the example of the **“unaccompanied foreign minors” unit in the Loire-Atlantique Département**. This innovative initiative is open to host families once the **age assessment of the young person has been conducted** and **guardianship has been transferred to the Departmental Council**. It takes the form of **sponsorship provided by these families** either at weekends or on a full-time basis. The host families, who are largely volunteers, receive **an allowance of €16 per day**, which is an annual allowance of €5,760 per child. Because they are not professional hosts, the families are closely monitored by a dedicated unit of four social workers.

#### - Other types of accommodation for unaccompanied minors

- **Social housing made available by the public accommodation office: an initiative launched by some départements.**

<sup>59</sup> Interview conducted with representatives of the Office for Child and Youth Protection within the General Directorate for Social Cohesion (*Direction générale de la cohésion sociale*), December 2017.

<sup>60</sup> Law No. 2016-297 of 14 March 2016 on child welfare (in French).

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032205234&categorieLien=id>

<sup>61</sup> Decree No. 2016-1352 of 10 October 2016 concerning the long-term, voluntary hosting of a child by a third party set out in Article L. 221-2-1 of the code on Social Action and Families (in French).

<https://www.legifrance.gouv.fr/eli/decret/2016/10/10/FDFA1620943D/jo/texte>

<sup>62</sup> Interview carried out with a representative of the Departmental Council of the Nord Département, February 2018.

<sup>63</sup> French Senate, Mineurs non accompagnés: répondre à l'urgence qui s'installe, *op. cit.*



The Senate report<sup>64</sup> highlighted the initiative taken by some Departmental Councils, such as that in the Manche département to steer unaccompanied minors towards **social housing made available by the public accommodation office (Office Public de l'Habitat, OPH)**. The legal framework for social housing presents one important difference with housing in establishments, because it assumes signature of a rental contract between the social landlord and the person occupying the accommodation. The report specifies that, although there are no legal or regulatory provisions prohibiting accommodation from being allocated to a minor, their inability to enter into a contract recalls **the need for the Departmental Council to ensure its guardianship and to assume responsibility for the acts of the child**. This type of accommodation is thus based on an important **relationship of trust between the minor and the Departmental Council**.

#### **b. Costs associated with the accommodation of unaccompanied minors and how they are measured**

It is difficult to provide estimates of costs relating to accommodation of unaccompanied minors, insofar as they depend both on the département in question and the type of accommodation offered. The Senate report stresses that the main impact of the increase in the number of unaccompanied minors being cared for is **financial**. It provides several **estimates of the financial cost of unaccompanied minors**, calling for "the greatest of prudence when it comes to interpreting figures which are rounded to averages", given the specificities of caring for this group. The report states:

*"The ADF<sup>65</sup> and NGO leaders estimate that the **average annual financial cost** of a young person in the child welfare system is around **€50,000, i.e., €140 per day**. The Government estimates that the cost is around **€40,000**. This average imperfectly describes the reality of the regions, because the cost of care, according to the form it takes, may be unequal: the costs reported by the MECS may rise to €200 per day, i.e., €73,000 annually, while according to one family assistant, the total cost may vary depending on circumstances (clothing, transport, schooling) and is around €80 per day, which represents an annual cost of around €30,000. It is not currently possible to collate, across all the different groups involved in child welfare, specific financial data on unaccompanied minors".<sup>66</sup>*

#### **c. Staff responsible for the care of unaccompanied minors**

Care for unaccompanied minors is provided by the **départements** or by delegated **NGOs** as part of calls for projects by the département. The staff supervising these young people include socio-educational representatives and caseworkers, socio-professional staff specialising in labour market integration, socio-legal staff, French as a foreign language teachers, etc.

In terms of NGOs, the staff generally follow **in-house training**. For example, Apprentis d'Auteuil offers **specific in-house training on unaccompanied minors**, taking into account their specific needs, as well as national discussion forums and training events several times a year.<sup>67</sup>

#### **d. Implications of unaccompanied minors' transition from the age of minority to 18 years of age for their accommodation arrangements**

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

<sup>64</sup> French Senate, Mineurs non accompagnés: répondre à l'urgence qui s'installe, *op. cit.*

<sup>65</sup> Assembly of the French Départements (*Assemblée des départements de France, ADF*)

<sup>66</sup> *Idem.*

<sup>67</sup> Questionnaire completed by Apprentis d'Auteuil, February 2018.

Care for unaccompanied minors through the child welfare system includes access to accommodation until they reach the age of 18, or 21 in the case of the "young adult contract". Some young people may change facility and be guided towards **young workers homes, with a view to working on leaving the system and acquiring their independence**. This guidance is determined according to the young person and his or her degree of independence, and applies to all young people in the child welfare scheme, whether or not they are unaccompanied minors.<sup>68</sup>

- Does France have any measures to support unaccompanied minors before, during and after the transition to adulthood?

Yes. *See box below. In addition, transitional measures are set out in Section 1 (Q6b and c) and the young adult contract is set out in Section 3 (Q18b).*

### The transition between placement with the child welfare services and adulthood<sup>69</sup>

Several regulatory texts address the transition of unaccompanied minors to adulthood. The Law of 14 March 2016 on child welfare<sup>70</sup> regulates the **exit from the child welfare system**, ensuring that the transition between placement with the ASE and adulthood is managed in a permanent way. The Law of 14 March 2016 thus inserts **Article L. 222-5-1 into the Code on Social Action and Families**, which states that "*an **interview** is organised by the chair of the Departmental Council with any young person received under sections 1, 2 and 3 of Article L. 222-5, **one year before they turn 18, to review their situation and plan any conditions for supporting them towards independence**. Within the framework of the child plan, an **access to independence plan** is drafted by the chair of the Departmental Council with the minor. They call upon relevant institutions and bodies to create a **comprehensive solution adapted to their educational, social, health, housing, training, employment and resource needs**. The interview may, in exceptional circumstances, be repeated to take account of changes in the needs of the young person in question*".

In addition, this same law inserts Article L. 222-5-2 into the CASF: "*A **protocol** is concluded by the chair of the Departmental Council, jointly with the representative of the State in the departement and the chair of the Regional Council and with the support of all relevant institutions and bodies, in order to prepare and best support access to autonomy for young people cared for or leaving the child welfare scheme and the legal protection of young people. This protocol organises the **partnership between the actors in order to offer young people between 16 and 21 years old** a comprehensive solution to their educational, cultural, social, health, housing, training, employment and resource needs.*"

Article 222-5 of the CASF states that: "*Support is offered to the young people mentioned in the first section of this article who have turned 18 and to those mentioned in the penultimate line, beyond the terms of the measure, to enable them to finish the school or university year under way.*"

Transitioning to adulthood has a two-fold impact on unaccompanied minors, with both their **administrative situation** and their **care** posing **difficulties** in terms of professional and social integration. The stakeholders who were questioned as part of this study stressed that the **transition to adulthood** currently hits them like a "**ton of bricks**", principally because they then need to obtain a residence permit. Before their 18<sup>th</sup> birthday, the unaccompanied minor must therefore take certain steps. Initiatives have been set up in several departements to anticipate the steps to be taken sufficiently in advance and to establish partnerships with the Prefectures. In

<sup>68</sup> Interview with representatives of the ASE in the Departement of Paris and the City of Paris, January 2018.

<sup>69</sup> Source: Infomie, Centre de ressources sur les mineurs isolés étrangers (in French).

<http://www.infomie.net/spip.php?rubrique271>

<sup>70</sup> Law No. 2016-297 of 14 March 2016 on child welfare (in French).

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032205234&categorieLien=id>

addition, measures in terms of care within the ASE have been established to facilitate the transition towards adulthood. The young adult contract, **concluded between the young adult up to the age of 21 and the ASE** includes financial support and can be combined with accommodation, legal support and educational and/or psychological support. However, these measures are not compulsory and are specific to each département.

#### e. Research analysing the types of accommodation provided to unaccompanied minors and the consequences of accommodation arrangements on the integration of unaccompanied minors

The Report by the National Observatory for Child Welfare (*Observatoire national de la protection de l'enfance, ONPE*)<sup>71</sup> recalls the gap that may exist in the **MECS between children who are usually cared for in these structures and unaccompanied minors**, due to the specific nature of this group and their very different needs.

In its Annual Report, the Défenseur des Droits<sup>72</sup> described the difficulties that a large number of départements face **with funding support for unaccompanied minors**, in addition to the **saturation of their reception facilities**, which has consequences on their ability to fulfil their child welfare remits. The Défenseur des Droits adds that these financial problems have a **direct impact on the possibilities of care offered to the majority** of children.

The Senate report<sup>73</sup> recommends **foster families as a solution to be encouraged**, on the condition that it targets unaccompanied minors who do not pose any particular difficulties and to monitor the foster family, which must have received minimum prior training in advance. While presenting the benefits of reducing the financial cost for the département, this measure is considered by the authors of the report as an alternative to accommodation in MECS and to hostel accommodation, which appears to be the least appropriate for this group. This report also highlights **semi-autonomous facilities**, insofar as they appear to correspond better to the needs of the unaccompanied minors while reducing the costs to the département.

The National Observatory for Social Action (ODAS) carried out a **study identifying the care measures appropriate for unaccompanied minors**.<sup>74</sup> Based on the observation that the profiles of unaccompanied minors differ from those of other children in the child welfare system, and thus require specific care arrangements, the ODAS launched a study in 2017 into all French départements in order to **identify the care arrangements which provided specific and appropriate support** and to analyse how they could progressively transform their reception and support measures to this group in order to promote their social integration. It therefore presents several local initiatives, based for example on semi-autonomous accommodation, coupled with educational and cultural support to encourage the social and professional integration of unaccompanied minors (the "Un Toit où Apprendre" residential and cultural and social integration home in the Hérault), MECS aiming to provide specific support to 25 unaccompanied minors over the age of 16 around the creation of a career plan and the progressive independence of the young people (the "Galipote" social children's home in the Bouches-du-Rhône), etc.

### Guardianship arrangements

#### Q10a. Guardianship arrangements for unaccompanied minors

<sup>71</sup> National Observatory on Child Welfare (Observatoire national de la protection de l'enfance, ONPE), Mineurs non accompagnés, Quels besoins et quelles réponses?, February 2017 (in French).  
[http://www.justice.gouv.fr/art\\_pix/1\\_dossier\\_mna\\_web2.pdf](http://www.justice.gouv.fr/art_pix/1_dossier_mna_web2.pdf)

<sup>72</sup> Défenseur des Droits, Rapport annuel, Droits de l'enfant en 2017, Au miroir de la Convention internationale des droits de l'enfant, 20 November 2017 (in French).

<sup>73</sup> French Senate, Mineurs non accompagnés: répondre à l'urgence qui s'installe, *op. cit.*

<sup>74</sup> National Observatory on Social Action (Observatoire national de l'action sociale, ODAS), Lettre de l'Odas – "Les modes d'accueil adaptés aux mineurs non accompagnés: Face à l'urgence, des départements innovent", Study carried out by Ségolène Dary and Claudine Padiou, January 2018 (in French).  
[http://odas.net/IMG/pdf/lettre\\_de\\_l\\_odas\\_mna\\_2018-2.pdf](http://odas.net/IMG/pdf/lettre_de_l_odas_mna_2018-2.pdf)

Guardianship takes place pursuant to the combined application of Articles 390<sup>75</sup> and 373<sup>76</sup> of the Civil Code. In the case of unaccompanied minors, their parents or legal representatives have either died or are geographically distant and are therefore incapable of protecting them and managing their possessions.

Once their age and unaccompanied status has been recognised, guardianship must be provided by the “public authority responsible for child welfare” (Article 411 of the Civil Code), i.e., the **Departmental Council**.

The **Children’s Judge** is responsible for ruling that a child be placed with the child welfare services but does not have the power to declare an absence of guardianship and to refer it to the Departmental Council. The Children’s Judge has general competence for everything concerning **educational assistance**. Only the **Guardianship Judge** is competent to rule on the **absence of guardianship and its transfer to the Department Council**.

The Senate report presents the **main challenges connected with exercising guardianship of unaccompanied minors**. The **duality of competences between the judges** is explained by the right of non-foreign nationals to receive educational assistance without the guardianship of their parents, living in France, being withdrawn. Articles 411 and 411-1 of the Civil Code, on absence of guardianship, does not anticipate the automatic transfer of guardianship in the case of a reported isolation of an unaccompanied minor.

#### **b. Implications of unaccompanied minors’ transition from the age of minority to 18 years of age for their guardianship arrangements**

Guardianship ends when the child **reaches the age of 18**, in line with Article 393 of the Civil Code.

#### **c. Research on the standard of guardianship provided and the effects of guardianship on the integration of the unaccompanied minors**

In its annual report<sup>77</sup>, the Défenseur des Droits regrets the fact that the guardianship procedure before the Family Affairs Judge is **rarely used for unaccompanied minors**, despite the fact that they have no legal representatives who can exercise parental authority in the country.

Speaking to the Senate on the social care of unaccompanied minors, the Défenseur des Droits issued an opinion,<sup>78</sup> in which it stated that the legal practices were very disparate and noted an under-use of the Guardianship Judge when minors are entrusted to the care of the departement.

The Senate report<sup>79</sup> describes the **conditions for exercising guardianship** and highlighting the **issues** arising from it, both in terms of the successful completion of education by the unaccompanied minor and in terms of monitoring his or her medical situation and the administration of their property. It also stressed **the challenges relating to the exercise of guardianship of unaccompanied minors**, particularly due to the duality between the Children’s Judge and the Guardianship Judge. (See Q10a)

<sup>75</sup> Article 390 of the Civil Code states: “Guardianship is initiated when the father and mother are both dead or are deprived of exercising their parental authority. It is also initiated with regard to a child whose parentage has not been legally established. It does not exclude the specific laws which govern the child welfare services. ”

<sup>76</sup> Article 373 of the Civil Code states: “Fathers and mothers are deprived of parental authority when they are not in a condition to demonstrate their will, due to their incapacity, absence or for any other reason. ”

<sup>77</sup> Défenseur des Droits, Rapport annuel, Droits de l’enfant en 2017, Au miroir de la Convention internationale des droits de l’enfant, 20 novembre 2017.

<sup>78</sup> Avis du Défenseur des Droits n°17-03 - Auditionné au Sénat sur la prise en charge sociale des mineurs non accompagnés, le 7 février 2017.

<sup>79</sup> Sénat, Mineurs non accompagnés : répondre à l’urgence qui s’installe, *op. cit.*

## Consequences of a temporary residence permit on the care arrangements for unaccompanied minors

### Q11. Impact of the expiration of a temporary residence permit on the care arrangements for unaccompanied minors

While they are minors, unaccompanied minors are **not obliged to hold a residence permit**. It is only when they turn 18 that they have to justify the regularity of their residence in France. When they turn 18 years old, unaccompanied minors therefore have to take certain steps with a view to receiving a residence permit.

*Section 1 of this study sets out the conditions for obtaining a residence permit.*

## Challenges and good practices

### Q12. The challenges associated with the care of unaccompanied minors

- The ONPE has conducted fieldwork with a view to collating statements and analyses of stakeholders involved with unaccompanied minors. This study has highlighted both projects which appear to be success stories and points to be aware of, concerning three elements: 1) **securing the legal status of these young people** ; 2) **a refined and comprehensive evaluation of the situation of these young people and their needs**; 3) **adaptation of their care with regard to these particular and assorted needs**<sup>80</sup>.
- **The gradual rise in the number of unaccompanied minors** (for the child welfare services of the Departmental Councils): the Senate report<sup>81</sup> specifies that several départements stress the increase in the number of unaccompanied minors in their care whose absolute level still appears to be low, but whose **progression rate is of concern**. For example, in the Département of Val d'Oise, unaccompanied minors made up 4% of the minors in child welfare in 2011, compared to 17.4% in 2015 and 22.5% in 2016.<sup>82</sup>
- Due to the increase in the number of unaccompanied minors in care, the **financial burden** is a major challenge for the Departmental Councils. The Senate report<sup>83</sup> stresses that "the care of unaccompanied minors by the départements as part of child welfare represents a growing cost, while at the same time the financial situation of the départements is extremely strained."
- Exercise of **guardianship** raises the question of the **duality between the judges** leading to situations where unaccompanied minors placed in child welfare are without effective guardianship, sometimes for several months. Several months can go by between a placement with the child welfare services decided by the Children's Judge and the transfer of guardianship to the Departmental Council by the Guardianship Judge.<sup>84</sup> Generally, some actors note that **legal representation**, far from being systematic principally due to the lack of training in this issue, requires **awareness raising and information work** with magistrates and the départements.<sup>85</sup>
- Due to the rise in the number of unaccompanied minors arriving in the départements, **the lack of places in accommodation facilities** is a major challenge, although this problem is not specific to unaccompanied minors but concerns all minors in the child welfare system. One of the main obstacles raised by the stakeholders questioned as part of this study was

<sup>80</sup> ONPE, Mineurs non accompagnés, Quels besoins et quelles réponses? *op. cit.*

<sup>81</sup> French Senate, Mineurs non accompagnés: répondre à l'urgence qui s'installe, *op. cit.*

<sup>82</sup> Questionnaire completed by a representative of the Departmental Council of Val d'Oise, February 2018.

<sup>83</sup> French Senate, Mineurs non accompagnés: répondre à l'urgence qui s'installe, *op. cit.*

<sup>84</sup> *Idem.*

<sup>85</sup> Interview carried out with representatives of the MMNA, DPJJ, Ministry of Justice, January 2018.

the **repeated saturation of accommodation**, despite the creation of new places and the constant search for new accommodation facilities.

- This observation has also led to discussions on **more appropriate arrangements** for certain profiles, notably young people with specific needs, those cared for by the Legal Protection of Young People (PJJ) and young people who are more autonomous<sup>86</sup>. Some young people have, for example, developed autonomous skills to the extent that housing in a MECS does not respond to their life plans.

### **The self-imposed absconding of certain foreign unaccompanied minors from the care system: the example of young Moroccans identified in the 18<sup>th</sup> arrondissement by the Mayor of Paris.<sup>87</sup>**

The Senate report stresses that the public authorities involved in care base their work on the **assumption of a spontaneous presentation** of unaccompanied minors to the services responsible for evaluation. However, here they are confronted with **an unprecedented situation of the self-imposed absconding of these young people**.

Over the past 18 months to two years, **young vagrant minors**, commonly referred to as the "Young Moroccans of the Goutte d'Or" have appeared in the 18th arrondissement of Paris. This group is described as being **very young**, extremely excluded, marginalised and suffering from various addictions. Those responsible for child welfare stress how **difficult it is to approach these young people**, who refuse any form of protection. This is a volatile group, both on the national level (identified notably in cities in the west and south of France) and on the European level (having arrived through Spain and sometimes other European countries).

Faced with the scale of this phenomenon, the City of Paris has established **arrangements aiming to stabilise their identities** (they often present several aliases, making it difficult to count them) and to **patrol** the streets. An agreement was signed at the end of 2017 with the Centre d'Action Sociale Protestant (CASP), laying the groundwork for a reinforced social action project, in partnership with NGOs. This mechanism includes initial **socio-educational work** (notably on issues of hygiene and malnutrition), a **health** approach (young people in deteriorating situations and situations of addiction) as part of a **patrol, a day centre and night facilities designed as an emergency facility**. This mechanism aims to ensure this group is steered towards and covered by the common law on child welfare.

A **partnership with the regional health agency** (*Agence régionale de santé, ARS*) has been created to facilitate access to healthcare. The Paris authorities also work with **Morocco**, where most of these young people originate, in order to rebuild family connections and identify the issues which led to their departure.

A **partnership protocol between the NGOs and public authorities** involved in this mechanism to support unaccompanied minors who are absconding is currently being developed.

### **Q13. Examples of good practice concerning the care of unaccompanied minors**

- The **response by the Paris authorities to young people absconding** in the 18<sup>th</sup> arrondissement of Paris (*see box above*).
- The creation of an **experimental programme in Paris aiming to protect minors who are victims of trafficking in human beings (THB)** (*see box below*).

<sup>86</sup> Interviews carried out with representatives of the MMNA (DPJJ, Ministry for Justice), the DGCS and the ASE of the Department of Paris and the City of Paris, December 2017-January 2018.

<sup>87</sup> Interview with representatives of the ASE in the Department of Paris and the City of Paris, January 2018.

- **Initiatives concerning accommodation** established in several Departmental Councils in order to address the issue of facilities being saturated (*see Q9a*).

- The **development of reception arrangements for young people as soon as they are admitted**:

- The Department of Seine-Saint-Denis has created an **unaccompanied minors' support unit** (CAMNA)<sup>88</sup> which aims to guarantee better support for young people as soon as they are admitted, by offering a health check-up, reconstituting personal data and ID documents upon arrival, a guidance assessment with a Career Information and Guidance Centre (CIO), search for appropriate reception facilities, and collective activities during periods of hostel accommodation.

- The Paris ASE has created a **sector dedicated to unaccompanied minors**, given the specific nature of this group and the intensity of this activity (creation of the educational sector for unaccompanied minors (*secteur éducatif auprès des mineurs non accompagnés, SEMNA*)).<sup>89</sup>

### **The creation of an experimental programme in Paris aiming to protect minors who are victims of trafficking in human beings (THB)<sup>90</sup>**

Based on observations shared by the public sector and NGO actors according to whom the provisions of common law on child welfare are not fully adapted to the situation of unaccompanied minors caught in networks of trafficking in human beings, and the need to extract them from the control of these networks, a **working group** has been established to reflect upon the **creation of a mechanism** aiming to protect minors who are victims of trafficking in human beings, along the lines of the **Ac.Sé initiative** (secure reception of adults set out in Articles R. 316-1 and L. 345-1 of the Code on Social Action and Families, CASF). On 1 June 2016, the various actors involved in this working group, led by MIPROF in partnership with the public prosecutions Department in Paris, the Paris Children's Court, the Directorate for the Judicial Protection of Young People, the Paris Préfecture de Police, the SG-CIPD, the NGO Hors la Rue, and the Ensemble Contre la Traite group, signed an agreement on **establishing an experimental mechanism aiming to protect minor victims of trafficking in human beings**. It consists of placing minors in safe conditions, based on the need for geographic distance and the provision of support from caseworkers trained in this subject. Insofar as it has been created as a pilot scheme, it only concerns a limited number of minors who have been identified as victims of trafficking in human beings, notably those exploited for criminal purposes or for the purposes of sexual exploitation. It is structured around different stages, from the identification of specific situations through to the young person being brought into an **educational and professional integration project**. 76 people have benefited from this scheme since it was set up (44 in 2016 and 32 in 2017). The agreement, which has been concluded for one year, is currently being renewed.

<sup>88</sup> Questionnaire completed by a representative of the Departmental Council of Seine-Saint-Denis, February 2018.

<sup>89</sup> Interview with representatives of the ASE in the Department of Paris and the City of Paris, January 2018.

<sup>90</sup> *Idem*.

## Section 3: Integration of unaccompanied minors, including transitional arrangements for unaccompanied minors turning 18 years of age

*This section aims to describe the integration measures available specifically to unaccompanied minors following status determination, such as access to education and employment. It also analyses transitional arrangements in place for unaccompanied minors turning 18. Once they have been recognised as an unaccompanied minor, they are cared for under child welfare provisions, which enables them to have access to accommodation, education and healthcare under common law. Due to their specific needs, both in psychological and physical terms, and on the social and legal level, unaccompanied minors also require adapted support. Different approaches have been adopted in France to respond to these needs.*

### Overview of integration provisions and organisational set-up in France

#### Q14a. Priority given to integration of unaccompanied minors

The situation of unaccompanied minors, from their initial identification through to their socio-professional integration, is **a major concern for the government and a priority for action**, as reflected in the action plan on unaccompanied minors announced in July 2017 which should be defined in 2018. The plan is based around the evaluation and protection phase, restrictions on age re-assessments, the fight against trafficking in migrants and trafficking networks, the quality of the care of minors and the arrangements for leaving the child welfare services.

*See Q7a.*

#### b. Overview of the provisions in place for the integration of unaccompanied minors following their status determination

In a framework of long-term care, unaccompanied minors benefit from education, school, medical-social, administrative and legal support. As is the case for all children in its care, the departement is responsible for the provision of care for unaccompanied minors in all aspects relating to health, schooling, social life, leisure, etc. For every minor taken into care by the child welfare services (ASE), **a child plan and status report** must be established, taking these issues into account. Article L. 223-1-1 of the CASF states that the child plan “*aims to guarantee **the child’s physical, psychological, emotional, intellectual and social development***”. This document accompanies the minor **for as long as they remain** within the child welfare system. Preparation of the child plan includes **a medical and psychological assessment of the child** in order to detect any care needs which should be incorporated into the document. The chair of the Departmental Council is the **guarantor** for the child plan. The child is involved in creating the child plan, in line with procedures which are adapted to his or her age and level of maturity. It is updated to take into account changes in the child’s basic needs. Other documents relating to care for the child, particularly the individual care document and the educational establishment contract are connected to the child plan.

Article D. 223-15 of the CASF specifies that the child plan must take into account the following issues:

- 1) The development, physical and mental health of the child;
- 2) Relationships with family and others;
- 3) The child’s schooling and social life.

According to the same article, in terms of issues relating to the child’s development and physical and mental health, care and support needs are identified, notably in situations of disability.

The departement responsible for the unaccompanied minor is **responsible for monitoring health issues**. In each departement there is a child welfare primary care physician. **Partnerships** between the departement and a hospital centre have been developed to treat and address the specific healthcare issues of unaccompanied minors.



The departement responsible for the unaccompanied minor must ensure these young people have **access to education**. **Specific schemes** have been developed for the education of unaccompanied minors, particularly for new arrived pupils speaking other languages.

The care provisions for unaccompanied minors takes the form of **the construction of a life plan for the young person**. The professionals responsible for the unaccompanied minors provide daily support to **promote their autonomy and their integration into French society**. This includes learning about **everyday issues** (managing money, concepts of nutrition and hygiene, etc.), the **gradual development of autonomy** (financial, material, administrative), **citizenship** and work on **integration**.

The individuals questioned as part of this study mentioned the **strong motivation, ability to adapt, and desire to integrate among unaccompanied minors**. However, they encounter several **obstacles**, initially in terms of the language and social norms, then in terms of education and the various administrative procedures (obtaining a work permit as part of professional training, applying for a residence permit before turning 18, etc.).

**c. Do the above provisions differ from those for accompanied minors and adults? If so, how?**

These provisions fall within common law and concern all minors taken into care by the child welfare services (ASE). Support for unaccompanied minors is organised on the same grounds as that in place for minors in ASE care. However, the specific nature of unaccompanied minors requires the establishment of **specific support**, notably with a focus on accommodation, learning the French language, social and professional integration and the issue of right of residence in France upon turning 18. Specific measures for unaccompanied minors are therefore implemented by the departements to encourage this integration.

**d. The procedure to determine the best interests of the child with regard to the integration of unaccompanied minors.**

The Departmental authorities offer comprehensive support to unaccompanied minors, constantly striving to promote the best interests of the child and to integrate them into French society. See Q7c.

**Q15. Competent authorities responsible for the integration of unaccompanied minors following status determination.**

| <b>Competent authority</b>                     | <b>Description</b>  | <b>Main activities and responsibilities</b> |
|--|---|---|
| Departmental Councils (child welfare services) | <b>Reception, protection and care for unaccompanied minors</b> as part of their <b>child welfare</b> mandate.   | Health, education, social life, etc.        |
| Government services                            | The interministerial circular of 25 January 2016 entrusted <b>the Prefects</b> with the <b>task of mobilising and co-ordinating decentralised government services</b> (national education, health, vocational training, interior) |   |

|      |   |   |
|------|---|---|
|      | in order to support the departements during the assessment and care of unaccompanied minors.  |   |
| NGOs | Care for unaccompanied minors <b>delegated by the Departmental Councils to approved NGOs.</b> | Depending on the NGOs and the departements: accommodation, educational and school support, help with labour market integration, medical-social support, administrative and legal support. |

## Access to healthcare

### Q16a.

When a young person is placed with the child welfare services (ASE) or with the Judicial Protection of Young People,<sup>91</sup> they benefit from **free healthcare**, under the **universal health coverage** scheme (basic PUMA<sup>92</sup> and additional<sup>93</sup> CMU), **regardless of nationality**.

A 2011 circular from the Directorate of Social Security<sup>94</sup> makes unaccompanied minors' eligibility for CMU (which became PUMA on 1 January 2016) conditional upon their **entry into the care of the child welfare services (ASE)**, in other words, upon recognition that they are below the age of 18. Young people awaiting evaluation are eligible for state medical support (*Aide médicale d'Etat*, AME).<sup>95</sup>

Generally speaking, while awaiting eligibility, unaccompanied minors and people presenting as unaccompanied minors may benefit from free healthcare in a healthcare access facility (*permanence d'accès aux soins de santé*, PASS).

As part of ASE coverage, unaccompanied minors benefit from access to healthcare under common law.

Preparation of the child plan includes **a medical and psychological assessment of the child** in order to detect any care needs which should be incorporated into the document.

<sup>91</sup> The Judicial Protection of Young People (PJJ) supports minors who have committed a crime, regardless of their nationality.

<sup>92</sup> PUMA: Universal health coverage (*Protection universelle maladie*).

<sup>93</sup> CMU: Universal health cover (*Couverture maladie universelle*).

<sup>94</sup> Circular No. DSS/2A/2011/351 of 8 September 2011 concerning specific points of the regulation of state medical support, particularly the family situation and composition of the household (status of minors) (in French). [http://circulaire.legifrance.gouv.fr/pdf/2011/09/cir\\_33805.pdf](http://circulaire.legifrance.gouv.fr/pdf/2011/09/cir_33805.pdf)

<sup>95</sup> State medical support (AME) is a mechanism which enables foreigners irregularly staying to benefit from access to healthcare. It is granted on the condition of stable residence and resources. Young people whose age and unaccompanied status is being assessed are treated like foreigners irregularly staying and thus benefit from State medical support (Circular DSS/2A/2011/351 of 8 September 2011). However, people presenting as minors are not obliged, unlike adults, to have lived for three months in France. They may, therefore, request AME as soon as they arrive in France, without waiting for the three-month time period. However, persons presenting as minors must supply an address or place of residence with an approved body.

- **The need to have a legal representative<sup>96</sup>**

The performance of certain medical acts is conditional upon receiving the **consent of the minor's legal representatives**, in line with Article R. 4127-42 of the Public Health Code, which states that "*notwithstanding the provisions of Article L. 1111-5, a doctor called upon to treat a minor or a protected adult must strive to inform his or her parents or legal guardian and obtain their consent*".

However, in the absence of a guardianship decision or delegation of parental authority, **no treatment can be dispensed to unaccompanied minors**. There are, however, exemptions to the obligation to receive consent from the holders of parental authority.

- **Medical procedures which are indispensable to save the life of a minor:** in the absence of the consent of the minor's legal guardians, a medical procedure may be performed, on the condition that the "*treatment or procedure is required to save the health of a minor*" and that an adult accompanies the minor in question (Articles L. 1111-5 para. 1 and L. 1111-4 para. 6 of the Public Health Code).
- **Medical procedures carried out on a minor who personally receives a reimbursement of services:** this exemption only concerns unaccompanied minors who are eligible for PUMA and thus in ASE or PJJ care (Article L.1111-5 para. 2 of the Public Health Code and Circular DSS/2A No. 97-2011 of 17 December 1999).

**b. Implications of unaccompanied minors' transition from the age of minority to 18 years of age for their healthcare arrangements**

*See box Q9d on the transition between placement with the ASE and turning 18, which states that an **independence plan** is developed, including a section dedicated to healthcare.*

**c. Research on the quality of healthcare provided to unaccompanied minors and effects of access to healthcare on the integration of unaccompanied minors**

The Senate report stresses the **importance of a healthcare assessment and access to healthcare for young people arriving in France**. Based on the observation that there is a lack of co-operation between actors, the Senate report encourages the signature **of partnership agreements** between actors involved in caring for young migrants and hospital centres in order to carry out healthcare assessments.

The French agency for the evaluation and quality of social and medical-social establishments and services (*Agence nationale de l'évaluation et de la qualité des établissements et services sociaux et médico-sociaux*, ANESM) published a **series of recommendations on good professional practices**,<sup>97</sup> aimed at professionals in establishments and services within the context of child welfare. The ANESM stresses that unaccompanied minors are a particularly vulnerable group with significant healthcare needs, both in physical and mental terms. Some have faced "*traumatic events before or during their emigration*" in addition to the major consequences of the migration process: separation from friends and family, the risks around the emigration process and the obligation for the minor to begin in an acculturation process by changing country. The combination of these factors is reflected in different problems such as anxiety, depression or post-traumatic

<sup>96</sup> Source: Infomie, L'accès des mineurs isolés étrangers aux soins (in French). <http://www.infomie.net/spip.php?rubrique204>

<sup>97</sup> ANESM (*Agence nationale de l'évaluation et de la qualité des établissements et services sociaux et médico-sociaux*), L'accompagnement des mineurs non accompagnés dits "mineurs isolés étrangers", Protection de l'enfance, Recommandations de bonnes pratiques professionnelles, December 2017 (in French). [http://www.anesm.sante.gouv.fr/IMG/pdf/RBPP\\_MNA\\_Web.pdf](http://www.anesm.sante.gouv.fr/IMG/pdf/RBPP_MNA_Web.pdf)

stress. However, the agency noted that healthcare professionals such as those in social and medical-social establishments and services are “rarely familiar with the variety of symptoms that these children may present, some of which are atypical”. The report also stresses that these children are generally completely unfamiliar with the healthcare system in the host country, which sometimes leads to them distrusting medical staff and institutions. The report thus recommends that **specific actions** are taken to ensure the provision of appropriate medical and psychological treatment.

## Access to education

### Q17a. Access to education

The **right to education** is recognised by the International Convention on the Rights of the Child<sup>98</sup> (Article 28). Unaccompanied minors have the same access to education as nationals. Education is **compulsory until the age of 16**. Several options are open to unaccompanied minors aged between 16 and 18. **Access to education is even more important for unaccompanied minors** given that following a course is one of the criteria taken into account when they apply to regularise their situation when they turn 18, as well as one of the conditions for being granted a young adult contract.

#### - Compulsory education for young people between the ages of six and 16

**School is a right for all children living in France**, regardless of their nationality, migration status or background.<sup>99</sup> Article L.131-1 of the Education Code states that “education is compulsory for children of both sexes, between the ages of six and 16”. The Interministerial Circular of 25 January 2016<sup>100</sup> states that the education of unaccompanied minors aged between six and 16 living in France falls under **common law and compulsory education**, under the same conditions as other pupils.

In addition to the **compulsory education for all children** (Articles L. 111-1, L. 122-1 and L. 131-1), the Education Code sets out the **obligation to establish particular actions for the reception and education of newly-arrived children speaking other languages** (Articles L. 321-4 and L. 332-4).

The **ways of registering and educating children who are foreign nationals** are set out in the Circular of 20 March 2002 concerning the ways of registering and educating first and second generation children who are foreign nationals.<sup>101</sup>

#### - Education of unaccompanied minors between the ages of 16 and 18

**Foreign minors between the ages of 16 and 18 are no longer subject** to compulsory education. However, the Circular of 20 March 2002 specifies that there is a **need to ensure that their education may be provided**, taking into account their degree of ability in French and their educational level.

<sup>98</sup> International Convention on the Rights of the Child, United Nations Convention of 20 November 1989.

<sup>99</sup> Circular No. 2012-141 of 2 October 2012 concerning the organisation of education for newly-arrived pupils who speak other languages (in French).

[http://www.education.gouv.fr/pid25535/bulletin\\_officiel.html?cid\\_bo=61536](http://www.education.gouv.fr/pid25535/bulletin_officiel.html?cid_bo=61536)

<sup>100</sup> Interministerial Circular: JUSF1602101C of 25 January 2016 relating to the mobilisation of State services by Departmental Councils concerning minors who are temporarily or permanently deprived of the protection of their families and individuals presenting as such (in French).

[http://www.textes.justice.gouv.fr/art\\_pix/JUSF1602101C.pdf](http://www.textes.justice.gouv.fr/art_pix/JUSF1602101C.pdf)

<sup>101</sup> Circular No. 2002-063 of 20 March 2002 concerning the ways of registering and educating first and second generation children who are foreign nationals (in French).

<http://www.education.gouv.fr/botexte/sp10020425/MENE0200681C.htm>

The Education Code states that "any pupil who, at the end of compulsory education has not reached a recognised level of education must be able to continue their studies in order to reach such a level. The Government shall provide the necessary resources, in the exercise of its competences, for the resulting extended education. All non-emancipated minors have the right to continue their education beyond the age of sixteen" (Article L. 122-2 of the Education Code).

Unaccompanied minors over the age of 16 may continue **secondary education or directly begin a vocational course**, most often leading to a Vocational Aptitude Certificate (*Certificat d'aptitude professionnelle*, CAP). Some départements focus on support with continuing education, supporting unaccompanied minors towards a vocational Baccalaureat or an advanced technical certificate (*Brevet de Technicien Supérieur*, BTS), taking into account the labour market context.<sup>102</sup> The education or vocational training of unaccompanied minors between the ages of 16 and 18 is all the more important because it is crucial for their future in the country: in order to be able to claim a **residence permit when they turn 18**, these young people must be **able to prove they have followed a course which lasted at least six months and which led to a vocational qualification**.<sup>103</sup>

[See Q 18a for access to vocational training.](#)

The **profile of unaccompanied minors, in particular in terms of their education or ability in French, is very varied**. Some attended school in their country of origin, while others did so only occasionally or sometimes not at all. Although some speak French, others may have no grasp of the language at all. Due to the diversity of the levels of education and language, an **assessment** is carried out when the young person arrives, in order to be able to guide them towards a class which is appropriate for their background.

The assessment, carried out by the **Careers Information and Guidance Centre (*Centre d'information et d'orientation*, CIO) or by the Academic Centre for the Education of Children Speaking Other Languages (*Centre académique pour la scolarisation des enfants allophones*, Casnav)** consists of identifying both spoken and written **ability in French** as well as **academic skills**.

This assessment helps steer the young person either to **general courses** or to **specific programmes in the national education system**.

Unaccompanied minors receive **French classes at school**, as part of the specific measures described below.

In addition, classes in French as a foreign language as well as literacy classes are provided by NGOs.

After their assessment, children and teenagers speaking other languages are registered and introduced into **mainstream curriculum classes** corresponding to their academic level and their age. In addition, they receive **language support in French** as a second language/language of teaching, as part of the "**teaching units for newly-arrived children speaking other languages**" (*Unités pédagogiques pour élèves allophones arrivants*, UPE2A).

**- Mechanisms to integrate newly-arrived children speaking other languages (*élèves allophones nouvellement arrivés*, EANA)**

<sup>102</sup> Interview with representatives of the ASE in the Département of Paris and the City of Paris, January 2018.

<sup>103</sup> ODAS, Lettre de l'Odas – "Les modes d'accueil adaptés aux mineurs non accompagnés: Face à l'urgence, des départements innovent", *op. cit.*

The teaching methods for newly-arrived children speaking other languages in France is based on the fundamental principle of **mainstream inclusion under common law with the provision of specific support** organised in the UPE2A. This mechanism is based on learning French as the language of education, enabling EANA to familiarise themselves with the French language and culture and to gradually begin learning all subjects. While respecting the needs of each pupil, the aim is, as far as possible, **to encourage their integration into the mainstream school environment**, as specified in the Circular of 2012 on the organisation of the education of newly-arrived children speaking other languages<sup>104</sup>: *"Inclusion in mainstream classes is the main method of education. This is the goal to be achieved, even if it requires temporary arrangements and specific measures."*

#### **- The role of leadership and expertise in academic centres for the education of children speaking other languages (Casnav)**

The Circular of 2 October 2012 concerning the organisation of Casnav<sup>105</sup> redefined the remit of the Casnav. The Casnav is an **expert structure reporting to the rector and academic directors** regarding newly-arrived pupils speaking other languages (EANA) and pupils from homeless and travelling families (*élèves issus de familles itinérantes et de voyageurs*, EFIV). The work of the Casnav includes **organising the education of relevant groups, teaching resources, and training of teachers and managers**. It also contributes towards discussions on language policy. An academic or interacademic support structure, it operates as part of network to exchange and share practices available to all actors involved in dealing with pupils speaking foreign languages and pupils from homeless families, while supporting teaching teams in order to encourage the inclusion of EANA.

### **b. Implications of unaccompanied minors' transition from the age of minority to 18 years of age for their education arrangements**

#### **- Continuing education after the age of 18**

The Circular of 25 January 2016 (Appendix 6)<sup>106</sup> states that **academic results and investment in a study programme** are important criteria to be taken into account when young people turn 18 and want to continue their school or vocational training in France, particularly with regards to training courses which they have already begun. Circular No. 2002-214 of 15 October 2002<sup>107</sup> concerning the conditions for enrolling foreign students in higher education establishments specifies that "any application for enrolment must be examined in detail and the situation of the applicant must always be taken into account, regardless of the conditions of their entry into France."

### **c. Research on the education of unaccompanied minors**

In an opinion published in the name of the Committee on Cultural Affairs and Education (*Commission des affaires culturelles et de l'éducation*), the National Assembly conducted an **analysis of the education of pupils speaking other languages**. According to the report, "the

<sup>104</sup> Circular No. 2012-141 of 2 October 2012 concerning the organisation of education for newly-arrived pupils speaking other languages (in French).

[http://www.education.gouv.fr/pid25535/bulletin\\_officiel.html?cid\\_bo=61536](http://www.education.gouv.fr/pid25535/bulletin_officiel.html?cid_bo=61536)

<sup>105</sup> Circular No. 2012-143 of 2 December 2012 concerning the organisation of the Casnav (in French).

[http://www.education.gouv.fr/pid25535/bulletin\\_officiel.html?cid\\_bo=61527](http://www.education.gouv.fr/pid25535/bulletin_officiel.html?cid_bo=61527)

<sup>106</sup> Interministerial Circular NOR: JUSF1602101C of 25 January 2016 concerning the mobilisation of State services by Departmental Councils concerning minors who are temporarily or permanently deprived of the protection of their families and individuals presenting as such (in French).

[http://www.textes.justice.gouv.fr/art\\_pix/JUSF1602101C.pdf](http://www.textes.justice.gouv.fr/art_pix/JUSF1602101C.pdf)

<sup>107</sup> Circular No. 2002-214 of 15 October 2002 concerning the conditions for enrolling foreign students in higher education establishments (in French).

<http://www.education.gouv.fr/botexte/bo021024/MENS0202443C.htm>

particular arrangements for educating children speaking other languages operate relatively well, although the realities vary greatly between the regions. The mechanism is, nonetheless, fragile and subject to intense pressure due to the increased size of the groups in question". It highlights the **diversity of practices concerning the organisation of the reception of foreign-speaking children in the regions**, some academies have numerous establishments with a **UPE2A facility**, while others have far fewer.<sup>108</sup>

### Access to (support to) employment

**Q18a.** When unaccompanied minors have access to **employment**<sup>109</sup> following status determination, how are the following aspects dealt with?

#### - Access to vocational training

Unaccompanied minors over the age of 16 can follow vocational training. The interministerial Circular of 25 January 2016<sup>110</sup> stresses that vocational training for unaccompanied minors is one of the **measures of integration into French society**. The Circular specifies that courses which are completed **under an internship agreement** for which the intern receives a bonus are open to unaccompanied minors "**without any restriction or particular precondition**".

However, access to vocational training as part of an **apprenticeship and vocational contract** requires a **work permit** due to the length and type of training anticipated in a company. The work permit must be **issued as of right to the unaccompanied minors until the age of 18**, without any prior examination of their situation by the Prefecture with regard to their residence rights, as long as they can present the apprenticeship or vocational contract in support of their application and the ASE placement order or any document from the Departmental Council justifying that they are within ASE care.<sup>111</sup>

With the young person's agreement, **guidance towards vocational training** in an apprenticeship centre (CFA) or vocational training centre (CFP) is often encouraged, in order to **support them towards independence and encourage their integration into society**. The Senate report<sup>112</sup> stresses that, for the vast majority of unaccompanied minors who are in education and over the age of 16, as they approach the age of 18, the need to hold a residence permit means that their **training quickly takes on a 'vocational' angle**.

Several organisations responsible for supporting unaccompanied minors, such as the FDA NGO,<sup>113</sup> have **created a network** with employers or developed partnerships with local companies in order to encourage the employment of unaccompanied minors with a CAP.

### b. Implications of unaccompanied minors' transition from the age of minority to 18 years of age for their access to employment

An **access to independence plan** must be drafted at the age of 17 by the departement and agreements must be concluded between the relevant institutions to encourage unaccompanied minors' autonomy and integration, as is the case for any young person leaving ASE care in terms

<sup>108</sup> Opinion presented in the name of the Committee on Cultural Affairs and Education on the draft finance law for 2018, volume II, School teaching, by Ms Anne-Christine Lang and Mr Bertrand Sorre, 12 October 2017 (in French). <http://www.assemblee-nationale.fr/15/budget/plf2018/a0274-tII.asp>

<sup>109</sup> Note that this does not apply to unaccompanied minors who are still in full-time education.

<sup>110</sup> Interministerial Circular NOR: JUSF1602101C of 25 January 2016 concerning the mobilisation of State services by Departmental Councils concerning minors who are temporarily or permanently deprived of the protection of their families and individuals presenting as such (in French). [http://www.textes.justice.gouv.fr/art\\_pix/JUSF1602101C.pdf](http://www.textes.justice.gouv.fr/art_pix/JUSF1602101C.pdf)

<sup>111</sup> Order No. 407355 by the Interim Judge of the Council of State of 15 February 2017 (in French). <https://www.legifrance.gouv.fr/affichJuriAdmin.do?idTexte=CETATEXT000034056274>

<sup>112</sup> French Senate, Mineurs non accompagnés: répondre à l'urgence qui s'installe, *op. cit.*

<sup>113</sup> Interview carried out with representatives of the Directorate for Foreign Isolated Minors, France Terre d'Asile (FTDA), December 2017.

of training, employment, healthcare and housing, under application of the Law of 14 March 2016 on child welfare.<sup>114</sup>

### ASE care may be extended to the age of 21: the “young adults contract”

French child welfare legislation states that young adults who are need may receive an **extension of ASE support** up to the maximum age of 21 This arrangement may give rise to **payment of an allowance and personal support towards employment**. It is based on Article L. 222-5 of the CASF which states that “*emancipated minors and adults under the age of 21 who are experiencing difficulties with social integration due to lack of resources or sufficient family support may also be temporary cared for by the service responsible for ASE*”.

The “young adult contract”, **concluded between the young adult and** the ASE includes financial support and can be combined with accommodation, legal support and educational and/or psychological support. The aim of the contract is, ultimately, to enable the young person to live autonomously. The Senate report<sup>115</sup> gives **the example of the Departement of La Mayenne**, which has established **a partnership system between the Departmental Council and the State**. The Departmental Council covers the costs of employment support and day-to-day expenses of the young adult, while the State covers the costs of accommodation. This joint financing means that more contracts can be awarded.

In the Nord Departement, all young people within the care of the ASE are helped to prepare, from the age of 16, for their transition to adulthood, in order to be gradually supported towards their independence. In July 2017, the Departement set up the **entry into adulthood scheme (entrée dans la vie adulte, EVA)**, which replaced the “young adult contract” and aims to support the young person as they move towards **becoming autonomous and gradually increasing their responsibility up to the age of 21**. The young person signs a contract in which he or she sets out their social and professional integration plans and agrees to work towards them. The Departement provides support according to the young person’s degree of autonomy (support from a social worker, financial support, etc.).<sup>116</sup>

The Senate report<sup>117</sup> recalls that the young adult contract is not **restricted to unaccompanied minors**, although they are particularly likely to fulfil the criteria. It also stresses that this does not fall within the departement’s social obligations, and consequently, **each departement is free to set the number and conditions for access**. This arrangement is at the **discretion of the chair of the Departmental Council**, because no legislative or regulatory provisions make this care compulsory.

Extension of ASE care **is not the same as the right of residence**. Article L. 313-15 of the CESEDA states that the person must provide proof of “*having followed at least six months of training aimed at providing a vocational qualification*”. In an Order dated 26 June 2014, the Administrative Court of Appeal in Nantes<sup>118</sup> stated that the “the departement entering into a young adult contract does not imply that the Prefect is obliged to issue a residence permit”.

According to the Senate report,<sup>119</sup> no young adult who was formerly an unaccompanied minor can lay claim to a “young adult contract” as part of the training that they must follow to be admitted for regularisation, insofar as the young adult contract is designed as a **social welfare measure** and does not give rise to a vocational qualification or apprenticeship certificate. However, according to the same report, refusing residence to someone holding a “young adult contract” by the Prefectoral authority has the consequence of interrupting the young foreign adult’s integration and jeopardising the efforts, particularly the financial efforts, implemented by the departement.

<sup>114</sup> Law No. 2016-297 of 14 March 2016 on child welfare (in French).

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032205234&categorieLien=id>

<sup>115</sup> French Senate, Mineurs non accompagnés: répondre à l’urgence qui s’installe, *op. cit.*

<sup>116</sup> Interview carried out with a representative of the Department Council of the Nord Departement, February 2018.

<sup>117</sup> French Senate, Mineurs non accompagnés: répondre à l’urgence qui s’installe, *op. cit.*

<sup>118</sup> Administrative Court of Appeal of Nantes, 26 June 2014, No. 13NT03482.

<sup>119</sup> French Senate, Mineurs non accompagnés: répondre à l’urgence qui s’installe, *op. cit.*



On the basis of this observation, the report stresses the **risk for départements of slowing down the allocation of these contracts to former unaccompanied minors.**

The ODAS study highlights that although most départements offer accommodation or financial support to unaccompanied minors when they turn 18, the length of the young adult contract **tends to be shorter, given the increasing number of young people concerned and the need to free up places in the reception facilities** for newly-arrived minors.<sup>120</sup>

### c. Research on employment access for unaccompanied minors

The Senate report<sup>121</sup> analyses the **existing challenges around labour market integration**, particularly by presenting the “young adult contract” as well as the difficulties connected with obtaining an employment permit.

### Family reunification of unaccompanied minors<sup>122</sup>

#### Q19a. Possibilities for family reunification for unaccompanied minors<sup>123</sup>

Since the EMN study on “Family Reunification of Third-Country Nationals in France” there have been no changes in French legislation regarding the possibility of family re-unification of unaccompanied minors.

In terms of family reunification for a family member of a refugee, the French legal context states that a **minor refugee, beneficiary of subsidiary protection or stateless person**, if they are unmarried, may request to **benefit from their right to be joined by their first-degree direct ascendants**. France does not require that the minor be unaccompanied. Thus, a minor who lives in France with an adult sibling may be asked to be joined by their parents.

In addition, Article L. 752-2 of the CESEDA makes it compulsory to **take into account the best interest of an unaccompanied minor who has obtained protection under asylum or as a stateless person** in all decisions regarding them, particularly those concerning their placement and searching for members of their family. This same article also states that the legal representation of an unaccompanied minor must be assured and that searching for members of their family must begin “as soon as possible”. Article L. 741-4 of the CESEDA states that this research must be carried out by the administrative authority “as soon as possible” after the application for asylum and must always protect the best interest of the unaccompanied minor.

Thus, the draft law guaranteeing the right to asylum and improving control of migration flows, adopted by the Council of Ministers on 21 February 2018, includes provisions aiming to:

- facilitate the granting of a ten-year card to family members of minor refugees (girls who are victims of female genital mutilation)
- broaden the family group to the brothers and sisters of minors;
- broaden the possibilities of entry for residence of vulnerable persons, notably foreign nationals who have been the victims of domestic and family violence.<sup>124</sup>

<sup>120</sup> ODAS, Lettre de l’Odas – “Les modes d’accueil adaptés aux mineurs non accompagnés: Face à l’urgence, des départements innovent”, *op. cit.*

<sup>121</sup> French Senate, Mineurs non accompagnés: répondre à l’urgence qui s’installe, *op. cit.*

<sup>122</sup> French legislation distinguishes between “*regroupement familial*”, the family reunification mechanism which concerns the entry and residence of family members of a third-country national living legally in France, and “*réunification familiale*”, the family reunification mechanism which concerns the families of refugees, the beneficiaries of subsidiary protection and stateless persons.

<sup>123</sup> French point of contact for the European Migration Network “Family Reunification of Third-Country Nationals in France”, January 2017.

[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/10a\\_fance\\_family\\_reunification\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/10a_fance_family_reunification_final_en.pdf)

<sup>124</sup> French National Contact Point for the European Migration Network, Annual EMN report on migration and asylum in France for 2017, March 2018.

## **b. Implications of unaccompanied minors' transition from the age of minority to 18 years of age for their access to family reunification**

There is no cut-off of family reunification rights when the unaccompanied minor reaches 18 years of age, but they may no longer benefit from their right to be joined by their first-degree direct ascendants. Refugees, beneficiaries of subsidiary protection and stateless persons may request to be joined by:

- the **unmarried children of the couple aged not more than nineteen**,<sup>125</sup>
- their **civil partner**, if they are at least eighteen years old and if the civil partnership dates to before the request for protection (whether same sex or different sex);
- their **common-law partner**, if they are at least eighteen years old and a sufficiently stable and shared life together existed before the request for protection.

If they are adults and meet the required conditions,<sup>126</sup> they may exercise the right to family reunification.

- Are there any measures in place to support the unaccompanied minor before, during and after such a transition?

Not applicable.

## **c. Research on the effects of family reunification on the integration of unaccompanied minors**

Not available.

## ***Social welfare supporting unaccompanied minors***

### **Q20a. Access to social welfare and social assistance**

Once their age and unaccompanied status have been recognised, unaccompanied minors fall under the scope of common law on child welfare, which allows them to receive care (including accommodation) and socio-educational support until they reach the age of 18.

## **b. Implications of unaccompanied minors' transition from the age of minority to 18 years of age for their access to social welfare/assistance**

Once they turn 18, young people who have obtained a residence permit may receive social welfare assistance and social security.

## **c. Research on the effects of social welfare on the integration of unaccompanied minors, including those turning 18 years of age**

There is no research on this subject.

## ***Further monitoring of unaccompanied minors' transition to adulthood***

### **Q21. Other monitoring mechanisms/reviews/evaluations ensuring the effective transition of unaccompanied minors to adulthood**

<sup>125</sup> If these children are from a prior relationship, the age limit is set to eighteen.

<sup>126</sup> French National Contact Point for the European Migration Network "Family Reunification of Third-Country Nationals in France", January 2017.

Not applicable.

### **Consequences of a temporary residence permit on the integration of unaccompanied minors**

#### **Q22. Impact of the expiration of a temporary residence permit on the integration measures for unaccompanied minors**

While they are minors, unaccompanied minors are **not obliged to hold a residence permit**.

*Section 1 of this study sets out the conditions for unaccompanied minors turning 18 obtaining a residence permit.*

### **Challenges and good practices**

#### **Q23. The challenges associated with the integration of unaccompanied minors**

##### **Concerning access to care:**

- The difficulties encountered in the care of unaccompanied minors may be accentuated by **the absence of a legal representative**.
- Due to the often perilous migration routes they have taken, the health of unaccompanied minors when they arrive in France, both in physical and psychological terms, is often of concern and **requires urgent care**.

##### **Concerning education:**

- Pupils speaking other languages or those in ASE care encounter several obstacles, which are not necessarily specific to unaccompanied minors. **Delays** may occur during the **assessment process** (of language level and academic ability), and **during placement in an establishment**, notably due to the difficulty certain academies have managing flows.<sup>127</sup> The sometimes very long **delays** before an unaccompanied minor enters schooling may also be explained by the difficulties of finding a place in a school establishment during the school year.<sup>128</sup>

##### **Concerning vocational training:**

Depending on the local context, it may sometimes be difficult to **obtain a work permit**.<sup>129</sup> The services of the Minister responsible for immigration should remind all competent services that unaccompanied minors are entitled to obtain a work permit.

##### **Concerning unaccompanied minors:**

- **The age of the unaccompanied minors taken into care by the child welfare services (ASE), the majority of which are between 15 and 16 years old**, means there is a **very short timescale** for establishing an

<sup>127</sup> Opinion presented in the name of the Committee on Cultural Affairs and Education on the draft finance law for 2018, volume II, School teaching, *op. cit.*

<sup>128</sup> France Terre d'Asile, L'accueil et la prise en charge des mineurs isolés en France, L'essentiel No.1, *op cit.*

<sup>129</sup> ODAS

), Lettre de l'Odas – "Les modes d'accueil adaptés aux mineurs non accompagnés: Face à l'urgence, des départements innovent", *op. cit.*

educational, academic, professional and administrative procedure. It also leaves little time to constitute an application for the young adults contract.<sup>130</sup>

- The actors responsible for supporting these young people report **a certain number of changes in unaccompanied minors** and are sometimes confronted with **new challenges**. In the context of the constant rise in the number of unaccompanied minors arriving in France, leading to longer delays in protection and assessment before being taken into the care of the ASE, some actors report a **deterioration in the condition of these unaccompanied minors**, both in physical and psychological terms, with increasingly serious pathologies. This situation is explained both by the migration routes they have taken, which are often perilous, and by the challenges connected with the saturation of accommodation facilities (long waiting period and individual hostel accommodation). From an academic point of view, the professionals responsible for receiving and supporting unaccompanied minors find themselves dealing with young people who are often de-socialised, who have spent time not in education and who are no longer used to being managed by adults.<sup>131</sup> In addition, several departments which were questioned reported certain changes connected with the behaviour of the young people and the significant work needed **to provide information to and manage** certain young people. They may have arrived with an idealistic vision of the country, sometimes accompanied with certain material expectations, which often involves deconstructing the messages that the traffickers have given them.<sup>132</sup>
- The challenges relating to the integration of unaccompanied minors **differ according to their profile, the age at which they arrived in France, and their ability in French**. Social and professional integration plays an important role in the decision to issue a residence permit, and unaccompanied minors often feel **significant pressure** to learn French quickly to then be able to be directed towards training.<sup>133</sup>

#### **In terms of receiving a residence permit at the age of 18**

- The question of the regularity of residence and obtaining a residence permit when they turn 18 is a **major challenge** identified by all actors responsible for supporting this group. The challenges are even bigger for young people in ASE care who are **close to turning 18**, who need to take certain steps within a short timescale. The **reason for and length of the residence permit issued** also have an impact on the fragility of the process and on labour market integration.<sup>134</sup>

#### **Q24. Examples of good practice concerning the integration of unaccompanied minors**

- **Anticipating the application for a residence permit before turning 18 and establishing partnerships with the Prefectures:**

Several departments have developed partnerships with the Prefecture in order to anticipate and facilitate young peoples' applications for a residence permit: creation of an on-line application for residence permits.<sup>135</sup>

**A protocol has been concluded between the Prefecture of Police and the City of Paris** concerning the protection of foreign unaccompanied minors and young adults in ASE care. It

<sup>130</sup> Interview with representatives of the ASE in the Department of Paris and the City of Paris, January 2018.

<sup>131</sup> Questionnaire completed by Apprentis d'Auteuil, February, 2018.

<sup>132</sup> Questionnaires completed by the Departmental Councils of Meurthe-et-Moselle and Vienne, January 2018.

<sup>133</sup> Questionnaire completed by Apprentis d'Auteuil, February, 2018.

<sup>134</sup> Interview with representatives of the ASE in the Department of Paris and the City of Paris, January 2018.

<sup>135</sup> Questionnaires completed by the Departmental Council of Meurthe-et-Moselle, January 2018.

defines the connections between the local authority and the Prefecture of Police, in order to **facilitate the processing and monitoring of applications for residence permits** by young people in ASE care in Paris and to **anticipate their transition to adulthood by encouraging their social and professional integration**. In order to enable the Prefecture to make a ruling as soon as the person turns 18, it is possible for young people in ASE care in Paris to submit their applications for a residence permit six months in advance.<sup>136</sup>

- **Transition to adulthood:**

Several départements have developed projects aiming to support unaccompanied minors as they transition to adulthood. For example, a **dedicated hub** within the Departmental Council service association in Maine-et-Loire supports those close to the age of 18 **with specific guidance focussing on autonomy, integration and qualifications**.<sup>137</sup> A partnership focussing on seeking solutions with a view to entering care and accommodation has been developed between the Departmental Council of Meurthe-et-Moselle and the Department Directorate for Social Cohesion in order to organise the exit from ASE care of young people when they reach the age of 18.<sup>138</sup>

- **Creation of partnerships:**

Several départements work in partnership with the regional health authority (*Agence Régionale de Santé*, ARS), notably with a view to the preventative medicine centre establishing a systematic health assessment. Some have also concluded agreements in partnership with hospital establishments.

- **Initiatives on the academic level:**

Faced with the challenges mentioned above in terms of the education of unaccompanied minors, local initiatives have been developed. For example, the Departmental Council of Meuse-et-Moselle, in partnership with the Departmental services of the national education system, have established an **experimental mechanism** entitled the Temporary Teaching Space for Pupils Speaking Other Languages (*Espace Temporaire d'Accueil Pédagogique pour Élèves Allophones*, ETAPEA)<sup>139</sup>, the aim of which is to offer **teaching which is open to willing unaccompanied minors** within ASE care. The teaching given is **temporary** while awaiting the results of the investigations on age and unaccompanied status or while awaiting placement in a school establishment. The length of time a minor attends this facility may not exceed one year. It is located within Departmental Council premises. Teaching is provided by a **specialist teacher from the national education system** who is made available by the Departmental Council of Meurthe-et-Moselle. Three categories of unaccompanied minors are received in this teaching section: **unaccompanied minors under the age of 16 who were not previously in education** whose age and unaccompanied status have been confirmed; **young foreigners waiting for a definitive assessment** of their age and unaccompanied status; **unaccompanied minors over the age of 16 who are eligible for education but have not been placed** in a school establishment and whose age and unaccompanied status have been confirmed.

- **Presentation of the route to success by the NGO France Terre d'Asile:**<sup>140</sup>

The NGO prepared a brochure containing statements from former unaccompanied minors that it has supported. This brochure presents success stories from these young people in France, describing the obstacles they faced when they arrived, how they integrated and what became of them (profession, obtaining French nationality, etc.).

- **Local sponsorship:**

<sup>136</sup> Interview with representatives of the ASE in the Département of Paris and the City of Paris, January 2018.

<sup>137</sup> Questionnaires completed by the Departmental Council of Meurthe-et-Moselle, February 2018.

<sup>138</sup> Questionnaires completed by the Departmental Council of Meurthe-et-Moselle, January 2018.

<sup>139</sup> Questionnaires completed by the Departmental Council of Meurthe-et-Moselle, February 2018.

<sup>140</sup> France Terre d'Asile, Ancien(ne) mineur(e) isolé(e) étranger(e), Que sont-ils devenus? January 2018.

<http://www.france-terre-asile.org/stories/publications/horscollection/Que%20sont-ils%20devenus%20planches.pdf>

A study by the NGO France Parrainages<sup>141</sup> on the care of unaccompanied minors stressed the **value of local sponsorships for unaccompanied minors**, based on the voluntary engagement of sponsors. In recent years, the NGO France Parrainages has seen a rise in requests for sponsorship of unaccompanied minors. Alongside the care provided by the Departmental services of the ASE, more than 50 young people were supported by the NGO through local sponsorship, and this figure is constantly rising. Based on evidence from former unaccompanied minors and sponsors, the study presents **local sponsorship as a factor promoting labour market integration** through support with education, career guidance and vocational integration of the young people. It is also a **factor of social integration** contributing to a better understanding of the language and French culture, as well as social codes, while supporting the young people in their administrative procedures.

- **Actions established as part of the European funds:**

Several projects, coordinated by the Directorate for Reception, Foreigner Assistance and Citizenship (*Direction de l'accueil, de l'accompagnement des étrangers et de la nationalité*),<sup>142</sup> on the basis of calls for projects jointly funded by the Asylum, Migration and Integration fund (AMIF) were presented by the Department Councils. Although there are no specific actions targeting unaccompanied minors as part of the AMIF calls to project and national credits, to date the DAAEN has selected from the AMIF credits, two applications presented by the Departmental Councils, exclusively taking into account language learning and social and professional support, and not the accommodation of unaccompanied minors and young adults.

- **The integrated approach to the reception of unaccompanied minors in Hérault, a project led by the Departmental Council of Hérault:** this project aims to support and develop activities led by the UTOA NGO (*Un Tout Où Apprendre*), a local facility entirely dedicated to this group, dealing with both unaccompanied minors and young adults. The project meets France's national AMIF objective 2 on integration, and 2.1 on the "Integration of third-country nationals and legal migration" It concerns several aspects of the integration of young people, particularly their accommodation and primary needs (healthcare, food, clothing), educational support, French language teaching, social integration, and the constitution of identity documents and administrative regularisation.
- **The Reception Mechanism for Unaccompanied Foreign Minors, Ain (DDAMIE 01) - Integration of Unaccompanied Foreign Minors towards education and labour market integration, a project led by the Sauvegarde de l'Enfant à l'Adulte 01 NGO:** the project falls within the scope of the AMIF national programme objective "Integration/Legal Migration" - "Integration" and covers support measures for tailor-made support and individualised care for vulnerable people. The aim is to enable the accommodation, reception and provision of appropriate integration support of unaccompanied minors aged between 16 and 18 in the Department of Ain. In particular, it aims to strengthen the integration of unaccompanied minors cared for within the DDAMIE through **support around education and labour market integration**.

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<sup>141</sup> France Parrainages, Étude sur les apports du parrainage pour les mineurs non accompagnés, Regards croisés MNA/Parrains-Marraines, September 2017.  
<https://www.france-parrainages.org/documents/47>

<sup>142</sup> Within the Directorate for Foreigners in France (*Direction générale des étrangers en France*, DGEF) in the Ministry of the Interior.

## Section 4: Return of unaccompanied minors

*This section presents return arrangements for unaccompanied minors as stipulated in Directive 2008/115/EC (Article 10 on return and removal of unaccompanied minors and Article 17 on detention of unaccompanied minors and families).<sup>143</sup> It is important to stress that unaccompanied minors in France cannot be removed.*

### Overview of the return procedure and its legal and organisation set-up in France

#### Q25a. Does France foresee the return of unaccompanied minors?

No, France does not foresee the forced return of unaccompanied minors. Article L. 511-4 1° of CESEDA states that **foreign minors aged 18** may not be the subject of an Obligation to Leave French Territory (*Obligation de Quitter le Territoire Français*, OQTF).

It is not possible for the relevant authorities to declare as irregular the residence of unaccompanied minors who are apprehended or identified by the relevant authorities. This means that it is **impossible to remove them from the country** (Article L. 511-4 of CESEDA). From a legal perspective, therefore, unaccompanied minors are regularly in the country.<sup>144</sup>

However, **the voluntary return of an unaccompanied minors** is not excluded. **The best interest of the child** is, in this specific framework, assessed by the Children's Judge with the Departmental Council which has guardianship of the child. Where necessary, guardianship is lifted to authorise the return of the minor to his or her family.

For this type of return, assisted return and reintegration are not applicable to unaccompanied minors. However, in the context of **family reunification decided by a judge** OFII contributes to **support with consular procedures with a view to obtaining a travel tickets without a valid passport and covering the costs of air travel**.<sup>145</sup>

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

- Through **voluntary return**

It is not possible for the relevant authorities to declare as irregular the residence of unaccompanied minors who are apprehended or identified by the relevant authorities. This means that it is **impossible to remove them from the country**. However, **the voluntary return of an unaccompanied minors** is possible through a **specific mechanism** which is more detailed below.

- Through **assisted voluntary return**

Because assisted return and reintegration measures are not applicable to unaccompanied minors, return to the country of origin of unaccompanied minors falls within **a specific mechanism** managed directly by the Directorate for Immigration, Return, Reintegration and International Affairs (DIRRI) of OFII, which is responsible for organising the return of migrants, monitored by

<sup>143</sup> Directive 2008/115/EC of the European Parliament and Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:en.PDF>

<sup>144</sup> French National Contact Point of the European Migration Network, Policies, Practices and Data on Accompanied Minors in 2014, November 2014. [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/unaccompanied-minors/10a\\_france\\_uams\\_study\\_english\\_version\\_final.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/10a_france_uams_study_english_version_final.pdf)

<sup>145</sup> Interview carried out with representatives of the Directorate for Immigration, Return, Reintegration and International Affairs (*Direction de l'immigration, du retour, de la réinsertion et de l'international*, DIRRI) within the French Office for Immigration and Integration (*Office français de l'immigration et de l'intégration*, OFII), December 2017.

the ASE, **within the context of family reunification**. It is upon the decision of the guardian of the minor (Children’s Judge, Family Affairs Judge) that OFII is entrusted with the organisation of the minor’s travel, including help with obtaining travel documents. Unaccompanied minors do not receive financial support on the day of their departure.

In 2016, the DIRRI organised the return of 12 minors. These cases concerned young people between the ages of 14 and 17 years old of Albanian and Afghan nationality.<sup>146</sup>

Nevertheless, in the context of examining the situation of unaccompanied minors and their potential return to their country of origin, the challenges identified were:

- implementation of family research
- definition of the return plan
- acceptance of voluntary return.

- Through **forced return**

No, France does not foresee the forced return of unaccompanied minors.

**b.** The procedure in place to determine the **best interests of the child** once a negative decision has been reached.

France does not remove unaccompanied minors, except when they volunteer to return to their country of origin or to members of their family or a person exercising guardianship over them. The best interest of the child is, within this specific context, assessed by the Children’s Judge in connection with the Departmental Council which has guardianship of the child.

#### Q26. Authorities responsible for the return of unaccompanied minors

| Competent authority          | Description   | Main activities and responsibilities   |
|------------------------------|---|--|
| <b>Children’s Judge</b>      | Evaluating the best interests of the child  | Lifting guardianship with regards to the best interest of the child.   |
| <b>Departmental Councils</b> | Defining the return plan with the child on a voluntary basis.<br>Initiating research into establishing family relationships.<br>Requesting the judge to lift guardianship | Care for the minor.<br>Child welfare services ( <i>Aide sociale à l’enfance</i> )  |
| <b>OFII</b>                  | Logistical organisation of return   | Establishing contacts with the family with a view to preparing the return.<br>Information from consular authorities.<br>Where necessary, obtaining necessary travel documents.<br>Logistical preparation of return |

<sup>146</sup>OFPPRA, Rapport d’activité 2016 (in French).  
[http://www.ofii.fr/IMG/pdf/OFII\\_RA\\_2016\\_PAGES.pdf](http://www.ofii.fr/IMG/pdf/OFII_RA_2016_PAGES.pdf)



**Enforcement of return decisions and key arrangements pre / during / post departure**

**Q27.**

Not applicable.

**Q28.**

Not applicable.

**Q29a.**

Not applicable.

**b.**

Not applicable.

**c.**

Not applicable.

**d.**

Not applicable.

**e.**

Not applicable.

**f.**

Not applicable.

**Q30a. Reintegration assistance**

- Through **voluntary return**?

Not applicable.

- Through **assisted voluntary return**?

Yes. France is piloting an **experiment with several Member States to encourage the return and reintegration of unaccompanied minors to their countries of origin.**

France co-ordinates European action to target unaccompanied minors wishing to return to their countries of origin to implement a social and professional reintegration project. This project was **approved at the end of 2014 by the European Commission under the Asylum, Migration and Integration Fund (AMIF) - return section, and was approved by the national programming committee in 2016.** A launch seminar was held in June 2016, with interested Member States (Belgium, Spain, Greece and Italy) in order to more precisely identify the outlines of this project.

As part of implementing this specific action, partner Member States met in a pilot committee on 7 February 2018. In addition, a new Member State (Netherlands) communicated its interest in joining the action and the legal and financial provisions connected notably with awarding a contract are currently being considered.

The specific action aims to promote voluntary return of a few unaccompanied minors (to their family and if it is in their interest or to an appropriate structure) and prevent departures to Europe, with the aim of developing an integrated and comprehensive approach to the phenomenon of unaccompanied minors, both in the host country and the country of origin. Thus, this project is broken down into **several sections**:

- **preventive work through information and awareness raising campaigns of the dangers of irregular immigration and the possibilities of legal migration**, targeting minors in the selected countries of origin;

- **action to promote the reintegration of unaccompanied minors in their country of origin**, through work to rebuild the family unit as well as addressing education and vocational training;

- **a feasibility study on a partnership with existing structures in selected countries of origin**, recognised for their work with young populations in situations of social vulnerability/difficulties, so that the minors in these groups find the necessary care when family reunification is impossible. In a second phase and depending on the results of the feasibility study, this partnership may be implemented.

The specific action will end on 31 December 2022.

- Through **forced return**?

Not applicable.

### **Monitoring mechanisms in place in France to ensure the effective reintegration of unaccompanied minors**

Not applicable at this stage.

### **Alternatives to return**

#### **Q31.**

*This point is covered in Section 1 of this study (Q4).*

### **Dealing with unaccompanied minors who cannot be immediately returned**

#### **Q32a.**

Unaccompanied minors cannot be removed. They have a right of residence until they reach the age of 18. **See Q4.**

As part of the care provided by ASE, the ASE has the remit of providing material support (notably accommodation), educational and psychological support to minors, pursuant to Article L. 221-1 para. 1 1° of the Code on Social Action and Families.

#### **b.**

Not applicable.

c.

Not applicable.

### *Challenges and good practices*

#### **Q33. The challenges associated with the return of unaccompanied minors**

- **Standardising the assessment of age and unaccompanied status;**
- **Implementation of voluntary return;**
- **Implementation of family research;**
- **Awareness raising with national authorities in countries of origin to prevent irregular immigration and facilitate return;**
- **Co-ordination between Member States to avoid secondary flows.**

#### **Q34. Examples of good practice concerning the return of unaccompanied minors**

- France has launched **co-operative work with Albania aiming to prevent the departure of unaccompanied minors** notably by strengthening the control regime for minors exiting Albania, accelerating the procedures for responding to requests for information from the French authorities, and issuing an alert in the event of the return of an adult re-entering alone or when minors exceed the length of their visa.
- **The Sandhurst Treaty signed between France and United Kingdom**  
The British Prime Minister Theresa May and the French President Emmanuel Macron signed the Sandhurst Treaty on 18th January 2018 concerning the **reinforcement of cooperation for the coordinated management of their shared border**. The Sandhurst Treaty is an addition to the Touquet agreement formalising the increased commitment of the British authorities for the transfer of unaccompanied minors and vulnerable people **within the framework of the Dublin Regulation or the Dubs Amendment within the scope of British law**. It aims to increase the efficiency of **transfer procedures of unaccompanied minors with family links in the UK**. The British authorities committed to host unaccompanied minors more quickly than before (decision within 15 days of the transfer requests of unaccompanied minors under Dublin Regulation) and vulnerable people arrived in Europe before the 18th January 2018 (commitment of the British authorities although it is not mentioned in the Treaty).  
The Sandhurst Treaty also aims at further strengthening security measures in and around transport infrastructures (Eurotunnel site and ports), cooperation in the fight against networks of migrants smugglers, removal of third-country nationals irregularly-staying and joint actions on migratory flows.

## Section 5: Disappearances of unaccompanied minors

This section analyses the case of the disappearance of unaccompanied minors from care facilities as well as the reasons pushing these young people to disappear.

### Q35.

It emerged from all the interviews carried out as part of this study that cases of disappearances are **rare once the unaccompanied minor is in care**. This phenomenon occurs principally in **shelter facilities** before the young person has been assessed. Once in the care of the ASE, unaccompanied minors tend to remain within the system. Several departments stressed the strong desire among these young people to integrate.

However, no precise data has been collected on the national scale on disappearances.

### Q36.

Several **reasons** may explain why unaccompanied minors disappear, depending on the different phases, from entering protection through to care under the ASE.

Cases of disappearances have primarily been observed during **the shelter phase**. One of the main reasons for this phenomenon is connected to the **young person's migration plans**. Some unaccompanied minors are **in transit** and pass through France with a view to reaching other EU countries, in particular the United Kingdom.<sup>147</sup>

Some unaccompanied minors abscond **before being taken into care** either because they do not wish to go to the department to which they have been allocated - they then try to go to another department - or because the wait was too long between the start of the assessment and the refusal decision or refusal of ASE care. These young people can sometimes be found at a later stage in another department.<sup>148</sup>

Some young people want to **"try their chances elsewhere"** (in Paris, for example, with the hope of a better future and finding work more easily). Faced with a particularly important nomadism and the lack of authentic identity documents, it is very difficult to find them again if they do disappear.<sup>149</sup>

Sometimes **particularly marginalised young people** disappear because they reject any constraints regarding educational support. Others, often **young girls involved in prostitution networks**, disappear after a few days.<sup>150</sup>

### Q37.

Not applicable.

### - Report and respond to disappearances of unaccompanied minors from care facilities

In the event of disappearance from a care facility, **a process of declaring a disappearance** is launched with the police and the ASE. This procedure is the same for any minor in ASE care (common law procedure).

### Q38.

Not applicable (*see Section 4 on return*).

<sup>147</sup> Interviews and questionnaires conducted with representatives of ASE and the City of Paris, the FTDA, the Departmental Council of Gironde, January-February 2018.

<sup>148</sup> Interview carried out with representatives of the MMNA, DPJJ, Ministry of Justice, January 2018.

<sup>149</sup> Questionnaire completed by the Departmental Council of Meurthe-et-Moselle, February 2018.

<sup>150</sup> Questionnaire completed by the Departmental Council of Seine-Saint-Denis, February 2018.

**Q39. The challenges associated with the disappearance of unaccompanied minors**

See Q36.

**Q40. Examples of good practice concerning the issue of disappearances of unaccompanied minors**

Not applicable.

## Conclusions

The significant rise in recent years of the number of unaccompanied minors arriving in France has had a significant impact on the measures and financial costs, in particular for the départements which are responsible for the care of these young people under the ASE. Due to this rise, the départements have faced a **number of challenges** over several months, both in terms of **financial costs** and the **saturation of reception and accommodation facilities**. Some départements have thus established new forms of accommodation, training and support to better care for these minors who have very different profiles from other young people in the child welfare system.

As part of their ASE care, unaccompanied minors receive **social, educational and legal support until they reach the age of 18**. The majority of young people arriving in France are **aged between 16 and 18**, which shortens the duration of support and leaves little time for administrative procedures with a view to obtaining a residence permit before turning 18 and having access to employment. Mechanisms such as the “young adult contract” have been developed to support young people towards leaving the care system and acquiring autonomy. This mechanism is, however, different depending on the département and the length of the young adult contract tends to be shorter due to the growing number of young people concerned and the need to free up places in reception facilities for newly-arrived minors.

Different local initiatives have also been established to **encourage the integration of unaccompanied minors and young adults** including measures in terms of access to care, education and vocational training.

However, the specificity of certain profiles and the challenges relating to the growing number of these minors means the current provisions need to be reviewed and adapted.

The situation of unaccompanied minors is, therefore, **a major Government concern and a priority for action**, as laid out in the Government announcements in July 2017. During the monitoring committee on unaccompanied minors of 15 September 2017, the Minister of Justice and the Minister of Solidarity and Health presented the broad outline of this action plan: the evaluation and protection phase, restrictions on age re-assessments, the fight against trafficking in migrants and trafficking networks, the quality of care of minors and the arrangements for leaving the child welfare services. Discussions under way to develop an action plan have given rise to consultation with relevant actors. This mainly involves providing support to the départements facing an influx of unaccompanied minors, while improving the care of unaccompanied minors and respecting their rights.

Upon the Prime Minister’s request, **a bipartite mission on the issue of unaccompanied minors**<sup>151</sup> drafted a report, recommending a **reform of the current mechanism for sheltering and assessing young people presenting as unaccompanied minors**. The report was submitted on 15 February 2018. On this basis, work is under way with the départements to define new ways of assessing and protecting people presenting as minors, as well as the conditions for funding them.

Implementation of new procedures is therefore expected in the coming months.

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<sup>151</sup> General Inspectorate for the Administration (*Inspection générale de l’administration*, IGA), General Inspectorate for Social Affairs (*Inspection générale des affaires sociales*, IGAS), General Inspectorate for Justice (*Inspection générale de la justice*, IGJ) and the Assembly of the French Départements (*Assemblée des départements de France*, ADF).

## APPENDICES

### APPENDIX 1: STATISTICS

**Q41.**

*See the Excel table*

## Appendix 2: List of persons interviewed or who contributed to this Study

*The interviews and questionnaires were carried out between December 2017 and February 2018 by Christelle Caporali-Petit (manager of the French EMN Point of Contact), Anne-Cécile Jarasse and Tamara Buschek-Chauvel (responsible for missions within EMN) and Olivia Camus (EMN intern).*

### 1) List of interviews conducted

#### City of Paris

- Nour Cressia, Cabinet Director for Ms Dominique Versini, deputy mayor of Paris responsible for solidarity, combating exclusion, reception of refugees and child welfare
- Julie Bastide, Advisor to the Paris city hall

#### **The ASE office of the Departement of Paris, sub-Directorate for Families and Education, Directorate for Social Action, Childhood and Health**

- Eugénie Hammel, Head of the ASE for the Departement of Paris
- Andrès Cardenas, Manager of the educational sector for unaccompanied minors (*sector éducatif des mineurs non accompagnés, SEMNA*)

#### **Nord Departmental Council**

- Isabelle Ivanoff, Manager of the Youth and Unaccompanied Minors Prevention Hub, Directorate for Childhood, Family and Youth

#### **General Directorate for Social Cohesion (*Direction générale de la cohésion sociale, DGCS*)**

- Sandrine Miclon-Hautbois, Manager of the child welfare and adolescence office, Political-Social and Medical-Social Service
- Catherine Briand, Deputy manager of the child welfare and adolescence office, Political-Social and Medical-Social Services

#### **France Terre d'Asile**

- Serge Durand, Director of the Directorate for the Protection of Unaccompanied Foreign Minors
- Jean-René Galaverna, Mission head within the Directorate for the Protection of Unaccompanied Foreign Minors

#### **Ministry of Justice, Directorate for the Judicial Protection of Young People (*Direction de la protection judiciaire de la jeunesse*)**

- Sylvie Vella, Head of the Mission for Unaccompanied Minors (*Mission mineurs non accompagnés, MMNA*), Sub-Directorate for Missions on Legal Protection and Education
- Marie-Pierre Penaud, Policy Officer in the Mission for Unaccompanied Minors (*Mission mineurs non accompagnés, MMNA*), Sub-Directorate for Missions on Legal Protection and Education

#### **French Office for Immigration and Integration (*Office français de l'immigration et de l'intégration*)**

- Ingrid Normand, Director of Immigration, Return, Reintegration and International Affairs
- Muriel Data, Return manager

### 2) List of questionnaires completed and contributions received

#### **Apprentis d'Auteuil**

- Hélène Jevdjenijevic, Project leader for the unaccompanied minors project, Directorate for Educational Resources, Research and Business Support

#### **Gironde Departmental Council**



- Claude Cayzac, Director of the Directorate for Child Welfare and Family Affairs

#### **Maine-et-Loire Departmental Council**

- Vladia Charcellay, Director of the Children and Family Affairs Directorate

#### **Meurthe-et-Moselle Departmental Council**

- Frédéric Otrante, Director for Children and Family Affairs
- Franck JANIAUT, Head of the Unaccompanied Minors - Young Adults Department

#### **Seine-et-Marne Departmental Council**

- Carole Vitaly, Director of the Children, Adolescents and Family Affairs Directorate
- Pauline Berdugo, Head of the Unaccompanied Minors Department, Directorate for Children, Adolescents and Family Affairs.

#### **Seine-Saint-Denis Departmental Council**

- Yamina Zimini, Deputy Head of ASE Department

#### **Val d'Oise Departmental Council**

- Jean-Michel Lecoq, Director of the Directorate for Children, Health and Family Affairs
- Karine Poupee, Head of the Child Welfare Department

#### **Vienne Departmental Council**

- Frédéric Pierre, Director of the Directorate for Children and Family Affairs
- Anne-Emmanuelle Herault, Unaccompanied Minors Hub, Directorate for Children and Family Affairs

#### **General Directorate for Foreigners in France (*Direction générale des étrangers en France, DGEF*) within the Ministry of the Interior, Directorate for Reception, Foreigner Assistance and Citizenship (*Direction de l'accueil, de l'accompagnement des étrangers et de la nationalité*)**

- Elodie Raingeval, Policy Officer for European and International Affairs
- Myriam Bouzouira, European Funds Policy Officer, Resources and Analysis Office, Sub-Directorate for Reception and Foreigner Assistance

#### **General Directorate for Foreigners in France (*Direction générale des étrangers en France, DGEF*) within the Ministry of the Interior, Sub-Directorate to Combat Irregular Immigration**

- Vincent Naturel, Head of the Office for Forecasting and Support
- Lucie Boulanger, Deputy Head of the Office for Forecasting and Support

#### **General Directorate for Foreigners in France (*Direction générale des étrangers en France, DGEF*) within the Ministry of the Interior, Sub-Directorate on Residence and Employment**

- Christophe Marot, Sub-Director
- Hélène Croze, Head of the Family Immigration Office
- Camille Vanypre, Head of the Legal Monitoring, Expertise and Legal Support Section
- Diego Jimenez, Policy Office on the Rights of Foreigners

#### **General Directorate for Foreigners in France (*Direction générale des étrangers en France, DGEF*) within the Ministry of the Interior, Directorate for Asylum, Department of events and funding asylum policy**

- Estelle Crawford, Policy Officer, Coordination of one-stop shops
- Vianney Turbat, Inspector of asylum policy management

**General Directorate for Foreigners in France (*Direction générale des étrangers en France, DGEF*) within the Ministry of the Interior, Directorate for Asylum, Department on the Right to Asylum and Protection**

- Séverine Origny Fleishman, Deputy Head of Department

**French Office for the Protection of Refugees and Stateless Persons (*Office français de protection des réfugiés et apatrides, OFPRA*)**

- Frédérique Vallernaud and Laura Mandret, Statistics policy officers, Cabinet - Research and Statistics

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#### **b) European Directives**

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