

## IN WHOSE BEST INTEREST?

*Exploring Unaccompanied Minors' Rights through the Lens  
of Migration and Asylum Processes (MinAs)*

# NATIONAL REPORT - SLOVENIA

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### Authors:

Mateja Sedmak

Tjaša Žakelj

Blaž Lenarčič

Zorana Medarić

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## Project leader

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**UNIVERSITY OF PRIMORSKA,  
SCIENCE AND RESEARCH CENTRE**

## Project partners

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**THE NATIONAL CENTER FOR  
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**SLOVENE PHILANTHROPY**



**SOCIAL PROTECTION INSTITUTE OF  
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# 1 INTRODUCTION

In a time when the European Union is facing significant (irregular) migration flows, questions arise regarding the wellbeing of migrants and the supportive mechanisms of various states. The project entitled IN WHOSE BEST INTERESTS? *Exploring Unaccompanied Minors' Rights Through the Lens of Migration and Asylum Processes (MinAs)* examines the reception, protection, asylum and return procedures of UAMs and focuses on the concept of the best interests of the child and the formal processes of best interest determination in four European states – Slovenia, the UK, France and Austria.

Deriving from the United Nations' Convention on the Rights of the Child (CRC, 1989) the best interests of the child (BIC) should be the key principle of official actions and decisions affecting children's lives. Based on CRC principles, EU migration and asylum policy provide some guidelines on special provisions for unaccompanied minors (UAMs) as a vulnerable group of migrants and integrates BIC in numerous directives which focus on the procedures concerning UAMs.

While the first national report of the project (State of the Art Report) focused on a description of research concepts, analysis of statistical and demographic data of the related literature regarding inclusion of the principles of the best interests of the child in national legislation and on existing good practices, this second qualitative report addresses the issue of determining the best interests of the child and implementation in practice. Questions of the best interest of the child determination was analysed on the basis of semi-structured interviews with experts working in the field of protection of UAMs or participating in procedures related to UAMs and on the basis of interviews with UAMs and former UAMs who have related experiences in Slovenia.

The structure of the report is as follows: in the second chapter field work with UAMs and experts is described along with an explanation of the data collection and detailed information on interview timelines and interviewees. The third chapter presents a short overview of the Slovenian national context which is available in detail in the State of the Art Report. The fourth chapter consists of four subchapters focusing on the opinions of Experts and UAMs regarding legal status, care provisions and the day to day living of UAMs, the determination of the best interest of the child and conclusions regarding the required measures that would provide durable solutions for a support mechanism for UAMs.

## 2 THE PARAMETERS OF THE FIELD RESEARCH

### 2.1 Data collection method

Data was collected by semi- structured in-depth interviews among a) experts working in the field of protection and support of UAMs and b) among UAMs and former UAMs. Interviews were recorded, transcribed and finally coded in terms of fitting pre-determined topics. In the case of expert interviews, three interviewees were required to authorise the transcriptions. Transcriptions were authorised with some minor changes and no demands were made to change the meaning of the responses to the questions.

Relevant quotations are used in the report to exemplify interpretations of the results.

### 2.2 Description of the field work

Whole qualitative field work was implemented in the period from January to April 2015. Thirteen expert interviews with 14 interviewees were conducted in the period from 21<sup>st</sup> January 2015 to 14<sup>th</sup> April 2015 in the following timeline:

- ✓ NGO Representative 1 (Slovene Philanthropy representative with vast experience in the guardianship of UAMs, research projects on UAMs, support for legal guardians) (21. 1. 2015)
- ✓ NGO Representative 2 (Slovene Philanthropy representative with vast experience in the guardianship of UAMs, support for legal guardians) (27. 1. 2015)
- ✓ Alien Centre Representative (social worker) (27. 1. 2015)
- ✓ NGO Representative 3 (representative of Legal-Informational centre for NGO's offering legal advice to UAMs in an Asylum home) (29. 1. 2015)
- ✓ Representative of the Ministry of the Interior (working in the field of integration of UAMs who have been granted refugee or international protection status by the Internal Administrative Affairs, Migration and Naturalisation Directorate, Administrative Internal Affairs and Naturalisation Office) (29. 1. 2015)
- ✓ Guardian for Special Case<sup>1</sup> (working at the Centre for Social Work in Postojna and who is territorially responsible for the protection of UAMs accommodated in the Aliens Centre) (12. 2. 2015)

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<sup>1</sup> Some terms used in the report such as Aliens Centre, Aliens Act and guardian for special case are used in the report due to consistency with official translation of the terms used in documents of Ministry of the Interior.

- ✓ Asylum Home Representative (social worker) (26. 2. 2015)
- ✓ Representative of the Border Police Division (Uniformed Police Directorate, Ministry of the Interior (11. 3. 2015)
- ✓ Deputy Ombudsman and Senior Adviser (both working in the field of children's rights) (19. 3. 2015)
- ✓ Representative of Ministry of Work, Family, Social Affairs and Equal Opportunities, secretary (26. 3. 2015)
- ✓ Representative for the Centre for Social Work in Krško (working in intervention services and the Crisis Centre Krško which offers exceptional support to foreign minors in Croatian border areas) (31. 3. 2015)
- ✓ Legal Representative of UAMs (2. 4. 2015)
- ✓ Representative of Centre for Social Work from Ljubljana Vič – Rudnik (taking decisions on legal representatives of UAMs when applying for international protection status) (14. 4. 2015)

Average duration of the expert interviews was approx. 50 minutes (minimum 14 minutes, maximum 86 minutes). Research topics addressed during the expert interviews were:

- a) National background (questions related to how the experts' professional work is related to the protection of the rights of UAMs and on procedures, authorities, regulations and key national institutions);
- b) Best interest of the child (questions related to the concept of the best interest of the child and determination of the best interest of the child and obstacles for BIC implementation, challenges, and best practices).

Interviews with UAMs and former UAMs were performed by our project partner, Slovene Philanthropy, which is one of the crucial NGOs working in the field of protection of unaccompanied minors. In the period from February to April 2015, eighteen interviews were conducted with UAMs and former UAMs living in Slovenia which practically represents the entire population of UAMs and former UAMs with international protection status. As Slovene Philanthropy still offers strong support to UAMs living in Slovenia, when the planned number of interviews was reached, UAMs and former UAMs came to the office of SF of their own

accord and expressed a desire to speak about their experiences regarding the procedure and life in Slovenia. Research then involved UAMs and former UAMs living in Slovenia:

- ✓ Interviewee 1 (19 year old boy from Somalia with refugee status; duration of stay in Slovenia – 3 years);
- ✓ Interviewee 2 (20 year old boy from Sierra Leone with refugee status; duration of stay in Slovenia -5 years);
- ✓ Interviewee 3 (20 year old boy from Afghanistan in the process of obtaining an extension of subsidiarity protection status; duration of stay in Slovenia – 3 and a half years);
- ✓ Interviewee 4 (18 year old boy from Afghanistan with subsidiarity protection status; duration of stay in Slovenia - 4 years);
- ✓ Interviewee 5 (19 year old boy from Afghanistan with Slovenian citizenship; duration of stay in Slovenia - 3 years):
- ✓ Interviewee 6 (21 year old boy from Afghanistan in the process of extension of subsidiarity protection status; duration of stay in Slovenia – 4 years):
- ✓ Interviewee 7 (17 year old boy from Ghana waiting for a decision on international protection in the process of age assessment; duration of stay in Slovenia - 6 months):
- ✓ Interviewee 8 (17 year old boy from Ukraine; waiting for the Ministry decision regarding international protection status; duration of stay in Slovenia - 5 months);
- ✓ Interviewee 9 (18 year old boy from Somalia with refugee status; duration of stay in Slovenia -3 years);
- ✓ Interviewee 10 (19 year old boy from Afghanistan in the process of extension of subsidiarity protection status; duration of stay in Slovenia – 4 years);
- ✓ Interviewee 11 (21 year old boy from Afghanistan in the extension of the subsidiarity protection status; duration of stay in Slovenia – 4 years);
- ✓ Interviewee 12 (21 year old boy from Afghanistan; appeal on the rejection of the application for extension of subsidiarity protection status; duration of stay in Slovenia – 4 and a half years);
- ✓ Interviewee 13 (19 year old boy from Afghanistan; appeal on the rejection of the application for extension of international protection; duration of stay in Slovenia – 2 years);

- ✓ Interviewee 14 (20 year old boy from Afghanistan with refugee status; duration of stay in Slovenia – 3 years);
- ✓ Interviewee 15 (21 year old boy from Afghanistan in the process of extension of subsidiarity protection status; duration of stay in Slovenia – 7 years);
- ✓ Interviewee 16 (22 year old boy from Afghanistan in the process of extension of subsidiarity protection status; duration of stay in Slovenia – almost 7 years);
- ✓ Interviewee 17 (23 year old boy from Afghanistan in the process of extension of subsidiarity protection status; duration of stay in Slovenia - 6 years);
- ✓ Interviewee 18 (22 year old boy from Afghanistan in the process of extension of subsidiarity protection status and student visa; duration of stay in Slovenia - 5 years).

Interviews were mainly conducted in either English or Slovenian. The assistance of an interpreter was needed only in one case for Russian.

The average duration of the interviews with UAMs and former UAMs was approx. 105 minutes (minimum 56 minutes, maximum 170 minutes). Research topics addressed in interviews with UAMs and former UAMs were:

- a) Perceptions of daily life (questions related to spending time, living conditions, fulfilment of basic needs, access to basic social rights, education / work, perception of institutions and actors of the child protection / perception of the administration and the state);
- b) Issues relating to childhood and perception of well-being as young persons (questions related to subjective well-being, friends, family and social links, leisure activities, identity, convictions and values);
- c) Issues related to living conditions and treatment of unaccompanied migrant/ asylum seeker (questions related to procedures and status seeking);
- d) Future (questions related to desires, expectations and aspirations).

### **2.3 Limits of the method and obtained data**

While in our opinion interviews with UAMs and former UAMs provided us with important information regarding their experiences, daily life and perceptions regarding the support system, the findings from the expert interviews could be regarded as limited for several reasons. First, due to the fact that numerous actors are involved in the procedure and decision making process regarding UAM status (meaning each of them has a particular,



limited role in the procedure involved in determining the best interest of the child, which influences procedures concerning UAMs that are numerous and not efficiently correlated) and second, due to the fact that experts did express opinions on the system and its shortcomings but in some cases these opinions were probably presented in a way acceptable to the institution for which the expert is working.

## 3 OVERVIEW OF THE SLOVENIAN NATIONAL CONTEXT

### 3.1 Contextual country information

In contrast with Austria, France and the UK, Slovenia is largely a transit country for UAMs; namely they leave soon after arriving and carry on towards the countries of Northern and Western Europe. According to data obtained by Slovene Philanthropy and the Ministry of the Interior, the majority of UAMs are now coming from areas of crisis (predominantly Afghanistan) and a certain number of them remain in Slovenia for longer periods of time where they are granted international protection status. Most UAMs found by the authorities in Slovenia apply for international protection. According to the Ministry of the Interior<sup>2</sup>, sixty-five UAMs applied for international protection in 2014. Among those UAMs who applied were 64 boys and 1 girl.

According to the data<sup>3</sup>, the overwhelming majority of UAMs in Slovenia are boys between the ages of 14 and 17. It is understandable that according to its strategic position, Slovenia represents one of the important entrances to the EU, therefore it is a transit state for UAMs mainly from former Yugoslav republics (Montenegro, Serbia and Kosovo) and from Afghanistan, Syria, Algeria, Morocco and Bangladesh. In order to fully understand the data presented, it is necessary to explain that Slovenia joined the Schengen area on 21 December 2007, when controls at the borders with Austria, Italy and Hungary were abolished and at the same time external Schengen border control called for tighter border controls regarding illegal immigrants.

UAMs who enter Slovenia irregularly are temporarily accommodated by the Police at the special department responsible for minors at the Aliens Centre. According to the data obtained, the number of UAMs accommodated in the Aliens Centre has been declining over the last ten years. The highest number of UAMs accommodated in the Centre was in the year 2004, namely 112 persons. On the other hand, UAMs who applied for international protection in Slovenia and had therefore been accommodated at the Asylum home in the period from 2002 – 2014 totals 564 children. According to the data obtained by Slovene Philanthropy, the number of UAMs who had been granted international protection in Slovenia in the period from 2001 until 2014 totals 33 children, while in the years 2002, 2003, 2006 and 2014 no UAMs were granted status in Slovenia.

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<sup>2</sup> The report is available at [http://www.mnz.gov.si/fileadmin/mnz.gov.si/pageuploads/DUNZMN\\_2013/DUNZMN\\_2014/DUNZMN\\_2015/Statistico\\_porocilo\\_-\\_SLO\\_2014.pdf](http://www.mnz.gov.si/fileadmin/mnz.gov.si/pageuploads/DUNZMN_2013/DUNZMN_2014/DUNZMN_2015/Statistico_porocilo_-_SLO_2014.pdf)

<sup>3</sup> Data presented here are collected and put together from different sources; namely Slovene Philanthropy, Ministry of internal affairs of the Republic of Slovenia and Alien's Centre.

## 3.2 Institutional framework

The rights, statuses and obligations of UAMs in Slovenia are mainly determined by the Aliens Act (hereinafter AA) and International Protection Act (hereinafter IPA). The AA was adopted in its first version in 2011 and amended several times in 2014 (the latest amendment was in April 2014). It sets out the conditions for and methods of entry into / departure from and residence of aliens (persons who are not citizens of Slovenia) in Slovenia.

The IPA replaced the Asylum Act which had been accepted in its first version 1999 and amended several times by 2006. The IPA was adopted in 2007 and came into force at the beginning of 2008. It regulates the international protection system in Slovenia. The main role of the IPA is to transfer the joint European asylum system into the national legislation. In doing so, it determines basic principles, procedures for acquisition and deprivation of international protection, the duration and extent of international protection, the rights and obligations of applicants seeking international protection and persons who have obtained international protection.

Detailed procedures for UAMs are stipulated in Article 82 of the AA, which advocates:

- In cases where an alien minor, who is not accompanied by his parents or other legal representatives and resides illegally in Slovenia is deported; the police shall immediately inform a Centre for Social Work, which must immediately assign a guardian for special case to the minor. The police shall then issue the alien minor with a return decision where his guardian for special case, having carefully considered all circumstances, establishes that this is in the best interests of the minor.
- An alien minor may not be deported to his country of origin or to a third country which is willing to accept him until reception is ensured for him. Prior to deporting him/her, it needs to be ascertained that he/she will be returned to a member of his/her family, a nominated guardian or adequate reception facilities in the country of return. Under no circumstance may an UAM be deported in violation of the *Convention for the protection of human rights and fundamental freedom*, 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*. The alien minor shall be permitted to stay pursuant to the provisions of this Act until his/her deportation.

If an alien minor applies for international protection status, he/she is treated in accordance with the IPA. The latter determines the specific care and attention which shall be provided to

vulnerable groups who request international protection. Since UAMs are certainly vulnerable, Article 15 of the IPA makes such a reference. In this order:

- Special needs and vulnerability shall be established on the basis of a needs assessment for each individual applicant, refugee or person under subsidiary protection;
- Accommodation of vulnerable applicants should take into consideration the specific situation with regard to material conditions of reception, medical and psychological counselling and care;
- UAMs shall, if they so desire, be orally informed of the content of the leaflet regarding applicants' rights and obligations prior to submitting the application. Provision of information shall be adapted to the child's age and level of mental development;
- The responsible authority shall provide suitable accommodation and care for UAMs. The relevant authority shall inform the legal representative on the manner in which the accommodation and care are provided;
- UAMs accompanied by their legal representative shall participate in all stages of the procedure.

The procedures and rights of UAMs are determined in the IPA (in cases where they apply for international protection) in Article 16 which stipulates that where the applicant is an UAM, it is necessary to:

- Take into consideration the principle of the best interest of the child;
- To establish the child's identity as soon as possible and start with the process of tracking down the child's parents or other relatives;
- To ensure priority treatment of the child's application and to appoint a legal representative for the child prior to the commencement of the procedure.

When UAMs gain international protection status, their rights and procedures are stipulated in the IPA (Article 96), where consideration of the best interest principle for the child is stressed.

The main institutions responsible for the implementation of legislation regarding UAMs in Slovenia are as follows:

- ✓ *The Ministry of the Interior* level deals with administrative and professional matters relating to migration policy on a general level and cooperates with other ministries, authorities and services to direct and coordinate their work.

- ✓ *The Ministry of Labour, Family, Social Affairs and Equal Opportunities*
- ✓ *Centres for Social Work* (Under the authority of Ministry of Labour, Family, Social Affairs and Equal Opportunities). For instance the Centre for Social Work Postojna is territorially authorized to appoint the guardian for special case for UAMs temporarily accommodated at the Aliens Centre in Postojna and Centre for Social Work Ljubljana Vič – Rudnik is territorially authorized to appoint legal representatives to UAMs who have declared their intention to apply for international protection and are accommodated in the Asylum home.
- ✓ *Asylum home* is a facility which accommodates applicants seeking international protection. UAMs are accommodated in a special department at the Asylum home which is somewhat separate, however it does allow access to other applicants.
- ✓ *Aliens Centre* is a facility which accommodates aliens who entered the territory of Slovenia illegally. The main tasks of this Centre are the reception, accommodation, providing food, health care and social care for aliens; restriction of aliens' movement; implementation of stricter police surveillance; preparation of aliens for deportation; deportation of aliens.
- ✓ *Slovene Philanthropy* is a NGO, the only organization in Slovenia that systematically deals with assistance, advocacy and protection of UAMs. Among other mandates it strives to provide suitable migration related legislation and practice and to raise the awareness of both experts and the general public regarding issues related to contemporary migrations and migrants.
- ✓ *PIC or Legal-Informational Centre for Non-Governmental Organisations* is a NGO working within the field of human rights and environmental protection. Within the framework of the AA and IPA it offers legal counselling and information regarding management of the status of UAMs, protection and access to social, economic and other rights.
- ✓ *The Ombudsman* checks the conditions in the accommodation centres for UAMs and provides recommendations regarding the duration of the procedures and suitability of living conditions and everyday conditions.

## 4 FINDINGS

### 4.1 Legal status

#### 4.1.1 International protection procedure

The international protection procedure starts when an UAM expresses intent to apply for international protection – for instance in a conversation with guardian for a special case met with at the Aliens Centre (on the basis of Aliens Act that determines a guardian for a special case to be appointed to the alien minor), in a conversation which takes place at the border with the border control police and a social worker etc. UAMs who seek international protection are dealt with under the International Protection Act. UAMs who express intent to seek international protection are accommodated in a special room of the Asylum home. A social worker from the Asylum home explains:

*Each UAM who enters the Asylum home is first medically checked for parasites by the nurse who is employed at the Asylum home. Then the operative worker calls a physician who also checks the condition he/she is in. As of 2015, physicians began writing an estimation of vulnerability, meaning before the submission of the application for international protection is done, a physician fills in a form regarding how vulnerable a person is (Asylum Home Representative).*

The application for international protection needs to be submitted within 24 hours of reception into the Asylum Home. The submission is made in the presence of four persons whom the UAM does not know: a legal representative, a legal adviser, an interpreter and an official. A representative of a NGO describes the inadequacy of the procedure:

*We found this very problematic because it happens right away; this is few hours after the arrival into the Asylum Home. Because it is not necessary they were at the Aliens Centre before. /.../ and the submission of the application is of vital importance because it is the basis for decision making regarding the status of protection. /.../ Imagine a child who might have travelled for months, who is hungry, not to mention his psychological condition, traumas he may have suffered and he is sent into a room with people who he is seeing for the first time. The first person is legal representative who tries to explain him that he/she is on his side, then there is a legal adviser, an interpreter and the official person. And they try to convince him to tell his story as to why he has applied for international protection status. And I find this system totally inadequate; there is no time and place to prepare a child for such an important thing as a submission of an application. (NGO Representative 1)*

Furthermore, the legal representative exposes the time pressure in which the application must be served:

*The fact that the application has to be done in 24 hours seems inconvenient ... In one of my cases, a child was brought to examination directly from Postojna. And children are tired, confused and then we interrogate them... I do not know. (Legal Representative)*

This practice is also questioned by the CSW representative:

*I do not know if we as a state are efficient, if the UAM understands the procedure after it is explained to him, if he fears less than before, because I do not have this feedback. He gets there, he does not know what is happening, he is scared, does not understand the language and so it would be necessary to work on it very hard. (Centre for Social Work Vič - Rudnik Representative)*

Since after the application submission, UAMs do not live in the restricted area, many of them leave Slovenia in a few days. Arbitrary exit from the territory represents one of crucial reasons for the few (if any) annual cases when international protection status is granted to UAMs in Slovenia. However, the NGO representative stressed that Slovenia is among the countries with highest percentages of granting international protection status:

*According to percentages, Slovenia is a state which grants the maximum statuses. Status is granted to approximately 10% of applicants who come and stay in Slovenia. Elsewhere this percentage is much lower. But this is understandably according to the number of applicants. (NGO Representative 2)*

If an UAM stays in Slovenia, a legal representative usually starts with activities for his/her accommodation outside the Asylum home.

The procedure of granting or denying international protection status should be finished within 6 months with preferential treatment being given to the applications made by minors. The NGO experts stress that procedures are prolonged due to age assessment procedures. Consequently, the procedure is an (intentional) delay as some of the UAMs reach the age of 18 before they receive a decision regarding their application.

As often happens, formally prescribed procedures regardless of original good intentions, are not always meeting the true interests and needs of unaccompanied minors. If the experts are critical towards certain established procedures and practices, the UAMs are even more

critical. They often find the whole process of applying for international protection confusing; they feel they do not receive enough information about procedures, their rights or options. This is particularly true for the first interview as many of them express the feeling that they were not sufficiently prepared. In the words of one Afghan boy:

*"Before the interview nobody explained anything to me, then I gave the interview and they said, ok, now you have finished". (Interviewee 15, Afghanistan, 21 years old.)*

Additionally, most of them felt they were left in a situation they did not fully comprehend, sometimes with a long and exhausting trip behind them. Due to inadequate information and uncertainty they were confused and scared at the interview:

*...You know, you are nervous, you are meeting them for the first time; you don't know what to say. It's hard./.../ And again, you don't know who to trust. You don't know who is a police officer, or who is an immigration officer. They might just introduce themselves as bla-bla-bla, you understand and they will be there. So you don't know what the outcome of the interview will be.*

*So it's nerve wracking. You are meeting them for the very first time./.../ there was translator /.../guardian, behind me. And that's it. (Interviewee 2, Sierra Leone, 20 years old)*

But above all, UAMs stated that they could not fully express themselves nor were they always properly understood during the interviews. One of the reasons was that not all of them were appointed an appropriate interpreter. According to some interviewees, their interpreter was inadequate, therefore they felt they could not fully express their views and thus could make themselves completely understood:

*Actually no, in both the first and second interview I did not have the opportunity (to express myself). The first problem of the interview – the translator, the most important thing; 85% was a problem of the interpreter. He or she could not explain the thing I needed to say. This is a problem; everything is connected or based on her/his interpretation. If he/she couldn't interpret well that would mean that my words had no value. (Interviewee 6, Afghanistan, 21 years old)*

*It was not hard, but it was difficult for me with the interpreter, he did not actually say what I said. He only said the way he understood. That is not the way; you are dealing with a human, what you say is what they take into consideration, so you have to interpret fact by*



*fact, word by word. And get into the mind of the person whom you talk to. And he didn't do that. (Interviewee 7, Ghana, 17 years old)*

Sometimes the interpreter did not speak their mother tongue and they could not comprehend them entirely:

*My language is Dari, the interpreter was speaking Persian. Persi-Dari is a big difference. (Interviewee 15, Afghanistan, 21 years old)*

*Yeah, I had an interpreter, but I did not understand anything that he' was saying. Yes, I did not understand because he spoke Persian, I did not understand anything at all (Interviewee 3, Afghanistan, 20 years old)*

According to interviewees, there were also intercultural differences (or lack of competences in this field) which contributed to misunderstandings during the interviews:

*I do not know. Living in Slovenia or in Afghanistan is quite different. When we answer a question, they did not believe the response. They did not survive and they have not seen. For them, it was quite hard to understand us. (Interviewee 4, Afghanistan, 18 years old)*

To sum up, UAMs need more information, advice and support, particularly before the first interview, since during the first interview they often do not understand the situation and are very vulnerable. Later, by their 2nd or 3rd interview they know what to expect and usually feel more self-confident. On the other hand, there is also a need for better intercultural competences on the part of professionals involved in procedures with UAMs.

Also stressed by experts was the fact that the procedures are long and UAMs are dissatisfied with uncertainty regarding their future in Slovenia:

*I look this way: If Slovenia cannot extend (someone's status) or fund it, they should have stopped at the beginning and said: »Look, we cannot give you documents here in Slovenia. We cannot finance you and you go wherever you go!« Then this person would find something for himself. But I have lived here for four years and I do not know what will happen. This is something completely different. (Interviewee 10, Afghanistan, 19 years old)*  
*It is also really hard when you are getting documents for one year only. OK, you wish, you are feeling for other to be better. And you are managing all your life. You are coming from the time of Asylum home, from that flashback, for one year, now you are in a good time. You are supporting, you are planning... Suddenly, your documents stop and you get negative. And it means again problems forgetting about this one year. This is really big*

*problem. Because I made so many plans to have a future, make a good life. But then what happened to me. (Interviewee 6, Afghanistan, 21 years old)*

#### **4.1.2 Age assessment procedure**

In Slovenia, age assessment is mentioned in the IPA, but its methods are not prescribed. It is used in cases when the decision maker responsible for the international protection application of the UAM has doubts regarding their claim of being underage. The IPA stipulates that the UAM needs to be informed about the procedure and the place of the age assessment. A NGO representative with considerable experience as a legal representative to many UAMs stressed that the procedures are not explained to the applicant during the process of the age assessment:

*I demanded that there needs to be a description regarding what the procedure involves and how it will be carried out. They really do not know what will happen /.../ they need to know at least it is not painful, what they may say, that they can reject an individual part of the process – this does not exist (NGO Representative 2)*

Age assessment is done by a physician at the Division of Paediatrics and does not always include the same procedures. Medical examination includes height control, weighing, blood pressure check, a conversation regarding siblings (number and age), age of their mother, shaving frequency, etc. The Physician also checks body hair and teeth and may decide to do X-rays or other tests. Some experienced and educated legal representatives do not allow UAMs to go through the phases of medical age assessments which are disputable health-wise (such as performing an X-ray for bone density estimation). Method of age assessment may include also an ethically disputable and humiliating method of estimating the age on the basis of comparison of the size of the testicles with the size of balls on a string used as a medical comparison tool:

*This means a boy has to take off his clothes; the physician compares his testicles with balls on a chain. When it was described to me, I found it terrible, humiliating and inadmissible! (NGO Representative 1)*

In addition, methods of age assessment are inconsistent and do not offer reliable evidence. Those having experience as legal representatives of UAMs stress that there is no method that would reveal the precise age of the applicant.

According to the expert working within the Asylum home, even if not reliable, age assessment is important to prevent children from being accommodated with someone who is significantly older than they are:

*Maybe someone would say age assessment is unimportant. But it is not. If you have someone who is 34 years old in the unaccompanied minors' department this could be really bad. This person could abuse them. From this point of view this is very important. Not from the point of view of whether someone is 15 or 16 years old. (Asylum Home Representative)*

Many of the UAMs interviewed did not experience the age assessment process and were not subjected to doubt regarding their age. However, several did have very different stories. A 17 year old boy said that he was sent to the doctor to confirm his age:

*...who confirmed that I am 17 years old. [How was it at the doctor, how did they check you?] They performed an x-ray on both my hands and my knees. /.../I didn't mind, they told me that I must go to the doctor and I went. (Interviewee 8, Ukraine, 17 years old)*

Sometimes doubt regarding age is expressed in a wholly inappropriate way; in the words of one UAM:

*Yes, the woman who decided my case, she just looked into my face and said I'm not 17, I'm 22. We had problems with my guardian. I don't know which, but the woman is not in the right position to just tell my age by looking at me, not even doctors can. You just cannot look at the person and determine a person's age. /.../ We even asked for permission for someone to check. We tried and tried to get someone to check what she was saying but no one responded. But for others it was possible. I don't know why they didn't agree for me to go get checked. They should give me a chance to prove, for me they never approved, they didn't agree. (Interviewee 7, Ghana, 17 years old)*

The inspector actually wrote in his decision that the applicant was older than stated and boy appealed the decision:

*Yes, first the answer was negative, we appealed to the court and I proved that I'm 17, so she should take everything back. But the Ministry also appealed and they don't understand why we have to start all over again. Now we wait for the high court to decide. We will see what will happen. (Interviewee 7, Ghana, 17 years old)*

### 4.1.3 Guardian for Special Case, legal representative and guardian appointment procedures

The Slovenian procedure regarding UAMs differentiates between the appointment of a guardian for special case, the appointment of a legal representative and guardian appointment procedures. Formally, all are appointed by the territorially competent Centre for Social Work.

A guardian for special case is appointed to the UAM when he/she is accommodated in the Aliens Centre (prior to the application for international protection). The guardian for special case is appointed by the Centre for Social Work Postojna. In 2014, members of their staff were appointed 29 times as guardians of UAMs (Annual Report, 2015). Usually the role of the guardian for special case is assigned to one and the same social worker. Data obtained during the interviews demonstrated that a guardian for special case usually carries out only one conversation with an individual UAM. Upon being asked how often she has contact with an individual applicant, the interviewee explains:

*Only once. This guardianship is not... It sounds nice, it is understood as a function to go there and to be with them, to be available to them for anything... It is more like a formal protection if I am going to be completely sincere. To explain their rights to them... And these conversations can last up to two hours. On the basis of that I write a report to the Aliens Centre and give them some guidelines on how to continue the procedure and what have we decided to do. (Guardian for Special Case)*

Legal representatives are appointed to those UAMs who apply for international protection. Since 2014 Slovenia has a new system of training and appointing legal representatives. Training is organised by the Ministry of Work, Family, Social Affairs and Equal Opportunities. The first (and at present the only) training seminar for legal representatives was in the summer of 2014 and currently social work centres have a list of 22 trained legal representatives of whom only some were active in 2015.

*We have a base of let's say 12 reliable people who are really interested in the role and are doing their jobs with all their hearts so we depend on those people who are reliable and do their work well. Because as I said in the procedure you need to respond quickly, the Asylum home searches for an interpreter, we search for a legal representative and we need people who respond quickly and actually have the time. (Centre for Social Work Representative 1)*

Legal representation in its basic dimension includes three tasks, namely care for best interest within the procedure, education, and health issues. If further need for formal representation occurs (for instance the involvement of the UAM in a criminal offence) a new decision on legal representation for a specific task has to be made. In practice, a "new" legal representative is usually the same person already fulfilling the tasks of legal representation based on the IPA. The role is appointed by the territorially competent Centre for Social Work. Appointing a legal representative takes place quickly, so in some cases the individual appointed only has a few hours to get to the application submission procedure at the Asylum home. This means that the legal representative has no time to get to know the UAM before the procedure and to explain to him/her the role of legal representative in a child friendly manner:

*They do not know us, they smile at us and do not understand what is the role of legal support, what my role is, why they need me, why I am there or how I can help them. In this short a time I can't explain much to them, I can say if you need a doctor I will accompany you, if you have problems, call me.... And that is it. (Legal Representative)*

In the past (prior to 2014) the role of legal representation was carried out by employees of Slovene Philanthropy. The involvement of this NGO and individuals working in it was stressed as being of vital importance for the protection of the best interest of the child and his/her rights by many experts. Since the Ministry of Family, Work, Social Affairs and Equal Opportunities subscribes for training of legal representatives, Slovene Philanthropy has taken over the support counselling to new legal representatives who do not yet have enough knowledge regarding how to fulfil their role:

*If I have a problem or a dilemma I call Mrs. Aida Hadžiahmetović or Mrs. Marina Uzelac (SP). Up until this point they have always offered me support and have taken all the necessary time to have a conversation with me. It was hard at the beginning for me personally. I wanted to take good care of these children, but I did not have the knowledge. (Legal Representative)*

The work of legal representatives is partially paid. They are paid for the assistance at the application submission, for the actual time spent by the physician, meaning only the most necessary representation tasks are paid (not the time spent travelling, waiting for a physician etc.). Such a system might encourage some legal representatives to perform only the most obligatory tasks, in other words to assure BIC in the minimum prescribed way. One additional question is how long they will perform the role if they come across problems each

time they strive to attain a system support for an UAM. One NGO representative mentioned that only a few trained legal representatives are active one year after completing their training.

Experts stress that the personal involvement of the legal representative in each case is very important for the realisation of BIC. Some of new LR already have doubts about their willingness to do this for on a longer basis citing reasons such as the limits of the system, lack of support on the part of the authorities; lack of professional supervision; numerous system obstacles:

*I feel my work is becoming routine. I think I could engage lots more for each of my individuals, could go for a visit more often... from case to case. You might have some negative experiences, you become reluctant and you can be afraid. To overcome this, supervision of our work would be necessary. (Legal Representative)*

When the international protection procedure is completed by granting subsidiary protection or refugee status a guardian is appointed to the UAM. Usually this is the same person who is also in the role of legal representative. In the past, the role of guardian (and legal representatives before status is granted) was granted to the volunteers of Slovene Philanthropy. This practice and their individual endeavours on behalf of each UAM were assessed very positively by many interviewees from governmental bodies which had a strong relationship with Slovene Philanthropy guardians. With the fact that this NGO is no longer fully involved in assuring individual support to UAMs and on the basis of a new system of legal representative training; a relevant question arises regarding how the new system of legal representatives will be upgraded as it already displays significant drawbacks.

Legal representatives (during the process of gaining status) and guardians (after status is granted) offer indispensable support to UAMs:

*She is the best I have ever had because she helps me. If it is good or bad. Before she even plans, she has to decide with me if I supported the idea or not. I always thought she was here for a long time, she is from this country, she knows right from left so I can never disagree with the good things she plans with me. Things are going all smoothly - for me this is the best I ever had./.../Yeah, she is the first person I look to. From when I came here, I asked her like she was my mother. She is like a mother to me; you know because she is doing everything like a mother, she is really a guardian. (Interviewee 7, Ghana, 17 years old)*

However, UAMs are not always satisfied with their guardians and in such cases they mostly rely on friends and people from Slovenian Philanthropy. As in the following case in which a minor formally has a guardian but does not express satisfaction:

*Well I met her once probably, when I was doing my interview. And then she introduced herself like, I'm your guardian, bla-bla-bla, that's all. (So in all these months you spent in the Asylum home, you saw her how many times?) Probably twice? My interview and then also ... Yes, mainly for my interviews Yes, I think. (So she was not in contact with you, she didn't come to visit you, to talk with you?) No, no phone calls, no contact, no nothing. (Interviewee 2, Sierra Leone, 20 years old)*

#### **4.1.4 Transition to 18**

The transition to the age of 18 is of crucial importance to UAMs as is in many cases their status is granted only on the basis that they are under age. Consequently, this means that UAMs obtain the status of international protection only until they reach the age of 18 and as age is the key reason for their unsafe position they cannot prolong their international protection status:

*Now we have huge problems regarding renewing subsidiarity protection status. No one gets a positive decision on renewing. The decision makers write in the operative part of the decision that status is obtained on the basis of being under age and for safety reasons that derive from this status. So there is no renewal of the status as those two reasons do not exist anymore when they reach 18. Even though they believed the story of why he came and why he is endangered they did not include it in the reason for acquisition of status. So he can not refer to this reason. (NGO Representative 2)*

In practice, UAMs with subsidiary protection status are unable to renew it after they turn 18. Court procedures are very long. What this means in practice to someone who lives in Slovenia for years and is fully integrated is explained by an NGO representative:

*All those boys who became of age and who asked for a renewal received negative answers. This means that there can be a case of a boy who lives in Slovenia for 4, 5 years, who has integrated perfectly if we need to defend him from this perspective. He goes to school and speaks Slovene perfectly. He has caused no trouble for Slovenia. After five years when he wants to stay here, the Ministry declares "No, we do not want you here." Not with these words but declares his status was obtained on the basis of him being under age but now he*

*is of age. And now as an 18 or 19 year old boy he should return to Afghanistan. This is terrible for those kids. (NGO Representative 1)*

Another issue that arises from the transition to adulthood are procedural delays. Application for international protection of someone who has reached 18 during the procedure will be rejected as he is no longer eligible:

*These procedures are very long. It seems to me that it is not a coincidence that the procedures to take such a long time. (NGO Representative 1)*

How the transition to the age of 18 and the change of status is perceived by UAMs can be seen through the following account:

*Yes, in the Asylum home they said we will get a guardian. They said they will take care for you until you are 18, then you are free. But I don't want to become free! (Interviewee 1, Somalia, 19 years old)*

Fortunately the guardian of the boy mentioned did not leave him when he became of age:

*Nothing changed. /.../She was helping when I was 18 and now I'm 19 and really nothing has changed. Still I get help and everything I need. (Interviewee 1, Somalia, 19 years old)*

Formally, after turning 18, UAM's lose some benefits, such as the right to have a guardian and are treated as adults. Sometimes, as presented above, this is not the case.

Turning 18 is obviously an administrative milestone of adulthood as described in the situation of the Somali boy who lost his guardian after turning 18 and when he applied for family reunification he received a negative response:

*We applied and they said it is not possible for you to get your whole family, we just check your mother and father, and then the last time they said: you don't need mother and father-you can live alone.<sup>4</sup>/.../ they said I don't need to live with my family, as you are now 18, so you don't need your parents anymore. /.../It was a bad decision. It is not correct – if you are 13 or 14 you need parents, everybody needs parents, even when I am 60 I'd still need my mother and father. And they are suggesting that at 18 you don't need your mother! Even now I miss my mother; I need to see her one day! And I can't even go to visit. (Interviewee 9, Somalia, 19 years old).*

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<sup>4</sup> He turned 18 during the procedure; at that moment the process for reunification stopped.



#### 4.1.5 Border and return procedures

According to some interviewees, procedures on the borders are those about which we have the least information. The important fact is also that border procedures regarding UAMs have not yet been observed or researched systematically, which was stressed by a NGO representative:

*/.../ the border procedure is also very problematic, how they are treated at the border, what is happening there... (NGO Representative 1)*

The Deputy Ombudsman stressed the nature of the border procedures:

*Border procedures are more problematic in my opinion. They can be degrading, intrude on privacy, do not respect rights. /.../ Such culture still prevails at the borders – that the one who is in control feels strong and this will affect how they act towards foreigners, especially foreigners from third world countries and not only UAMs. (Deputy Ombudsman)*

Slovenia signed several bilateral agreements for returning persons who do not comply with conditions for entry into the state or to stay in its territory. On the basis of these agreements, UAMs are sent back to the country of transit whenever they are found at the borders and the conditions of return are reached. The border police unit's goals and how irregular migrants obtain their rights were explained by the Representative of the Border Police Division:

*If we are not successful with refoulement, if we are not successful with the return to the neighbouring country, we return them to their country of origin, then of course a foreigner in this situation obtains authorisation to stay. (Border Police Division Representative)*

As return processes (either to the neighbouring country or the country of origin) were not among primary research issues, we have not obtained detailed data on how these processes run. How the best interest of the child is reached in the face of border procedures was explained by an expert:

*Actually it is very hard to say what is in the child's best interest at any specific moment. We are very satisfied that in border return procedures in most cases, though I will not say they are constantly present, we have social workers who carry out an additional conversation with the UAM, asking them about their circumstances and in their way, determining what is in the best interest of the child. (Border Police Division representative)*

Border procedures are not clearly determined. The Alien Act stipulates that border police need to notify the territorially competent Centre for Social Work regarding the alien minor. What is not defined is how the social worker should act upon this notification and which procedures should be done in accordance with the notification. An additional question is, whether the police actually inform the territory competent Centres for Social Work in all cases:

*The Alien Act has only one article.... If they come across an unaccompanied alien minor they inform the Centre for Social Work. Now we usually get to the border for each individual case when we are notified. Well, except in some cases when the police have doubts regarding their age, it sometimes happens that we do not receive notification. And though the police should inform us about every case, I can't actually say they do.... (Centre for Social Work Representative 2)*

Even if the CSWs are informed about all cases involving an alien minor, the question remains - are they present in all cases and actually determine what is in the best interest of each UAM?

While UAMs report being treated well by (border) police, the experience with border procedures can be very confusing since UAMs often do not have enough information about what is actually happening. A boy from Afghanistan describes his experience with border procedures – he was first returned to Croatia even though he actually lived in Greece before coming to Slovenia. No guardian for special case was appointed to him:

*[When you were at the Slovenian or Croatian police station – did you have a guardian to help you?] No, no. [You were alone?] Alone, I was always alone and I was full of fear. Since they brought me there, I didn't know what would happen. Because they brought me there, I didn't know, I didn't know what would happen to me, where would they put me. I didn't know at all. I was scared, because they put me across the border...how do you call it...it is not a prison, but there is a room, for people to put those who cross the border there. I sat there and I was very sad. I said to myself...why have they brought me here? What am I guilty of? That is what I was thinking to myself. Then they said, don't worry, in English, a Croatian police man said: don't worry, everything will be all right. They will send you back. Do you want to go? Because he understood, he told me everything. He said: we will send you back to Slovenia, because you did not come from Croatia you can live in Slovenia, in Europe. (Interviewee 3, Afghanistan, 20 years old)*

## 4.2 Care provisions and day-to-day living

### 4.2.1 State funding and financial arrangements

According to procedure, minors living in the Asylum home have the right to receive “€18 of pocket money”, such as when an UAM is waiting for a response regarding his application for international protection. In some cases when needs arise, the minor can do some small maintenance work for pay but the amount of money they can earn is small. A representative of the Asylum home explained:

*.....and they can get €20, 30, 40 (for maintenance work) and €18 of pocket money each month. We can't say it is nothing but it is not much. But according to the fact they have three meals here, breakfast, lunch and dinner, this pocket money can be regarded as an additional financial supplement they receive. (Asylum Home Representative)*

When an UAM receives international protection status (refugee status) he has the right to receive financial/social assistance at a rate of €269 per month. If they do not live in the Asylum home, monthly financial support is reduced by the amount of €40. The Ministry of the Interior provides means for accommodation.

*For a long period they received the full amount – this would mean €269,22, but the fact is that they also receive means for accommodation, which is valid only for accommodation provided by the Ministry of the Interior. /.../ But now there is a new directive from the Ministry and Centres for Social Work which says financial support is to be reduced by approximately €40. (NGO Representative 1)*

According to UAMs, the food in the Asylum home is often inappropriate and/or scarce therefore they feel that the 18 euros pocket money is not enough. In such cases they would rather buy food and cook for themselves but the money they receive is obviously insufficient:

*It was 18 euro for cooking. That is pocket money. It is 18 euros. What can a person do in Slovenia with 18 euros per month?!? /.../ You can only eat that food (served in the Asylum home) or stay hungry. There are only two options. (Interviewee 6, Afghanistan, 21 years old)*

Most of the UAMs are very modest. The 18 euros they receive in the Asylum home is spent on snacks, better shampoo, drinks etc. and are satisfied with what they receive:

*I get all I need (in the Asylum home). I go to the Red Cross and similar institutions to get clothes and the like. (If he needs something else) I don't ask for help, rather I wait patiently. I am simply like that; I don't like to ask people for help. (Interviewee 8, Ukraine, 17 years old).*

UAMs themselves express an always present lack of money. After receiving money from the state for food and accommodation (€269), if they have greater necessities they ask for help from friends, the Centre for Social Work and very often Slovene Philanthropy.

*Then I asked a friend for money, Philanthropy also. Also if I needed the equipment for the training. (Interviewee 4, Afghanistan, 18 years old)*

The reasons for leaving their country of origin are also reflected in the "new financial situation" in which for instance one Somalian, aged 19 years, after receiving 269 euros, sends half of it back to his family who urgently need it. However, the halved amount is insufficient for the survival of both parts, for him as well as for his family.

*Yes, I am the oldest in the family; I have four brothers and a mother. They need money; they are coming from Somalia to Yemen. There are also refugees in Yemen. It is bad. Sometimes they have to pay rent, health-care, everything. And I am the one to whom they say: "Give us, give us for that!" (Interviewee 1, Somalia, 19 years old)*

#### **4.2.2 Accommodation and access to food**

### **Accommodation**

Experts involved in this study agreed that Slovenia does not have suitable accommodation facilities for UAMs. The asylum home where UAMs who declare an intention to apply for international protection are placed is located in the suburbs of Ljubljana. This asylum home has a special area for unaccompanied minors. As it is not completely separate from the area which houses adult men, the experts stress that the Asylum home is not suitable for UAMs. The unsuitability was initially mentioned by NGOs working with UAMs but lately also the staff from the Asylum home confirms that this accommodation is unsuitable, especially for younger UAMs. Currently experts working with UAMs are in discussions regarding the possibility of foster care arrangements:

*The accommodation itself is somewhat inappropriate because it is inside the Asylum home. We are seeking different arrangements outside the home in order to accommodate the best*

*interests of the child. If you ask me, foster care families who provide accommodation to unaccompanied minors could be very successful as far as the social aspect. (Asylum Home Representative)*

Several years ago there were some cases of UAMs being accommodated in the Integration house. Since the program of the house does not include support, control or supervision for adults, this accommodation is not used anymore as experts agree that as minors, UAMs require twenty-four hour support and adult supervision by those who are responsible for their care.

Legal representatives often strive to organize the best possible solutions in order to accommodate the minors under their purview; however, they are met with numerous problems as there are no tailor-made options for UAMs. In some cases, UAMs are placed in residence halls meant for students (its' primary users are secondary school students) or crisis centres (for underage children in serious distress who need to be removed from their family environment). As previously mentioned, foster care families who would be adequately trained in the upbringing of UAMs seem to be the most suitable solution, though social care centres do not yet see this as a potential accommodation solution.

*At the Centre for Social Work they did not want to listen to me. They also gave me some false information. But when I explained to them my arguments [Interviewer's note: for accommodation outside Asylum home] they said: »Yes but it is already hard to find accommodation for a Slovenian child let alone for a foreigner who is such a hard case.« (Legal Representative)*

Currently there are discussions regarding the need to organise suitable accommodation in foster care or residential group care. Either option would not be available without a required adjustment. In the case of the foster care system, there is the need for specialised and trained foster carers who would know how to offer suitable care and support to UAMs, while in the case of residential group care, some minor changes would be required in terms of available staff during weekends and holidays when the current usual occupants are in their homes of origin.

Most of the interviewed UAMs have the experience of living in the Asylum home where they were placed after they were detained by the police. They report inappropriate living conditions: inappropriate and scarce food, a lack of appropriate clothes, information, and autonomy. Additionally, the subjective perception of those UAMs who had lived in other

European countries is that the living conditions of UAMs are better elsewhere, particularly in Scandinavia (Finland, Norway).

Accommodation in the Asylum home is unsuitable for UAMs, particularly as it is primarily intended for adults and is therefore inappropriate in its very essence. Usually UAMs are accommodated in a "special department"<sup>5</sup> for unaccompanied minors of Asylum Home; however this spatial isolation produces additional social isolation. A 17 year old boy from Ghana compares the Asylum home to a prison.

*Well, the Asylum home was more like prison, because I did not go out, if you do go out, you have to be back at a certain time. You could not have freedom. Also, the food and everything was very bad at this place. (Interviewee 7, Ghana, 17 years old)*

Some of those who had previously lived in Asylum homes in other European countries describe the conditions elsewhere as much better:

*It was the first Asylum Centre in Europe we were in. We thought it was strange... if this is the situation in Europe... If we always have to ask people for food, for help... And then when we went up to Austria and Norway. There it was not the same. Even when we were first there, we were not in prison. And we had the opportunity to leave, if we did not want something. We were not in prison. (Interviewee 4, Afghanistan, 18 years old)*

One of the options mentioned was the Integration house which was described by some UAMs as having similar conditions to the Asylum home. It is also recognised as unsuitable due to its intent to provide accommodation to adults and having no assistance or twenty-four hour adult supervision. Nevertheless, UAMs usually feel that the situation in the Integration house was somewhat better than that of the Asylum home. One Somali boy complained about the living conditions in the integration house as he lacked privacy.

*Living with other people who are smoking inside the room, who don't sleep at night, they don't go to school, don't have a system, sleep during the day, they would wake up during the night, drink, smoke – do whatever they want to. (Interviewee 9, 18 years old)*

Despite making several requests, he was not given his own room or more privacy as requested; therefore his best interest in this case was not taken into consideration in the

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<sup>5</sup> Located in the same building.

slightest. Regarding the situation in the Integration house the statement of one Afghan boy is very significant:

*"In the Integration house you get food, clothes, money ... but I would prefer to have more integration". (21 years old)*

Not everyone, however complained about the situation in Integration house, as one 20 year old boy from Sierra Leone expressed that he really liked the idea that there were many different people from different places and cultures:

*I mean, in my time, when I was there, there were a lot of people and it was fun, compared to now (at the Asylum home). ... there is something to do every day. It wasn't boring, because when you have to wait for the decision and you don't have things to do, it drives you crazy... (Interviewee 2, Sierra Leone, 20 years old)*

The living conditions in the high school students' residence hall were described as much better by the UAMs. The food is more abundant and better, the staff is more supportive. They are usually also more centrally located and therefore UAMs feel more involved and integrated in society. However, even staying here has some shortcomings, as one 21 year old Afghan boy expressed:

*"I have the possibility to compare myself to Slovenian students. There I felt inferior".*

Some UAMs suggest that a special accommodation for UAM's only would be a better solution; where all residents would be facing similar issues and have similar needs. In this context, the good practices in Scandinavian states were highlighted, in which young migrants live together and can share experiences. Similarly, they are quite satisfied with the accommodation in private homes where they can be placed when they are already of age and where they have more autonomy and independence.

### **Access to food**

Food arrangements vary as to the accommodation type. Three daily meals are available in the Asylum home, students' residential hall, etc. A legal representative mentioned a case in which the Asylum home did not provide meals for an UAM who came home late due to basketball practice. The legal representative organised his relocation to another accommodation facility.

Regardless of the fact that meals are provided at the various accommodations, UAMs often complain about modest meals, inappropriate food (different and strange tastes), the lack of possibilities to cook for themselves. Sometimes this possibility is present – as in a case of the Asylum home, but the problem of money arises as highlighted by the following accounts:

*We had the kitchen and everything (in the Asylum home) but we didn't have money. They were not giving us anything, money. (Interviewee 18, Afghanistan, 22 years old)*

Dissatisfaction with the food is often expressed:

*I spent 11 months there. The food in the Asylum home, hmm, is best for the animals. But I think animals would also not eat (it) sometimes. That food is ... yeah. When we complained about the food, they said that they are counting calories for us, we know it is not tasty, but we are counting calories to make food exactly good for you to eat it. (Interviewee 6, Afghanistan, 21 years old).*

The problem of intercultural differences in preparing meals, tastes and cooking was quite present:

*Yes, of course, we came from other, foreign countries. We have special food and things here were different. I could not eat everything. And then they gave me only soup. Yes I hate it! Then I took a piece of bread to eat it and that was it. (Interviewee 15, Afghanistan, 21 years old)*

*Sometimes, when you eat and you're not satisfied, and you tell them to give you more, they tell you to wait and to come back 5 minutes before lunch is over and I could die before the time is up. /.../I got €18. Sometimes I used that to buy some food, I like rice very much so I used that money to buy rice. And yes, I cooked for myself. But sometimes the money doesn't come early enough, so you have to stick with the food, even though it is not the best. You don't have any choice and you have to eat it. /.../ I think they cooked according to their likes, sometimes they should consider most of the people in the Asylum home are not from Slovenia and they are not OK with Slovenian food. It should be world-known food. Sometimes it is the quantity; sometimes they cook something little, not enough. Because we come from different societies, different countries and we have a different way of eating. We do not eat little, we eat enough. (Interviewee 7, Ghana, 17 years old)*



### 4.2.3 Access to physical and mental health care

On the basis of legal provisions, UAMs have the right to health care. UAMs have the same health care rights as Slovenian citizens:

*As I say they are normally included in the health care system, they have a personal physician. Even if they would need a psychologist, psychiatrist - there is no problem to get it under the regular system. (Ministry of the Interior Representative)*

Mental health care is a relevant issue which is not tackled systematically with intensive programmes which would be available inside the Asylum home or Aliens Centre. General health care is available via the regular physicians at the Aliens Centre, however mental health care is not. Interviewees who work with UAMs have noticed mental health issues manifested by suicidal thoughts, threats of suicide, self-harm etc. On the basis of the obvious need for mental health support for UAMs, some NGOs have developed programmes which offer pro bono psychotherapeutic support:

*If a minor finds himself in distress - we already had cases of suicide threats - we as their guardians offer them support with counselling according to our abilities and knowledge. Slovene Philanthropy also developed a program of cooperation with psychotherapists. If there is a case when an UAM would want to, we offer them the possibility to go for psychotherapeutic counselling sessions. (NGO Representative 1)*

Further on it is stressed that mental health support should be a part of the health care provided to UAMs in facilities where they are placed from the moment they arrive. In the past such programmes existed, however, the current system offers no continuous approach to the mental health of UAMs:

*People with mental health issues are sent to the emergency department. There they are treated as possible. Each time another doctor sees them, so there is no continuous approach for these people. /.../ (NGO Representative 2)*

Taking responsibility for health care issues are one of three tasks a legal representative is empowered to carry out. As legal representation is partially paid, it needs to be stressed that only time spent at the physician with an UAM is paid and only on the basis of written evidence on the part of the physician.

Once an UAM reaches the age of eighteen, the health standards lower. Only needs which are strictly necessary are covered by health insurance:

*This is then solved by the inter-ministerial health commission. If a physician estimates this - medicine or medical treatment is strictly necessary, it is paid for by the Ministry of the Interior. But if a physician does not find it strictly necessary, then there are problems. (NGO Representative 2)*

The satisfaction of UAMs with medical provision is quite variable: while some are extremely satisfied, others are very critical. In the case of one Afghan boy with a serious heart ailment (he had surgery in Slovenia and he received a pacemaker after a doctor diagnosed him with cardiac problems) he stated that during his annual medical check for his pacemaker, the doctor takes only two minutes of his time to examine him; moreover, he does not receive comprehensible information regarding his situation. Also in other "not so serious" cases, UAMs complain about the doctors' approach:

*Now, if I get sick, I don't even go to the doctor, because I know they will say drink tea and stay at home. One time I had a lot of problems, I went to doctor, she said drink tea and that it is. That is no doctor; she should at least give me something. I was sweating all night until morning I changed the bed 5-6 times. I don't know how doctors are here. In Austria they gave me an injection and it was ok the first day. (Interviewee 13, Afghanistan, 21 years old)*

Because of a lack of intercultural competences and basic human empathy, relations between UAMs and people who are supposed to help them are sometimes concretely inappropriate:

*When asked I didn't get the doctor in the Asylum home. I said to them that I couldn't sleep. And then social worker for minors told me 'Oh, you are from Afghanistan, go find some drugs and take them and you will be totally normal. You are an addicted person'. ... She insulted me by saying I am addicted. ... She apologized then and said that she made a mistake .... (Interviewee, 6, Afghanistan 21 years old)*

Through the narratives of the UAMs one notices intercultural differences regarding the perceptions of doctors and expectations regarding what the doctors should do and in what way:

*I have problems. I had an operation, I had a zit which was very painful and I had two operations. Your doctors do not have as much experience as ours. If I got the same things – a zit - in Afghanistan ... they heal you differently. Here they made a hole in me. I had a zit*

*and they took off the whole layer of skin. In my country they just put something on the zit and you are ok soon. (Interviewee 4, Afghanistan, 18 years old)*

There is limited treatment available for psychological issues. This is problematic since it is very possible that UAMs have experienced traumatic events; usually they have had a long and exhausting trip and face an uncertain future. Additionally, they often feel alone, sad and without support, particularly when staying in the Asylum home. A 20 year Afghan boy explains how he felt while staying in the Asylum home:

*I did not feel good... because I had nothing. I had nothing. I had no friends, I had no one. I could not even speak any language. Slovene or English, so I had no one to hang out with, someone to talk, to go out with, to watch the city, for example ... (Interviewee 3, Afghanistan, 20 years old)*

How stressful the situation of being in a new environment without family support can be is seen through the narrative of a Somalian boy who had several psychophysical problems with his leg, spine, and teeth, as well as experiencing overall stress:

*I lost my hair ....because of the stress. It is stressful when you are here and your family is in another country. Of course stress will be with you. (Interviewee 9, Somalia, 19 years old)*

#### **4.2.4 Access to education**

Formally, access to education is the right of UAMs living in Slovenia. It is very common for international protection applicants whose status was granted to enrol in elementary school for youth and adults (Cene Štupar Elementary School):

*In the last year, all UAMs were enrolled at the Cene Štupar Elementary School. On average they attain the 3rd or 4th grade of elementary school for adults and they take Slovene language lessons here in the Asylum home, they receive study help. Their counsellor also offers them support so this aspect is covered pretty well. (Asylum Home Representative)*

*Again it depends on the skills and knowledge of the individual UAM. They usually do enrol, if they show a willingness to participate in education. Some of them stop their schooling because Slovenian is difficult, for them it is even more difficult as their mother tongue is completely different (NGO Representative 2)*

In practice there are numerous constraints regarding access to education. For instance, Slovene language lessons in the Asylum home do not take place consistently. Those who are

enrolled in elementary school often take literacy classes first, meaning they learn to write. One NGO representative stresses that many of the UAMs are illiterate. They are put in a class with students of different backgrounds (adults who want to finish elementary school after trying unsuccessfully in their youth, young people with behavioural problems, migrants from neighbouring countries, etc.). Some UAMs report not being able to follow the lessons due to the noise levels in class. As lessons are in Slovenian they have comprehension difficulties. Teachers either do not know how or do not want to conduct classes in English. UAMs can finish up to two grades per year. Consequently their knowledge is much more limited than those who have finished regular elementary school:

*Currently we have three or four boys who have now attained different types of secondary school. Some are successful, others not, some repeat the year, some do not know what they will do in the future, some make progress rapidly; this also depends on their level of engagement and how fast they learn Slovenian and how they handle the whole situation. (NGO Representative 1)*

Some UAMs do not see the importance of learning Slovenian – it is very difficult to learn and it is only spoken by a small number of people. Along with the fact they do not know how their procedure will end when they turn 18 and along with the fact that they are often under pressure to send money to their families as soon as possible, their main wish is to be able to work as soon as possible.

The UAMs expose a most problematic element regarding learning Slovenian: there is no systematic approach to this problem and there is evidently a lack of intensive Slovenian courses. This serious shortcoming of the Slovenian system is discussed by one UAM:

*... Then I got there (in the school) ... the first day I introduced myself in English, because I didn't speak Slovenian. They didn't oblige me to finish the course or school of Slovenian language. It was hard. Then they told me to take a 300 hour Slovenian course but it was no good. The professor was talking in Slovenian and I didn't understand anything... Sometimes was missing and I was reading alone by myself ...300 hours is a lot, but the system was bad. I could not learn Slovenian ....(Interviewee 17, Afghanistan, 23 years old)*

Regardless of the formally prescribed access to education, one must stress that in practice, education is not always easily accessible for UAMs as there is no systematic approach. This was also noted by an Afghan UAM who refers to the fact that it is necessary to take Slovenian courses before beginning formal education:

*The other thing is that here, it is not like in other countries where they teach you a language, and help you with this. There are no special teachers who would help with this, only those who work on a volunteer basis. (Interviewee 13, Afghanistan, 19 years old)*

Some attend the primary school for the very first time, while others were already attending school in their country of origin and intend to finish elementary school in the Slovene program. Some UAMs continue on to secondary education and a more specialized level:

*I chose medical (secondary) school, which is very close to me. The guardian helped me with the decision and I decided by myself. (Interviewee 11, Afghanistan, 21 years old)*

Some UAMs see education as an opportunity to secure a better future and express a wish to continue studying at the secondary level or even attend schools to become hairdressers, mechanics, tourist workers, journalists, politicians etc. Some UAMs note with some regret that studying would take up too much time, time which is needed to earn money which is so much vital for their families:

*I could work but it is better for me to learn some profession. Because I don't have a profession now. I want to become an auto mechanic. Before I would like to be a journalist, but you need 15 or 11 years. That is why I changed. /.../ I need to work, because I came here alone, I live alone, I would like to help my family. Fast! (Interviewee 9, Somalia, 18 years old.)*

#### **4.2.5 Access to paid work**

In practice regular employment of UAMs in Slovenia is almost impossible. Minors can be involved in some paid work schemes such as student work.

*Look we can only talk about work as a motivational method within the Asylum home. This is maintenance work. We have a price list and work is divided into easier maintenance work, harder maintenance work, professional technical work and communication support. (Asylum Home Representative)*

One NGO representative explains:

*The right to work is obtained only after 9 months in cases where they haven't yet received a decision regarding their international protection status. In these cases, they receive a personal work permit for 3 months and if in these three months, they still haven't received a decision, the permit is prolonged for an additional 3 months. We believe this is inhuman and unfair. If the Law stipulates that the decision should be given within 6 months, why wait for*

*9 months then? /.../ If they work they mainly work on the basis of student referral. For regular work they have few options as even if they have some specific knowledge, for instance mechanic, this knowledge is completely different here. (NGO Representative 2)*

UAMs across the board express concern over a continuous lack of money, the wish to become economically independent as soon as possible and sometimes a wish to provide financial help to family. At the same time, the financial support they receive from the state is not always sufficient for their everyday needs. In the case of financial needs, UAMs sometimes turn to Slovene Philanthropy, friends, as well as teachers. According to the IPA, an applicant for international protection status may work if his identity is indisputably established. He may start working nine months after submitting the application. The international protection applicant may obtain a work permit for the period of three months with the possibility of extensions of work permit until the final decision regarding international protection status. UAMs often express the desire to gain more independence through work, however work opportunities are scarce in Slovenia. Additionally, if they do work, the above mentioned support is lowered. One Afghan boy was very critical regarding this:

*It was a bad system. During the summer, while I was working, they lowered that €260 I received. Rather than leaving those people who want to do something for their future, for their life. They could help, encourage you to work. But if you work, you just do not receive from Ministry, from Centre for Social Work. (Interviewee, 6, Afghanistan, 21 years old)*

Regardless, some (former) UAMs take the possibility of accepting at least contract work as in the case of one 20 year old boy from Sierra Leone who was working as a manual worker for two months. He noted that it is very hard to find a stable job if you are not a citizen:

*At the security agency... they told me I must be a Slovenian citizen to apply for this job. This was a kind of disappointment. (Interviewee 2, Sierra Leone, 20 years old)*

From the legal point of view, minors in Slovenia can be employed from the age of 15. In practice, Slovenia favours the inclusion of minors into the education system so employment of minors is an exception. For UAMs there is an additional formal restriction, since Slovenian citizenship is often a prerequisite for employment. In addition, job opportunities for young people are scarce which makes the only opportunity for UAMs to get a paid (student) job, usually with the support of an NGO that offers them support in their search for paid employment (for instance Slovene Philanthropy).

#### 4.2.6 Formal support experiences

In general, UAMs feel a significant lack of support in everyday life – in relation to formal procedures when organising their request for status or partaking in educational opportunities etc. – and also in “lesser” everyday situations. To a large extent, UAMs express the feeling that they have to rely upon themselves alone. Their situation depends on the personal traits and resourcefulness of each individual (lacking the systematic approach of empowerment) while at the same time UAMs have the feeling that they have actually little or no control and influence regarding their lives in general (that the “outside” system is deciding instead of them).

It is guardians who play an important role here:

*My guardian helped me with everything. She is the best I have ever had because she helps me. If it is good or bad. Before she even plans, she has to decide with me If I supported the idea or not. ... She is from this country. She knows best so I can never disagree with good things she plans with me. Things are going all smoothly – for me is the best I ever had. ... She is like a mother to me, you know because she is doing everything like a mother, she is really a guardian. (Interviewee 7, Ghana, 17 years old)*

In this regard Slovene Philanthropy (SF) is a very important institution which offers enormous support to UAMs (also after they come of age): they offer practical, material as well as emotional support. As previously mentioned, it is guardians from SF in particular who play important roles in the lives of UAMs. They help with everyday practical problems, with their legal procedures etc. UAMs trust them, respect them and feel that they care about them.

*Slovene Philanthropy helps me with teaching. They also took me on the trip once, twice a year. Also if I have trouble of any kind I go to Slovene Philanthropy. (Interviewee 4, Afghanistan, 18 years old)*

School staff can also play an important role in the support of UAMs, as stated by a 17 year old boy from Ghana:

*There is one professor who said that she would help me and if I need anything to contact her. Mostly, she invites me for lunch over the weekend with her husband and children. Last week I went. She said probably this week she would invite me too. It is nice. (Interviewee 7, Ghana, 17 years old)*

One Afghan boy describes the support of his headmistress in schooling:

*Yes, I will try. Since the headmistress told me: take the book, go home, and read. Come tomorrow, I'll ask you about it. And I will try. Because the headmistress is very friendly. (Interviewee 3, Afghanistan, 20 years old)*

#### **4.2.7 Informal support network and social life**

UAMs are, above all, young people, who like to socialise with friends. Some of them, particularly those who have not been in Slovenia for long, often feel lonely.

*The problem is getting friends, to meet friends, real friends. ... (Interviewee 16, Afghanistan, 22 years old)*

They might have lost contact with their families and have not found new friends yet. But most of the UAMs we spoke to reported having at least some friends among other UAMs. One Ukrainian boy who has been staying in Slovenia for only 5 months reported having found some friends in the Asylum home:

*I have. I have friends from the Asylum Home, who also come from Ukraine, Muhamad from Syria, we talk and socialize. (Interviewee 8, Ukraine, 17 years old)*

Those staying in Slovenia for longer also have Slovenian friends. Some have contact with their own families and also send them money earned in Slovenia. It can be difficult to maintain contact with their families, since telephone connections can be bad and expensive, while in some countries they might also have difficulties with internet access. It is hard for young boys living alone, away from their families.

When a Somalian boy was asked what his biggest dream was related to the future, he simply said:

*To see my family. (Interviewee 1, Somalia, 19 years old)*

New technologies (Facebook, Skype, Viber) provide an easier and more accessible way for some UAMs to stay in touch with their family, relatives and friends from their country of origin. With the help of the internet some of them are in frequent contact with family which makes them feel less alone and less powerless.

There are, however, some who have lost the contact with their families altogether.



*No, I lost contact with them long time ago. I contacted my friend and asked if he could get in touch with them. I told him to tell me if there is any news, he said he would try his best. (Interviewee 7, Ghana, 17 years old)*

#### **4.2.8 Leisure**

Besides spending time with friends, UAMs report being involved in various leisure activities depending on what is available / possible. Many are involved in sporting activities (football, boxing, kickboxing ...), they listen to music, use the computer, go for nature walks, watch movies, some play musical instruments as such as the guitar. Some have tried new things for the first time in Slovenia such as skiing, or playing an instrument, or traveling by train or small plane.

*I like to watch Indian movies. Yes, on Youtube and also on the website ... On computer, yes. /.../Badminton, yes. I bought [a racket], I went to Austria with my girlfriend, I bought, but I don't have now, that I play with someone. [So this is the first time you played? In Slovenia?] Yes /.../ I met my friends at school and sometime I go to my friend house. (Interviewee 14, Afghanistan, 20 years old)*

UAM's often express a lack of social intimacy. They rarely have a private space where they can be alone, where they can invite friends or a girlfriend.

The accommodation situations they are offered in Slovenia – particularly when they live in the Asylum home or in the Integration house - often offers a limited possibility to have friends over and have fun etc. One Afghan boy described the situation in the Integration house:

*We were living together. Two guys in one room. And you are young. If you would like to do something he has to be woken up. If there is someone calling you and you want to talk for hours on the phone and you don't want to get out your bed and you can't. You couldn't invite your friends. To invite someone you need permission. If you want to have a small party with your friends you need to call the Ministry and pray that they say yes. (Interviewee 6, Afghanistan, 21 years old).*

#### **4.2.9 Living in accordance to cultural orientation**

Many UAMs are trying to live in accordance with their cultural orientation even in their new cultural environment. Those who are Muslim practise their religion in Slovenia, too, but often by themselves and not in an organized institution (there are no mosques in Slovenia, but in

Ljubljana<sup>6</sup> there is an Islamic cultural centre where it is possible to pray) and as they have said, they *don't want to be too exposed in this regard*. In general they claim not to have problems with practicing their religion and living in accordance with their cultural orientation in Slovenia (such as not eating pork, drinking alcohol etc.). Some are Muslim, but they do not practice their religion in everyday life.

Some are attending church:

*I don't have special rituals; I attend Church (Orthodox) once a year. (Interviewee 8, Ukraine, 17 years)*

*No, I have a prayer mat and I pray in my room. But on Fridays I go to the mosque in Bežigrad. It's nice there. /.../ I would like to go everyday but it is too far from here./.../ yes religion is very important to me. (Interviewee 14, Afghanistan, 20 years)*

Only one interviewee mentioned experiences with prejudice and negative attitudes toward his culture of origin – because of his specific and different manner of dress. After an unpleasant experience he decided to wear more western clothes instead of traditional garb. One UAM was also the victim of physical attack because of his dark skin, and one believed that he did not get a job because he is a foreigner.

#### **4.2.10 Life plan perspectives**

With regard to their future, what the UAMs really want is to finish school, start to work and become independent from the state aid; they want to get a driver's license and start to live socially and economically independent lives. Some of them want to provide financial help to their families (to a greater extent).

*I want to finish school, get a job and start to live normally. /.../ I would love to live normally and in peace. (Interviewee 8, Ukraine, 17 years old)*

While some of the UAMs we interviewed would prefer to live in another country which they perceive as being more welcoming for immigrants and more economically prosperous, some also hope to have a peaceful future in Slovenia. One boy from Ghana explains:

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<sup>6</sup> Most (if not all) of the UAMs live in Ljubljana.

*First I used to miss everything back home but as time goes on, I see myself home here. I was looking for peace, friends and now we joke together in school. The old memories are vanishing. (Interviewee 7, Ghana, 17 years old)*

*I would like to stay here. I will have a job, a family. My children will attend school. My priorities for the future are: school, family, job and to visit my mother (Interviewee 21, Afghanistan, 21 years old)*

Some want to reunite with their families again:

*I want to go to Germany or Australia, because I have family there (Interviewee 15, Afghanistan, 21 years old).*

*Nothing, to go back again, to be with family. (Interviewee 18, Afghanistan, 22 years)*

Due to the uncertainty of their status and current economic situation in Slovenia, UAMs often feel that they do not have any options for the future:

*It is really hard for us. We couldn't plan anything. There is, if I still find work in this country I will work until my country becomes secure. But if there are people from Slovenia who finish university, who is going to give work to an immigrant like me? And think that in this country there are also no jobs. What will I do? You will die of hunger some day? There is no money, nothing, no support and you don't have documents to work, if the court ... if my final papers are negative, I am a person without anything. I don't even have an identity. (Interviewee 6, Afghanistan, 21 years old)*

*If I had known what would happen, I would not have decided to leave. I was afraid to die or to kill someone there. Here you are not living, and you are not dying, you are in-between.*

### **What would they advise others?**

In accordance with the UAMs accounts many of them would not advise other minors to leave their country of origin and experience what they have experienced. On the contrary, they would advise them to stay in their own home, with their families and in their countries whenever possible:

*It's good if you live in your own county, your family. Leaving is not good. (Interviewee 9, Somalia, 18 years)*

*If you don't have trouble in your own country, stay there. There is the best place to live. (Interviewee 4, Afghanistan, 18 years)*

*Die there, don't come to Europe /.../ If you come, don't come to Slovenia. (Interviewee 6, Afghanistan, 21 years)*

To sum up, the UAMs staying in Slovenia are almost all very critical toward the Slovenian system:

*I would say to other children not to go to Slovenia. I would tell him to go to the state where there are better possibilities to get a status, where they care in a better way for UAMs, for their education and their future. (Interviewee 10, Afghanistan, 19 years)*

Some of them hope that their experiences will actually help to change the system and create a better life for other minors who travel to Slovenia and Europe, while others are very sceptical that any changes will actually be made:

*I don't believe in politics and politicians (Interviewee 10, Afghanistan, 19 years)*

### **4.3 Best interest of the child determination**

Determination of the best interest of the child is always in the hands of the individual person responsible for each part of the procedure:

*Each time it (the best interest of the child) is determined by the person who is in charge, individually for each part of the procedure. (Deputy Ombudsman)*

The first determination of best interest of the UAM is usually made by a guardian for special case at the Aliens Centre where a territorially authorised CSW appoints the guardian for special case to the UAM. The guardian for special case conducts a conversation with the UAM trying to identify what is best for each UAM individually:

*My suggestion to them is based on the fact they are under age. I defend the view they should decide for the asylum procedure. If they get asylum their list of rights is much more extensive. (Special Case Guardian)*

The process of BID is recognised in this sense mainly as a required formal step and not as an in-depth evaluation of the BID (see Chapter 4.1.3). Similarly, a CSW worker who later appoints legal representatives for the UAMs when they express their intent to apply for

international protection stresses that in the task they are responsible, for it is in best interest of UAM to find an efficient legal representative.

*Absolutely in this procedure it is in the best interest of the UAM to get an efficient legal representative. In general, our centre has teams of experts working in different fields and it (BIC) is determined individually by analysing their personal situation, checking required tasks, determining the best way to meet the interests of the child... This (BIC) is an expert judgement... this legal institute needs to be filled by the content... (Centre for Social Work Representative 1)*

As there are a number of authorised persons in charge of the various decisions over several procedural steps concerning UAMs, BID is not fully integrated in the procedure and it is (when UAMs are lucky enough to get the attention of diligent relevant parties) only relating to some aspects of the everyday life of the UAM. The diversity of the roles of the actors involved in the procedures and the abundance of procedures UAMs are faced with influences the complexity of the general BID.

The experts interviewed agreed that the role of the legal representative is among the most crucial roles in determining the BIC for each UAM:

*I would say the determination of the best interest of the child depends on the engagement of the legal representative. The legal representative is the one who is closest to the UAM. It depends on how he/she accedes to the case. And from this role it also depends on how the best interest of the child and his will would be recognised and taken into consideration during the procedure. (NGO Representative 3)*

*I believe the three areas of action [Interviewer's note: best interest care during the procedure, education and health care], can really be mostly covered by the legal representative. As I have already stressed, if he/she is engaged, of high-quality, a fighter, who considers the UAM in question to be child and he/she accepts the role of protecting the child, we have already done a lot. (Asylum Home Representative)*

According to UAMs, they often had the feeling that their (best) interests were not heard or considered in Slovenia:

*I did not understand...what the state actually does. They do not know. They do not listen to anything we say. It seems to me that in Slovenia they do not listen to anything. The Ministry does not give a positive decision. The Court does. Not only for me, for all the boys. I also did*

*not understand. I think it is different in other countries. (Interviewee 11, Afghanistan, 21 years)*

### **Possibilities to follow BIC in practice**

The experts interviewed appeared to be quite critical in their comments regarding the possibilities of following the BIC principle in practice. The crucial critical obstacles are that there is no child-friendly support system for UAMs and there are practical obstacles for the realisation of their rights:

*Even when you find out what would be in the best interest of a child you can't implement it, because the system does not allow it. I mean, there is no system. A child-friendly system that would enable child-friendly involvement in social care, health care, schooling – does not exist in Slovenia. /.../ (NGO Representative 1)*

*It's hard (to realise) Not only in this field, but in general. The best interest of the child is an excellent rule which can be interpreted in one way or another, but it is hard to realise. /.../... (Deputy Ombudsman)*

*I see I do not have many opportunities to realise their interest as I understand it. If I could I would find them another place to live. But to do so you need a huge engagement, lots of work is demanded and their will is important too. (Legal Representative)*

On the other hand the process of BID is recognised as an extremely complex process which depends on each individual case. For example, one NGO representative states:

*It is not possible to speak about it generally (what it is in the best interest of an individual UAM). It is an absolutely specific thing in each case. The best interest of the child can only be defined on the basis of all the information. So it is of vital importance to acquire as much information as possible – why this child left his country, what is the main reason he left, where are his parents, where is he headed, was he travelling with someone, was he at risk when travelling, what are his plans, wishes and what were his parents' wishes, did his parents send him away or did he decide to go on his own? And this is absolutely not a matter of one meeting. /.../ (NGO Representative 1)*

### **Crucial obstacles that disable BID in each individual UAM case**

The BIC and its practical determination is restricted due to numerous factors – from a number of different roles of the actors included in the processes, limited roles of the involved actors who can only take care of a small part of the process, to the obstacles and system

problems within the process itself. The two main obstacles identified by our analysis are the following:

*Dispersion of powers* is related to all actors included in the various procedures concerning UAMs. It can be recognised by listing the roles of the key actors included in various procedures concerning UAMs:

- The role of the guardian for special case (limited to conversation in the Aliens Centre and advising the UAM regarding their potential application for international protection or decision about returning to the country of origin);
- The role of the legal representative (limited, a partially paid role of a person who should see to a list of tasks such as the application for international protection, health issues, social issues, education, etc.).
- The role of a decision maker in the process of application for international protection;
- The role of support actors (legal advisors, interpreters, NGOs working in the field);
- The role of governmental staff (border) police, social workers working in the Aliens Centre, Asylum Home, medical staff – general and those estimating age of the minor in case of age disputes) etc.

*Process obstacles* revealed through interviews with experts and UAMs derive from the characteristics of the submission of application for the international protection. The application has to be made within 24 hours of reception into the Asylum Home in the presence of four people who each occupy different roles. A CSW representative questions the notion of this procedure:

*I do not know if we as a state are efficient, if the UAM understands the procedure after it is explained to him, if he is subsequently less afraid, because I do not have this feedback. He gets there, he does not know what is happening, he is scared, does not understand the language and so it is necessary to work very hard on it. (Centre for Social Work Representative 1)*

Another process issue stems from the legislation specifics according to which UAMs are not treated as a party in the proceedings. This matter was revealed in the interview by the representative of the Centre for Social Work, who stated:

*In all cases of appointing legal representatives we need to act according to the General Administrative Procedure act. /.../ And there is a huge gap here, because all the provisions of*

*child protection are implemented in litigation procedures and litigation acts, but not included in general administrative procedure, which means that a child is not being regarded as a party to the proceedings and he does not have these rights either procedural right or material rights. (Centre for Social Work Representative 1)*

#### **4.4 Towards durable solutions**

This chapter will focus on the potential changes of national care for UAMs that would improve their situation in Slovenia. There are a number of gaps identified which require special attention for the future development of a protection system for UAMs in Slovenia:

- ✓ There is a need to build a responsive support system for UAMs which will not depend on the endeavours and motivation of individuals.
- ✓ UAMs should be firstly treated as children/young people in a vulnerable position.

*/.../ It was interesting to me that on a list of trained legal representatives there is also a lawyer who works in one of the social work centres for years. And I remember sitting next to her at the training. She said: The state would not allow a Slovenian child to go through what UAMs are going through (from procedures, unclear responsibilities, to the fact that they are at risk, and the state does not do anything). (NGO Representative 1)*

*I think that if everyone gave a little thought, "what if that was my child", they would probably take a different approach. (Ministry of the Interior Representative)*

- ✓ UAMs should be entitled to same rights as national children (in accordance with the notion of Children rights)
- ✓ UAMs should receive adequate information in all phases before the submission of their application for international protection. They need information regarding their situations, their options, possible outcomes of the application for international protections status etc.

*They do not understand that these are formal procedures, they do not understand why they are detained now: »We haven't done anything, we just want a better life«. Now there are lots of Afghans and some of them have said: You treat us as we would be Talibs, be we run away from them. In fact they are in a big distress. (Guardian for Special Case)*



- ✓ UAMs should have the opportunity and enough time to meet the legal representative before the submission of the application and discuss their position and options in detail. Currently they need to apply for international protection status in a very short time frame before they have the possibility to become informed about their situation and the alternatives available to them.

*[In the asylum procedure, what changes would be necessary?]*

*First thing – to give them a chance when they come – like a week or two weeks, to talk with people. (Interviewee 1, Somalia, 19 years old)*

- ✓ Interpreters need to have a professional attitude towards their work and adequate knowledge of the language UAMs understand well. UAMs often do not understand everything that is discussed in interviews; interpreters sometimes do not even speak their mother tongue.
- ✓ There is a need to develop suitable accommodation facilities which would meet all the basic needs of UAMs as well as offer the 24h support of trained staff. Currently, the accommodation is often inappropriate; UAMs are sometimes placed in accommodation facilities for adults.

*... they should be placed somewhere outside the Asylum home with Slovenian peers, to have equal treatment, a social worker, a childcare worker, who would be available 24h a day.... Not to take this role partially –.....there has been too many of us and then the charm of the work diminishes, not only the charm but we all think »someone else will do it«... (NGO Representative 2)*

- ✓ The length of time for an UAM to receive the (final) answer about their status would need to be reduced as the wait causes uncertainty regarding their future (the length of procedure should be fixed in advance).

*This period should be reduced. Instead of waiting here for five years and not receiving anything, it would be better to know after six months, you know what is waiting for you here and you can go back home or elsewhere. But here you are waiting. They don't treat you like normal people. I don't know what they think of us. This is hard.*

*[If you could advise the Slovenian authorities to improve the situation in which UAMs live, what would you advise them?]*

*To shorten procedures. (Interviewee 4, Afghanistan, 18 years old)*

- ✓ To educate professionals involved in all procedures regarding UAMs. Currently there is a lack of intercultural and other competences of the actors involved in dealing with UAMs (regular training, education and supervision for professionals dealing with UAMs should be introduced).

*I would take them home to Afghanistan for 1 month, I will take their documents and give them 230 [euro] and tell them to live! For 1 month. They should experience our problems. Then they would understand everything. The second day they would change the law. (Interviewee 6, Afghanistan, 21 years)*

- ✓ To support the integration of UAMs into Slovenian society through programmes, activities, better educational and work possibilities.
- ✓ To support best practice. For instance, the legal representation and guardianship of the NGO Slovene Philanthropy was recognised as good practice by many governmental experts. It is currently not running due to changes in the legal representation system. In the long term this could result in a serious deterioration of the support provided to UAMs living in Slovenia.
- ✓ To respect the right of UAMs to be informed and to give them the opportunity to live a more independent life, to be in touch with other people, to move freely:

*First thing – to give them a chance when they come – like a week or two weeks, to talk with people. Second thing, if they could do the same as the European Union – they would give you money and you can cook, you will eat what you choose whatever you like and you will cook alone. Everyone can cook. Some people don't know how to cook, but he will be happy, when he is cooking. That how it is everywhere. To give more energy, explain more what they are waiting for, how the status will be, why he should go to school. They will say: "go to school" without any explanation. Someone, who wasn't going to school in their countries, he would not go. [So you would need more information?] Yes, for example, if you got status, you need to go to school. After 3 years they will stop the money, so you need to go now. If you want to take any course, for work, you have to finish school. Everyone has a wish. For example, if I want work, I worked in my country, but I don't have any proof. When I finish school, no one can give me help money. Everyone wants to work to get his own money. Give them information the easy way, not "you have to do that!" In this way they will go two days, but when they explain to you, how it will help, why, and that stuff, I think 80% of them will accept! (Interviewee 1, Somalia, 19 years old)*

## 5 CONCLUSIONS

The overview of the situation in Slovenia shows that there is no comprehensive and systematic approach to the protection of UAMs. While the need to pursue their best interests as children and a particularly vulnerable group is recognised in legal documents and other guidelines, in practice one sees a somewhat different picture.

In this context, to a large extent the determination of the best interest of UAMs still depends on the personal endeavours of (many) actors involved in the processes concerning them. Determining the best interest of the child is a complex issue which according to experts is very difficult to implement in practice. The stories of UAMs, who often feel dissatisfied with the situation they are in Slovenia, only confirm this view. There are two kinds of obstacles that make the determination of the best interest of the child and its implementation in practice in Slovenia difficult: one is that the powers of actors involved in procedures regarding UAMs are greatly dispersed and the other derives from obstacles related to the process of application for international protection. Regarding both, experts and UAMs alike highlight the important issues that need to be changed in the future at various levels in order to improve the current protection system for UAMs in Slovenia.

In relation to the process of international protection application and granting status, the most significant drawbacks of the procedure are the following: UAMs are not properly informed about their situations, their options and the possible outcomes and they also do not have time to discuss the procedure or their future with their legal representatives. In addition, experts as well as UAMs stress that interpreters are often incompetent in terms of language (they speak a language which is not understood by UAMs) and/or as experts (they avoid translating the whole background situations of UAMs, simplify facts, avoid religious statements etc.). The most serious issues for UAMs are the delays of formal answers regarding their status in Slovenia. In addition, the assessment procedures are inconsistent and unreliable, which calls for a pre-determined practice which would be agreed upon by experts. UAMs are also poorly informed regarding their rights concerning age evaluation procedures. Another significant deficit of the legal status procedure concerns the practice of granting subsidiary protection of UAMs on the basis of their age, meaning that there is no legal reason for prolonging the status of subsidiary protection after the UAM comes of age.

In 2014, Slovenia changed the system of educating and appointing legal representatives. Though only in its initial states, the problems of the new system related to legal representation are already evident: new legal representatives do not have all the necessary

knowledge on the rights of UAMs, their partially paid role could encourage them to fulfil only the most urgent tasks related to the support of UAMs; their experiences regarding the non-functioning of the support system to UAMs and its numerous limits will probably lead to their decision to no longer be available for the role. The question is why not support the past practice of legal representation and guardianship of a NGO (Slovene Philanthropy) which was recognised as a good practice by many experts working in governmental bodies and also recognised as an important support organisation by UAMs?

Care provisions and day to day living arrangements revealed numerous problems with the system as well. Inappropriate accommodation is at the top of the inadequate conditions mentioned by experts as well as by UAMs. Though accommodation for UAMs in the Asylum home is somewhat physically separated, it allows immigrant adults to gain access to their area. In the past, the integration house was used as a solution in some cases but it was also recognised as unsuitable due to the fact it provides accommodation for adults and due to the fact that 24h assistance and adult supervision are not available. Currently, there are discussions taking place on the possibility of rearranging the system of accommodation by way of foster families, but such a measure would require additional education of potential foster carers regarding the care for UAMs as well as intensive cooperation of Centres for Social Work and the competent ministry. These two institutions (especially the Ministry for Work, Family, Social Affairs and Equal Opportunities) are often criticised by experts who share the opinion that they do not recognise UAMs as a category they are responsible for, though child care mechanisms in Slovenia are entirely under the jurisdiction of these institutions.

In order to ease the inclusion of UAMs in Slovenian culture, the sphere of education and employment first requires intensive language courses. Their compulsory schooling is often fraught with difficulties for several reasons – inadequate language skills, their wish to earn money (and to send it home), and the fact they attend school with so many different social groups (those with behavioural problems, with lessened learning abilities etc.). For the overall wellbeing of UAMs, programs providing the inclusion of these children in free-time activities with Slovenian peers seem very important. As the reality of Slovenian employment opportunities provides few opportunities for UAMs (student work is the most available form) UAMs also need the intensive support of NGOs who help find them paid employment.

Health care rights for UAMs with any status of international protection are the same as for minor citizens. Formally, there are good options for obtaining health care services, though

some UAMs are not satisfied with the health care they have requested. One reason is they sometimes do not go directly to the doctor and the other reason is that the system does not provide specialised physicians who would consistently take care of the same patients with potential psychological problems. Consequently, a special psychological program would be required for UAMs in order to have the opportunity to deal with their potential traumatic experiences.

Neither in terms of pocket money (for applicants for international protection) nor in terms of financial social aid, does the state funding cover expenses to such an extent that would allow UAMs to be independent from financial support of non-formal support network and NGOs (for instance for additional food, clothes, etc.). The leisure activities of UAMs are also mainly limited due to the financial possibilities of an individual. UAMs need more opportunities to lead an active life (sport, work, study, obligations etc.) to feel self-realised and spend their time with peers in a constructive manner.

Staff involved in the processes of application for international protection sometimes lack intercultural knowledge and competences. For instance, UAMs relate anecdotes where decision makers did not believe their stories about their reasons for coming to Slovenia. The situation some UAMs have faced should not be recognised as hardly true by trained professionals who should be aware of intercultural differences and the current political and social reality of different states.

“Temporary” is the keyword with which we can describe the support of Slovenian state if an UAM receives international protection status. UAMs mainly obtain their status for a year or two, as their being under age is the key reason for gaining status. Such a short duration of status influences the highly insecure position of UAMs who have no information on what their future will be like, where they will live, etc. when they turn 18. Slovenia does not grant many international protection statuses per year. For instance, in 2014 no UAM obtained the status. Those who applied mainly followed their plan to reach their destination country. As UAMs in Slovenia are not numerous, there is not enough demand to resolve the problems related to them. Experts we have spoken with cannot imagine what would happen in the case that larger numbers of UAMs would arrive in Slovenia. They mainly believe that in such cases, the state would only manage to take care of their minimum needs. We may claim that currently the system does not work when Slovenia faces only small numbers of UAMs on its territory. As there is no comprehensive and systematic approach to the protection of UAMs, a

serious violation of their rights could be expected in the case of unexpectedly high numbers of UAMs in the territory.

The positive experiences of some UAMs living in Slovenia are related to the huge efforts of certain individuals who work with UAMs (either in NGOs, the Ministry for the Interior, police units, the Asylum home). The dispersion of authorised persons involved in the procedure calls for a strategy of cooperation and a joint plan on how to manage the drawbacks inherent in the system in order to assure the best interests of UAMs and to be able to fulfil their rights. The main obstacle recognised in the procedures is that UAMs are not regarded as children first. Unless authorities keep in mind that they are deciding the future of a child who is alone in the territory, of a child who had no real option other than to escape the situation in his/her country, their approach will not be a great deal more child-friendly.