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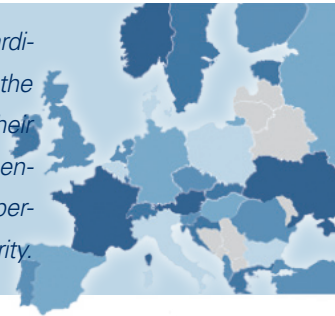


Guardianship in Europe Representation of unaccompanied minors

Conclusions and recommendations



The conference Guardianship in Europe, held on 26 and 27 November 2009, dealt with guardianship for unaccompanied minor asylum seekers in Europe. Guardianship means exercising the authority of supervising these young people on their way to adulthood and the promotion of their interests. The guardian provides long term continued care and has the responsibility for the mental and physical well-being of the child and the furtherance of the development of his or her personality. The guardianship counselling aims to make children independent at the age of majority.



Conclusions

- Guardianship for unaccompanied minors is an urgent need.
- Guardianship in the sense of arranged responsibility for the well-being of the child is arranged in some countries, but absent in more.
- There is enormous potential gain in an increase of cross-border practical exchange and methodology development.
- Efforts to make changes to the reality of representation in member states until now, such as article 19, have established changes in member states. However, not enough has changed and not all changes have exceeded the administrative level.
- Continued EU efforts are necessary to encourage national changes.

Recommendations

- In each member state there should be an organization or person that has the clear-cut responsibility for a separated child and is accountable for this responsibility. Guardianship attributes this responsibility.
- The organization or person attributed the responsibility for these children, needs to be enabled to take this responsibility by a proper mandate and resources.
- To make next steps on the international level successful, bottom-up development of methodology and exchange of practices is needed as well. Without it, member states will resist large reforms and/or national system changes will be a shift of administrative responsibilities.

Are you a guardian? A policy maker? A social worker? Please exchange your questions and experiences on www.engi.eu



On behalf of UNHCR, Mrs. Blanche Tax set the framework for the discussion of the day with a general introduction, making clear how urgent the need for proper representation of these children is:

They need a qualified guardian who is a real person with time to devote to them, not simply an institution appointed on paper, responsible for hundreds or even thousands of children, without ever having met the children individually. Children need this help even before they are identified as asylum-seekers. This would argue in favour of protection measures applicable to all separated and unaccompanied third country national children. Such protection measures should include immediate access to adequate accommodation and care, early appointment of a qualified guardian who can then support the child if an age assessment procedure with appropriate safeguards in place is considered necessary.

Save the Children, involved in the Separated Children in Europe Programme and actively advocating the needs of separated children and guardianship, was represented by Mrs. Rebecca O'Donnell.

In her speech the audience was informed on current EU developments and the upcoming adoption of a new five year plan for EU action in the field of justice, security and freedom, to be called the Stockholm Programme and the relation to guardianship.

Save the Children highlighted the *principles* that should inform the action plan:

- a rights based approach (UNHCR General Comment No 6)
- an integrated approach across policy areas: migration/asylum/trafficking
- built on realities not assumptions
- bottom up development and policy
- added value of EU action – where will this be
- harmonization of standards around the EU: the action plan should not exclude any options including new legislation.



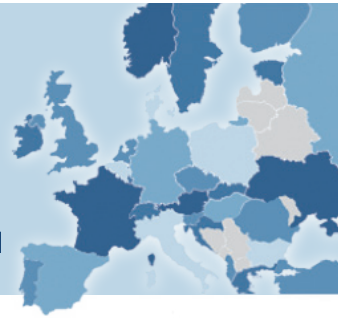
On behalf of Nidos, Director Mr. Tin Verstegen summarized the conclusions of the upcoming ENGI research report on guardianship in Europe. The main conclusions are:

- Guardianship, in the sense of arranged responsibility for the well-being of the child by a person/organization, is not common practice in the EU.
- Where guardianship exists, it often is a top-down developed system, reflecting international agreements, but not creating true responsibility for the well-being of the unaccompanied minor.
- Where guardianship exists, systems are very different in terms of f.e. structure, practice, main responsible government actor, maturity.
- There is great demand for cooperation concerning the complex task of the guardian, specially regarding regular contacts with counterparts, methodology development and exchange and learning to strengthen the mandate of the guardian, embedded in national structures.
- Where guardianship exists, reception can be organized in a more inexpensive way (with (foster-) families).

In six thematic workshops, each covering specific aspects of guardianship for unaccompanied minors, did all 70 present experts from 16 member states exchange views and practices.

Access to services and the role of the guardian

By Judith Dennis, English Refugee Council, and Clare Tudor, Scottish Refugee Council



This workshop has been a case example where no guardianship scheme exists, in Scotland and England. Responsibilities are mainly met by local authorities, social workers. No one is appointed as a guardian. A social worker is seen as responsible. There is no legal base for a guardian to be involved”.

Main points of concern are firstly about overview, as nobody sees all the children. No agency has an overall overview. Secondly, there is no agency responsible for the best interest of the child. In the workshop it became clear that there is much resistance to a guardianship role from the side of social workers, as there is anxiety that it will not primarily aid them but put a focus on criticism. One of the reasons they expect criticism is that social workers are under a lot of pressure and departments are underfunded.

Conclusions focused on a demand for:

- Equal and fair access to high quality services.
- An independent view of what is in a child’s best interests.
- Taking decisions for those unable to fully participate in the process

Age assessment and the role of the guardian

By Mrs. Meijerman, NFI, and Dr. Mohnike, University of Magdeburg



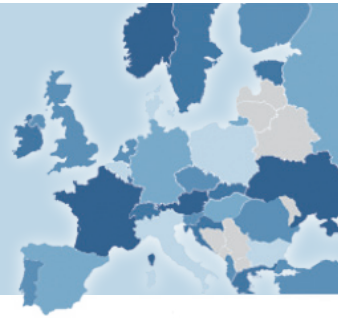
Age assessment is a fundamental theme for guardians. As guardians usually only assist the under-aged, it is essential a guardian is appointed before the age assessment. How does a guardian then deal with cases of age assessment? Is there a possibility to appeal and is there justified ground for appeal? To judge the situation well it is essential to know the basics of used methods and the scientific pros and cons of procedures.

The Dutch forensic institute (NFI) does the age assessments in the Netherlands, around 300 a year at the moment. NFI uses a wrist assessment to determine whether someone is under 16 or above 20. A collar bone assessment can be used to determine whether someone is at least 20. In the procedure 3 experts need to come to the same conclusion to be conclusive.

Dr. Mohnike is a paediatrician and is against age assessments, as there are several concerns to bone assessments. Mentioned are physical integrity, law, the dangers of radiation, the risk levels on children and the absence of a court order in age assessments. Besides, he mentions, the results are circumstantial to the individual and are by definition inconclusive.

Return and Dublin cases, role of the guardian

By Mrs. Dussart and Mr. Lowyck, Caritas International



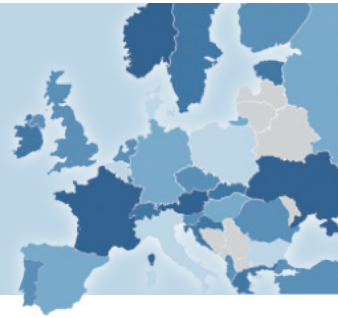
The very well visited workshops on return and Dublin claims focused how to deal properly with return. With Belgium as an example, it was mentioned that before 2004 any return consisted mostly of a ticket. Since several years this is no longer sufficient. Cooperation with local partners and development of return plans are now common practice. In 2008 22 voluntary returns took place. Caritas uses the international Caritas network to work on both sides on the individual return.

For a guardian it is essential to know the situation on the other side before a child can be returned - where is the child going to and who is responsible for the child after return. A guardian may never be an instrument to convince a child to return - a guardian may however assist the child in his or her personal choice. All options play a part in this, the provision of information about a life in illegality as well. Helping to make that choice is all about talking about perspective in the future.

Regarding Dublin cases a European network of guardians is perceived as even more important: where does a child go after a Dublin claim, who is responsible for the child. To assess the situation properly a guardian needs to be aware of the responsibility structure on the other side.

Family tracing and reunification

By Mr. Nilsson, Swedish Red Cross



In this workshop Mr. Nilsson explained the working methods of the Swedish Red Cross regarding family tracing and reunification. To properly understand the working method the Swedish circumstances were explained first:

- 1500-1800 minors. 60% gets a residence permit (asylum. or categorical). Most are boys about 16-17 years old. Countries of origin: mainly Iraq, Afghanistan, Somalia.
- Legal guardianship in Sweden is arranged by government or municipality and supervised by a chief guardian.
- Tracing request: specific information is needed, as much details as possible (clan, sub-clan, community leader, separation time, place and circumstances etc.). Also requests to Sweden are dealt with from other countries (in Europe) for a example when siblings are stuck in the “wrong” (European) country (when family members are staying in a other European country).
- A tracing form is sent to Red Cross (international) and send on to Red Cross in the specific country. Request is done by UMA in consultation with the guardian or done by the guardian him-/herself (important role).

The discussions in this workshop focused on the dilemma around the best interest of the child: What is in their best interest? Is there any risk involved in seeking family or parents? A guardian is not always aware of the danger for family in the home country. The dialogue with the child is said to be most important in this assessment.

A guardians basic skills and resources

By Mr. Spinder, Pro Education, and Janneke Verdijk, Nidos guardian



Central in the basic skills and resources workshop has been the methodology for guardians developed in the Netherlands, illustrated by a role-play between a guardian and a former UMA. In previous methodology care, assistance, protection and problem solving were basic elements. In the current methodology there is for example much more attention for empowerment and dialogue to help a minor create his or her own perspective.

Discussions focused on the practical situation at hand: on one side the guardian is central, being the one to take the final decisions, on the other hand the guardian cannot work on a sustainable solution without the commitment of the child. The former UMA in the workshop elaborated on cultural issues in the contact between a guardian and a UMA: on one hand the uma needs and wants help, on the other hand help is in many cultures not something you ask for. The many details discussed clearly showed to all participants the similarities of the nature of the work in different European countries and the potential to learn from methodologies developed.

Trafficking and the best interest of the child

By Karin Veurink en Eline Toren, Nidos guardians,, special reception



Trafficking, how to recognize it and how to deal with extremely vulnerable groups are focal points in the work of guardians in different European countries. In the Netherlands a special reception has been developed, in which police, intelligence, immigration services and the guardian work closely together. Children at risk are brought to a special, semi-closed centre and are under special surveillance. The permanent communication between all actors involved make it possible to be more alert to trafficking in general.

The discussion in the workshop went into the details of working with these girls, what are the exact signals to answer and what are proper responses? Minors are not held in detention, but how far is it reasonable to go into their lives?

Before this approach started 100% of Nigerian girls disappeared from reception centres. The approach has led to the arrest of many traffickers and brought down disappearing Nigerian girls to a minimum. Several other European countries have similar or related approaches (UK, Belgium, Austria), but exchange is limited to non-existent. On the other hand, it is stated, it shows how much more cooperation is needed, as trade routes change quickly from one country to the other and new trends and nationalities are not easily recognized.