

FRANCE – National report

The issues of Unaccompanied Foreign Minors in France lie within a complex juridical structure. Various organizations, whether state-run or part of the charity sector, share a mission to welcome and take responsibility for unaccompanied children.

A. NEEDS ASSESSMENT AND SERVICE PROVISION FOR UNACCOMPANIED CHILDREN

- Legal Framework

The legal basis for the reception and duty of care/responsibility for unaccompanied children can be found, principally, in the following texts:

- Convention on the Rights of the Child 1990
- Article 375 of the Civil Code :
 - An educational assistance measure may be prescribed by the Judiciary "if the health, safety or morals of a non-emancipated minor is in danger, or if the conditions of their physical, emotional, intellectual and social development are severely compromised.
 - It provides for the jurisdiction of the Juvenile Court Judge "for everything that concerns educational assistance"
- Child Protection Reform Act of 5th March 2007 (see also Article 112-3 of the Social Action and Family Code)

- Age Determination

Once a young person has arrived on French soil, the first action taken by professionals is to check that the individual is a minor, in order to determine which organization to place the child in. Thus, the children are allocated at the national level¹, rather than at the departmental level, as was previously the case.

France recognises the validity of civil status' issued abroad, unless other records or documents possessed, external data or elements drawn from the record in itself establish that the record is irregular, forged or that the facts declared therein do not square with the truth.(see Article 47 of the Civil Code)

An Unaccompanied Foreign Minor without civil status documentation or whose identity papers are considered suspect can be submitted to, as soon as they are placed in a detention centre, a medical-legal expert to ensure that the age declared or the age appearing on their documents is their real age. This expert analysis can also be carried out to determine whether the minor should mandatorily be enrolled in school whilst their administrative regularisation in France is prepared.

There is no legal obligation concerning family tracing.

- Legal Assistance and Guardianship

¹ Circulaire Taubira ,31 May 2013

1. Legal Representation

Parental authority is delegated to the family, to Social Assistance for Children (à l'Aide Sociale à l'Enfance) or to another service, or even a third-party, when a clear lack of interest or inability to exercise parental authority is evident.

The Law of 4th March 2002 on Parental Authority, for the first time, provides for the appointment of an ad hoc administrator to represent unaccompanied children when crossing the French border.

The ad hoc administrator is designated administratively for asylum seekers, young people in the waiting area, or for those who spend an auxiliary judgment "when a foreign non-accompanied minor without a legal representative is not allowed to enter France, the prosecutor, notified immediately by the administrative authority, shall appoint without delay an ad hoc administrator"²

The ad hoc administrator is in charge of representing the minor "during their time in the detention centre, and to ensure their representation in administrative and judicial proceedings.

2. Social and Judicial Protection

Respect for the universal right to Social Assistance for Children is practiced irrespective of nationality. However, the term 'unaccompanied foreign minors' does not have a clear definition under French law. Protection for these minors is therefore based upon the protection provided for children in danger, by the French legal system, irrespective of nationality. The Decentralisation Law of 1982 provided for the jurisdiction of individual departments concerning the administration of protection for children in danger.

To organise the management of unaccompanied foreign minors within their territory, some departments have established exceptions to the common law system and / or devices and structures for emergency reception, accommodation, monitoring, guidance and support for these young people in danger.

Judicial protection occurs after a judicial authority has ruled on the need to support a minor due to the danger, or risk of danger they face.

Two principal actors are involved in the process of judicial protection of children in danger: the Juvenile Court Judge who is required to take measures for educational assistance (Article 375 of the Civil Code) or provisional placement orders (Article 375-5 of the Civil Code), and the Public Prosecutor, who can also order provisional placement in case of emergency (Article 375-5 of the Civil Code).

Young people who turn eighteen whilst being monitored can benefit from contracts for young people aged eighteen and over: "Until the age of twenty-one, any adult or emancipated minor experiencing serious problems of social integration has the option to ask the Juvenile Court Judge to extend, or organise an action for judicial protection³. "

- Access to Education and Professional Training

It is mandatory for unaccompanied foreign minors under the age of sixteen to be enrolled in school, as it is for every child in France. The welcome organization for first-time migrant children, created by the National Ministry of Education takes into account the following factors:

² Article L221-5 Of the Code for Entry and Residence for Foreigners and the Right to Asylum (*Code de l'entrée et du séjour des étrangers et du droit d'asile*)

³ Law n°2007-293 of March 5th 2007

- a. Many of the children have had a break from schooling due to their journey.
- b. Education programmes are not always equivalent in different countries.

Upon arrival, these children should be entitled to an assessment that will evaluate their:

- Knowledge of the French language, to determine whether they are complete beginners or if they have mastered the elements of spoken and written French;
- Academic skills built into their Languages of Schooling, and their familiarity with academic writing;
- Their experience in different areas, as well as their interests which could provide educational support.

The results of these assessments are used to develop the most appropriate pedagogical response, according to the profile of the individual.

In the case of the minor being a non-French speaker, or not fully proficient in writing, their assessment is referred to the Academic Centre for the Education of Newcomers and Children of Travel.

- **French for Speakers of Other Languages**

These unique, intensive classes teach French to students who are complete beginners. Depending on their date of arrival in France, students receive between 110 and 300 hours of classes.

- **Vocational Training**

To carry out vocational training, one must either take a vocational training course (in a classroom), or via work experience (with a contract). It should be noted that, in order to take part in these vocational training programmes, participants require a valid work permit..

- Health Care

Unaccompanied children constitute a population whose needs are particularly important, both in terms of physical and mental health.

Physically: The precarious conditions in which unaccompanied children were forced to leave their country of origin and the difficulties encountered during the journey have consequences on their physical health. The situation in which they find themselves during their first few days in France doesn't offer much more protection (notably, when the children have been sleeping on the street or who have met individuals who could be considered a 'bad influence')

Mentally: The injuries that can be suffered by unaccompanied children are numerous. They could well be sustained from the situation they faced before they left their country of origin (family drama, war, extreme poverty...), from event during the trip (abuse anxiety...) or after their arrival in France (isolation cultural differences, institutional abuse)

Article 26 of the Convention on the Rights of the Child states that:

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

Nevertheless, access to healthcare is not always easily accessible for unaccompanied children. Indeed, to access health care, unaccompanied children must be able to open their rights to social cover. However, their status as an unaccompanied child gives rise to numerous problems in the approach to their healthcare entitlement:

- Unaccompanied children must provide proof of a direct debit (by an approved body, by an individual...) to be able to exercise their right to health insurance.
- The absence of civil status or identity documents, or doubt over the authenticity of these documents can preclude the registration of unaccompanied children, and therefore their right to obtain health insurance.
- Difficulty in identifying the type of insurance needed by the unaccompanied child who has presented themselves. Indeed, depending on the situation of the unaccompanied child (whether supported or not by the Social Assistance for Children), and their nationality (whether within the EU or outside of the European Union), health insurance schemes can differ.

B. EMOTIONAL NEEDS ASSESSMENT AND THE ROLE OF THE FAMILY

- National Legislative Framework regarding Family Tracing and Family Reunification

The Family Tracing process is not a priority upon the arrival of a child to an organization. There are numerous obstacles that can be encountered when trying to make contact with the family:

- Locating the family
- The communication methods in use by the family
- Time differences
- Language Barriers

The child can keep their family history secret in order to emphasise their isolation, and to benefit or profit from the guarantee of protection from the French State. The child could be considered 'isolated' in France, but being in contact with their family, and certain services are aware of this communication, may result in family tracing and the return of the minor to their country of origin without the reception centre being fully aware of the conditions in which the minor is going to live.

In France, the French Red Cross⁴, and more specifically, the Re-establishment of Family Ties service, is in charge of looking for missing persons via a large international network of partners.

CONCLUSION: KEY RECOMMENDATIONS FOR NEEDS ASSESSMENT AND FAMILY TRACING

The concept of trust is an important area of focus for professionals that work with unaccompanied foreign children, because during their journey they haven't always had the chance to meet caring adults (instead they may have met smugglers, exploiters etc.) Over time this trust can be earned, but it must be consistent with the project at hand.

The young people's priority is to formalise their situation and to stop living in secrecy, in order to get the necessary papers and later, a job. The fact that there are limited numbers of interpreters in France also presents a challenge when trying to gain the trust of the child.

⁴ <http://www.croix-rouge.fr/Nos-actions/Action-sociale/Aider-accompagner-reinserer/Retablissement-des-liens-familiaux/Le-Retablissement-des-liens-familiaux-RLF-qu-est-ce-que-c-est>

Despite existing measures, numerous unaccompanied children and families still have no news of each other. Legislation differs between many European countries on the subject of unaccompanied foreign minors; it would therefore be beneficial to create new lines of communication, not only between countries, but between different associations (on Child Rights, existing communities, the possibility of accommodation, the right to work etc.) so that the network becomes even more efficient.

Young people who leave their country of origin may not be well informed of their rights and of the situation in which they're getting themselves into. It would be of interest to both practitioners, and unaccompanied children, if young people leaving their country received more realistic information, as nowadays, each minor has the idea that, upon reaching their final destination, all their problems will disappear.

Annexes

In April 2013, the French Ministry of Justice accounted for about 9,000 of UC in France. Some departments are particularly concerned with the reception of Unaccompanied Foreign Children (UFC) and register a strong concentration on their territories; that's especially the case of:

Department	Recorded UFC
<i>Paris</i>	1.800
<i>La Seine-Saint-Denis</i>	800
<i>Le Nord</i>	500
<i>L'Ille-et-Vilaine</i>	450
<i>Le Rhône</i>	300
<i>La Somme</i>	280
<i>La Moselle</i>	270
<i>L'Isère</i>	270

Source : *Ministère de la Justice (Présentation DPJJ - Les mineurs isolés étrangers : La situation en France - Données générales - Perspectives, 11 avril 2013)*

The reception of Unaccompanied Foreign Children is spread between regions in an uneven way and this, for several reasons: - The geography and the attractiveness of some areas; - The presence of communities; - Hospitality and openness traditions; - The activity of the networks organizing the arrival of young people.

a) Main nationalities, gender and age of children:

In November 2013, the French Ministry of Justice published new data⁵ about the profile of these minors based on 1551 UFC (98% declared their countries of origin) and it showed that the countries of origin of these children are mainly:

- **Sub-Saharan Africa:** 57% come from Africa and more concretely 250 from Guinea, 231 from DRC, 197 from Mali, 48 from Ivory Coast and 54 from Angola

⁵ *Présentation DPJJ - Les mineurs isolés étrangers: Dispositif national de mise à l'abri, d'évaluation et d'orientation, novembre 2013*

- **Asia:** 18% come from Asia and more concretely 120 from Bangladesh, 75 from Pakistan 75, 46 from Afghanistan and 8 from Russia;

- **Maghreb / Middle East:** 13% come from there and more concretely 72 from Morocco, 65 from Algeria and 43 from Tunisia;

- **Europe:** represents 10% of the minors (28 from Kosovo and 97 from Albania)

Regarding others data of the profile of Unaccompanied Foreign Children welcomed in France and in order to have a better idea on it, it is also interesting to have a look at representative data collected by the Ministry of Justice in the frame of the same report⁶, based on 1551 Unaccompanied Foreign Children:

- **Age:**

- 0, 5% of minors are under 10 years old
- 10-12 years old: 1%
- 13-14 years old: 11%
- 15 years old: 27%
- 16 years old: 45%
- 17 years old: 10 %

- **Gender:** 12 % are girls and 88 % are boys

b) Types of the causes of migration

- Angéline Etienne's study

The French researcher Angéline Etienne has set up in 2002 a classification of *Unaccompanied Foreign Children* arriving in **France**, which has been, with certain nuances, an applicable theoretical and practical reference for the rest of the destination countries.

Angéline Etienne makes the difference between

- "*exilés*" (children forced to run away from a situation of conflict in their country of origin);
- "*mandatés*" (children who migrate with the task to create an income and finance the household economy);
- "*fugueurs*" (children who have escaped or abandoned their family context which is often collapsed);
- "*errants*" (children who were often trying to survive individually or in group in their country of origin);
- "*exploités*" (children who are victims or are under control of sexual, criminal or labour exploitation networks).

⁶ Présentation DPJJ – *Les mineurs isolés étrangers: Dispositif national de mise à l'abri, d'évaluation et d'orientation*, novembre 2013

The line between these categories is certainly instable and absolutely variable all through the migration process of the unaccompanied children.

The Unaccompanied Foreign Children are generally brought to France:

- Either by an alleged member of the family who let them alone when arriving at France;
- Or come alone in order to find a distant member of the family (this is often a source of problems for the child who does not feel well in this family and will run away).
- Or by a smuggler, this is often the case for those who will have to pay a debt of servitude for the family in the country which is threatened by the network.⁷

⁷ The Unaccompanied Foreign Minors in France. *National Report for Net For U Project*. Association Diagrama. 2013:1 §4; 2; 3.