

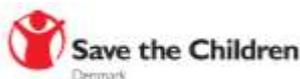
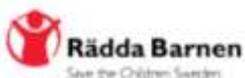


Closing a Protection Gap

“To be honest, I don’t care who is my guardian, I just wish my guardian is somebody who will give me the little help I need.”

National Report
2010-2011

Slovene Philanthropy
Živa Gabaj



DEFENCE FOR CHILDREN
International

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1. Acknowledgement

We would like to thank all those who have made this study possible: (former) separated children, guardians and experts working with separated children. Individuals deserve thanks for drawing up the detailed experiences and insights, thoughts and ideas upon which this study is based. A special thanks goes out to them for their time, trust and knowledge they have given and shared, especially to the interviewed (former) separated children who were willing to share their stories that are often painful in telling. Without their cooperation there would be no story to tell and this report would not exist.

We especially want to thank the EU DAPHNE III programme and the Slovene Ministry of the Interior for their financial support. Through this support we have been able to explore, for the first time in Slovenia, a mapping of the situation of guardians of separated children. A small step to close the protection gap for separated children in Europe has been taken. The enforcement of the good practices and recommendations in practice after this publication is essential to close the protection gap completely.

The author takes full responsibility for any errors or omissions made in the information and analysis provided.

2. Introduction

Separated children have the right to a guardian who will protect their rights and best interests. Not only do separated children have to live in a country they do not know without their parents but, in some countries, they also run the risk of being detained because of their residence status or run the risk of being exploited by traffickers. These children have the right to a guardian who will protect their rights and best interests. The type of protection and care a separated child receives from a guardian depends upon the country which he/she has (often randomly) entered. The current differences in the level of protection separated children receive in European countries is not acceptable. All European countries have signed the Convention on the Rights of the Child (CRC) and have the obligation to take into account the special needs of separated children. Proper guardianship systems are also essential to assist in finding the right solution for separated children, whether that be return to their country of origin, transfer to another country (for example for family reunification) or integration into the host country. The aim of this project is not to change the systems in the different European countries but to harmonize the protection separated children receive from their guardian.

The mission of this project is to improve the situation and development chances of separated children by means of: *closing a protection gap for separated children in Europe by developing core standards with a focus on qualifications of guardians based on the views*

of separated children in relation to their rights according to the Convention on the Rights of the Child and EU directives.

The mission of this report coincides with the communication from the European Commission to the European Parliament concerning the Action Plan 2010-2014 for unaccompanied minors where the Commission states to consider:

*“Introducing review mechanisms to monitor the quality of guardianship in order to ensure that the best interests of the child are represented throughout the decision-making process and, in particular, to prevent abuse”.*¹

This project will provide an instrument to improve the qualifications of a guardian to take the special needs and rights of separated children into account. Separated children in Europe should get the guardian they are entitled to irrespective of the EU country they entered. The assumption is that when all guardians have sufficient qualifications to work in the best interest of the child the level of protection children receive in the different European countries will harmonize.

Sub goals of this project are:

- To assist guardians in finding the right solution for the child.
- Boost a European Community policy and harmonization of guardianship in practice.
- Strengthen the attention to the Convention on the Rights of the Child.

The core standards are based on the participation of separated children and focus on the rights of the children according to the Convention on the Rights of the Child (CRC).² The basis of this research are the interviews with (former) separated children and guardians in eight countries. This corresponds with the right to participation in article 12 CRC. The national report will focus on good practices and recommendations in relation to the guardians in Slovenia. This will provide input for the international standards that will be developed in 2011. Furthermore mapping of existing legislation on guardianship and research that already has been done is included.

The partners in the project are divided into Research Development partners and Field Research partners. All eight partners will carry out the research in the same way but the Research Development partners have a bigger role in developing the core standards in 2011.

¹ See for this communication: <http://www.statewatch.org/news/2010/may/eu-com-action-plan-unaccompanied-minors-com-213-3-10.pdf>. p. 10.

² The project is inspired by the Quality4Children standards for Out – of -home childcare in Europe (<http://www.quality4children.info>). This excellent study provides a useful framework but needs to be specified for separated children.

The partners in this project are:

Research Development partners:	
Defence for Children International -ECPAT	The Netherlands
Plate-form Mineurs en exil – Service Droit des Jeunes	Belgium
Save the Children	Sweden
Defence for Children International	Italy
Field Research partners:	
Save the Children	Denmark
Slovene Philanthropy	Slovenia
Irish Refugee Council	Ireland
Bundesfachverband UMF	Germany

3. Methodology

This report focus on the needs of separated children and guardians to strengthen the qualifications of the guardian and to support the guardian in his or her work in order to protect the separated child in the best way possible.

The research objective of this qualitative research is to collect existing research information and legislation and collect the views on guardianship of separated children and guardians in eight EU Member States, analyze them and focus on good practices and recommendations in relation to the guardians in Slovenia. The information from the eight national reports will subsequently be developed into core standards in 2011.

The methodology of the national research have been the same for the eight EU countries and consists of a literature study including a study of the relevant research and legislation, at least ten interviews with (former) separated children and ten experts including guardians. During these interviews the children and guardians are asked about subjects like: procedural aspects, qualifications of a guardian, the best interest of the child assessment, reception facilities, return, legal knowledge and communication.³

3.1 Terminology

In the Slovene legislation the separated child is referred to as an unaccompanied minor. The International Protection Act has the following formulation:

³ See annex 2 for the question lists that served as a guideline for the interviews with the separated children and the guardians.

“Unaccompanied minor is a third-country national or a stateless person under 18 years of age who is in the territory of the Republic of Slovenia without both parents, or their previous legal/ customary primary caregiver.”⁴

The discussion on the terminology of these children is very specific to each piece of legislation and national system and therefore varies a lot. For the sake of harmonizing the terminology we will use the preferred term “separated children”, as also stated in the Statement of Good Practice of the Separated Children in Europe Programme:⁵

Separated children are:

- under 18 years of age,
- outside their country of origin
- and separated from both parents, or their previous legal, or customary primary caregiver.

3.2 Ethical dilemmas

The researchers have been sensitive to the ethical dilemmas rising from interviewing separated children about their guardians, from whom they are very dependant. All information is dealt with the highest level of confidentiality. The interviewees are informed about the confidentiality of the conversation and have signed an informed consent document for their participation in the project. The consent form mentioned the aim of study and explained the use that would be made of the interviews, the respect of the anonymity of the interviewee and the fact that the interviewee could refuse to answer one or more questions.

The results of the interviews are presented without the names and contact details of the children and their guardian. All interviewees got a code and are registered in the computer system of the project’s researchers. Access to this information will be restricted to the project’s researchers and will not be made public in any other way.

3.3 Overview of interviews

For the eight European countries that are part of the project, the same interview guides for (former) separated children, guardians and other persons working with separated children have been used. The questions were qualitative and open to get the perspectives and views from the interviewees. This report presents analysis based upon 21 semi-structured interviews. Eleven of these interviews were with (former) separated children and ten interviews with actors working with separated children. Five from the latter were the interviews with the guardians and five with other experts working with separated children.

Interviews were conducted in Slovenia by the national researcher of the Slovene Philanthropy team, between January and October 2010. Interviews took place where and when the (former)

⁴ Article 3rd of the International Protection Act.

⁵ Separated Children in Europe Programme, Statement of Good Practice, 4th Revised Edition, 2009, p 3.

separated children and experts working with separated children had time and were held in locations where the privacy was assured and with no other people present, except the interpreter in two cases. Furthermore, only those children who were willing to be interviewed were included in the research. In each case, all the interviewers were given an explanation with respect to the purpose of the research, the confidentiality of interviews and their voluntary nature.

Mainly all of the interviews, with the exception of two with the (former) separated children who objected to be recorded, have been tape recorded and later transcribed. For the two interviews that were not recorded, notes have been carefully documented. The interview transcriptions and detailed notes have given a great amount of detailed information of the experiences and insights of (former) separated children and experts who are working with them. The results from the interviews have then been gathered in a common document where the answers have been collected under corresponding questions. Area by area has been analysed, allowing analyses of trends, differences and similarities for each area as such, but also comparisons of the responses between the target groups.

Beside automatic recording and noting down the crucial parts of the interviews, special attention was paid to the non-verbal communication of the respondents. When interviewing it is important to listen to all levels of communication. Namely, everything that a person wants to say but does not tell, what a person suggests, at which topics person becomes silent or stops talking and what are the topics that are not so much important for the interviewee.⁶

In the report that follows, quotations from individuals have been selected to illustrate the range of viewpoints identified. Only small corrections of the spoken language have been made in order for the reader to get directly readable and intelligible text.

As a qualitative study where the qualitative empirical methodology together with the available literature and information have been used, results are not based on statistical evidence but analysis of the in-depth understanding of the complexities involved in the various different situations that have been studied.

All the respondents had been numbered as follows: S1= child 1 in Slovenia; SG1= guardian 1 in Slovenia; SA1= adult 1 in Slovenia (not being a guardian). In this way we wanted to avoid identification of individuals and that a certain level of anonymity is guaranteed. After every quote in the interviewed transcript, with the exception of the quotes of the (former) separated children, was numbered in the described manner. We decided to avoid numbering of the youth respondents, since the number of (former) separated children in Slovenia is very low and, if the quotes from the youth would be denoted with the information about their age, gender, country of origin etc., this would made them easily recognizable. For this reason, as well as to assure the total confidentiality on interviews, we decided to indicate only the

⁶ Darja Zaviršek, "Psihiatrični oddelek med boleznijo in njeno kulturno manifestacijo", *Socialno delo*, no. 3, 1994, p. 46-47.

information whether the child is former separated child or is still a minor. Only in the chapter about the accommodation we have added also the information in which facilities the children stay.

3.3.1 Separated children

Separated children were asked to volunteer to share their experiences and thoughts of their guardians. All participation of (former) separated children was voluntary and their participation was anonymous. Three children declined to participate in this study.

As it was already mentioned above, we conducted interviews with eleven separated children, of which all were boys. Six of these children were under 18 at the times interviews were conducted, hence a guardian was still appointed to them. Two of the youth had recently turn 18 and had lost their guardian, while three of the youth were between 19-22 years old and had therefore been without a guardian for the last few years.

Four of the interviewed (former) separated children had received an international protection status in Slovenia (some permanent and some temporary residence permit, depending on the status they obtained). Six of the interviewed youth had come from Afghanistan, two from Ghana, two from Cameroon and one from Eritrea.

The interviews with the (former) separated children took from 40 minutes up to an hour and 20 minutes. Only one of the interviews with the separated children was conducted in Slovene language, eight interviews were conducted in English without an interpreter, while two interviews with the separated child was conducted with the help of an interpreter.

We have conducted interviews with youth who are living in different accommodation facilities. Out of the eleven interviews, six of them were conducted with separated asylum seeking children who are - with the exception of one who was at the time of the interview accommodated in the safety house that belongs to the non-governmental organization Society Ključ, Centre for the fight against trafficking in human beings – accommodated in the Asylum Home.

Four youth with international protection status are living in private accommodation while one is in the Integration House.⁷

3.3.2 Guardians

For the purposes of this research five guardians have been interviewed. Four of them are the Slovene Philanthropy's team and one is employed at the Centre for Social Work. Interviews were conducted with three female and two male guardians, within the age span of 25 to 45

⁷ Integration House is the capacity of the Ministry for the Interior where, according to the provisions regulating accommodation for persons with international protection status, the Ministry house a person with international protection.

years of age. There was also a good spread in the length of time that they had worked as guardians, from one to six years. The interviewed guardians have varied professional experience.

The interviews with guardians took from an hour and 20 minutes to two and a half hours.

Guardians	Gender	Country of origin	Length of experience	Locations
SG1	Female	Slovenia	approx. 6 years	Slovene Philanthropy
SG2	Female	Bosnia and Herzegovina	approx. 2 years	Slovene Philanthropy
SG3	Male	Slovenia	approx. 5 years	Slovene Philanthropy
SG4	Female	Slovenia	approx. 2 years	Slovene Philanthropy
SG5	Male	Slovenia	approx. 1 year	Centre for Social Work

3.3.3 Other experts

We have conducted interviews with five experts who are directly and/or indirectly working with separated children. These experts are: Integration counsellor at the Ministry of the Interior, the head of the Asylum Home, social worker working in detention facility (the Centre for Foreigners), the director of the Centre for Social Work Postojna and a social worker employed at the Asylum Home. They had between two and eleven years of experience working (directly and/or indirectly) with (former) separated children.

The interviews with the persons working with separated children and youth took from about an hour to an hour and a half.

Adults	Gender	Country of origin	Length of experience	Professional title
SA1	Female	Slovenia	approx. 11 years	Integration counsellor
SA2	Female	Slovenia	approx. 11 years	The head of the Asylum Home
SA3	Female	Slovenia	approx. 5 years	Social worker in the Centre for Foreigners
SA4	Male	Slovenia	approx. 7 years	The director of the Centre for Social Work Postojna
SA5	Female	Slovenia	approx. 3 years	Social worker at the Asylum Home

3.4 National advisory group

Besides participation of separated children and guardians, an important source for the national reports and development of the core standards are the national advisory councils in the eight

partner countries. Collaboration between national and international stakeholders and involvement of relevant authorities is essential to enlarge the enforcement of the core standards. With this aim all partners have established a national advisory council of stakeholders.

In Slovenia this national advisory council exists of:

The Peace Institute, Institute for Contemporary Social and Political Studies	Katarina Vučko
Legal-Informational Centre for Non-Governmental Organisations – PIC	Anja Gašperlin
The Human Rights Ombudsman of the Republic of Slovenia	Lan Vošnjak
IOM Ljubljana	Dean Šušmelj
The Ministry of the Interior, Directorate for migration and integration	Sonja Gole-Ašanin
UNICEF Slovenia	Alja Otavnik
Slovene Philanthropy	Aida Hadžiahmetović
Ministry of the Interior, Directorate for migration and integration, International Protection Division - Asylum Home	Katarina Štrukelj

3.5 Good practices and recommendations

The input from the conversations with the (former) separated children, guardians and other parties involved were divided into categories corresponding with the table of content of this national report.

In our report we tried to bring forward good practices. The list of good practices is not exhaustive. Good practices that are exposed in this report do not reflect the practices of all guardians and persons working with separated children and youth - in some case it concerns a widened practice, in other cases it is a practice of an individual guardian or adult experts who work with separated children which was considered interesting and thus mentioned.

The good practices and recommendations derived from this information are based on the views of the respondents and are linked, when possible, to the articles of the Convention on the Rights of the Child.

4. Legal framework guardianship

Slovenian legislation prescribes guardianship for separated children in four legal acts: Temporary Protection of Displaced Persons Act, Aliens Act, International Protection Act and Marriage and Family Relations Act while the main regulation of the guardianship institution is regulated in the latter Act. However, there is no specific legislative instrument that deals with separated children in Slovenia.

According to the 201st article of the Marriage and Family Relations Act a minor who has no parents or who is not taken care of by his/her parents is given a guardian that is appointed by the Centre for Social Work. Article 202nd of the same law stipulates that the guardian is responsible to take care of the child as a parent. A child in guardianship, who is over 15 years of age, handles his/her legal affairs by him-/herself, although an approval of his/her guardian or the Centre of social work for the legal validity of these affairs is necessary.⁸ With reference to the articles 178 of the Marriage and Family Relations Act, the purpose of guardianship is protection and development of child's personal integrity, which is implemented through catering, medical care and training for self-sufficient living and further on through protection of financial means, the rights and benefits of the child. Guardian should assure that a child has suitable care, accommodation, education, and language support and health provision.⁹ According to the second paragraph of 190th article of the mentioned law, the guardian has to consult with a child about all important decisions. The function of guardian is voluntary and honourable.¹⁰ The decision on the guardian's appointment is issued by the Centre for Social Work. Centres for social work are public institutes within the Ministry of Labour, Family and Social Affairs.

In compliance with the 60th article of Aliens Act that are governing the procedure with alien minors, separated children who were not accompanied by their parents or other legal representatives and have entered the state irregularly have to be returned to the country from which they came from or delivered to the representatives of the country of which they are nationals. If this is not possible the police have to notify the authorized Centre for Social Work which must immediately appoint the separated child a legal guardian.¹¹

The Police temporarily accommodate separated child who have entered the state irregularly at the special department responsible for minors at the Centre for Foreigners. Aliens Act also specifies that on a proposal of a legal guardian or on guardians' preliminary consent, separated child can be granted a different, more appropriate accommodation, if during the procedure the Police establish that an accommodation under the social care supervision is more suitable for the child.¹² Furthermore, the same law defines that separated children can not be returned to his/her country of origin or to a third country which is willing to accept

⁸ Articles 203rd of the Marriage and Family Relations Act.

⁹ Article 194th of the Marriage and Family Relations Act.

¹⁰ Article 179th of the Marriage and Family Relations Act.

¹¹ According to the Marriage and Family Relations Act and the Aliens Act legal guardian is named guardian for special case.

¹² Article 60th of the Aliens Act.

him/her until suitable reception is provided; in no case may a separated child be returned contrary to the Convention for the Protection of Human Rights and Fundamental Freedoms, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment or the Convention on the Rights of the Child and the European Convention on the Exercise of Children's Rights. Stricter police supervision cannot be ordered against separated child.¹³

The International Protection Act does not contain any special provisions for separated children with regard to them expressing an intent for filing an application for international protection. When separated children apply for international protection during their accommodation in the Centre for Foreigners, their intent of applying for such protection is lodged by the guardian, while separated children who apply for the international protection at the Police Station lodge their formal intent to do so themselves.¹⁴

Separated children who apply for the international protection are placed in the Asylum Home in Ljubljana. Prior to the commencement of the international protection procedure a separated child is appointed a legal guardian. According to the International Protection Act the guardian can be a relative or a companion of a separated child or a representative of an organization specialized in working with children and minors.¹⁵

Separated children whose asylum procedure had been completed and are granted international protection – that signifies refugee status or subsidiary protection status – are no longer given a legal guardian, instead of that, the Centre for Social Work provides them with a guardian in the usual sense of the word where responsibilities of a guardian are broader in comparison to a legal guardian. In this sense the rights of the separated child expand to the extent that they are the same as Slovenian citizen children have. Guardianship over separated children with refugee or subsidiary protection is regulated by the same law as for Slovene citizens, namely the Marriage and Family Relations Act. The guardian is obliged to perform his/her duty as parents, since the guardians' function is according to the law considered to be as a substitute for parental rights. In comparison with the parental function, the guardian is not required to maintain a child and is not expected that a child would live with him/her. The Centre for Social Work appoints a guardian who has the personal qualities and skills necessary for the performance of guardians' duties and whose assent to become a guardian is required. In appointing the guardian to the child, the Centre for Social Work has to respect the wishes of the child, if this is to the benefit of the child. If possible and, if it is not contrary to the benefits of the child a relative shall be appointed as a guardian.¹⁶

¹³ Articles 60th of the Aliens Act.

¹⁴ Slovene Philanthropy and Legal-Informational Centre for Non-Governmental Organisations, "*Policies on reception, return, integration arrangements for, and numbers of, unaccompanied children in the Republic of Slovenia*", 2009, p. 20.

¹⁵ Article 96th of the International Protection Act.

¹⁶ From the written order composed by the Centre for Social Work Ljubljana Moste-Polje.

Guardianship ends when the minor turns 18, when the minor solemnizes a marriage or he/she is adopted, or when a minor becomes a parent and the full legal capacity is recognized to him/her by a decision of the court.¹⁷

4.1. Draft law on introduction of changes and amendments to the International Protection Act

Draft legislation covering the scope of international protection and within it arrangements of the guardianships, has been announced.

The bill of International Protection Act includes different systems for regulating the appointment of guardians as well as prescribes the broader function of guardians for separated asylum seeking children. A new draft proposes that the guardians' responsibilities should no longer be only the care for the procedure of obtaining international protection as it is prescribed in the existing law, but should also be passed on other areas of activity such are the area of health, education and protection of property rights and interests.

The amendments are also linked to preparing the ground for international protection procedures, where the officials of the competent authority when dealing with separated children, will need to be additionally trained. The Ministry of the Interior will be responsible for organizing and carrying out the regular trainings for officials that are dealing with separated asylum seeking children, while other public authorities will provide the support and expertise. The Ministry of the Interior will be recommended, when exercising the regular trainings for officials, to cooperate with persons specialized in working with children any adolescents.

Under the new draft law, the Community of Centres for Social Work¹⁸ will be leading the list of legal guardians. The legal guardians will be included on this list only, if they meet the conditions imposed in the law and, if they have followed a training course organized by the Community of Centres for Social Work. The training courses will have to include the knowledge of family law and social work, psychology and protection of children's rights and duties, protection of human rights and fundamental freedoms as well as the knowledge of international protection law.

If those changes and amendments to the International Protection Act will be accepted, the new systems for regulating the guardianship for separated asylum seeking children might come into force already by the end of 2010.

5. Guardians in Slovenia

¹⁷ Article 205th of the Marriage and Family Relations Act.

¹⁸ All Centres for Social Work in the Republic of Slovenia are connected to the Community of the Centres for Social Work.

Guardianship for separated children in Slovenia is in most of the cases carried out by Slovene Philanthropy, a non-governmental organization that within the Centre for psychosocial assistance to refugees performs this role since 2001. It is also the only organization in Slovenia that systematically deals with assistance and protection to separated children and provides guardianships to separated children on a regular basis. The Centre for Social Work Ljubljana Moste – Polje and the Centre for Social Work Postojna have performed this duty only in some cases.

5.1 Appointment of the guardian

In practice, employees of Slovene Philanthropy and in the past Slovene Philanthropy's volunteers, have been providing guardianship to separated children that are accommodated in the Centre for Foreigners and are according to the law considered as illegal migrants; to separated asylum seeking children; and to children who have obtained the status of a person with international protection in the Republic of Slovenia (refugee or subsidiary protection status).

As it was described in the previous chapter, the decision on the guardian's appointment is issued by the authorized Centre for Social Work. Appointment of a guardian and his/her legal responsibilities depends upon the legal procedure that a separated child is in. Separated children in Slovenia can have different kinds of statuses or can be considered as: irregular migrants (illegal migrants), asylum seekers, can gain a status of a person with international protection (refugee status or subsidiary protection) and temporary protection of displaced persons.

In cases when a separated child has entered the state irregularly and is lodged in the Centre for Foreigners in Postojna, the police (within the Centre for Foreigners) have to notify the Centre for Social Work which must ex officio immediately appoint the separated child a legal guardian. The designated centre in these cases is the Centre for Social Work Postojna that issues the decisions on the appointment of legal guardians.

The Centre for Social Work Postojna has up to this date appointed Slovene Philanthropy as a legal guardian in almost all cases of separated children that have been accommodated in the Centre for Foreigners. Usually it takes a few days before the written order is finished and when this is done, a guardian comes to pick up the written order and takes it to Centre for Foreigners where it must be signed by both, the guardian and the separated child.

Separated children who apply for international protection are accommodated in the Asylum Home in Ljubljana. In practice, when a child applies for international protection in the Centre for Foreigners he/she is usually transferred to the Asylum Home on the same or the next days when the formal intent of applying for international protection has been filed. Practice also shows that separated children have the interviews with the official authorities on the same or on the next day when they have arrived to the Asylum Home.

Good practice

Slovene Philanthropy is providing guardianship to the separated children accommodated in the Centre for Foreigners, to separated asylum seeking children as well as to the separated children who have recognized international protection status. The advantage in the provision of guardianship by a non-governmental organization is in the organization's independence and greater flexibility in comparison with the governmental services.¹⁹

Recommendation 1

Since the guardianship is an important mechanism of protection of separated children, the existing system of guardianships in Slovenia should be improved. When the non-governmental organisation Slovene Philanthropy took over the provision of guardians, it has filled a gap existing in the field of care for these children. Nevertheless the provision of guardianship is often difficult, as the state does not provide Slovene Philanthropy with any financial support for that project.²⁰

5.2 First contact

The first contact between the child and his/her guardian usually takes place in the first days after a child enters the territory of the Republic of Slovenia. Children who apply for international protection meet their guardian just before they have the interviews with the official authorities, if not the same guardian that the child had while staying in the Centre for Foreigners has been appointed. Slovene Philanthropy strives for children to have the same guardian during all procedures, however sometimes this is not possible to assure.

“I first met my guardian when I was in Centre for Foreigners in Postojna. I was there for around 17 days. And then when I came to Asylum Home I got another guardian. I think this was on the same day when I arrived there.” (separated child)

“When I arrived in Asylum Home. I arrived on Friday and on Monday I got a guardian. The guardian was always present with me. But when I became 18, some of the things I have to do on my own. But during the interview my old guardian was there with me.” (former separated child)

According to most interviewed guardians and other adults, a guardian should be appointed and should meet with a separated child immediately after the child enters the country. They mentioned that the first meeting with a child should occur much sooner than it does in the existing practice. They commented on delays in assigning a guardian:

¹⁹ Slovene Philanthropy and Legal-Informational Centre for Non-Governmental Organisations, *“Policies on reception, return, integration arrangements for, and numbers of, unaccompanied children in the Republic of Slovenia”*, 2009, p. 31.

²⁰ *Ibid.*, p. 32.

“If I think this is too late? Absolutely yes, because I think that a guardian should come into contact with a child already in the moment when the police start with their procedures, that is, from the moment the police capture a child and is as such also identified. So the guardians should be included even before the start of the formal proceedings.” (SG1, female, guardian)

“I think it is too late... on the records from the police is written what is going on [when the police recognized the child as illegal migrant] ... and I can say all kinds of things are going on. The dates of births, the names and surnames; so many things are noted falsely. The policemen are giving some conclusions as, if they were experts. So this is why I think it's too late.” (SG2, female, guardian)

Besides the social workers at the Centre for Foreigners and sometimes inspectors, a guardian is one of the first persons that the separated child talks to. Inspectors in the Centre for Foreigners usually get into conversation with the separated child before the guardian arrives, which is from Slovene Philanthropy's point of view a matter in dispute.²¹

It has been suggested from two interviewed adults that it is necessary that one person - they proposed the duty social worker - would come into contact with a child already on the border and then at the next phase a child would meet with the guardian. This was emphasized as very important in order that a child would come into contact with the professional staff as soon as he/she crosses the border and that a child would be given an impression that somebody will take care of him/her. In contrast to the mentioned, two adults had no doubts in the existing regulations and practice that regulates the assigning a guardian.

“They first meet just before a child has the interview with the official authority which is early enough.” (SA5, female, social worker)

The Slovene guardianship institution does not enabled children to have the possibility to choose their guardian. According to the written order composed by the authorized Centre for Social Work, the Centre for Social Work has to respect the wishes of the child when appointing a guardian to him/her while the existing practice does not give this opportunity. Most of the interviewed children with the exception of two children have no preference for a gender of their guardian. Two children have expressed they would rather have a woman for their guardian, since the woman is, in their opinion, more sympathetic. On this topic children have shared their standpoints.

²¹ Zavratnik, S. and Gornik B., *“The risk group of unaccompanied minors: Protection measures in an enlarged European Union”*, University of Primorska, 2007, p. 13.

“No, I didn’t have a choice. I didn’t choose my guardian.” (former separated child)

“I didn’t have a choice, she came and visited me in Postojna [in the Centre for Foreigners] and she said she is my guardian. But I don’t think is so much important to choose a guardian, I don’t care about this situation.” (separated child)

“To me, I prefer a woman. [...] Because you know, in our culture the women normally have sympathy so I think is also the same thing here. But here man also have sympathy... upon my narrate the man also have sympathy here. But of course, it depends on a person.” (former separated child)

“I had no choice in choosing my guardian. It would have been better, if I would have the option to choose. I would choose a woman because women understand the problems more than men do.” (former separated child)

One former separated child shared with us his interesting view about who he would like to be his guardian:

“If you ask me who I would wish to be my guardian... maybe I would feel much more safe with someone who is coming from the same country like I do. I wouldn’t have really big choice for the age, maybe I would feel much more trust because he is coming from the same country that I do.” (former separated child)

In general, the interviewed children had no preference for the religion and the age of their guardian. They said when the guardian had been appointed to them nobody has asked them about this matter and therefore, they did not have a choice. However, they did not ascribe any importance to the age and religion of their guardian.

“That one doesn’t matter [age and religion]. It just depends on a person and how the person is cooperating with you and how the person understands you. [...] This is not important for me.” (former separated child)

“This doesn’t matter for me. This is not important for me.” (separated child)

“[...] for me everybody was the same, because I didn’t know anyone here... about religion and things... for me everything was new.” (former separated child)

“I don’t care about that.” (separated child)

Two guardians made a terse illustration on how the first meeting with a child in the Centre for Foreigners looks.

“This first meeting at the Centre for Foreigners is directed towards getting the acquaintance amongst a child and a guardian as well as that a guardian explains a child what the role of a guardian is, of course in a way that child really understands who we are and with what purpose we are there. Besides this, it is very important that a guardian obtains as much information as possible from a child... in sense, why did he left his country, where are his parents, where he was bound for and at the same time, a guardian has to explain the possible solutions or situations that a child can find in. Then to tell him why he is detained in the Centre for Foreigners, what is the system in Slovenia like and give him information on the existing system and the possible solutions. Then a child together with a guardian and sometimes also through the conversations with his parents on the phone, makes a decision about the best possible step to take. It is very important that a guardian pays attention on whether the child shows any signs that might indicate he is a victim of human trafficking. Even if this is not perceived, it is important that a guardian warns the child about this danger... because in most of the cases children continue their way further on to Europe....” (SG1, female, guardian)

“...[They first meet] in that room for visits and usually one policeman is standing in front of the doors so that he hears everything what we are talking about. It bothers me because they [the police officers and the staff employed in the Centre for Foreigners] don't trust us... ok I know this is the part of their job but this I do not really relish. [...] With a child I talk about the reasons why he came here, how he came, if he has by any chance some relatives in some other country that he would like to be reunified with, what is the situation in his home country... on the whole we talk about this.” (SG2, female, guardian)

Similarly, the interviewed guardians described the first meeting with a child in the Asylum Home and commented on the lack of the time they have to introduce themselves to the child and to explain them who they are, with what purpose they came and most importantly, to present them the process of formal application for asylum. One guardian also stated the importance of staying with the child after the formal application for asylum has been finished and accompany a child together with the social worker from Asylum Home to the room where a child will be placed.

Recommendation 2

The guardian should be appointed and should meet with a separated child immediately after the child enters the country.

Recommendation 3

Make sure that in practice, children would be enabled to have the possibility of choosing the guardian. This corresponds with the right of child to express his/her views and the right to participation of the child (article 12 CRC).

Recommendation 4

When the child and his/her guardian meet, the location and environment where privacy is assured should be provided to them, so that a level of anonymity is guaranteed.

5.3 The frequency of contact

The question on how often a guardian and a child meet each other has arisen in different responses. According to three interviewed guardians, the frequency of contact is of great importance, since it contributes to the level of trust with the child and provides a potential opportunity to create “bridges” between them, the children and the community; therefore they have contact with a child several times per week. In contrast, two of the interviewed guardians as well as one separated child have not seen regular contact between the guardian and a child as significantly important.

“It is very difficult to talk in general. There are periods when it might happen that some children come to my office every day, while others several times a week. There is no rule. For me it is very important that, if I don’t see him that I’m at least in the contact with the social service at the Asylum Home in order to make sure if everything is ok.” (SG1, female, guardian)

“It depends. With one boy I went to see the doctor for couple of times and with one another boy we went out together [clubbing]. Otherwise when a child is once in Asylum Home I don’t really get involved in...” (SG3, male, guardian)

“... almost every day. Yes this is enough, not too much, is ok.” (former separated child)

“... she works in the same building that I’m living and we have two rooms in between my room and the room she works. So I could see her almost every day. [...] It’s good. You don’t need to go and to look after her when you want to talk. So is good.” (separated child)

It appeared that one interviewed child does not show any interest in meeting with the guardian. According to the experiences of the guardians, the frequency of the meetings and contact in other ways, mostly depends upon a child.

“With my present guardian I don’t really have a contact, maybe I see him once in a three months and I think this is enough. I don’t need him. With my ex-guardian I saw almost every day, at least 4 times a week.” (separated child)

Mostly guardians meet with the children in person as well as through phone communication.

“Face to face mostly.” (separated child)

“Phone calls. Yes, I phone her or I buzz and then she calls me back. And we see face to face.” (former separated child)

“In person. When the guardian was having some program to come to Asylum Home then he came to check me, if I’m in the room and so on.” (former separated child)

Good practice

From the respondents we learned that the guardian and the child meet on a regular basis and that the separated children have the possibility to talk to the guardian face to face.

Recommendation 5

Make sure that the separated child has the possibility to contact the guardian directly and to talk to the guardian face to face. Next to face to face conversations it is recommended to give the child the contact information of the guardian in order to communicate with the guardian directly and privately. This corresponds with the right to information, participation and the right to privacy (article, 12, 13 and 16 CRC).

Recommendation 6

The guardian should be easy to reach for the child and be there for the child. The guardian should regularly show his/her presence, should be reliable and take time when the child has an urgent concern.

5.4 The (legal) responsibilities and tasks of the guardian

“Guardians don’t have a lot of power.” (former separated child)

The written order composed by the Centre for Social Work Postojna specifies the guardian’s task which is, to protect the child’s rights and interests and in agreement with the Centre for Social Work taking measures necessary for the protection of child’s personality, rights and interests. When the procedure is completed the guardian is obliged to provide the Centre for Social Work with the report on the activities of the guardian.²²

The responsibilities of a legal guardian who is appointed to a separated child that is considered as a illegal migrant and is lodged in the Centre for Foreigners is: to inform a child, to advice him/her, to submit as much information as possible especially about the possibilities that can be offered to him/her in Slovenia – these include applying for asylum, returning to the country of origin or reuniting with his/her relatives in some other country – to find optional solutions, to represent a child in legal matter, that is to write a statement about the child’s intention to apply for international protection. In practice, in cases where separated children apply for international protection during their accommodation in the Centre for

²² From the written order composed by the Centre for Social Work Postojna.

Foreigners, their intent of applying for such protection is lodged by the guardian. Separated children who have applied for the international protection already at the Police Station lodge their formal intent by themselves.

The role of the Centre for Social Work Postojna is merely a formal one, i.e. it issues the decisions on the appointment of legal guardians and does not engage in seeking long-term solutions for the concrete cases of the child, this is therefore left with the guardian.²³

The legal guardian to a separated child, who is in the asylum procedure, is designated only to represent the separated child in the process of recognition of international protection and to protect the child's rights and interests. The legal guardian is required to report to the Centre for Social Work on his/her guardianship activities annually as well as at any other time at the Centre's request.²⁴

The role of the authorized Centre for Social Work²⁵ that appoints guardians to separated asylum seeking children is merely a formal one and refers only to the issuance of the decisions on appointment of legal guardians. The mentioned Centre for Social Work does not engage in seeking long-term solutions for the concrete cases of separated children – that is left to the guardian.²⁶

The role of a guardian who is performing this duty for the children who apply for the international protection had been illustrated by one guardian:

“My role is that I'm present on all the official interviews and other procedures that a child has... that in case when officials or operational staff does or says something unsuitable... If they start with repeating the same question like, 'That means you came here also for economical reasons?' ... such suggestive questions that already in itself lay the answer at their mouth. Then I stop them, I give my comment and I say to a child that he doesn't need to answer a question. [...] In this context... that I give them warning that the procedure are carried out as they should be. Then I also annoy the decision-makers that they should consider the child's application as a priority... anyway they do not like when I tell them this, but it is clearly written in the law.”
(SG2, female, guardian)

The authorized Centre for Social Work²⁷ that issues the decisions on the appointment of guardians for separated children with international protection in its written order stipulates,

²³ Slovene Philanthropy and Legal-Informational Centre for Non-Governmental Organisations, “Policies on reception, return, integration arrangements for, and numbers of, unaccompanied children in the Republic of Slovenia”, 2009, p. 18.

²⁴ From the written order composed by the Centre for Social Work Ljubljana Vič - Rudnik.

²⁵ In practice this is the Centre for Social Work Ljubljana Vič – Rudnik.

²⁶ Slovene Philanthropy and Legal-Informational Centre for Non-Governmental Organisations, “Policies on reception, return, integration arrangements for, and numbers of, unaccompanied children in the Republic of Slovenia”, 2009, p. 20.

²⁷ In practice in most of the cases this is the Centre for Social Work Ljubljana Moste – Polje.

that the state is obliged to provide a child with protection and assistance in the form of a guardian – in this way the interests and the rights of the child are protected by the concrete representative. Furthermore the written order specifies that a guardian directly performs the greater part of the parental duties and rights: protection of child's personal integrity, and to assure that a child has suitable care, accommodation, education, language support and health provision. The guardian is obliged to perform his/her duty as parents, since the guardians function is according to the law considered to be a substitute for parental rights.²⁸ In practice, employees of Slovene Philanthropy provide guardianship also to this category of separated children, the Centre for Social Work Moste – Polje performed this duty in two cases.

“I was his guardian during the asylum procedure and, if my memory serves me right this was lasting for about eight months, and then finally he was granted status. I think I'll always remember the moment when my co-worker who is also performing the guardianship, called me to her office and told me she just received the call from the Ministry [the Ministry of the Interior] that he obtained status. We were so happy and we were even screaming with laughter. [...] Because I was his guardian before and we have been on good terms with each other as well as, I would say that quite high level of trust was established, I decided to continue being his guardian. Of course I checked if he wishes that. [...] It was much more tasks for me, since we needed to arrange the documents, the bank account, arrange everything for his financial assistance, to look through the description of all the schools in order he could make a decision to which school to enroll. I accompany him when he needed to go to the dentist and the doctor and things like that. For sure I did this with pleasure especially because I was aware of the importance of those things to him and, at the same time we were spending quality time filled up with constant talks. [...] To me it was stressful and frustrating when we simply couldn't arrange some things because of the insufficient system that is definitely not tailored to the children's needs and their specific situation.” (SG4, female, guardian)

The majority of separated children that were interviewed for this research, expressed the clear need for a broader role of their guardians than it is defined by law and other orders. Some desire that their guardian could do more for them especially in terms of arranging the possibility of schooling and language courses, while the great number of children underlined the insufficient legal system that limits their rights and are therefore aware the guardian is restrained in providing them help. Children often referred to the support that was considered particularly crucial, therefore they expect to receive it from their guardians.

“Firstly I've waited for long time and I wish I could get my answer as soon as possible. I wish I could get a place to sleep, I've it but it is just temporary. I don't know how long I can sleep there. I wish I could have a place, I wish I could go to

²⁸ From the written order composed by the Centre for Social Work Ljubljana Moste – Polje.

school, I wish... many wishes. And I really expect from guardian to help me to, you know, to have a protection... someone to take care.” (separated child)

“The guardian can’t help me. Only the state can help. The only thing the guardian can do is to give me the information about Slovenia, they can’t promise me anything how is going to be with my case.” (separated child)

Recommendation 7

Make sure that the assignments of the guardians are clear and understandable to all concerned experts working with (former) separated children and especially to the separated children. This corresponds with the right to information (article 13 CRC).

Recommendation 8

Make sure that the child knows what a guardian is and let him/her explain what he/she has understood. Then the guardian should correct or develop the knowledge of the child. Specific material can be used to explain the role of the guardian to the child.

5.5 Different expectations of the children

Adult respondents noted different expectations that the children have for them. According to the interviews with adults, the grounds for different expectations that the children have, lies in their age, everyday environment from their countries of origin, their education and the information they have gained as well as in their personality. It has been reported from the adults that some children expect the guardian to offer them support in different areas in which they would like to facilitate, while some expected the guardian would help them in obtaining the international protection status or help them leaving Slovenia.

“... [the children expected] that this help is not so truncated and limited. They have been expecting also that I will be the one who will bring them to their relatives in Italy, that I am going to be that link. Sometimes it was really hard to explain that I cannot do that, that we are not the one, that we do not have this power.” (SG3, male, guardian)

“Absolutely. I have noticed the differences. I think that some children understand the reality here and that they understand that I, as a guardian, am trying to help to the best of my ability. However, there are also children that even after several months do not understand and they still think that as a guardian... I was a guardian to one boy, he was here already for months and in spite of that, he still thought I am the one who is making a decision about his asylum application. I have noticed that this lack of understanding the system and the role of a guardian occurs more often with the boys from Afghanistan. Along with this, there might also come the repeated accusations and this situations are extremely stressful. It is very much difficult to explain to a child that you do the best of your ability and that you cannot do more than that. So yes, they are

different expectations. Many expect that you are the one who will provide them everything what they need, which is very difficult.” (SG1, female, guardian)

“One guardian was explaining to me once that he [a child] thought that she will settle a matter regarding the conflict that a child had with one another asylum seeker. But this is just one example...” (SA2, female, the head of Asylum Home)

“It is likely that eventually they adjust their expectations on the real situation, but in the beginning it seems to me that all have quite high expectations. As if we would be sort of saviors who can rescue all.” (SA1, female, integration counsellor)

“These guys are really factual, they need to arrange certain things... and they appeal to us as to someone that can help them with assisting and solving some things. So basically these relations are based upon their real needs.” (SG5, male, guardian)

5.6 Age assessment process

Each year millions of children all over the world are not registered at birth. It is not unusually for separated children to present without any identity documents, therefore the authorities are often unsure about the age of separated children. The reasons that a separated children might not have identity documents are manifold: some children do not have any documentation, some have lost it, some never brought the documents with them because they left their home suddenly, some children were told to destroy the documents when they arrive, while others never brought them along or their documents were taken from them by traffickers or smugglers.

The International Protection Act does not foresee any explicit procedure for establishing the child’s actual age, while in case of doubt regarding the child’s age, the designated body can obtain a relevant expert opinion.

That the procedure of the age assessment is not carried out in Slovenia was in short also told by all interviewed respondents. In the opinion of most adults interviewed, if the age assessment procedure were in use in Slovenia, the guardian should be present when this process takes place.

“Slovenia does not exercise this. But I think, if this procedure would be carried out, the guardian should absolutely be present. Is the same as you go with your own child to the doctor or somewhere else. Absolutely, the guardian must be there.” (SA1, female, integration counsellor)

Good practice

Presently, Slovenia does not use the procedure as a matter of policy to determine the age of a separated child.

5.7 Education/training of the guardian

In Slovenia, only Slovene Philanthropy organizes educational training for those who are or would like to become a guardian to separated children. However, apart from that there is no such training organized by the governmental institutions. Out of ten interviews with adults, all guardians and three other adults working with separated children have attended training for dealing with separated children that was organized by Slovene Philanthropy. However, the training that guardians have received are manifold, although only some, that were mentioned in the interviews, focused on the work with separated children. The following training was mentioned: training organized by the European Council on Refugees and Exiles; seminars within the Separated Children in Europe Programme; training courses on Family Mediation; training organized by the Immigration Minorities Issues; seminars within the Council of Europe; training courses for working with youth groups with fewer opportunities; training on the field of domestic violence; training courses for working with drug addicts etc. None of the listed training were obligatory for adults to take part in it.

Adult respondents consider training to be of a great importance and as a tool for giving adequate support and advice to the children, and to address the principle of the best interest of the child to a greater extent.

The prevailing opinion expressed by guardians as well as other adults is, that guardians have enough knowledge about migration procedure and children's rights. However, almost all interviewed guardians with the exception of one would appreciate receiving additional training.

“In my opinion, the additional trainings are always needed and I would absolutely like to have constant education in this field and learn about new things. Though I have some knowledge about this and even I search and read the information on the topic by myself, this is still too little. It is always necessary to have additional training but unfortunately this does not exist in Slovenia. This is also one of the loopholes in the law on which we need to work on.” (SG4, female, guardian)

Guardians noted they would like to receive in-depth and continual training about different cultures and its specificities, they would like to acquire knowledge about how to assess the best interest of the child, knowledge on how to solve conflicts, how to help the child in searching for information with reference to their country of origin and last but not least, to gain knowledge from the sphere of psychosocial development of children and youth.

To become a guardian in Slovenia, no specific education is needed. The guardians that we interviewed have graduated from different universities: social pedagogic, law, sociology and social work.

The interviewed adults were also asked for their opinion about whether a guardian should be a social worker with training on legal aspects or should it be a legal specialist with training in

social work. All the adult respondents during this research did not lay any importance on the official education of the guardians. All are of the opinion that the graduation from a certain university cannot be the condition for somebody to become a guardian and that “*the degree does not guarantee anything*”, as it was stated by one adult. The adults attached importance in the first instance to the skills needed for working with people and secondly, that a person feels that they are capable of performing the guardianship function and is able to lead the child and offer a child support in finding durable solutions. The prevalent view on this topic can be illustrated with the following quotes from guardians:

“I don’t see the importance in what kind of education a guardian has. It seems to me that one can be a good guardian regardless of whether is a social worker or lawyer or has a degree in some other area. The only thing that matters is that a guardian has and is developing knowledge and skills in the both fields, thus legal and social, since both are important.” (SG1, female, guardian)

“The most important for the child is to feel he is safe and from this point everything derives. This person [a guardian] may even be a farmer; what I want to say is, a person can be uneducated and could be better guardian then somebody with the doctoral title. It is often that people hide behind the titles but behind the great titles there are people of small means. I’m a man who values above all, the person itself and I see the title as totally irrelevant thing in life.” (SG5, male, guardian)

In recent years the system with regard to legal matters has been established amongst Slovene Philanthropy and Legal-Informational Centre for Non-Governmental Organizations²⁹ (in short, PIC), so that every child when having the interview with the migration authority has along with the guardian also a legal representative who is responsible for covering a scope of juridical knowledge of the migration and asylum procedure. The legal representative from PIC is, besides being present at every interview that the child has with the migration authority, responsible also to appeal on the court about the child’s negative decisions regarding his/her status.

“I think that the combinations of the skills from the both fields are very useful. What should prevail this, I don’t really know. PIC is here to take over the legal matters. So I guess the social area should be covered more within the guardianship, of course along with certain legal matters, since sometimes PIC remains silent and do not ask any questions but they could. Sometimes they don’t give any comment [to the migration authority] but they could. So I think that the guardian should have the knowledge from both areas.” (SG2, female, guardian)

²⁹ PIC is a non-governmental organization that provides free legal advices to individuals and non-governmental organizations. They offer legal assistance especially to foreigners, refugees and asylum seekers.

Good practice

From the guardians and some adults we learned that every separated asylum seeking child has, beside the guardian, a legal representative who is responsible for leading the asylum procedure in its legal matters. At the same time it was emphasized that the guardian has to have a high level of legal knowledge and needed competences.

Recommendation 9

(Continued) trainings needs to be developed. Both, practical and theoretical parts should be included in this training. Guardians should have the needed competence and knowledge to fulfil their guardianship function. This reflects the right of the guardians to receive appropriate assistance in the performance of their responsibilities (articles 18 CRC).

Recommendation 10

The guardian has to be provided suitable training courses. These courses should contain specific training on guardianship and migration issues, asylum procedures and laws, children's rights and needs, child abuse and trafficking, training in pedagogical and psychological matters. Furthermore, intercultural competences should be dealt with.

5.8 Methodology of the guardians

In answering our question asking about the methodology that the guardians are using, most of the adult respondents noted that they are holding one to one counselling.

In the educational training for guardians organized by Slovene Philanthropy, special attention is among other areas laid also on how to lead the conversation with the child. Unfortunately in Slovenia there is no material about the guidelines for conversations that the guardians could use, however Slovene Philanthropy strives for preparing this kind of informational material for guardians.

The interviewed guardians in conversations with the children focus on the child's history and their background, they check what kind of actions can be taken in order to fill up the child's leisure time in an quality way and, in compliance with the child's needs and wishes. A guardian listens to a child, advice and informs a child and helps a child work out some solutions. It was noted that a guardian and a child talk in privacy, knowing that what the child will say is confidential and in an environment where they feel safe. When guardians are holding a conversation with children they take into account the age, gender, cultural background and maturity of the child as well as paying attention to the non-verbal communication.

“The basic method that I use as a guardian is conversation with a child. Through the conversation I also advice a child and offer him psychosocial support. Also the advocacy methods are being used, since I'm advocating on behalf of the rights and interests of the child.” (SG1, female, guardian)

Only in one interview, a guardian has mentioned that besides the individual conversations there were a few circumstances when methodology of group discussions was also in use.

“When once a group of seven separated children that were from the same country of origin came... all of a sudden they were in the room and they were all talking at the same time. And even bigger problem appeared when only one of them knew to speak English. It wasn’t possible to hold individual conversations with them and then the language was a big problem too.” (SG2, female, guardian)

Guardians have also been asked whether their methodology has changed over the years. They told the interviewers that the methodology they use has basically stayed the same as it was in the beginning when they started to perform the guardianship function, however they have expressed that they became much more experienced and focused on the aspects that are, in their opinion, the most significant.

“If it has changed over the years, hmm? Well, the conversation still remains the fundamental and main method. But I think that after so many years of experiences, I’ve gained some sense on what I need to pay attention to, especially in terms of child’s verbal and non-verbal communication. After so many years you get a sense on what are the things to focus on, on what to lay great stress on and how to check, if a child understands what I’m asking him. These details have changed.” (SG1, female, guardian)

“In the beginning I was very complicated... I started to complicate and nothing was clear to them. [...] I think that now I try to be very much simple, that I don’t complicate with expressions that they don’t understand, while at the beginning I was certainly doing that. [...] I would say that I explain them things very simply. I mean, I can’t say that I master this one hundred per cent, but definitely much more that I did in the beginning.” (SG2, female, guardian)

Recommendation 11

The guardians should know how to approach separated children and how to communicate adequately verbally and non-verbally. The guardian should show an interest in the child’s life by asking questions without being too intrusive and listen to the child’s concerns and take them seriously. The guardians should pay attention to the factual as well as to the emotional communication. This corresponds with the right to participation and access to information of the child (article 12, 13 and 17 CRC).

5.9 The experiences of using interpreters

Children and adults were also asked about how they feel about communicating with the interpreter and, if interpretation was or is still needed. Guardians and children noted that interpreters were present only when a child is having the interview with the migration

authority and on the personal hearings with the migration authority, otherwise they talk without an interpreter; mostly they are speaking in English but when a child does not understand the English language, another child who is able to speak English and the mother tongue or any other common language that both children understand, is in the “role” of the interpreter. Only one guardian mentioned that rarely but when absolutely needed, she talk with the child with an interpreter by phone, but problems occur because the state in such cases does not cover the costs for interpreter.

“Yes, I had a translator. But now I don’t need it anymore. I communicate in English and I speak little Slovene too.” (separated child)

“When we were talking alone with the guardian, it wasn’t needed. But in the interview time I needed it. Like when I had an interview with an inspector I needed it. But when it wasn’t so important it wasn’t needed. We were talking in English.” (former separated child)

“For me is not a problem because all my guardians speak English.” (former separated child)

One separated child shared with us the dissatisfaction with the interpreter that he had during his first interview with the migration authority in Slovenia. Firstly, he pointed out that the interpreter for his mother language could not be provided, since in Slovenia there are no interpreters for Dari language and secondly, the interpreter was commenting on the child’s situation in a very inappropriate way.

“There was one from Iran and I couldn’t understand him so good. I asked them if they have somebody for my language but they said no. He was actually just criticizing, he was putting some salt on the, you know, injury. [...] He was saying ‘you are so unlucky that you came here, that they captured you and you don’t know what is going to happen’. I don’t know, I haven’t seen him when I came back again to Slovenia. But I didn’t like this translator.” (separated child)

Recommendation 12

Make sure that the separated child and the interpreter speak the same language and that the child truly understands the interpreter. Make sure that the child receives timely information in a language he/she understands.

Recommendation 13

Make sure that when necessary the guardians and children are ensured the access to interpreters in person or, when such contact is not possible, by phone. The costs for interpreters should be covered by the state.

Recommendation 14

Make sure that the interpreter is trained and has knowledge about migration procedures.

5.10 Best interest of the child assessment

Article 3 of the Convention on the Rights of the Child states that the best interests of the child shall be a primary consideration in all actions concerning children.³⁰ For most adult respondents the assessment of the best interests of the child depends individually upon the child. The guardians in this study have told us that in each situation they consider which decisions would be in the child's best interest. It was noted that the principle of best interests must comprehend both, short and long term considerations for the child and have to be considered individually. Interviewed guardians declared they consult with other guardians or other colleagues when they are doubtful of how to address the assessment of the best interest of the child. Here are some responses on how adults assess the best interest of the child:

“What the best interests of the child are definitely differs from case to case and is therefore impossible to generalize. When a guardian comes into contact with the child and gets to know with him and acquire certain information, only then, based on the whole of the child's past, present and in accordance with the possibilities that a child has in Slovenia, the guardian can see what would be the best for a child. Maybe the best interests are not so much connected to the system, because what the best interests of the child are has to be assessed on the base of child's story, namely, the past of the child and the situation that the child found in, child's needs and wishes and of course on the findings of the experts who work in this sphere. Yet the problem is that the system in Slovenia in most of the cases does not allow to pursuit the best interest of the child.” (SG1, female, guardian)

“Hmm, is to obtain status, is to obtain refugee status. Again it depends... If they would like to be here then of course this would be to gain refugee status and not subsidiary protection because subsidiary protection is rather bad than good for them... and that they learn Slovene language and that they have all information needed in order that in the case they get the status they won't think they are in the saddle and all the problems are over. [...] The best interest is to give them a normal and decent life.” (SG2, female, guardian)

“By careful examination of the child's asylum application, by through talk with a child and by familiarization with all the possible legal assistance.” (SA5, female, social worker)

Good practice

³⁰ Committee on Rights of the Child, General Comment No. 6, 2005, CRG/GC/2005/6, p. 9.

All guardians mentioned they consider individually what is in the best interest of the child and make the determination of the best interests of the child according to each situation that affects the child.

Recommendation 15

The guardian make sure that all decisions are taken in the best interests of the child and has to make sure that an assessment on the best interest of the child is based on the views and opinions of the child. The child should be involved in all the important decisions concerning child's life. This corresponds with the right to special protection and assistance and with the right to participation (article 2, 3 and 12 CRC).

Recommendation 16

The guardian should be enabled to act independently from authorities when taking decisions in order to promote the best interest of the child.

5.11 The role and qualifications of a guardian in relation to return

Slovene Philanthropy is currently the only organization that engages in returns of separated children to their countries of origin. In practice, the guardian accompanies the child to the border of the country of origin and there, hands the child over to the Police. According to Slovene Philanthropy, the fact that the guardian accompanies the child on his/her return is also not a sufficient guarantee for a proper return, since the child is handed over to the Police. There is also no system set up in Slovenia that would provide the child with support with his/her reintegration upon his/her return to the third country.³¹

The question about the role of a guardian towards return has arisen in different responses from guardians. Most of the guardians had clearly expressed their opinion regarding the role of a guardian in terms of the return as well as what is necessary for a successful return of a child, while one guardian has not really thought about this topic before, since he was a guardian only to two children who already obtained international protection status.

“This I can hardly imagine because it would have been terrible to tell to a child... what should I say? I don't know, I wouldn't know how to talk about this. I mean, what could I say to him? 'I'm sorry'? I don't know, I really don't know. But surely I would do my best and I would fight for the child to stay here, if he would wish that.” (SG5, male, guardian)

³¹ Slovene Philanthropy and Legal-Informational Centre for Non-Governmental Organizations, “Policies on reception, return, integration arrangements for, and numbers of, unaccompanied children in the Republic of Slovenia”, 2009, p. 30.

Mostly the guardians had talked with the children about return, since this was recognized as an important and realistic topic, however it was declared that in most of the cases this is the talking point only in the beginning when child and a guardian meet.

Three guardians participating in this research underlined the importance of a successful return that needs to be provided to the children who need to return either to the third country or to their country of origin. This in their opinion comprises of the following: in cases when a child needs to return (according to the decision by the designated inspector) or in cases where in view of the situation and the given (limited) conditions the child and the guardian decide on the child's return home, the guardian has to establish contact with the child's parents or relatives and has to agree that they pick up the child upon his/her return to his/her homeland. In certain cases, for instance when a suspicion of trafficking in human beings exists, the guardian has to contact a suitable non-governmental organization in the country of origin with the aim of ensuring support and assistance to the child at the time of and also after his/her return. The same guardians pronounced that guardians have to make arrangements for each case separately and that on their way home the children need to be accompanied by their guardians. We also learned from the guardians that after children return, the monitoring of the situation should be made, though in practice this is difficult and sometimes even impossible. The guardians often do not know what happened to the children once they returned.

“It is necessary to develop the programmes based on which it would be possible to assess the best interest of the child. It is impossible to reach these assessments without the cooperation amongst non-governmental or other organizations from child's country of origin, whose task should also be to examine the child's family situation. If, on the basis of all necessary information, the return of the child is in his best interest, we need to prepare the child for his return. Furthermore, adequate escort needs to be assured, an adequate reception has to be provided as well as further care and support and the reintegration of the child. Again, the help of the organizations in the child's country of origin is of a great importance. Absolutely we shouldn't forget to monitor the situation after the child's return back.” (SG1, female, guardian)

Sub-paragraph 2 of article 10 of the Return Directive stipulates that prior to the child's removal, the authorities of the Member State shall ascertain that the child will be returned to a member of his/her family, a nominated guardian or adequate reception facilities in the country of return.

One guardian has expressed her concerns in relation to the child's return:

“When child needs to return, the most important is, in my opinion, to ascertain, if the child would be safe after his return. Despite the agreement that somebody awaits for the child upon his return to the country of origin, it might happen that this person doesn't appear there and a child could find himself in a danger and we aren't able to do anything. In this case our hands are bound and a child could be left there all alone,

because at the time the guardian hands the child over to the child's county of origin, guardian's work has finished.” (SG2, female, guardian)

In the interviews came forward that even though the Police notifies the receiving country on the child's arrival and in cases when the guardian contacts the child's parents or other relatives and tries to agree that they await for the child upon his/her return to the country of origin, in practice there are no mechanisms in place by means of which the state bodies or the guardian could verify that the child will in effect be returned to his/her family, guardian or a suitable institution.

According to the information obtained by the Centre for Foreigners, the costs of the separated children's return include transportation costs, for both the child and his/her guardian, and vary with regard to the countries the children are being returned to.

One guardian declared that sometimes there is no need to accompany the child and that the guardian's trip is just a waste of the taxpayers' money:

“A few times I went with them on the plane, like a guardian should go. Well, because I have a fear of flying I try to avoid this part. But honestly, this really seems to me throwing away the money, the taxpayers' money. I didn't have a feeling it had meant something to the children when I took a seat on the plane with them and then I even couldn't go with them until the end. This is really pointless.” (SG3, male, guardian)

Recommendation 17

The guardian should be capable of discussing issues with the child about the possibility of return. This corresponds to the right to access to information (article 17 CRC).

Recommendation 18

It is recommended that guardians have contact with organizations in the country of origin that can provide information about the situation of the child once he returns. When this information is not available a guardians should not approve the return of the child. This corresponds to the right to special protection of separated children (article 20 CRC).

Recommendation 19

According to the most adults, when children need to return either to the third country or to their country of origin, it is recommended that the guardians accompany children or arrange that somebody else do this.

Recommendation 20

The suitable mechanism that verify the child is in effect returned to his/her family, guardian or a suitable institution in a third country or in the child's country of origin should be established. It is recommended that the guardian tries to be informed about the reception of the child after a child is returned.

5.11.1 Slovenian policy on return

The legal framework on return is set out in the Aliens Act; chapter VI defines the procedure of forced removal of an alien. The body designated to implement the forced removal is the Police. Generally speaking, the removal can be either voluntary or forced and the law differentiates the two procedures, yet none of them foresee any specific measures for the cases of removal of separated children; that is considered as a gap in the law.³²

1) The Police transfer an alien who has to be removed from the country according to the law to the state's border and instructs the person to cross it or extradites him/her to the designated body of the neighbouring country.³³

2) The Police transfer to the border also an alien who is being returned on grounds of an international agreement and instructs him/her to cross it or extradites him/her to the designated body of the neighbouring country.³⁴

There are only two criteria for deciding whether the separated child will be returned to his/her country of origin or a country ready to accept him/her:

1) That a suitable reception is provided for the minor in the country where he/she is being returned to.³⁵

2) That the return is not incongruent with the Convention on the Protection of Human Rights and Fundamental Freedoms and its amending Protocols No. 2, 3, 5, and 8 and its protocols 1, 4, 6, 7, 9, 10 and 11; the European Convention on Prevention of Torture and Inhumane or Degrading Treatment or Punishment; the Convention on the Rights of the Child (Official Gazette RS-MP, No.9/92) and the European Convention on the Exercise of Children's Rights.³⁶

The law does not include any detailed procedure for establishing whether a suitable reception will in effect take place in the reception country. That is why an additional problem in the somewhat modest legal framework is the fact that in its bilateral agreements the Republic of Slovenia does not have any provisions stipulating a safe return.³⁷

If reasons exist due to which the child's return to the country of origin or a third country willing to accept him/her is not possible, the designated body should not return the child to that country. In such cases the child is not issued a temporary or permanent residency permit, but is allowed to stay in the Republic of Slovenia on grounds of the Asylum Act. The latter stipulates that a person is allowed to stay in the Republic of Slovenia in cases when his/her forced removal would not meet the provision of article 51 of this law, which defines that the

³² Ibid., p. 27.

³³ The fifth paragraph of the 50th article of the Aliens Act.

³⁴ The sixth paragraph of the 50th article of the Aliens Act.

³⁵ The second paragraph of the 60th article of the Aliens Act.

³⁶ Ibid.

³⁷ Slovene Philanthropy and Legal-Informational Centre for Non-Governmental Organisations, *"Policies on reception, return, integration arrangements for, and numbers of, unaccompanied children in the Republic of Slovenia"*, 2009, p. 27.

forced removal or return of an alien to a country where his/her life or liberty could be endangered on grounds of his/her race, religion, nationality, membership in a social group or political opinion, or to a country where he/she could be exposed to torture or inhumane and degrading treatment or punishment, is not permitted. The permit to stay in RS is issued upon the alien's request – in the cases of separated children upon a request of the child's guardian – or ex officio by the designated body for a period of six months. The permit can be extended for the time of the existence of the reasons mentioned. In practice it is most often the legal guardian in cooperation with the child who files the application for temporary stay and encloses the reports and evidence showing that the child would not be provided with a suitable reception upon his/her return.³⁸

5.12 Information about children's countries of origin

Asking about the knowledge that guardians have about the countries the children are coming from, we have learned that most of the guardians have little or no information about these countries, however some guardians expressed the desire to gain more information about those countries. As we can read below, the responds from the interviewed guardians vary a lot:

“I would say that I have only some basic information about the countries the children are coming from. However, in case when I'm a guardian to a child who comes from the country that I do not have much information about, then I try to acquire information. But anyhow, I lack this information and I would have wanted to have them more. In my opinion, guardians have to have the information about the children's countries and have to be aware of the situation in these countries.” (SG4, female, guardian)

“Information that I have are very scarce. In fact, I even do not find them so relevant. It is all the same to me whether this is India, Afghanistan, USA, Panama or any other country. In life it's good to be aware of many things but this particular thing is just not of my interest. I really don't know what to say but I have no part in this.” (SG5, male, guardian)

In answering our question about the information that guardians have about the countries the children are coming from, all children expressed the lack of information that their guardians have about their countries of origin.

“No, she doesn't know.” (former separated child)

“She always keeps asking me, I don't think she knows. I don't know, if she knows but I've not heard anything about that from her.[...] I would like to know. I would really

³⁸ Ibid., p. 28.

love to know what is going on these days. Coz' you cannot really know what is happening there.” (separated child)

“Probably that I asked but some of them they didn't even know where is my country. [...] If you really want to help someone, if you want to know someone, if you want to understand someone, it would really be good to give the information about his background, how is going there [in child's country of origin], how they are doing there and so on. And then you will understand him or her when he or she will be, I don't know, doing somehow or acting somehow.” (former separated child)

In most of the interviews with adults it was mentioned that a guardian should talk to the child about the situation in their country of origin, although in practice, this is not a topic that would arise often in conversations amongst children and their guardians. It was pointed out by the adults that this also depends individually on the child and his/her preparedness for such talk. Guardians told that some children talk openly about their country of origin from the very beginning, while others need to take more time to start the conversation on this topic. Most interviewed children would like to talk more often with their guardians about their home countries, only one child expressed he does not have the need to talk about his country.

“I don't think she has asked before so... Both of my guardians didn't ask me much about this. I want, of course I want [to talk about the situation in his country of origin].” (former separated child)

“I think I don't need to talk about that. It is better to forget.” (former separated child)

“I did talk with my guardian about the situation in Afghanistan. I even showed her once one web page. It is normal that they talk about this.” (former separated child)

Recommendation 21

Make sure that the guardians are willing and able to (quickly) acquire knowledge about the situation in the children's country of origin as well as in the areas that the guardian is unfamiliar with.

5.13 Responsibilities of the guardian when the child comes of age

In Slovenia, guardianship ends when the child turns 18 which means that the guardian no longer holds responsibility for the child.

Almost all guardians that we interviewed try to prepare a child for turning 18. This is mostly done through conversations as well as with placing the responsibilities on the child.

“In the very beginning I tell to a child that according to the Slovenian legislation, I'm officially his guardian until he turns 18 years, so that he is familiar with this information. When he is approaching to become of age this becomes something I

mention more frequently in our talks, so in some way I am preparing him on this fact. We talk what this means and what is going to be different and things like that. However, we always continue with the help and support in the same way... there are no bigger changes except that I encourage a child even more that he tries to lead certain things. Yes, the difference is that officially I am no longer responsible for certain things, however in practice there are no significant changes.” (SG1, female, guardian)

“It is important that you start transposing the responsibility for their life and their actions on the child so that tomorrow when he will reach the number 18... when actually nothing happens but according to the law the guardianship finishes.” (SG5, male, guardian)

Out of eleven interviewed children, nine of them knew that from the moment they reach the age of 18 their guardian is no longer responsible for them. Children have been asked about the changes when they turn 18:

“A lot. Because you know, you don’t have a possibility for guardian again. You are not prepared enough, you are being dumped. So is no good preparation, maybe the procedure have not finished and a lot of things, yeah. So a lot of things changes.” (former separated child)

“When somebody is 18 he needs to pay taxes and fines, if he crosses the red light. And he doesn’t have a guardian anymore. But I’m still a minor and I already got a subsidiary protection so there is no difference for me.” (separated child)

All guardians stay in contact with the former minors, in fact they declared the level of help and support as well as the frequency of the contacts stayed the same as they were when the child was under age.

“In general, we do not complete the guardianships when child comes of age. We continue to perform it, of course only when child wants this. I think this is better, because we are following child’s procedure from the beginning. We still remain with them.” (SG4, female, guardian)

One former separated child was particularly talkative in explaining that he feels he can always turn to his former guardian/guardians as he did before, although he already reached the age of 18.

“Yes and they received it in a good feet. But there are some differences now... there is a difference between me and the authorities and my guardian. This changes.” (former separated child)

Good practice

From the guardians we have learned that when the children turn 18 the guardians stay in contact with the children and are available whenever former children have a problem. Therefore, unofficially nothing really changes after the child has turned 18.

Recommendation 22

Make sure that the guardian informs children about the legal procedures concerning their situation when they turn eighteen. This corresponds to the right to information (article 17 CRC).

Recommendation 23

It is recommended that guardians provide clear explanations of the role of the guardian before and after a child comes of age.

Recommendation 24

It is recommended that the guardian stay in contact with children after they turn eighteen.

5.14 The caseload of a guardian

It has to be noted that during the time when this research was conducted only four guardians in Slovenia have been performing the guardianship function for separated children; three guardians are employees of Slovene Philanthropy and one guardian employed at the Centre for Social Work Ljubljana Moste – Polje.

The existing caseloads of the guardians at the time of the interviews amounted to two children, although it was emphasized by the guardians that this numbers varies - depending on the number of new arrivals that are either detained in the Centre for Foreigners or apply for asylum. One of the guardians we have talked to once had a caseload of 11 children.

Some guardians were during the process of conduction of this research guardians either to separated asylum seeking children or to children with subsidiary protection, only in one case the guardian had two separated children who were in those two different procedures. It has been described by the guardians that they also work with the (former) separated children to whom some other guardian has been appointed.

“Currently I’ve no children under the guardianship. I recently had one from Afghanistan, he was in Slovenia for around two weeks and then he left the Asylum Home. In practice even the children whose guardian is somebody else or we were his guardian in the past are coming to us and ask for some help. Maybe I can set out an example of one boy who has recently become 18 and is housed in the capacities of one NGO – he still appeals to us as he did in the past. Then there are some other boys, former separated children who are coming in our organization and ask for help. But they are very few of these children and we are couple of guardians so that the work with them is divided amongst us guardians.” (SG1, female, guardian)

According to both, interviewed children and adults, a guardian should take care of one to three children. Only one child expressed that one guardian can be a guardian to ten or even up to fifteen children. However, the general opinion on this topic talks in favour of “one child per guardian”, since in this way a guardian is able to dedicate more time to the child (bearing in mind that a guardian is performing this duty on a voluntary basis) and is able to perform the duty to a greater extent.

“In most of the cases there is no quality in the quantity. For sure it is better that one person is not a guardian to the numerous children because in the long run the energy is loosing... when the focus is greater the things are more powerful.” (SG5, male, guardian)

Some adults as well as one former separated child have stressed that the guardians are facing a range of difficulties in grappling with the existing system to provide children with the suitable support and to safeguard their interests. They perceive supporting the children in the areas of education, accommodation, financial assistance and family reunification procedure as key obstacles. For these reason they also think it is better that a guardian is not over-loaded with cases.

“If the system was different so that we could really do something for these children then I would like to be a guardian to more children. But as it is now they come to us and they have 1001 wishes, I mean they’re totally realistic wishes, but on its own merits we cannot do much. That is why I prefer to have only one child. But if the conditions and the system were normal then of course I would have wanted to have them more.” (SG2, female, guardian)

Recommendation 25

On the grounds of the complexity of working with separated children and the insufficient system covering this sphere, a low caseload is recommended. The guardian’s caseload has to be adequate and manageable. This also reflects the right to special protection and assistance (article 2 and 3 CRC).

5.15 Should guardians be paid or be volunteers?

As already mentioned earlier in this study, nowadays employees of Slovene Philanthropy are providing guardianship to the separated children. Guardians are part time or full time employees of Slovene Philanthropy and are working on several different projects, however the guardianship institution is not paid. The state does not provide Slovene Philanthropy with any financial support for the project providing guardianship. In the past when guardianship was mostly provided by Slovene Philanthropy’s volunteers, the travel expenses had been reimbursed to them.

For most adult respondents with the exception of two guardians, a guardian should be a paid person. This was reflected in their perception of the guardianship function that is full of responsibilities and in compliance with the existing inadequate regulations guardians face numerous barriers and challenges in performing the role. However, in spite of giving a favourable consideration the question has also raised some doubts about the possible unsuitability in motivation of somebody becoming a guardian, if the guardianship function would be a paid function.

“Such a question is not easy answerable. This would be now grist to my mill, but still I think we should really be paid. [...] I’m not really sure that when a guardian would be a paid person that this would automatically have an impact on the quality of the performance of this duty. In my opinion, more people would be prepared to perform guardianship, because now is very much difficult to find volunteers to perform it also because the function is full of responsibilities. It could happen that money could give the grounds for motivation in some cases but at the same time this would give the opportunity to be selective in choosing amongst guardians. But yeah, I guess this is really a double-edged sword.” (SG3, male, guardian)

Another guardian was also eloquent in expressing her perception of the topic:

“With regard to the existing system where support for these children is, in my opinion, not as it should be and in this context a guardian is somebody who faces heavy burden when trying to do something more for a child, although this are not the matters within guardians competence... In such cases guardians should really be paid for their work because they are in the constant struggle with the state and for this a lot of time and effort is needed to achieve their purpose. While, if I ponder on the theoretical level, in case we were in a country where the system for the handling with the needs of the children – in terms of accommodation, special programmes, psychosocial support – is already established and this would have been provided by national system... then a guardian could be only one of the responsible persons who would work in collaboration with competent and responsible actors. In such cases it seems to me that it is not necessary that a guardian is a paid person.” (SG1, female, guardian)

In contrast to the latter quotations another guardian has dissenting opinion:

“Perhaps I’ll sound very stupid but my answer is ‘no’. Because for instance, though this task is not the part of my job duties but I perform it during my working day, I do not see the reason why I should be paid extra. But is true that this goes on account of other matters, other work obligations that have to wait.” (SG2, female, guardian)

Most of the interviewed children were not aware of the fact that their guardians perform their function on a voluntary base and none of them, with the exception of one child, have expressed specific view on whether the guardianship function should be paid or not.

“...the issue of paying or not paying is a bit... it could be good that he [a guardian] is doing that for helping a child. If he is doing that as profession it becomes something else. I believe that when you are doing something for free that your heart has this wish to help someone, is much more enjoyable and giving you happiness. But, if you are doing something for profession is much more like... make you depressed and make you under the pressure and sometimes even confused. If the guardian would be paid like the system is going in Europe... when you are paid you take it much more serious. Ok, maybe the child would have much more attention but what I would prefer is that it would be a volunteer but to give some funds to the guardian that could be able to go most of the time to visit the child, to take the child around and so on.” (former separated child)

Recommendation 26

In accordance with suggestions from the majority of adults, it is recommended that the guardianship function would be professionalized and therefore a guardian should be a paid person and should receive financial means.

5.16 Involvement with the child

All guardians interviewed during this research were asked whether they ever experienced difficulties when they maybe get too involved with the child, as for instance sleeping problems. In answering our question three female guardians alleged that they have experienced that, while two male guardians declared that the stories of the children have not gotten so close to them in the way that would impact on their state of health.

“I was, I certainly was suffering and I came home and I cried, because of the cruel fate of some child and of those who have stayed at home. [...] Of course all this things are bothering me is just that... this things don't get to me as much as they used to, though I had felt much better before. I felt more human but now I feel more alienated but not in the sense that I do not care what someone has experienced, but in a way that now I listen to the stories much easier.” (SG2, female, guardian)

“I don't know, if I could say that I was too involved with the child's case, but there were cases that had a profound impact on me at the time when they were happening. I would set out two cases of two boys from Afghanistan. The first case occurred soon after I began to be a guardian and Slovenia has decided to deport a boy to Greece, which he was very scared of and he was imploring me to prevent that. I did my utmost of my power, yet the whole situation had brought me in a tough spot also because I felt my powerlessness towards the state. Then we won on the court but the boy left the

country already before the court's decision because he was so afraid of deportation. The second case occurred about two years ago when one boy fall sick with very severe illness and for some time we didn't even know whether he will survive. Also this situation had at that time a great impact on how I felt, including my sleeping.” (SG1, female, guardian)

All guardians declared that when having some worries or troubles they discuss them with other guardians or other colleagues in order to receive their input, their advice and to relieve their worries.

Good practice

The guardian we talked to, seek support and counselling whenever necessary and exchange experiences with his/her colleagues.

Recommendation 27

It is recommended that guardians have gatherings where they can exchange experiences and discuss some of the emotions which have been evoked in the course of the job. The guardian should therefore have the ability to get support or counselling from other professionals.

5.17 A day in the life of a guardian

Among the five interviewed guardians four of them are or used to be employed in the non-governmental organization Slovene Philanthropy – Association for promotion of voluntary work and within it in the Centre for psychosocial assistance to refugees. Three guardians are employed full-time in Slovene Philanthropy although one of them is present in Asylum Home three days a week. One guardian used to work at the same organization but is now unemployed, while one of the interviewed guardian works at the Centre for Social Work Ljubljana Moste - Polje. They have different education: social pedagogue, lawyer, sociologist and social worker.

The working day in the life of the guardians in each case looks different, although there are several parallels especially amongst the guardians that are employed in Slovene Philanthropy. In Slovenia, guardianship is not professionalized and is therefore not the full-time job as such. While one of the guardian employed in Slovene Philanthropy is as well present in Asylum Home three times a week where she works with users, namely with separated asylum seeking children and separated refugee children, asylum seeking and refugee families and other migrants, the other two guardians from the same organization work on several projects, inter alia, covering also the field of migrant youth. They commented on the enlargement of the bureaucratic work and on the decrease of field work. When they are working with separated children their job include counselling and psychosocial assistance, conversations, problem solving, finding optional solutions, informing and advising the children, representing children in legal matters, offering them different forms of accompaniment to the institutions when needed, etc.

The nature of activity of a guardian employed within the Centre for Social Work differs from the job of above mentioned guardians. The working day of this guardian consists of counselling and assisting ex-prisoners and therefore for him:

“... the guardianship is not something that would take up so much time. In this sense, my day looks the same as if I wouldn’t be a guardian. However, in the context of my work responsibilities there is a place for performing a guardianship function as well. To me, guardianship is like I’m maintaining friendship relations and I meet with a person.” (SG5, male, guardian)

5.18 When a guardian would be a separated child

We asked the guardians what they would like their guardian to do for them if they were separated asylum seeking children. The guardians mentioned the following:

“I think I would wish the same as they do. A lot of them wish to call their relatives, for instance in Italy, and wish they would come for them and take them from this prison [Centre for Foreigners]. It seems to me that I would have the same thoughts as they are having. I don’t know, if I would want to understand that there are some regulations and that there is something that the guardians can do and something what they cannot do. Well I think I would accept this, but certainly I would not like it. I would have wanted to go where I was bound for and I would expect from the guardian to make this possible. Although I have been explaining [in this interview] that children often don’t understand... at the same time I know that I wouldn’t understand either. As I’m saying, it’s a question, if I would understand that the guardian is not to be blamed. I would also expect that, I mean it would mean a lot to me, if there is somebody who takes an interest in me.” (SG3, male, guardian)

“On this question is difficult to give an answer, because now I’m aware of the existing situation and what is in the guardians’ ability. If I try to leave this out of account, I suppose that I would, as a child who came from certain country to Europe, expect that people here will help me. And if a guardian would present herself/himself as someone whose role is to help and offer support, then I certainly would, especially at the beginning, expect many things. Firstly, it would be important to me that I would be assured protection and the possibility to stay in Slovenia and would expect that the guardian would help me with this. Furthermore, I would expect to be provided with health care and that I could be included in the school, that I would start learning the language and that I could work. Presumably I would expect that the guardian would help me in achieving all my desires and needs. But probably with time when I would become aware of the situation that I’m in and my guardian’s ability, then I would adjust my expectation to that. Still, I would expect from the guardian maximum

support and help and that he/she would do everything what is his/her utmost.” (SG1, female, guardian)

“Well, above all I would wish that this wouldn’t be something alienated. That this wouldn’t be somebody who comes with the briefcase and with lots of papers. I guess the human nature, which is probably the only that is meaningful, is important for a child and that this is not some alienated institution. It has to be one person of flesh and blood and is prepared to go and meet a child and help a child.” (SG5, male, guardian)

6. Separated children in Slovenia

6.1 In general

For most separated children, the Republic of Slovenia is a transit country, which they leave soon after their arrival and continue on their way towards the countries of Northern and Western Europe.

Most of these separated children are boys of fifteen to seventeen years of age, coming predominantly from Albania, Kosovo, Afghanistan, Turkey, Moldova and some African countries. In the past, most of these children would have applied for asylum, while in the recent years increasingly more of them opt for a return to the country of origin.³⁹

Official statistics on separated children who entered or were denied entry to the territory of the Republic of Slovenia could not be obtained, since the Police do not record statistics for this population separately.

Table 1: Information on the number of separated children, the country of origin and gender of separated children that applied for asylum in the period 2005 – 2010 (from January to August).

COUNTRY OF ORIGIN	2005		2006		2007		2008		2009		2010 (Jan.-Aug.)		TOTAL
	M	F	M	F	M	F	M	F	M	F	M	F	
Afghanistan	1		1		5		9		11		8		35
Albania	34		8		7		3		3				55
Bangladesh	1												1
Bosnia and Herzegovina	1	1			1								3

³⁹ Slovene Philanthropy and Legal-Informational Centre for Non-Governmental Organisations, “Policies on reception, return, integration arrangements for, and numbers of, unaccompanied children in the Republic of Slovenia”, 2009, p. 5.

Eritrea								1		1		2	
Georgia			2		1							3	
Ghana							1		2			3	
India	9											9	
Iraq								2				2	
Kosovo	1						1					2	
Liberia	4											4	
Cameroon					1							1	
Macedonia	1											1	
Moldova			2									2	
Mongolia	1											1	
Nigeria	1				1					1		3	
Pakistan									3			3	
Palestine			2									2	
Rwanda							1					1	
Russian Federation	1											1	
Senegal	1											1	
Sierra Leone					1	1						2	
Sudan	1											1	
Turkey	10		1		2		2		3			18	
Serbia	13	1	5		6	1	1					27	
TOTAL	80	2	21	-	25	2	18	-	25	-	10	-	183

Source: The Ministry of Interior.

According to the data obtained by the Ministry of the Interior the number of separated children who applied for international protection in Slovenia and had therefore been accommodated at Asylum Home in the period 2005 – 2010 (from January to August) totals 183 children.

Afghan boys aged from fifteen to seventeen years comprise the largest group of separated children in recent years in Slovenia. Many of these children have often received little or no schooling and have known war and chaos for a considerable part of their lives. These children generally arrive late in their childhood, and they have to compensate a lot in a very short period of time, especially in terms of education.

According to the data obtained by the Ministry of the Interior, the number of separated children that had been granted international protection in Slovenia in the period from 2000 until 2010 (January-August) totals 16 children. As we can read from the table 2, in the last five years, nearly all are boys from Afghanistan who were given subsidiary protection. In the years 2000, 2002, 2003 and in the year 2006 no separated child was given a recognized status in Slovenia. From 2001 until 2007 eight children were given status for humanitarian reasons (as shown in table 2). Until 2007 Slovenian legislation offered protection on humanitarian grounds that was regularized in Asylum Act which had been replaced by International Protection Act that come into force in the very beginning 2008. Asylum for humanitarian reasons had been granted to a person who has not been eligible for international protection in

line with the conditions of Geneva Convention but has nonetheless had sufficient reasons not to be returned in their country of origin.

Table 2: Information on the number, the country of origin and gender of separated children that obtained international protection status in the period 2001 – 2010 (from January to August).

COUNTRY OF ORIGIN	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010 (Jan.-Aug.)	TOTAL
Afghanistan					1(M)		1(M)		3(M)		5
Cameroon	1(M)			1(M)							2
Ethiopia	1(M)										1
Iran				1(M)							1
Kosovo					1(M)			1(M)	1(F)		3
Sierra Leone	2(M)										2
Serbia					1(F)						1
Sudan	1(M)										1
TOTAL	5			2	3		1	1	4		16

Source: The Ministry of Interior.

Separated children are naturally entirely different from one another. They all have unique potential and personal resources, therefore it can be problematic to focus on them as a special group. This might keep them trapped in a category that can be difficult for them to escape from. Some separated children expressed they prefer to look ahead rather than looking back on their past.

“First time... they asked me about my problems... but you know is not something that I have to talk to everybody. Whenever I start to talk about that I start crying or I make somebody else cry. So it is better to forget. [...] They also asked about my country and I said something that everybody were... I didn't mean it. But everybody just start being sad. They were... everybody was having fun and then they asked me about my country. I said, 'this is the situation' and everybody stopped to have fun.” (separated child)

6.2 Migration policy for separated children

As mentioned earlier in this study, separated children in Slovenia can have different kinds of statuses or can be considered as: irregular migrants (illegal migrants), asylum seekers, can gain status as a person with international protection (refugee status or subsidiary protection), can obtain temporary protection of displaced persons or can obtain permission to remain.

The International Protection Act does not contain any special provisions for separated children with regard to them expressing intent for filing an application for international protection. In practice, in cases when the separated child applies for international protection during their accommodation in the Centre for Foreigners, their intent of applying for such

protection is lodged by the guardian. The separated children who apply for the international protection at the Police Station lodge their formal intent by themselves (without a lawyer).

The International Protection Act defines separated children as vulnerable persons with special needs. The procedures are not further differentiated with regard to the child's age, while the law stipulates that the child engages in the procedure in a manner suitable and adjusted to his/her age and level of mental development. According to the legislation⁴⁰, the procedures entail the following specific elements:

- The procedures have to take into consideration the principle of the child's best interest;
- As soon as possible the child's identity has to be established and a search for parents or other relatives has to commence;
- The application has to be considered a priority;
- Prior to the commencement of the procedure the child has to be appointed a legal guardian;
- If the child wishes so he/she has to be provided with an oral explanation of the content of the brochure on the rights and duties prior to the application taking procedure.⁴¹

Before the procedure of taking the application for international protection, the person undergoes the process of dactyloscopy⁴², however applicants younger than 14 years of age are not fingerprinted. The procedure of age assessment is not carried out in Slovenia. When it is established that the child has already applied for asylum in some other EU member state, the "Dublin Procedure" takes place. The child's movement can be limited.

6.2.1 Asylum procedure for separated children in general

Asylum procedures are long and by their nature can be a source of great stress to the separated asylum seeking children. It is stipulated by the law that an asylum application lodged by a separated child must be handled with priority and must be decided upon as soon as possible.

According to the information gained from the officials in Asylum Home, the asylum procedures for separated children last from one to six months, depending upon whether an appeal against the decision is made. Whilst according to the experiences of Slovene Philanthropy, procedures can take as long as two years when there are appeals. On the other hand the procedure can be finished in one week; decision-makers in Asylum Home can decide not to examine the content of application, instead they point suspicion of abuse of procedure and therefore reject the application as manifestly unfounded; if a foreigner does not apply for asylum immediately after entering Slovenia, the competent authorities may infer the abuse of

⁴⁰ Articles 16th of the International Protection Act.

⁴¹ Slovene Philanthropy and Legal-Informational Centre for Non-Governmental Organisations, "*Policies on reception, return, integration arrangements for, and numbers of, unaccompanied children in the Republic of Slovenia*", 2009, p. 20-21.

⁴² The fingerprinting.

procedure and reject the application without proper examination. Experience of Slovene Philanthropy is as well that many of the separated children get frightened when their asylum application are rejected in the first instance, therefore they leave the country as soon as possible as in Slovenia they do not get proper protection.⁴³

According to Slovene legislation the asylum procedure for separated children shall be handled with priority, while the practice often does not provide the rule.

“... the decision-makers should consider the child’s application as a priority... anyway they do not like when I tell them this, but it is clearly written in the law.” (SG2, female, guardian)

Interviewed children are staying in Slovenia for different durations, from some months up to 6 years.

“I’ve been here for 11 months now.” (former separated child)

“Now is around 2 years that I am in Slovenia.” (separated child)

“Almost 6 years.” (former separated child)

6.3 Facilities in which separated children stay

6.3.1 Centre for Foreigners

As noted earlier in this study, separated children that are according to the law considered as illegal migrants are lodged in the Centre for Foreigners in Postojna, which is the only accommodation facility in Slovenia that accommodates persons who are categorized as illegal migrants. The Police temporarily accommodate separated children who have entered the state irregularly at the special department responsible for minors at the Centre for Foreigners.

Centre for Foreigners is a detention facility where the movement of detained persons is de facto limited – aliens are limited to the centre’s facility and to the surrounding area according to the centre’s house rules.

The Annual Report of the Human Rights Ombudsman describes the situation in the Centre for Foreigners and the treatment of detained persons each year. In the Annual Report for 2006 we could read the following:

“In the annual report 2005 we have drawn attention to the inappropriate accommodation of minors not accompanied by their parents or other legal caregivers to the special department for minors in the Centre for Foreigners. We have emphasized that such accommodation is

⁴³ Zavratnik, S. and Gornik B., *“The risk group of unaccompanied minors: Protection measures in an enlarged European Union”*, University of Primorska, 2007, p. 11

suitable only for a short period time. For longer periods of stay a more suitable accommodation is one in social care institution or educational institution, thus in an environment adjusted to the accommodation of children and their care”. The Ombudsman has also recommended that Centre for Foreigners should ensure the aliens at least two hours of outdoor activity.⁴⁴

According to the legislation, separated children can be granted a different, more appropriate accommodation, if during the procedure the Police establish that an accommodation under the social care supervision is more suitable for the child.

In practice, the possibility of accommodation for separated children outside the Centre for Foreigners is not being implemented, since in Slovenia there is no alternative accommodation for this population.⁴⁵

Most of the interviewed guardians find the detention facility as inadmissible and not in compliance with child’s protective measure.

“Separated children must never be detained for reasons related to their immigration status or illegal entry. This includes, whether temporary or otherwise, detention at the border or in international zones, in detention centres, in police cells, in prisons or in any other special detention centres for young people. Judicial oversight must be exercised where it is deemed in a child’s best interests to be placed in a closed centre.”⁴⁶

6.3.2 Asylum Home

Separated children who apply for international protection stay at Asylum Home in Ljubljana which is an open institution and the only facility for those who apply for international protection. Asylum Home is divided into three divisions, department for families, department for single men, and department for separated children and women.

The issue in Asylum Home is that there is no 24 hours of adequate social surveillance over separated children. In addition the department for separated children is not actually separated from other departments, therefore everybody have access to it. Women or families may be accommodated in the department for separated children when there is lack of room.⁴⁷

Children interviewees have shared the view on how it is to be living in the Asylum Home:

“I’m staying in Asylum Home and it is a small place first of all and is because you have only one place for asylum seekers in the whole country. Is a quiet place because you do not have too many asylum seekers. Sometimes I get bored because you don’t

⁴⁴ Slovene Philanthropy and Legal-Informational Centre for Non-Governmental Organizations, “Policies on reception, return, integration arrangements for, and numbers of, unaccompanied children in the RS”, p. 18.

⁴⁵ Ibid., p. 17.

⁴⁶ The Separated Children in Europe Programme, *Statement of Good Practice*, Forth revised Edition, 2009, p.26.

⁴⁷ Zavratnik, S. and Gornik B., “The risk group of unaccompanied minors: Protection measures in an enlarged European Union”, University of Primorska, 2007, p. 15

have anything to do, no one to talk with and I've only one who understands my language and someone that I can talk to in English, but you cannot find them every time you want. Is good, you've some people, is good to know some language.”
(separated child)

“... every morning they would come and knock at your room, like for prisoners. Yeah, you do not have enough to eat, you don't feel secure. You would think and think and think if somebody gets a negative. Some time I thanks God for that I'm not staying there anymore. [...] ...they have moved me because of some circumstances. They moved me to the safety house.⁴⁸ I feel very safe there. [...] I don't know... Is not easy in Asylum Home, really is not easy. Asylum procedure in Slovenia is one of the worst. I haven't seen the other countries but... any jail is better than Slovenia Asylum. Because they treat people like animals and the workers there...” (former separated child)

A child with the experience of living in the facility for asylum seeking children in some Northern countries, made a comparison within the accommodation facilities that are familiar to him. He has referred as well to the suitability of accommodation facilities that are meant only for the separated children; such facilities do not exist in Slovenia.

“Well it was almost the same as here. ... they have too many asylum seekers, they put people in different places so they do not have only one specific place. They've a big place, is like reception. [...] Families are going to special centres which belong to families and over-aged they go to another centre and under-aged they go to another. I think this is good. Because when you have a partner who is of the same age of you so you know how to speak with him and you can... just like friends. You know, you cannot talk to a person who is, I don't know maybe 10 or 20 years older then you are, like to a friend who is of the same age as you. So is good to have friends of the same age.”
(separated child)

6.3.3 Integration House and other accommodation facilities

According to the provisions regulating accommodation for persons with international protection status, the Ministry for the Interior house a person with international protection in an Integration House or an other accommodation facility of the mentioned Ministry.

In practice in previous years, separated children who were close to become 18 years of age have been accommodated in private accommodation, while in three cases of somewhat younger minors (16 years of age) the latter were accommodated in the Group Home Postojna.

⁴⁸ *Remark from the interviewer:* The mentioned safety house belongs to Society Ključ – centre for fight against trafficking in human beings which is a non-governmental, non-profit and humanitarian oriented organisation. They are the strongest Slovene actor regarding preventive and curative activities in the field of fighting trafficking in human beings. Only persons of age who are recognized as victims of human trafficking can be accommodated in the mentioned safety house.

Group Home Postojna is juvenile educational institution where minors with behaviour or personal problems are taken care of and therefore is not suitable for the accommodation of separated children.

Accommodation which assures interaction with the receiving community is of a great importance to the separated children, since it impacts on further integration – provides them especially contacts with peers, where children have the possibility of practicing the communication in Slovene language on a daily basis. Integration House is not an example of this kind. Separated children live there alone or they share an apartment amongst each other. There they are left without any suitable surveillance, they only occasionally receive visits by integration counsellors or their guardian. Because there are no suitable accommodation facilities for them, they are forced to become more independent in comparison to their peers. It can be observed from the mentioned conditions that the current situation in Slovenia does not offer any suitable accommodation for separated children.

“Now I live in an Integration house. I live in an apartment and one other boy is living with me. He is also from Afghanistan. We are two and we have two rooms. I have my own room. Downstairs two families live. It’s ok for me, it’s a nice place. I only would like to live with Slovenian people because I need to learn the language. I have a problem with the language. That is why I would like to live with Slovenian people that they would help me with the language, because here I’m alone, I don’t have any help from people and I can’t talk to them.” (former separated child)

“The place that I’m living is a private place. The owner is one woman and I don’t know, like human we are sometimes in a good mood and sometimes in a bad mood. So sometimes I really ask myself, if I really have to still be living here. So I wouldn’t really say that I love it so much but I wouldn’t say that I don’t like it. So there are many good things there and of course, there are also many bad things there.” (former separated child)

Recommendation 28

Detaining separated children on migration grounds should not be allowed anymore.

Recommendation 29

Make sure that (former) separated children are provided with suitable and sufficient accommodation facilities in specialized centres for children in order that their individual needs and specific characteristics are fully addressed.

Recommendation 30

The need to provide special accommodation where a 24-hour professional treatment, protection and suitable psychosocial programmes adapted to the child’s needs would be ensured is clearly present with all the separated children regardless of their status. The fact that most separated children accommodated in Asylum Home disappear raises great concerns,

especially taking into account that they present an easy target for traffickers in human beings. Minors accommodated in the Centre for Foreigners should also be provided with an alternative accommodation in line with the Return Directive which stipulates that separated children can be detained only in exceptional cases. There are also issues with the accommodation of separated refugee children.⁴⁹

6.4 Separated children about safety

Interviewed children have also been asked if they feel safe where they are staying. Most of them expressed they feel secure, one child remained silent when he was asked the question while one another child, accommodated in Asylum Home, has told that in general he feels secure, however he prefers the door of his room locked.

“Mostly I just lock the door when I want to sleep. During the day... nothing special happens actually.” (separated child, living in Asylum Home)

“Yes, I feel safe.” (separated child, living in Integration House)

“I would say I really feel safe in Slovenia. I don’t know so much about the politics in Slovenia but Slovenia is not really that kind of country that is having problems with other countries around the world. In this way I would say I’m living in the safe place, I mean in the country. Ok, you can be in the country where there is no war and you think that you are safe but, if at home you don’t have peace, you are not really safe.”
(former separated child, living in private accommodation)

Separated children were asked where they would like to live, if they had a choice. Some told they desire to live again with their families, some would rather live in facilities that house a small number of children, preferably youth from Slovenia, while one child commented favourably on the importance of the person’s feeling of security rather than to the type of placement.

“I would like to live next to my parents and my family, if it is my choice. Even is not at my home or whatever, but I think if I’m with my parents it makes you to... I don’t know... to feel safe. Because you have some support, if something happens to you, you can get a support. I mean in that case I see it.” (former separated child)

“Is really, actually I don’t really care where to live. You know, it has to be just somewhere where you feel yourself protected. Somewhere you really think that you are safe and that you can... you know, how to say... you can express your ideas to others

⁴⁹ Slovene Philanthropy and Legal-Informational Centre for Non-Governmental Organisations, *“Policies on reception, return, integration arrangements for, and numbers of, unaccompanied children in the Republic of Slovenia”*, 2009, p. 32.

and you can get their ideas. Somewhere that you feel yourself safe is good. Doesn't matter here, Norway, Denmark. I really like Slovenia now. I'm just getting used to it." (separated child, living in Asylum Home)

"I would rather live in a smaller place with not so many people." (separated child, living in Asylum Home)

6.4.1 The food

Children were during this research also asked, if they get enough to eat and what they think of the food. Food was clearly a very important issue for the children, especially for the children accommodated in Asylum Home. They complained about the quantity and the quality of the food and about the food that is certainly not adjusted to the cultural habits. Some children expressed they would appreciate eating food familiar to them but is almost never available in Asylum Home. Some children reported not being provided with as much as food as they need or want, and therefore sometimes remain hungry. Some youth also shared the wish to receive pocket money to buy food and that they would cook for themselves.

"The food there in Asylum Home is very bad. At least if they would give... maybe 50 eur a week for you to buy your own food. To buy your own food is better because there is no enough food to eat in Asylum Home." (former separated child)

"Yes I've enough to eat now. But in Asylum Home it was very hard. But not for me, I had some money but, if I wouldn't have it, it would be very hard. The food there is not good." (former separated child)

"... is not good, to be honest. Because in other countries... I don't want to say that is better like this or like that. Every country has its own situation but in the two countries that I've been, they were giving meals four times during 24 hours. [...] And it was really good, everybody was starting to have stomachs. It was good, you didn't think about the food coz' you got everything you need there. [...] Yes, yeah [here the boy is thinking about the food]. You just don't know what is going to come on for lunch and dinner. Mostly is so bad. But is better than nothing." (separated child)

Recommendation 31

Children should be provided with sufficient, good quality food in a culturally sensitive manner. Children should be provided with as much as food as they need.

6.4.2 Financial assistance

The question about how much money the children receive and what kind of purchases they can make with this money has arisen in different responses. Asylum seeking separated children do not receive any money as well as children accommodated in the Centre for Foreigners, while separated children with international protection, receive financial assistance

from the Centre for Social Work in the total amount of about 230 eur per month. Such low financial assistance is in most of the cases not sufficient for covering a child's cost of living, therefore some separated children besides attending school find occasional work via Student Service.

“In Asylum Home I didn't get any money but I had my own money. Now I don't get enough money from the country, I think I get around 230 eur per month so I've to earn it for myself. I need around 200 eur for food, 30 eur for the telephone and sometimes I buy some clothes and I've to pay to my club for the trainings”. (former separated child)

“For those of us who do not have parents here is very hard to live only of social assistance. It would be necessary to change the law. All other countries have well managed things, only here is not like that. I think that all the European countries should have to have the same legislation”. (former separated child)

“To survive, I really need to work. I get around 200 eur of financial assistance per month and from this I've to pay monthly bus ticket which costs 17 eur and I've to pay 40 eur a month for my trainings. But I also need to buy clothes and of course food as well. It is difficult, really difficult.” (former separated child)

“I'm here four and a half years and what have I achieved? Nothing. It is hard here, really hard.” (former separated child)

6.5 Motivation for migration

Separated children have many different backgrounds and reasons for fleeing to Europe but the one that they all share in common is that they are in a foreign country without their parents or other legal caregivers.

The reasons for which the children come to Slovenia, or better, leave their home country are various. Some flee due to the risk of severe poverty and deprivation, threats to their lives, the risk of persecution due to their ethnic background or their parents' political affiliations, while others come from war conflicts areas, are trafficked for exploitation, yet some others have been sent to Europe by family members in the hope of achieving a brighter future.

In Slovenia, cases of minor Roma girls, who were sold by their families for marriage, were registered; these girls marry according to Roma customs and continue living in the Roma settlements.⁵⁰

In certain cases their leaving home is a result of family pressures. For example, such is the case with young Albanian boys who are put under pressure by their family to leave and go

⁵⁰ Slovene Philanthropy and Legal-Informational Centre for Non-Governmental Organisations, “Policies on reception, return, integration arrangements for, and numbers of, unaccompanied children in the Republic of Slovenia”, 2009, p. 5.

abroad with a view to working and earning money that they send home to help subsist their family in the country of origin.⁵¹

Not all children participating in this research were asked about the reasons why they came to Slovenia, since it has seemed that in some cases this question was too sensitive to be answered.

“Wow this is too long story. To explain you this I would need at least one hour. Can we go on the next questions?” (separated child)

“Because I wasn’t safe in my country.” (separated child)

“Don’t want to tell.” (separated child)

“I had many reasons. I first ask for asylum in Holland and they want I return back to Greece. I couldn’t find anyone to help me so I needed to help myself. Then I asked for asylum in Switzerland and I find myself in one situation where I didn’t know where to go. But now I’m here and for me here is ok. I find very difficult situations before so now here I’m ok. Here is safe.” (separated child)

Most of the interviewed children that we received the answers from, have mentioned that they had little or no idea about Slovenia and how they actually arrived here.

Recommendation 32

Considering that separated children find themselves in a very particular situation, the guardian should make an effort to put herself/himself in the position of the child by keeping their particular experiences in the past and the current living situation in mind.

6.6 How many guardians does a child have during his/her stay in the country?

To all interviewee children a guardian was appointed soon after their arrival, in most of the cases this was during their accommodation at the Centre for Foreigners. Not all separated children have a guardian now, due to the fact they are already 18 years of age or more.

“Because I am more than 18 years I do not have a guardian anymore. [...] I had two guardians.” (former separated child)

“Actually I had two of them. I think first was my guardian for a short period of time because she didn’t have time and then they have to change her.” (former separated child)

⁵¹ Uzelac, Marina, *“Situacija otrok brez spremstva v Evropi”*, Prispevek za mednarodno konferenco o otrokovih pravicah in zaščiti pred nasiljem, 2009.

“Yes I have a guardian. He works in the Centre for Social Work but once he said he is not my guardian, that my guardian is the whole Centre for Social Work. But I don’t really understand this.” (separated child)

“I had two guardians, one in Postojna and then another one. When I came to Slovenia after two days or one day I got a guardian.” (former separated child)

Good practice

There are no waiting lists for separated children in the need of the guardian. This good practice reflects the right to special protection and assistance of a separated child and the obligation of the State to ensure the care for such child (articles 20 CRC).

6.7 Legal knowledge of separated children

It had been reported from most of the separated children that understanding the system and the legal procedures is of a great pretension and even receiving the information about the legal procedures does not secure the fully understanding of this procedures. Therefore information and support regarding access to information was considered particularly crucial by both, children and adults.

Most children were not aware to what rights they are entitled while some of them complained about the limited information they have received about the procedures they are in. Some children expressed they do not really understand the legal procedures that concern them.

“Actually when I came to Slovenia, I didn’t even know what is asking for asylum. But by living in the camp and people explain you, I got the idea what is this: if you have a problem in your country that you can get support from other country until the problem will be solved.” (former separated child)

“At times I didn’t understand. The procedure is too complicated so sometimes I’m confused.” (former separated child)

“At the beginning it was very difficult to understand what means positive and negative, what is the procedure with fingerprints and things like this.” (separated child)

“Yes I know I’m in asylum procedure right now... international protection procedure.” (former separated child)

“I have a subsidiary protection for 3 years.” (separated child)

“It takes a bit time to know everything but I try my best to understand for the first time. If I don’t then I just ask them.” (separated child)

“All the time when I think I have the right to something then they say ‘no, you don’t have this one, you have another one’. Because when they are saying to me that I have the right to work and when I go to the company for the interview, then on the interview they say to me: ‘No, we need somebody who has the residence permit arranged at least for the 5 years’. But they gave me the paper that is valued for 5 years but I have to prolong it every year. When I’m going to this man with the company, he just checks until when my document is valued and then he see: ‘Oh, you have the right just for one year’. But when I’m going to the state and the state say to me that: ‘You are living here, you have the right to be here forever’.” (former separated child)

It has been underlined from the adult respondents that one of the guardians’ responsibilities is to introduce the procedures and system to the children on the level of their understanding. It is seen as highly important for guardians to devote much time and energy in explaining the proceedings as well as in making sure that a child has understood what he/she was told.

“... in the most simple way. In the beginning I introduce myself, explain for which organization I’m working for, what is my role and what are my tasks and of course, I tell him why I came. Then I continue with information regarding the system in Slovenia and explanations about procedures that are or will concern him. I give him the clear picture of the Slovene reality and explain that these procedures consider all the children who came here without parents or other adults... that he wouldn’t have a feeling he is treated differently. I add I’m there above all to offer him support and help as much as possible and that through our conversations we’ll decide what would be the best solution for him. I find it very important that these things are explained to a child on a very simple manner.” (SG1, female, guardian)

In general, children emphasized the desire to learn more about their rights.

“No. No, I don’t know much about my rights. And is only there [at the Asylum Home] I’m doing the interview they told me this are your rights and then finish. I didn’t memorize it. And this wasn’t enough.” (former separated child)

“No. Well yes, my guardian told me that but only at the beginning when I arrived to Asylum Home. But I don’t know what my rights are.” (separated child)

Most of the adults had indicated that understanding of the procedures vary amongst the children. Some are well informed and comprehend the Slovenian system fast, while others, especially younger children and children whose culture is very different from Slovenian culture, have difficulties in adjusting to such a different system.

“They do not really understand this. They function differently and the style, the procedures, and these applications, the deadlines... this they do not really

comprehend. [...] Recently I ask a boy where his documents are and he simply replied: 'Well you know, I had the large stack of them [the documentation] and I was moving to another apartment and to me they were too much.' [...] This is practically a child who has got some papers and it is of no consequence to him. So in one moment he decided to relief of a burden... but you know what means to be without documentation.' (SG5, male, guardian)

"Yes, there are differences in the quantity of information they own and I think some knew very well what to say and what they want, while others did not have any information and it was difficult for them. [...] So yes there are huge differences amongst them. I could not really say 'Children from Albania are well informed while children from Senegal are not.', because it is not important from where you are, what really counts is how have you equipped yourself with information...and also what was your everyday environment like." (SG3, male, guardian)

Recommendation 33

Make sure that separated children understand the system and the legal procedures they are in, that they understand who a guardian is, what are the guardians' responsibilities, what the children can and cannot expect from their guardian as well as other information that concerns him/her. The guardian makes sure that the minor receives any information they lack. This corresponds to the right to access to information (article 13 and 17 CRC).

6.8 The right to participate/the right to be heard

Article 12 of the Convention on the Rights of the Child is one of the cornerstones of the Convention. It recognizes the right of children to participate and to express their views freely in decisions which affect them.

Most of the children indicated that they feel their guardians are taking into account their views in relation to decisions concerning them. The Separated Children in Europe Programme, Statement of Good Practice stipulates that "the views and wishes of separated children should be sought and taken into account whenever decisions affecting them are being made. Measures should be put in place to facilitate their participation in line with their age and maturity".⁵²

"Yes. They ask my opinion. They ask in the best of your interest." (former separated child)

Ensuring that children have to have a voice on issues that affect them had also been emphasized by the adults.

⁵² The Separated Children in Europe Programme, *Statement of Good Practice*, Third Edition, 2004, p.8.

“It seems very important to me that a child is heard and that a guardian takes into account and respect his opinion. However, we have to be aware that a guardian has no influence on the decision of official organ on whether a child can remain in Slovenia. Of course a child and a guardian express their own opinion in these proceedings, yet they do not have an impact on it. In areas relating to the everyday life of a child, his involvement into school, wishes what he would like to do in his leisure time, in what he has an interest in, what is important to him in sense of his future time... in this I find very important that the child’s opinion is heard and that we consider it.” (SG4, female, guardian)

“Yes, yes. Yes, they should [involve the child in the decision making process]. Absolutely yes, because if a guardian would do the things of his own accord what would be the role of the child? In this case a guardian wouldn’t be needed and the inspector would say ‘it is going to be like that in the end’. There has to be a genuine dialog that they come to the good solution.” (SA3, female, social worker)

“The last boy said he doesn’t know if he should apply for asylum because currently his brother is not here with him and that he will as well be returned from the same country in respect of Dublin procedure. He did not know whether to apply or rather to wait for his brother. So I told him he does not need to do what I’ll advice him but, if he won’t apply for asylum this and that can happen. And if he applies, this and that can happen. [...] I think I don’t put pressure on them, I just introduce them the real circumstances because I really do not want for them to have problems.” (SG2, female, guardian)

It has been also noted from the guardians that they try to involve the children in solving their problems so that they clearly explain them what they as a guardian did in order to overcome the barriers, who they have contacted and consulted, with what they had been successful and where the obstacles were. The guardians try to inform children about what measures they are taking in order to arrange something for the children.

Good practice

According to the children and the guardians, the guardians listen to the child and takes child’s views into account.

6.9 Separated children about the role of the guardian in relation to return

Some children were surprised when they were asked their opinion about the possible return to the country of origin. Only three children we spoke to told us that when a child needs to return, a guardian should join him/her. Some children did not answer the question, one child said the accompaniment is not needed, while one child mentioned that in the case of a child’s return, a member of the authorities has to join the child and that this should not be left with the guardian.

“In normal circumstances is supposed to be like that. Because you know, the child is going in procedure in the airport and the guardian has to know that they have handed the child to the appropriate authorities. That the child is safe.” (former separated child)

“Yes, I think is better they go with a child. I think, yes it is better.” (former separated child)

“Yes, of course. When I was sent back here, I’d two with me; from Denmark to here. They just said they have to go with me, one man and one woman, they were from the government... so that they bring me peacefully here and then they went. It was good because going back from the country is not easy for the first time, especially, if you don’t know the language.” (separated child)

“No, why they should go with them? A guardian cannot help. I think a child can go alone.” (separated child)

“Is a bit sensitive question. Usually when something bad is happening to someone, if you are a child, you will think that the one who is close to you, he is the one who is guilty. Because I believe that the child really trust his guardian that he can help and so on and then, if the child has to return where he doesn’t want to and the guardian is going with him, the child will really be just thinking that the guardian is the one who made him to go back. So I think that the guardian would look much more guilty and it is very hard to convince the child that the guardian is not the one who did to him something bad, because many children do not understand what is the state. The state is the one who makes that the status of the child cannot be that he can stay. So the state has to make also that final and the last job to the end. So the state has to send someone else not the one who wants to help. Because going back with the child where the child doesn’t want to be is kind of like, they don’t really want to help the child. And because the guardian wants to help a child, the guardian shouldn’t go with the child.” (former separated child)

6.10 Complaining about the guardian

It is important for the child to have the ability to complain about a certain situation or guardian. The information derived from a complaint procedure can help to improve the quality of the work and it protects the child. The right to complain corresponds to article 12 of the Convention on the Rights of the Child in which it is stated that:

“States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child”.

No separated child interviewed for this project knew where to complain if they had problems with a guardian, although some assumed this would be the guardian's boss. Most of them did not know who is in charge of their guardians. They stated:

“For me this doesn't matter. If I would like to complain, I would ask somebody.”
(separated child)

“On Philanthropy. I would go to a person whoever asks me first. If I wouldn't be happy with my guardian I would tell.” (separated child)

“I never think about that because my guardian has never given me a reason to complain about her.” (former separated child)

“I don't know about this possibility.” (separated child)

“I don't know maybe to the social worker. The thing is that I was much more attached to the social worker because they were there every day and whenever I need them, I could get them. [...] As much you see someone, as much you become attached to that person, as much you will become open to that person. But if you see someone once a week or twice a week... the one that you see every day is the one that you will be open to. That is how life is going. So probably automatically I would go to the social worker.” (former separated child)

Surprisingly only two female guardians knew exactly where children can complain about their guardian, while none guardian mentioned that they themselves inform the children about how and where to complain about the guardian.

“In our case, because we are employees at the Slovene Philanthropy, a child can complain to my boss who is the head of our centre, the Centre for psychosocial assistance to refugees, and/or to the executive director of our organization. Children can also turn to the Centre for Social Work and complain about their guardian there. The Centre for Social Work is the institution responsible for appointing the guardians so therefore this would be the right institution to turn to, if children would like to change their guardian or would like to complain about him/her.” (SG4, female, guardian)

“Where he could complain? No, this I don't know. [...] I don't know if children know that, but I think they don't. And also I don't know to whom they could complain. I mean, here is my director so they could for instance go to him.” (SG5, male, guardian)

The same question was discussed in the interviews with other expert adults and the general notion that arose was that separated asylum seeking children could turn to the social workers in Asylum Home while children accommodated in the premises of the Centre for Foreigners could complain either to the social workers or to their inspectors. Remarkably some adults did not know themselves where separated children could complain about their guardian. It was noted:

“I don’t know, I don’t know about this but probably, if something would be wrong they would complain to me and I assume they could also complain to the head of the Slovene Philanthropy. I don’t know. I would always throw out the matter, if they would complain to me. But I think until now there were no such remarks, at least I don’t know about them.” (SA2, female, the head of Asylum Home)

“Most of them would complain to the social service at the Asylum Home. For a long time there has not been complains.” (SA5, female, social worker)

“I don’t even know if there were such cases that children would complain. In principle, I think they can turn to us or to the inspector. I think it is important that we would sit down together and discuss how come this has happened. Every thing can be solved, if there is a wish. With engaging deeply into the problem and discussing how and why this situation has been met and that the guardian would also be present not that we would backbite a guardian. The problem has to be solved. I think a lot of things can be solved with a dialogue. [...] When there were complains, they were complains about the procedure in the sense ‘Why it is taking so long?’ and not about the guardians.” (SA3, female, social worker)

Recommendation 34

Inform separated children how and where to complain when they have problems with their guardian. This corresponds to the right to information and the right to protection (article 12 and 19 CRC).

Recommendation 35

Make sure that the guardians are professionally leaded by the institution responsible for guardian’s appointment. The work and methodology of guardians should be evaluated by an independent institution.

6.11 Doing fun things with the guardian

Leisure activities play an important role in psychological and physical health of every child. Leisure activities provide an opportunity for pleasure and enjoyment, encourage active participation and social interaction and can be a source of strength and a way of keeping the mind off negative thought. For most of the children we spoke to, leisure and recreational activities are an important component in which children like to engage. Some children

highlighted the lack of financial resources to have access to activities, such as going to the cinema or out with friends.

Most of the interviewed children expressed they would like to do fun things with their guardian. Similarly, the all the adults that we spoke to have shared the view that ideally the guardian should show an interest and should do fun things with the child. However doing fun things with the child was not seen as the guardians' responsibility. All the adult respondents agreed that to build a bond with a child, there has to be more than just a formal contact between a guardian and a separated child.

“Yeah you know, the guardian... they supposed to get extra resources so that they could also support us financially and maybe we go for the cinema. But not all the cinema we would go with them, we also have to go with our friends... and they have to give us money to go to kino⁵³ and those things, yeah. [...] Because sometimes they use their own money to give us. So they have to give them more resources so that they can give us some money for entertainment or other things. [...] Yes, financial support and devote more time to us. Because they don't have time. We need more time, explain us more about the procedure. And is supposed to be also... that they would invite us, taken us to... integration, sports, organize people so that we meet them and other things because is easier if they introduce us to other people so that we go then direct to those people.” (former separated child)

“I would say yes, that would really be good and a part of integration. Just to be by his side and, if he go to school, guardian can go with him to school or go to the training... to be with him like his father or like his mother.” (former separated child)

“I wished he would take me to the cinema and that some time we would go somewhere together.” (former separated child)

“Indeed, it is very positive if the guardianship contains also the social moment, but you cannot force it, it can just happen. But the guardian is not to be blamed, if he/she doesn't succeed in this, because some children do not have this need. This is something that cannot be forced, but it is certainly a quality. [...] I can say that through the guardianship I've got a friend for lifetime. [...] While in the case of those two separated children this social moment does not go so far. But I was, for instance, at their home. When one boy moved I went to his place and we drank a tea together.” (SG5, male, guardian)

⁵³ Remark from the interviewer: “Kino” is a Slovene word for cinema.

“Yes absolutely, because in such manner you can gain the trust. Therefore, I think that the guardianship should be a paid function, because the guardian needs the money, if he/she would like to take the child for an ice-cream, for instance. This I think is the biggest problem. If there are no financial means, you cannot pay for anything, because you cannot finance everything on your own.” (SA2, female, the head of Asylum Home)

Recommendation 36

The guardian should make sure that the child does fun things but it should not be the guardian the child needs to turn to for fun things. The guardian needs to look at the network of the child and make sure that the child has the support he/she needs and that the child is ensured the activities that are appropriate to his/her needs and interests. This corresponds to the right to leisure, play and recreational activities (article 31 CRC).

6.12 The guardian as a trust person

According to the six interviewed children, they think of their guardian as a trust person. They said whenever they have some problem, also during the weekends and night hours, they call or turn to their (former) guardians and most of the time they are available. While some children prefer to solve the problems on their own or they rather talk with their friends.

“When I have a problem I call my guardian. Yes, if I have a problem she is the person I call and she explains.” (separated child)

“My guardian. Yes, I trust my guardian. [...] Yes... yes, definitely. To me yes, they are available all the time.” (former separated child)

“When I’ve a problem I try to solve it myself. I talk with my friends or, if I’ve some problems about the money or school or bus card, I call my counsellor to the Integration office. But I try to do everything for myself. I can’t trust anybody.” (separated child)

“If I had some problems I called my guardian. It was only my guardian who helped me. [...] Yes, she listened to me.” (former separated child)

“I trust my first guardian more. You know, my second guardian works also in Asylum Home and she is close with social worker and those people from there.” (former separated child)

“I wish I would have a guardian who I could understand and could trust on and he could trust on me. Yes, that is very important.” (separated child)

A former separated child has shared with us that he was told whenever he has some problems he should first turn to the social workers in Asylum Home and so he did:

“Actually the introduction that I had when I came, they said to me that whatever I need, I have to ask to the social workers. That is the introduction that I really remember... to who I can turn, if I’m in the need of something.” (former separated child)

The same former separated child continued explaining the following:

“But for me, I don’t really like to contact people all the time, because I think I am bothering them. Just for little stuff and then you call just for little stuff... I mean this is what I mean by that. So I was much more, if I say, conservative like to try to keep it for myself, I don’t know...” (former separated child)

When children were asked, if they have gotten to know their guardian as a private person and, if they would like to know them more, only one child pronounced he knows his guardian and his ex-guardian at the personal level. Remarkably the majority of interviewed children did not show any interests in knowing their guardians better, especially in terms of their private life, while one child expressed satisfaction with the level of knowing his guardian.

“I know my first guardian, her movement... I know majority part of her. How long she has worked with the job. Sometimes we do talk personal things. The problem is sometimes they refuse to give their private numbers. My first guardian doesn’t give me her private number, only the work number. ...She already told me that I can reach her on that work number. When she is leaving the job she is available on that number. So is all right.” (separated child)

“Like what? I just know she is married, her name, family name and I know that she is from another country, from Bosnia.” (separated child)

“No, I really don’t care, I just want somebody who can help me, it doesn’t matter who.” (separated child)

“[What do you know about your guardian?] Nothing. Don’t want to know anything about her.” (separated child)

“If she would tell something about herself ok, but if she doesn’t is ok too.” (former separated child)

“Personal life, I don’t like to talk about that.” (separated child)

“No, I don’t know him. No, I’m not interested.” (separated child)

Recommendation 37

It is important that the separated child have the feeling he/she can talk to the guardian whenever he/she has a problem and that the conversation is confidential. This is important in order for the guardian to have a clear picture about the situation of the child and to build on a durable solution together with the child. This corresponds to the right to development and the right to privacy (article 6 and 16 CRC).

Recommendation 38

The guardian should make an effort to get to know the child and to create a trustful relationship. The guardian should treat the child respectfully, with an unprejudiced and open attitude.

Recommendation 39

It is recommended that the guardian contact separated children for no special reason. This is important to create or maintain the relationship of trust.

6.13 Other needs and rights

6.13.1 Education

Universal human rights standards proclaim that everyone has the right to education and that, at a minimum, access to primary or elementary education should be free to all children without any distinction whatsoever.⁵⁴

In accordance with the International Protection Act⁵⁵ separated asylum seeking children are entitled to elementary schooling which is compulsory education requirement and is free for all children. Further on, the same Act stipulates that separated asylum seeking children can be allowed access to secondary and vocational schools under the same conditions that applies to Slovene citizens, such as, if they speak Slovene and if they have finished elementary school.

From the interviews we have learned, that at the time children stay at Asylum Home, they may engage in formal and informal forms of Slovene language courses organized by a private public service or performed by the volunteers of the Slovene Philanthropy, but in practice not all children decide to take part. According to the interviews, education at this stage mainly consists of language courses. Some children, however, were more interested in learning English than the Slovene language, considering the possibility that they might (have to) leave the country.

Separated asylum seeking children pronounced that they were not given the possibility to attend school on account of their limited level of Slovene language skills. Out of five

⁵⁴ Cholewinski, Ryszard, *“Study on obstacles to effective access of irregular migrants to minimum social rights”*, Council of Europe Publishing, 2005, p. 35.

⁵⁵ Article 86th of the International Protection Act.

interviewed asylum seeking separated children, three of them expressed a great desire to attend school.

“Going to school... This is my dream, I don’t want anything else than this. This is my big dream. I wait for this.” (separated asylum seeking child)

“I wish I could go to school until the time I am waiting for the decision. In the countries that I was before they treated you the same as you are a normal person like other people. You go to school and they give you the ticket for the bus or for the train. They give you, you know, everything that you need to go to school. [...] I don’t know how it is going to be. They said I’ve to learn the language and than I’ll take an exam.” (separated asylum seeking child)

“I’m here for two years and I don’t have a job, I don’t have school for the languages. I live in Slovenia for two years and I don’t know the language. This is a big problem. [...] Only in Slovene Philanthropy once or twice per week, I’m learning Slovene. That is a problem. I need school, I don’t only need conversation, I need school.” (former separated child)

Separated children with refugee status and subsidiary protection are, with respect to all levels of education, equally treated as Slovene citizens. Separated children (as well as the adults) with international protection status are entitled to Slovenian language course in a volume of a maximum 300 hours with a possibility of additional 100 hours.

According to some interviewed guardians, these courses are too short and children after finishing the course are not able to cope from a linguistic perspective. The same guardians also referred to the unsuitable programmes where children are attending the same language course as adults.

For more than a half of the children involved in the research, education plays an important role and it seems that children are aware of the benefits of education for improving their life chances. However, interviewed children who are to attend school or are already enrolled in school, reported on challenges they face with the language barriers.

“I don’t go to school yet. I’ll start school next week but the problem is the language. With language I have a big problem. Because you see, every country has the centre for the language, one school for the language but Slovenia does not have this. It is going to be a big challenge for me because I don’t know the language.” (former separated child)

In practice separated children when they are recognized international protection follow secondary school programmes at the Cene Štupar – Centre for Continuing Education which is a secondary school for adults with special programme, where participants have classes two or

three times per week. One interviewed child expressed he would be rather be placed in the classes with Slovene pupils than to be with other foreign pupils. Despite the language barriers, he would prefer to attend the “mainstream” school.

“Yes, I’m going to school. I go to school Cene Štupar but I don’t learn anything there. Really. There are people from Bosnia and Macedonia, they are my friends but the teacher is teaching too fast and I don’t understand her. You know, they are used to write this letters but I’m not. I’ve also subjects like mathematics, geography, history and music but this is ok.” (separated child)

Some guardians told that children, before they are incorporated into the normal school system, do not follow any special school that would be adjusted to their needs and specific situation, and are without any preparation schools programmes due to the fact that such programmes do not exist in Slovenia. Guardians noted difficulties in the school enrolment of separated children. One guardian has shared that she is in contact with the child’s teachers or other school personnel when the child has difficulties at school.

“I think it is right and necessary that, as a guardian, I’m in the contact with the child’s teacher or social workers or other person from the child’s school. In the cases when the child has some problems in school, I try to talk with the child about those problems and I try my best, in cooperation with all relevant actors in this field, help the child to overcome the problems.” (SG1, female, guardian)

In an interview with the former separated child with international protection status, we have learned that the language barriers can cause a great level of insecurity and stress and from this reason some children might not attend school.

“Actually, yes, I got the introduction like, if I want to continue to study and so on. My proposition was that this would really make me to go very, very way back. Because I’m in a country where the language is very difficult for me and, if I would be learning, I don’t know, some mathematics or whatever, maybe the thing I know, it could be very hard for me to understand or to learn just because of the language issue. [...] Actually, I didn’t say that I don’t want to continue with school but, if they want me to make the school, they can make me the foreigner one that I can have it in French.” (former separated child)

Recommendation 40

Special educational programmes that would be adjusted to children’s needs and language specificity should be provided to the children. It is recommended that all guardians promote and ensure that separated children can access education. It is recommended that all guardians advocate for continued education of separated children. This corresponds to the right to education (article 28 CRC).

Recommendation 41

The guardian should follow closely the evolution of the education of the child, should discuss the option choices and go to the school meetings. If the guardian does not follow up on the education of the child he/she should make sure that another person does.

6.13.2 Health care

Article 24 of the Convention on the Rights of the Child recognizes the right of all children to the highest attainable standard of health and medical care. In Slovenia, separated asylum seeking children are entitled only to emergency health care, while children that have been granted international protection status are entitled to medical care under the same criteria that applies for the Slovene citizens.

“Yes I was ill but they didn’t want to check me. I went to the hospital with my guardian. When I was in Asylum Home I didn’t have a card to go to see the doctor and they told me there is nothing wrong with me. Now because I’ve a health card⁵⁶, now is better. I also made a medical examination and everything is fine.” (separated child)

All children interviewed during this research were asked if they have been ill ever since they are in Slovenia, if the guardian has helped them and about their experiences with receiving healthcare in general.

Interviewed asylum seeking separated children indicated problems accessing and receiving healthcare. Some children complained that the doctors were not taking them “seriously”.

“... recently I went to the hospital and I said to the doctor that my body is scratching me. And the doctor said she doesn’t see anything. And I said that I’m feeling pain inside me. They are like that because they do not have time for you.” (former separated child)

“Yes, I had skin problems. My guardian helped me, guardian went with me to the doctor. The doctor in Asylum Home didn’t check up me, She didn’t like to listen to me.” (former separated child)

Guardians have also been asked about their experience receiving health care for the child and almost all, with the exception of one guardian, have indicated they experienced that the medical treatment had not been adequately provided to the children.

“Yes, there were a few experiences of this kind. This results above all from the existing legislation that provides the children, who are asylum seekers, only the right to the

⁵⁶ Remark from the interviewer: A person with international protection status is given a health card and is, regarding health care, equal with Slovene Citizens.

emergency health care with the possible exception, such is, if the Commission decides that a child is entitled to a wider range of health care. Unfortunately I had experienced for several times that I accompanied a child to the doctor who wasn't even prepared to examine the child, because, according to what she had said, the child's health problems did not fall into the scope of emergency health care. Or it has happened that the doctor examined the child very quickly and told a child, on a very unfriendly manner, that he is all right. Unfortunately even such things happen, but this is not always the case.” (SG1, female, guardian)

Interviewed (former) separated children had experienced mixed illnesses. Almost all separated asylum seeking children have been reporting about the pain they have in the certain parts of their body, while amongst youth with international protection, only one boy identified problems with healthcare.

*“Yes, a lot. Fever, malaria and those kinds of things. They took me to hospital.”
(former separated child)*

*“I feel the pain every day and every night. The doctor said there is nothing I've to worry about. He is the doctor and I'm a sick man. If he thinks there is nothing important... but I'm the one who feels the pain. I just have to be quiet and patient.”
(separated child)*

“I feel the pain in my stomach. And I need the glasses because my eyes are weak. I lost my glasses during my voyage.” (separated child)

According to interviewed guardians and children, the guardian is usually the one who accompanies the child for medical procedures, although this is not the responsibility of a guardian. The latter is the responsibility of the medical nurse of Asylum Home or alternatively the social workers of Asylum Home.

“Yes, I was ill. She was taking me to the hospital and talking with the doctors. Everything is ok.” (separated child)

“When I was ill, I think I went to see the doctor with the doctor from the Camp [medical nurse of Asylum Home]. I was maybe alone or maybe with the doctor from the Camp, but not with the guardian, because the guardian couldn't make it that time.” (former separated child)

“Not actually. I once broke my hand there, in Postojna [in the Centre for Foreigners]. It was, you know, two beds one above another and I was sleeping up. So it was around one meter and a half or something like this and it was around 4 o'clock in the morning and I fall down on my two hands with all the force and I couldn't get up for three days.

I couldn't stand so my friend... I went to the hospital maybe after two days. Then I had gypsum for 20, 26 days. I would say that things are still not correctly in place. [In the hospital] I was in a wheelchair so somebody from the social workers and one police were behind me. I don't know, everybody was looking at me as I'm a criminal or something.” (separated child)

No interviewed child had indicated that would have asked for psychological support, although the interviewed guardians and other adults noted that special attention should be devoted to the emotional problems and the mental health situation of the separated children, especially since many children have been exposed to traumatic experiences.

Good practice

The guardian accompanies the child for medical procedures or makes sure that the child is accompanied by a person of trust.

Recommendation 42

It is important a separated child is informed about his/her right to healthcare and how to access this healthcare. The guardians should promote and ensure that separated children can access adequate health care services and other related services. This corresponds to the right to healthcare (article 24 CRC).

Recommendation 43

The child should be able to meet with a doctor confidentially but a guardian should join a child when child wishes to. This corresponds to the right to privacy (article 16 CRC).

6.14 A day in the separated children's lives

Most of the children, especially those accommodated in Asylum Home, reported their daily lives are boring and there is nothing they could do or is offered for them to do. If they freely could choose, some of them said, they would go to school or, if they would be given a bus card they would go to the city and meet with some people. Former separated children with the experience of living in Asylum Home declared that a lot of diverse programs could be offered to the children. It has been proposed: sport activities, going to the cinema, having workshops and going on the trips around Slovenia. Such activities were suggested for two to three times a week. It was also pronounced that the computers and internet, which children do not have access to in the Asylum Home, would be essential and high time to arrange it.

“Now my day looks like normal, but before... boring, nothing to do, sleeping, wake up, sleep. [...] No obligation... just to wake up. I was coming maybe 2 times a week to Slovene Philanthropy for Slovenian language classes. And apart from this I didn't do anything. But now I go to school so is normal. My days are normal now.” (former separated child)

“In the morning I go to Slovene language course and then at around 2 p.m. I go to school. After my school I go for taekwondo training, this I have at 6 p.m. or at 7. p.m. until 8 p.m. or 9 p.m. every day. And three times per week I also work. I work in McDonalds, from around 9 p.m. until 3 a.m. Some times during the weekends I’ve competitions with my club. [...] I do everything I want. Is ok.” (separated child)

“Doing nothing, like normal, jobless, no place to go.” (separated child)

“I don’t go outside all the time. I try to learn the language, this is very important to me. I go to the language lessons, then I’ve lunch, I watch television, especially sports and movies and this is also how I try to learn the language because I read the subtitles or I just listen to the language. Sometimes I go and play basketball, but I haven’t played it for a long time now. I go to bed around eleven or twelve at night. I try to make many programs and every day is going more on easy, it’s not so much hard anymore. For me this daily program is very normal but for others is not normal. I have many papers, notes with the words in Slovenian language and I revise those words. I spend a lot of time on my own. I go for a walk and then I sit somewhere, bring out the papers from my pocket and revise the Slovene language. I don’t need somebody to talk and to make me busy. Sometimes you find people that make you nervous but I don’t care about this.” (separated child)

“Right now my day is very busy I would say because I’m employed. So I just wake up in the morning and then I have to run to the office and try to arrange some stuff. Or even before to go from home, I already make some phone calls for the job. So my days really look busy. Lately I don’t really have much time for my hobbies because the work that I’m doing now is taking me too much time. If I could choose how my day would look like, I’m sure it would be completely the opposite as it looks like now. I would say that it would be nice for me to wake up at 9 a.m. and then have some training at 10 a.m. and then have lunch at 12. or 13., then take a rest, then have some training at 7 p.m. and then have dinner and then go to sleep. [...] I mean not every day, because I believe that when the things are really quite the same every day, they become boring. But I think this would be my wish that my day would look like that... I mean most of the time.” (former separated child)

6.15 What would separated children do when they would become a guardian?

Only three interviewed children declared they would have wanted to become a guardian themselves. To the rest of the children this question was either not easy answerable or they had no opinion about it, while one child did not seem to know what a guardian should do for the separated child. Only one child expressed that he would not want to become a guardian himself, since in his opinion, working with young people is not an easy task.

“Yes, but not now. Really, I can’t be a guardian, I don’t know what a guardian has to do. I would need to learn, to learn how to be a good guardian. [...] It’s really hard to feel yourself alone and think there is no one who wants to talk to you, no one who really wants to take care of you. It is hard to be alone, you know. I think a good guardian is someone who understands and feels you, who don’t only think that you are a refugee, who came from another country, who is not from here. Guardian is someone who really looks at you as a person who needs help, who needs to be protected.” (separated child)

“O, a guardian. Actually, I don’t really think that the guardian can really help enough. Maybe I would like to be on the top of the state, like people who are really deciding how the separated children’s status has to be like. I mean a guardian can really try their best to help but they have some limit. For example there are some separated children that have some problems that the guardian would like to help but can’t.” (former separated child)

“If I am a guardian, I make sure that a child, a minor is normally taken to social centre for playing, like the gym centre, have a lot of activities so that a child would be busy. Because sitting every day without something makes a child to think very much. And also give them... maybe if there is a possibility... to give a child little money. The guardian is the one who should supposed to take care about the minor. The guardian has to do everything possible, so that the child has an entertainment that the child is in good condition, yeah. In Slovenia they need to improve Asylum thing. But I heard that we will get a new law.” (former separated child)

“I don’t know, I have no idea.” (separated child)

“I would try to make them to feel happy and try to teach them the things that are important for their lives. So many things.” (separated child)

“I would help the minor as much as I could. I would solve the problems that he has.” (separated child)

The interviewed children pronounced the following qualifications of the guardian as important: offering support and protection, listening to the child, having knowledge about the migration procedure and other legal knowledge, taking time and spending time with a child, making sure that the child is provided recreational and leisure activities and comfort the child.

7. Abstract

This study has analyzed the relevant findings based upon interviews with (former) separated children, guardians and other actors working with separated children. The interviews provide a valuable insight into the situation on the ground and evidence about the procedural aspects, qualifications and role of the guardian, the best interest of the child assessment, reception facilities, return, legal knowledge and communication, etc.

The diverse and numerous findings correspond to the different experiences of these children, but also to their own interpretation of the situation which is influenced by children's previous experiences and background.

Separated children have many different backgrounds and reasons for fleeing to Europe but the one that they all share in common is that they are in a foreign country without their parents or other legal caregivers. The reasons for which the children come to Slovenia, or better, leave their home country are various.

The findings show that the first contact between the child and child's guardian usually takes place in the first days after a child enters the territory of the Republic of Slovenia. According to the guardians participating in this research, a guardian should be appointed and should meet with a separated child immediately after the child enters the country – it has been recommended this would take place at the border crossing point. When the child and his/her guardian meet, the location and environment where privacy is assured should be provided to them, so that a level of anonymity is guaranteed. The Slovene guardianship institution does not enable children to have the possibility of choosing the guardian. In general, the interviewed children had no preference for the gender, religion and the age of their guardian. The frequency of contact was seen of a great importance, since it contributes to the level of trust with the child and gives the potential role to create "bridges" between them, the children and the community. From the respondents we learned that the guardian and the child meet on a regular base. Most of the children found it difficult to describe the role of the guardian, yet the majority expressed the clear need for broader role of their guardians than it is defined by law and other orders. Some children desire that guardian could do more for them especially in terms of arranging the possibility of schooling and language courses, while the great number of children underlined the insufficient legal system that limit their rights and are therefore aware the guardian is restrained in providing them help.

Children had insufficient information about legal procedures and opportunities available to them. They were not aware to what rights they are entitled to; they also did not know where to complain if they had problems with a guardian.

These children live in accommodation that is not suitable for them. The food was clearly a very important issue for the children accommodated in Asylum Home. They complained about not being provided with as much as food as they need and about the quality of the food. Financial assistance for separated children with international protection status is not sufficient for covering a child's cost of living. Many separated children had to grow up quickly. Their transition to independence was accelerated and demanded a level of maturity.

Education plays an important role for the children and it seems that children are aware of the benefits of education for improving their life chances. They frequently lack access to appropriate education and training. Interviewed asylum seeking separated children indicated problems accessing and receiving healthcare. They sometimes experience the limited medical care to which they are entitled to. The guardian is usually the one who accompanies the child for medical procedures, although this is not the responsibility of a guardian. Children indicated they feel their guardians are taking into account their views in relation to decisions concerning them. Most children think of their guardian as a trust person. Whenever they have some problems, they call or turn to their (former) guardians and most of the time guardians are available. For most of the children we spoke to, leisure and recreational activities are an important component in which children like to engage. Some children expressed they would like to do fun things with their guardian. The majority of interviewed children did not show any interests in knowing their guardians better, especially in terms of their private life. Most of the children expressed they feel secure.

The profiles and expectations of separated children are as diverse as their personalities. Adult respondents noted different expectations that the children have for them. The grounds for different expectations that the children have lies in their age, everyday environment from their countries of origin, their education and the information they have gained. In the interviews came forward the guardians have enough knowledge about migration procedure and children's rights, however they would appreciate receiving additional trainings. The guardians seek support and counselling whenever necessary and exchange experiences with his/her colleagues. The guardians in this study consider individually which decisions would be in the child's best interest. In the interviews it came forth that the guardian should be capable of discussing issues with the child regarding the possibility of return. A suitable mechanism that verifies the child is in effect returned to his/her family, guardian or a suitable institution in the third country or in the child's country of origin should be established. Most of the guardians have little or no information about the countries children are coming from, however some guardians expressed the desire to gain more information about those countries. All guardians stay in contact with the children when they come of age. Throughout this research it was stressed that the guardians are facing a range of difficulties in grappling with the existing system to provide children with the suitable support and to safeguard their interests. Also for this reason it is better that a guardian is not overloaded with cases. For most adult respondents a guardianship should be a paid function.

The findings show that the rights of these children according to the Convention on the Rights of the Child are not always fulfilled. Separated children are acknowledged as being a special vulnerable group who need to be protected accordingly. The situation of separated children needs to be resolved on systemic grounds and with a holistic approach. At present, no comprehensive or articulate system exists for the protection of the separated children in Slovenia. Guardianship is as an important mechanism of protection of separated children and should therefore be professionalized. In order to address the children's needs, to safeguard

their interests and to offer them adequate support, the existing system of guardianships should be improved and special attention should be devoted in educating and qualifying of the people who come in contact and deal with separated children. It appeared with the research that a number of constructive steps should be taken, as summarized in the following set of recommendations.

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9. Annexes

Annex 1: The question list for the interviews with separated children

The questions below were a guideline for the interviews with the (former) separated children. The interviewer did not ask these questions one at a time. The conversation started with explanation of the project, its purpose and potentially interviewer has told something about herself. It has been stressed that everything discussed is confidential.

General information:

When and where were you born? Gender? Age?

Situation analysis:

How long are you staying in the country? Can you tell me something about your journey and the reasons why you came to this country? Did you have your age assessed when you entered the country? Was a guardian present? Did he/she inform you about this procedure? What are your thoughts about the age assessment process? How do you feel about the place you are staying at now? Who (is in) the accommodation with you? If you had a choice, where would you like to live right now? Have you lived in different places before reaching the one you are staying now? Do you feel safe where you are staying now? Legal info/knowledge: What do you know about the legal procedure or your permit to stay? Did somebody tell you what rights you are entitled to as a minor? Do you know in which procedure you are? Can you tell me something about how your day normally looks like? What do you do? What would you like to do? Could you tell me something about your guardian (and the previous guardians you had)? Could you give an example of a situation that your guardian handled very well? Would you like to become a guardian? What would you do when you were a guardian? How would you make a separated child feel safe if you were a guardian?

Appointment of a guardian:

Do you have a guardian now? How many guardians did you have? Did you get a guardian immediately on the moment you arrived? When did you first meet your guardian? Did you have the interviews with the immigration authorities already? Do you remember if your guardian was always with you or if sometimes you had to do some interviews on your own? Did you have a choice? Do you prefer a man or a woman? Religion? Age? And why? Was/is translation needed? Is it possible for you to get translation if needed? How do you feel about communicating with a translator?

Qualifications of the guardian:

What do you think a guardian should help you with? What would you like your guardian to do for you? How often do you see your guardian? How often would you like to see your guardian? In which way is there contact (skype, phone)? Can you reach him/her when you have a problem? What do you know about your guardian? Is there something more that you would like to know about your guardian? Do you understand what your guardian tells you? What do you do when you have a problem? Who would be your trust person? Do you feel your guardian is listening to your thoughts and feelings and that they are taken into account in matters that concern you? Do you think a guardian should be a volunteer or a paid person? Do you think everyone should have a guardian? How old do you think a guardian should be? Do

you think yours is too old or too young? Do you know who your guardians' boss is? Who 'pays' him/her?

Return/reunification:

Has your guardian talked to you about the situation in your country of origin? If yes, when and how did your guardian talk to you about that? Does your guardian support you in your contact with your family in your country of origin? If yes; in what way, if no: why not? When children return, do you think a guardian should join them? What else do you feel the guardian should support the child with? Is someone acting on behalf of your family in the country (also by phone etc.)? Has a family member talked to your guardian? Do they agree with the guardian? Do you know if something changes when you turn 18? Do you speak to someone about that (your lawyer or guardian)?

Other needs and rights:

Education: are you going to school? What are the subjects you are taking in school? Do you think your guardian is interested? Does he/she advise you? Does he/she attend meetings at school? Healthcare: have you been ill/has your guardian helped you? Did you experience difficulties receiving healthcare? Do you get enough to eat? What do you think of the food? How much money do you receive? What kind of expenses can you do with this money? Social life: do you have friends? Where are they coming from? Do you tell your guardian anything about them? What are other thoughts you have about making friends in this country? Emotional support: What are things in your life that makes you happy? What are things in your life that makes you unhappy? Whom do you discuss your feelings with? If you for some reason felt unhappy about your guardian, would you know how and where to complain about her/him? Do you think you could ask for a new guardian if you don't like the one you have? What do you think would happen if you complain about your guardian? Participation/right to be heard: Does your guardian ask for your opinion on decisions to be made? What kind of information would you like to receive? In what way (brochure, internet)? If you could wish/decide, what do you think would be the best way to inform children about their rights and the support they can get from the guardian? What type of information would children like to know about their rights and the support they can get from the guardian? Is there anything else you would like us to know about your experiences with your guardian(s)? Do you have any questions for me?

Annex 2: The question list for the interviews with guardians

The questions below were a guideline for the interviews with the guardians. The interviewer did not ask these questions one at a time. The conversation started with explanation of the project, its purpose and potentially interviewer has told something about herself. It has been stressed that everything discussed is confidential. The interviewer did not discuss things a child mentioned about interviewed guardian.

General information:

Name and contact information? Gender? Age? Country of origin? Education and training?
How long are you working as a guardian?

Introduction/Situation analysis:

How would you describe the role of a guardian? Why have you become a guardian? Can you tell me something about how your day/week normally looks like? What do you do? What would you like to do? What do you like most about being a guardian? What don't you like?

Appointment of a guardian:

In which facility do you work? How many days per week? What is your caseload? Do you think this is too much (if yes, why)? When do you first meet a child? Do you think this takes too long? Are you present when an age assessment takes place? How does your first meeting with a child look like? What do you talk about? What is the setting? How many times do you meet a child (per month)? How do you divide your time? Do you have time to accompany a child when he has an interview, court hearing? Do you experience a lot of differences between the level of understanding of children (when it comes to explaining the procedures etc.). How do you make sure that a child understands what you are telling him/her? Do you feel you have enough knowledge about the migration procedure and children's rights or would you like to get more training?

Qualifications of the guardian:

How would you describe a 'good guardian' (maybe think of a colleague you really appreciate as a good guardian) Which qualifications and qualities does a good guardian need? How would you describe your role as a guardian? Could you tell me something about your methodology? Has it changed over the years? What do you think is good about it? What would you do differently? How do you explain to a child what your role is as a guardian? Do you think a child –after you explained so– understands what your role is? Do you experience that children have different expectations of you? What do you think a guardian should help a child with? Do you think a guardian is responsible for doing fun activities with a child? Can a child reach you whenever he/she has a problem? What do you tell children about yourself? How do you deal with language and cultural differences? Can you tell me something about your experiences with that? Do you think a guardian should always be a paid person? How would you describe the communication/relation with lawyers, mentors etc? Are you in contact on regular basis? Are there good/bad examples? How do you assess the best interest of the child? And how do you defend this best interest (do you feel it is difficult to protest against decisions of migration authorities)? Do you have enough time to work on a bond (of trust) with the child? Which kind of training would you attend? What would you like to learn more? How should this training look like? Do you think guardians need different skills on the basis of the location/facility where they work (for example different skills for a guardian working in a detention facility or a guardian of a child in a foster family)? Do you think a guardian should be a social worker (with a training on legal aspects) or do you think a guardian should be a legal specialist (with a training in social work)?

Return/reunification:

What do you think is necessary for a successful return of a child? What is the role of a guardian in relation to return? How do you discuss possible return of the child to the country of origin? Do you know something about the countries the children are coming from? Do you talk to the child about the situation in the country of origin? Have you ever been in contact with a child after they have returned? Do you assess the situation in the country of origin? Are you in contact with authorities over there? Do children often have contact with their family (maybe in other European countries)? Do you support this contact and how? When children return, do you think a guardian should join them? How do you prepare a child for turning 18? What is the role of the guardian after the child turns 18?

Other needs and rights:

Education: How do you act when a child has difficulties at school? Do you have contact with teachers? Healthcare: Have you ever experienced difficulties receiving healthcare for the child? Social life: Do children talk easily about friends? About their daily life (school etc.)? About their history? Have you ever experienced a conflict of interest (for example that you needed to breach the confidentiality)? How do you deal with this? Would you know how and where a child can complain about a guardian? Participation/right to be heard: How do you involve the child in the decision making process? Do you have ideas how we can inform children about their rights and the role of the guardian? What do you do when you experience a difficult situation? Have questions? Are there people in your organization you can turn to? Do you ever experience difficulties when you maybe get too involved with the child (sleeping problems etc.)? If you were a separated asylum seeking child, what would you like your guardian to do for you? Would you like to add or comment something that you have not been asked?

Annex 3: The question list for the interviews with people working with separated children

The questions below were a guideline for the interviews with people working with separated children (not guardians). The interviewer did not ask these questions one at a time. The conversation started with explanation of the project, its purpose and potentially interviewer has told something about herself. It has been stressed that everything discussed is confidential. The interviewer did not discuss things the children mentioned about their guardians.

General information:

Name and contact information? Gender? Age? Country of origin? Education and training? How long are you working with separated children?

Introduction/Situation analysis:

How would you describe your daily work? Can you tell me something about how your day/week normally looks like? What does your job include (in accordance to separated children)? How many days a week do you work with separated children? How is your contact with the children? How many times a week do you see them? Does the separated child talk to

you about their (former) guardian? In which way are you in contact with guardians? How would you describe the role of a guardian?

Appointment of a guardian:

How often do you think a guardian and a separated child have contact? How many meetings should they have? Do you have any idea what the caseload of a guardian is? How many children do you think should be appointed to one guardian? When do the children first meet a guardian? Is this soon enough? Do you think a guardian is present when an age assessment takes place? Do you know if the guardian accompanies the child whenever they have an interview or a court hearing? Do you think a guardian should accompany the child? What is a good way to make sure that a child understands what a guardian is telling him/her? How can a guardian make sure that a child understands what you are telling him/her? Do you feel a guardian has enough knowledge about the migration procedure and children's rights?

Qualifications of the guardian:

How would you describe a 'good guardian' (maybe think of a guardian whose work you appreciate etc.)? Which qualifications and qualities does a good guardian need? Do you think children understand the role of a guardian? What kind of expectations do children have about their guardian? Do you experience that children have different expectations of a guardian? If they talk about their (former) guardian are the children positive? Are their expectations fulfilled? What do you think a guardian should help a child with? Do you think a guardian is responsible for doing fun activities with a child? Can children reach their guardian whenever he/she has a problem? What should a guardian tell a child about himself? Do you think a guardian should always be a paid person? What do you think about guardians who work on a voluntary basis? How would you describe the communication/relation between guardians and lawyers, mentors etc? Are they in contact on a regular base? Are there good/bad examples? In which way should a guardian assess and defend the best interest of the child? Do children have a good bond (of trust) with their guardian? Do they have enough time to work on such a bond? If you had to give a training to guardians, what would you include in the training program? What are the things you think guardians should learn more about? Do you think guardians need different skills on the basis of the location/facility where they work (for example different skills for a guardian working in a detention facility or a guardian of a child in a foster family)? Do you think a guardian should be a social worker (with a training on legal aspects) or do you think a guardian should be a legal specialist (with a training in social work)?

Return/reunification:

What do you think is necessary for a successful return of a child? What is the role of a guardian in relation to return? How do you think a guardian should discuss the possibility of return to the country of origin? Do guardians know something/enough of the situation in the countries of origin? Do they talk to the child about the situation in the country of origin? Is it important that a guardian has contact with authorities/families in the country of origin? Do children often contact their family (maybe in other European countries)? Do you think guardians support this contact and how? When children return, do you think a guardian should

join them? Should there be a guardian in the country of origin monitoring the situation of the child in the country of origin? Do you have suggestions for this? What should the role of the guardian be after the child turns 18? When children are turning 18, are they aware of possible changes? Are they informed about the possible changes by their guardian or someone else?

Other needs and rights:

Education: How do you act when a child has difficulties at school? Do you have contact with a guardian? Does a guardian try to solve the problems? Healthcare: have you ever experienced difficulties receiving healthcare for the child? Is the guardian approachable in order to solve these problems? Social life: Do you think children talk easily to their guardian about friends? About their daily life (school etc.)? About their history? Is it necessary they do so? When a guardian experiences a conflict of interest (for example that he needs to breach the confidentiality) how should he/ she deal with this? Would you know how and where a child can complain about a guardian? Participation/right to be heard: How does/should a guardian involve the child in the decision making process? Do you have ideas how we can inform children about their rights and the role of the guardian? If you would be a guardian, how would you carry out the job? What are the things a guardian has to focus on? Would you like to add or comment something that you have not been asked?

Annex 4: List of good practices

In our report we tried to highlight good practices. The good practices below are not exhaustive. The exposed good practices do not reflect the practices of all guardians and persons working with separated children and youth. In some case it concerns a widened practice, while in other cases it is a practice of an individual guardian or adult experts who work with separated children.

- Slovene Philanthropy is providing guardianship to the separated children accommodated in the Centre for Foreigners, to the separated asylum seeking children as well as to the separated children who are recognized international protection status. The advantage in the provision of guardianship by a non-governmental organization is in the organization's independence and greater flexibility in comparison with the governmental services.⁵⁷
- From the respondents we learned that the guardian and the child meet on a regular basis and that the separated children have the possibility to talk to the guardian face to face.
- Presently, Slovenia does not use the procedure as a matter of policy to determine the age of a separated child.

⁵⁷ Slovene Philanthropy and Legal-Informational Centre for Non-Governmental Organisations, “Policies on reception, return, integration arrangements for, and numbers of, unaccompanied children in the Republic of Slovenia”, 2009, p. 31.

- From the guardians and some adults we learned that every separated asylum seeking child has, beside the guardian, a legal representative who is responsible for leading the asylum procedure in its legal matters. At the same time it was emphasized that the guardian has to have a high level of legal knowledge and needed competences.
- All guardians mentioned they consider individually what is in the best interest of the child and make the determination of the best interests of the child according to each situation that affects the child.
- Guardians declared that when the children turn 18 they stay in contact with the children and are available whenever children have problems. Therefore, in regard to the role of the guardian when the child comes of age, unofficially nothing really changes.
- The guardian we talked to, seek support and counselling whenever necessary and exchange experiences with his/her colleagues.
- There are no waiting lists for separated children in the need of the guardian. This good practice reflects the right to special protection and assistance of a separated child and the obligation of the State to ensure the care for such child (articles 20 CRC).
- According to the children and the guardians, the guardians listen to the child and takes child's views into account.
- The guardian accompanies the child for medical procedures or makes sure that the child is accompanied by a person of trust.

Annex 5: List of recommendations

Recommendation 1

Since the guardianship is an important mechanism of protection of separated children, the existing system of guardianships in Slovenia should be improved. When the non-governmental organisation Slovene Philanthropy took over the provision of guardians, it has filled a gap existing in the field of care for these children. Nevertheless the provision of guardianship is often difficult, as the state does not provide Slovene Philanthropy with any financial support for that project.⁵⁸

Recommendation 2

The guardian should be appointed and should meet with a separated child immediately after the child enters the country.

Recommendation 3

Make sure that in practice, children would be enabled to have the possibility of choosing the guardian. This corresponds with the right of child to express his/her views and the right to participation of the child (article 12 CRC).

⁵⁸ Ibid., p. 32.

Recommendation 4

When the child and his/her guardian meet, the location and environment where privacy is assured should be provided to them, so that a level of anonymity is guaranteed.

Recommendation 5

Make sure that the separated child has the possibility to contact the guardian directly and to talk to the guardian face to face. Next to face to face conversations it is recommended to give the child contact information of the guardian in order to communicate with the guardian directly and privately. This corresponds with the right to information, participation and the right to privacy (article, 12, 13 and 16 CRC).

Recommendation 6

The guardian should be easy to reach for the child and be there for the child. The guardian should regularly show his/her presence, should be reliable and take time when the child has an urgent concern.

Recommendation 7

Make sure that the assignments of the guardians are clear and understandable to all concerned experts working with (former) separated children and especially to the separated children. This corresponds with the right to information (article 13 CRC).

Recommendation 8

Make sure that the child knows what a guardian is and let him/her explain what he/she has understood. Then the guardian should correct or develop the knowledge of the child. Specific material can be used to explain the role of the guardian to the child.

Recommendation 9

(Continued) trainings needs to be developed. Both, practical and theoretical parts should be included in those trainings. Guardians should have the needed competence and knowledge to fulfil their guardianship function. This reflects the right of the guardians to receive appropriate assistance in the performance of their responsibilities (articles 18 CRC).

Recommendation 10

The guardian has to be provided suitable training courses. These courses should contain specific training on guardianship and migration issues, asylum procedures and laws, children's rights and needs, child abuse and trafficking, training in pedagogical and psychological matters. Furthermore, intercultural competences should be dealt with.

Recommendation 11

The guardians should know how to approach separated children and how to communicate adequately verbally and non-verbally. The guardian should show an interest in the child's life by asking questions without being too intrusive and listen to the child's concerns and take them seriously. The guardians should pay attention to the factual as well as to the emotional communication. This corresponds with the right to participation and access to information of the child (article 12, 13 and 17 CRC).

Recommendation 12

Make sure that the separated child and the interpreter speak the same language and that the child truly understands the interpreter. Make sure that the child receives timely information in a language he/she understands.

Recommendation 13

Make sure that when necessary the guardians and children are ensured the access to interpreters in person or, when such contact is not possible, by phone. The costs for interpreters should be covered by the state.

Recommendation 14

Make sure that the interpreter is trained and have knowledge about migration procedures.

Recommendation 15

The guardian make sure that all decisions are taken in the best interests of the child and has to make sure that an assessment on the best interest of the child is based on the views and opinions of the child. The child should be involved in all the important decisions concerning child's life. This corresponds with the right to special protection and assistance and with the right to participation (article 2, 3 and 12 CRC).

Recommendation 16

The guardian should be enabled to act independently from authorities when taking decisions in order to promote the best interest of the child.

Recommendation 17

The guardian should be capable of discussing issues with the child about the possibility of return. This corresponds to the right to access to information (article 17 CRC).

Recommendation 18

It is recommended that guardians have contact with organizations in the country of origin that can provide information about the situation of the child once he returns. When this information is not available a guardians should not approve the return of the child. This corresponds to the right to special protection of separated children (article 20 CRC).

Recommendation 19

According to the most adults, when children need to return either to the third country or to their country of origin, it is recommended that the guardians accompany children or arrange that somebody else do this.

Recommendation 20

The suitable mechanism that verify the child is in effect returned to his/her family, guardian or a suitable institution in the third country or in the child's country of origin should be established. It is recommended that guardian tries to be informed about the reception of the child after a child is returned.

Recommendation 21

Make sure that the guardians are willing and able to (quickly) acquire knowledge about the situation in the children's country of origin as well as in the areas that the guardian is unfamiliar with.

Recommendation 22

Make sure that the guardian informs children about the legal procedures concerning their situation when they turn eighteen. This corresponds to the right to information (article 17 CRC).

Recommendation 23

It is recommended that guardians provide clear explanations of the role of the guardian before and after a child becomes of age.

Recommendation 24

It is recommended that the guardians stay in contact with the children also after they turn eighteen.

Recommendation 25

On the grounds of the complexity of working with separated children and the insufficient system covering this sphere, a low caseload is recommended. The guardian's caseload has to be adequate and manageable. This also reflects the right to special protection and assistance (article 2 and 3 CRC).

Recommendation 26

In accordance with suggestions from the majority of adults, it is recommended that the guardianship function would be professionalized and therefore a guardian should be a paid person and should receive the financial means.

Recommendation 27

It is recommended that guardians have gatherings where they can exchange experiences and discuss some of the emotions which have been evoked in the course of the job. The guardian should therefore have the ability to get support or counselling from other professionals.

Recommendation 28

Detaining separated children on migration grounds should not be allowed anymore.

Recommendation 29

Make sure that (former) separated children are provided with suitable and sufficient accommodation facilities in specialized centres for children in order that their individual needs and specific characteristics are fully addressed.

Recommendation 30

The need to provide special accommodation where a 24-hour professional treatment, protection and suitable psychosocial programmes adapted to the child's needs would be ensured is clearly present with all the separated children regardless of their status. The fact that most separated children accommodated in Asylum Home disappear raises great concerns, especially taking into account that they present an easy target for traffickers in human beings.

Minors accommodated in the Centre for Foreigners should also be provided with an alternative accommodation in line with the Return Directive which stipulates that separated children can be detained only in exceptional cases. There are also issues with the accommodation of separated refugee children.⁵⁹

Recommendation 31

Children should be provided with sufficient, good quality food in a culturally sensitive manner. Children should be provided with as much as food as they need.

Recommendation 32

Considering that separated children find themselves in a very particular situation, the guardian should make an effort to put herself/himself in the position of the child by keeping its particular experiences in the past and the current living situation in mind.

Recommendation 33

Make sure that separated children understand the system and the legal procedures they are in, that they understand who a guardian is, what are the guardians' responsibilities, what the children can and cannot expect from their guardian as well as other information that concerns him/her. The guardian makes sure that the minor receives any information they lack. This corresponds to the right to access to information (article 13 and 17 CRC).

Recommendation 34

Inform separated children how and where to complain when they have problems with their guardian. This corresponds to the right to information and the right to protection (article 12 and 19 CRC).

Recommendation 35

Make sure that the guardians are professionally led by the institution responsible for guardian's appointment. The work and methodology of guardians should be evaluated by an independent institution.

Recommendation 36

The guardian should make sure that the child does fun things but it should not be the guardian the child needs to turn to for fun things. The guardian needs to look at the network of the child and make sure that the child has the support he/she needs and that the child is ensured the activities that are appropriate to his/her needs and interests. This corresponds to the right to leisure, play and recreational activities (article 31 CRC).

Recommendation 37

It is important that the separated child have the feeling he/she can talk to the guardian whenever the/she has a problem and that the conversation is confidential. This is important in order for the guardian to have a clear picture about the situation of the child and to built on a

⁵⁹ Slovene Philanthropy and Legal-Informational Centre for Non-Governmental Organisations, "Policies on reception, return, integration arrangements for, and numbers of, unaccompanied children in the Republic of Slovenia", 2009, p. 32.

durable solution together with the child. This corresponds to the right to development and the right to privacy (article 6 and 16 CRC).

Recommendation 38

The guardian should make an effort to get to know the child and to create a trustful relationship. The guardian should treat the child respectfully, with an unprejudiced and open attitude.

Recommendation 39

It is recommended that the guardian contact separated children for no special reason. This is important to create or maintain the relation of trust.

Recommendation 40

Special educational programmes that would be adjusted to children's needs and language specificity should be provided to the children. It is recommended that all guardians promote and ensure that separated children can access education. It is recommended that all guardians advocate for continued education of separated children. This corresponds to the right to education (article 28 CRC).

Recommendation 41

The guardian should follow closely the evolution of the education of the child, should discuss the option choices and go to the school meetings. If the guardian does not follow up on the education of the child he/she should make sure that another person does.

Recommendation 42

It is important a separated child is informed about his/her right to healthcare and how to access this healthcare. The guardians should promote and ensure that separated children can access adequate health care services and other related services. This corresponds to the right to healthcare (article 24 CRC).

Recommendation 43

The child should be able to meet with a doctor confidentially but a guardian should join a child when child wishes to. This corresponds to the right to privacy (article 16 CRC).

Annex 6: Convention on the Rights of the Child

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.
2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in

order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the

provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall

promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to

the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

- States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:
- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
 - (b) The exploitative use of children in prostitution or other unlawful sexual practices;
 - (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or

armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders;

counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State party; or
- (b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of eighteen experts of high moral standing and recognized competence in the field covered by this Convention.^{1/} The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.
3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first

election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

- (a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;
- (b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;
- (c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;
- (d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In

the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.