



# WE ALL HAVE THE SAME GOAL

A MAPPING OF THE RECEPTION AND  
PROTECTION OF UNACCOMPANIED  
CHILDREN IN THE NETHERLANDS





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# ACRONYMS AND ABBREVIATIONS

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## RESPONDENTS

<b>BO</b>	Protected Reception Centre
<b>COA</b>	Central Agency for the Reception of Asylum Seekers
<b>COL</b>	Central Reception Location
<b>DT&amp;V</b>	Repatriation and Departure Service
<b>EMM</b>	Netherlands' Centre of Expertise on Human Trafficking and Migrant Smuggling
<b>GCA</b>	Asylum Seekers' Health Centre
<b>GGD</b>	Municipal Public Health Service
<b>IND</b>	Immigration and Naturalisation Service
<b>IOM</b>	International Organisation for Migration
<b>Kmar</b>	Royal Netherlands Marechaussee
<b>POL</b>	Process Reception Location
<b>VP</b>	Aliens Police
<b>VWN</b>	Dutch Council for Refugees

# EXECUTIVE SUMMARY

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This country report on the Netherlands considers the roles and responsibilities of actors responding to the situation of unaccompanied children. The report maps how agencies and actors work together, thereby contributing to the development of a better understanding of actors' roles and co-operation around the child. It discusses how key actors in the Netherlands in their own processes and in co-operation with other actors ensure that unaccompanied migrant children's rights are fulfilled. Particular attention is given to analysing actors' roles and responsibilities in relation to extra vulnerability, disappearances, and the status proceedings.

In the Netherlands, all unaccompanied children are appointed a guardian from Nidos Foundation, the guardianship institution for unaccompanied child refugees, asylum seekers, and undocumented migrants. Guardians provide long-term continued care and have responsibility for the mental and physical wellbeing of the child and the on-going development of their personality. Nidos guardians take a central role engaging with many actors surrounding unaccompanied children as they generally inform the guardian about any relevant issues in relation to the child. In 2013, Nidos registered approximately 675 new clients (around 500 asylum applicants). It is currently responsible for a total of approximately 2,000 children and young people, most of whom are over 15 years of age.

There is no official 'national strategy' for unaccompanied children, but many specific procedures have been developed and special(ised) programmes, units, and organisations exist. In 2013, a new asylum policy for children was implemented and, since then, a special unaccompanied child residence permit no longer exists. Unaccompanied children who have not been granted refugee protection can, however, still remain in the Netherlands as long as no adequate protection is in place in their country of origin.

In the best interests of the child, many actors stress the importance of having both formal and informal contact opportunities with each other. This enables them to quickly and openly explain issues, clarify their position, and explain their mandate. Formal and informal co-operation between certain actors has considerably improved over the past years, however, co-operation between support and policy actors might still need some extra attention. For example, when certain trends or signs of human trafficking or migration routes are nationally or internationally known, such information is often not sufficiently 'channeled down' to people working with the children on a daily basis. This is a missed opportunity to strengthen the information base of caregivers and increase awareness of possible risks. Currently, a trafficking referral mechanism is being put in place.

In the past, unaccompanied children have set up self-help organisations to lobby national policy-making but their views are hardly taken directly into account in this, and there is no national organisation for unaccompanied children. Through its annual Unaccompanied Minor Monitor, however, Nidos structurally surveys the children's wellbeing. In World Cafés, each year children and caregivers are consulted about specific topics such as return and housing.

There do not appear to be many conflicting roles and mandates among the different professionals. When asked, they generally consider the system to be transparent and clear. They typically respect that different actors, because of their different mandates, have different views and apply different strategies. There are, however, instances in which the relationships between the various actors may become more seriously strained. Confidentiality issues, for example, may at times lead to frustration among the different actors. Tensions have also become apparent in relation to the protected reception facility where possible and potential victims of human trafficking are housed. In order to prevent disappearances, children may, particularly in the first weeks, be very closely monitored and are told not to leave the house. Human rights-based actors have argued that the children are 'de facto' deprived of their liberty and that no government is allowed to do so without a judicial review. More support actors (also those responsible for the children's rights and wellbeing), on the other hand, have argued that the children are merely strictly supervised during a maximum period of one month and that, even if this comes close to deprivation of liberty, may be in the best interests of the child.

Tensions can rise when different actors are competing to achieve the same goal, such as various agencies active in registering indications of human trafficking. This creates uncertainty about which actors are supposed to register, but by making one organisation responsible for registering all indicators, a first step would be taken to streamline the process. A next important step is to professionalise the organisation dealing with the data; highly subjective assumptions are registered and presented as facts.

Tensions may also arise in relation to filing reports about human trafficking. Law enforcement actors claim it is extremely challenging to complete a successful criminal investigation on the basis of asylum statements made by children. They have grown cynical about investigating the story of a child who during an asylum application explicitly stated they were abused or raped by a travel agent. Lawyers and guardians, on the other hand, still advise children who claim to be trafficked to file a report with the police as it can be relevant to their asylum procedure; the Court may consider trafficking stories as exceptionally harrowing circumstances.

Many actors stressed that the children often have difficulties in differentiating between the roles, mandates, and responsibilities of the many actors they meet after arrival. Within the first weeks, they are confronted with a lot of individuals, representing just as many organisations. All of these actors request the child to provide the same type of information repeatedly, while they present an overload of information. Although it is pertinent to thoroughly enquire about the child's circumstances and to inform the child about all their rights and the upcoming procedures, it may be explored if the process can be streamlined.

Formal actors are generally adequately qualified and trained. Guardians are typically social workers who have completed additional courses and programmes related to taking custody of unaccompanied children with a different cultural background, as with most mentors in the reception centres. The Centre of Expertise on Human Trafficking and Migrant Smuggling (EMM) of the Dutch Police regularly provides awareness trainings for actors dealing with unaccompanied children. All procedures for unaccompanied children are dealt with in one office of the Immigration and Naturalisation Service (IND), where specifically trained staff members conduct the interviews. Recently, a pool of lawyers with particular expertise in working with (trafficked) children has been established, however, the Courts have not appointed any specialised judges.

Dutch actors are, to some extent, connected to other European partner institutions. Dutch government bodies regularly co-operate with government actors in developing common policies for unaccompanied children, while initiatives at various levels foster cross-border co-operation between non-governmental organisations, as Nidos has set up and joined a number of EU-funded programmes. However, there seems to be fairly limited structural operational contact with actors in different countries. The contacts that exist are not systematic, but fairly ad hoc. The Dutch Government has been quite active in trying to create adequate reception facilities for underage, unaccompanied asylum seekers in countries of origin. Some Dutch actors have, in co-operation with colleagues in the countries of origin, succeeded in taking the first steps to develop proper tools to monitor the wellbeing of children upon return.

The most recent protocol dealing with disappeared unaccompanied children was published in 2003. This protocol is outdated, as many organisations mentioned do not exist anymore, and practice has changed. Ministry of Foreign Affairs official reports (*Ambtsberichten*) do not discuss child-specific information in detail. Asylum decisions do not explicitly detail how the interests of the child have been assessed and how these have been weighed against other interests. It is questionable to what extent the best interests of the child are taken into account in immigration decisions.

## GOOD PRACTICES AND RECOMMENDATIONS

- ❶ **Professionalise guardianship in terms of qualifications and reimbursements and provide guardians with a co-ordinating role in the asylum process of unaccompanied children.** Such a central co-ordinator could ensure no gaps in responsibility and/or accountability exist and safeguard the child's best interests in all aspects.
- ❷ **If feasible, assign guardians with the responsibility to identify and care for possible victims of human trafficking.** Doing so will emphasise that the child is primarily regarded as a possible victim, rather than a potential witness who can be used in the prosecution of perpetrators.
- ❸ **Organise protected reception facilities for possible and potential victims of human trafficking.** This allows qualified and experienced staff to supervise these children in a safe environment.
- ❹ **Promote organisation of the unaccompanied children and participation in policy-making and consultation.** Organise structured opportunities for unaccompanied children to voice their opinions and express their views, as done through the Unaccompanied Minors Monitor. This creates a platform for the children to be 'heard' and allows practitioners and policy makers to consult the children's opinions on specific issues of interest.
- ❺ **Process asylum procedures of unaccompanied children in a limited number of locations.** This allows hearing officers, lawyers, and guardians to gain experience and build up expertise in dealing with asylum claims from unaccompanied children, which may improve the quality of decisions. It may also facilitate informal contacts between actors with possibly conflicting interests and mandates, ensure uniform processing, and eventually create more standardised outcomes (similar outcomes for similar cases).

# I. INTRODUCTION

*This report is part of the EU funded CONNECT project and considers the roles and responsibilities of actors, and the ways in which they work together, to respond to the situation of unaccompanied children of third country origin in The Netherlands.*

# BACKGROUND TO THE PROJECT

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Save the Children Sweden together with UNHCR's Bureau for Europe, NIDOS in the Netherlands, Coram Children's Legal Centre in the UK, Save the Children Italy, Don Calabria, the Italian Ministry of Labour and Social Policies in Italy and the County Administration in Västra Götaland in Sweden, have received funding from the EU for a 12 month project, ending in September 2014. In the UK Garden Court Chambers have been the main implementing partner.

The CONNECT Project concerns reception, protection and integration policies for unaccompanied children. It is funded by the EU under a call for proposals for pilot projects on unaccompanied minors (2012), the funds for which had been allocated by the European Parliament. The CONNECT project focuses on how actors work individually and together to respond to the rights of these children and fulfil EU law obligations in their regard. Through country mappings (in the Netherlands, Italy, Sweden and the UK) and the development of tools, the ultimate purpose of CONNECT is to contribute to concrete and practical measures that support actors better to address the needs and rights of these children.

The Project enables common challenges and noteworthy practices at a practical and operational level to be shared across Member States. It is intended to contribute to the ongoing transposition and implementation of recent EU obligations on asylum, migration and trafficking by Member States. These EU provisions contain improved provisions for unaccompanied children and Member States need to address how actors are mandated and equipped, and how they can work together, in order properly to implement these EU provisions. There has also been considerable development of regional practical measures of support for actors, involving both the EU agencies, such as the Fundamental Rights Agency and the European Asylum Support Office, and other stakeholders. And more generally, the increasing focus on child rights and strengthening child protection systems at international and EU level (including through the imminent publication of a Commission Communication on integrated child protection systems) provides further momentum at regional level for reinforcing modes of coordination and cooperation between actors.

## THE CONNECT PROJECT DELIVERS FIVE PRACTICAL OUTPUTS AS FOLLOWS:

- the Project developed an EU Reference Tool which sets out the body of EU law and policy which relates to unaccompanied. The EU Reference Document should serve as an important support for policy makers and practitioners alike;
- the Project mapped how actors work, individually and in cooperation with each other, in four countries in the EU (the Netherlands, Italy, Sweden and the UK). National reports set out the findings in each country, identifying challenges and highlighting noteworthy practices;
- A comparative report identifies common challenges across the four countries and national practices from one country that might inspire good practice across the region;
- The Project developed five practical tools addressing key aspects of actors' work together. Each tool has been developed by a national partner and the CONNECT tools aim to increase actors' skills and stimulate cooperation between them and be used by actors in other jurisdictions. They can be used individually or in a complementary way across a number of issues, including: first encounter, reception, guidance to actors working with children, promoting child participation, and ensuring decision-making procedures better fulfil the rights of the child to be heard.
- The mapping and the tools both inform the targeted recommendations for action and priority areas for further work, nationally and at European level.



These tools can be used separately or together as a toolkit:

### **Who's Responsible?**

A Tool to Strengthen Cooperation between Actors Involved in the Protection System for Unaccompanied Migrant Children (Italy)

### **Local Cooperation for Unaccompanied Children**

A Tool to Assess and Improve Reception Conditions (Sweden)

### **Standards to Ensure that Unaccompanied Migrant Children are Able to Fully Participate**

A Tool to Assist Actors in Legal and Judicial Proceedings (The UK)

### **The Right to be Heard and Participation of Unaccompanied Children**

A Tool to Support the Collection of Children's Views on Protection and Reception Services (The NL)

### **Working with the Unaccompanied Child**

A Tool for Guardians and Other Actors Working for the Best Interest of the Child (the NL)

## **SCOPE OF THE MAPPING**

The CONNECT mapping surveys the general legal, policy and administrative context which addresses how actors engage with the situation of unaccompanied and separated children. This includes considering what bodies of law are applicable, and what national strategies or coordination mechanisms are in place. The mapping also identified the actors typically involved, their qualifications and specialised tools, and how they may cooperate each other. Given the focus of the project on better implementation of EU legal obligations, the mapping focuses on those actors who have formal roles, particularly those with statutory responsibilities towards and professional relationships with unaccompanied migrant children, rather than informal actors who may also play an important role in the lives of these children.

It reviewed how actors respond to three priority issues, namely, (a) identifying and responding to situations of extra-vulnerability, including trafficking or trauma, (b) preventing and responding to disappearances of children from care, and (c) properly informing status protection procedures.

## **METHODOLOGY**

The mapping explored notable aspects of the national situation through a desk study of existing literature and interviews with key stakeholders. The limited timeframe for the mapping and its relatively general scope means that the findings are illustrative of the national situation, rather than providing a comprehensive analysis. The goal of the mapping was to find opportunities and practical means for improvements across the region, highlighting how better to equip actors and help their work together. The research did not incorporate consultation with children. However the literature review did seek to examine what reports had addressed the views of children and, where possible, to identify how actors engage with children to get their views. The priority area of exploring information gathering processes also reviews how actors engage with children to understand their circumstances. In addition the CONNECT tools also seek in a variety of ways to contribute to the ability of actors to engage directly with children.

## SPECIFIC FEATURES OF THE DUTCH REPORT

This report maps how agencies work together, thereby contributing to the development of better understandings of actors' roles and co-operation. This understanding is developed against the backdrop of new EU obligations and aims also to support the effective implementation and application of these obligations regarding unaccompanied children, and optimise the use of new practical measures of support. **The report discusses how key actors in the Netherlands, in their own processes and in co-operation with other actors, ensure that unaccompanied migrant children's rights are fulfilled.**

For the purpose of this study, 'unaccompanied children' will refer to the generally accepted EU definition of unaccompanied minors:

“A third country national or stateless person below the age of eighteen, who arrives on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person, or a minor who is left unaccompanied after they have entered the territory of the Member States.”<sup>1</sup>

(Directive 2001/55/EC).

Although unaccompanied children who have never applied for asylum are not explicitly excluded from this report's focus, this country study will, for practical reasons, give more attention to unaccompanied children who have applied for asylum. In the Netherlands, most unaccompanied children who come into contact with formal institutions sooner or later apply for asylum.

Acknowledging that informal actors (such as friends and acquaintances) can be very important in the lives of unaccompanied children, this report will give priority to discussing the roles and mandates of 'formal' actors, meaning those people who are designated by government to fulfil certain tasks in engaging with unaccompanied children. It will be discussed how these actors are qualified, mandated, and resourced to act, how they address particular issues, and how they interact.

To become more familiar with some of the specific characteristics of the national system in place, a general overview of the legal and policy framework in which actors are working is presented. The different actors involved, the existence of national strategies or co-ordinating mechanisms, and the nature of inter-agency work will be described. Given the limited timeframe and scope of this project, it is impossible to reflect on co-operation processes and responsibilities regarding all issues. On the basis of explorative discussions between the partner organisations, three priority issues are identified for further scrutiny:

- A How do actors identify and assess *extra vulnerability* for unaccompanied children and what are their responses?
- B How do actors identify and assess *disappearances* of unaccompanied children and what are their responses?
- C What actors are involved, and how are they involved, in *informing* protection status procedures about the circumstances of unaccompanied children?

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<sup>1</sup> As defined by Directive 2001/55/EC and Directive 2003/9/EC (Art. 2 (h)).

The findings in this report are based on a (limited) desk literature review and interviews with relevant priority actors. Given the limited timeframe and relatively broad scope of the study, the data presented are mainly descriptive and exploratory in nature. The views provided are not the result of an in-depth substantiated evaluation, but are to be treated as indications.

Through opinion-based interviews with priority actors, this report highlights the actors' own perspectives. In particular, actors who play a formal role in addressing the identified issues have been interviewed. The roles of informal actors (primarily non-governmental or non-governmental sponsored individuals or organisations, such as children's friends, family members, travel agents) are only discussed to a very limited extent.

The majority of the interviews for this study have been face-to-face, allowing the researcher and the interviewee to discuss certain issues in depth. The interviews were semi-structured and typically took one to three hours. Respondents' anonymity is guaranteed and whenever citations are presented these are not attributed to specific individuals. The purpose of the interviews was primarily to identify how, and to what extent, the different actors make a co-ordinated effort to work for the best interests of the child. Rather than formal regulations and procedures, the key focus is on the actors' work in practice. For this reason, the researcher engaged with people working on an executive or middle management level; those with the 'boots on the ground'. Twelve face-to-face interviews were carried out and a full list with more details can be found in [Annex 1](#).

## **OUTLINE**

Chapter 2 contains a general overview of the legal and policy framework in which Dutch actors work with unaccompanied children. Section 2.5 focuses on the asylum procedure for unaccompanied children and provides a snapshot of the important actors the child may encounter during this procedure. Chapter 3 discusses how actors deal with cases of extra vulnerability, while Chapters 4 and 5 discuss disappearances and protection status proceedings. Chapter 6 presents the conclusions.

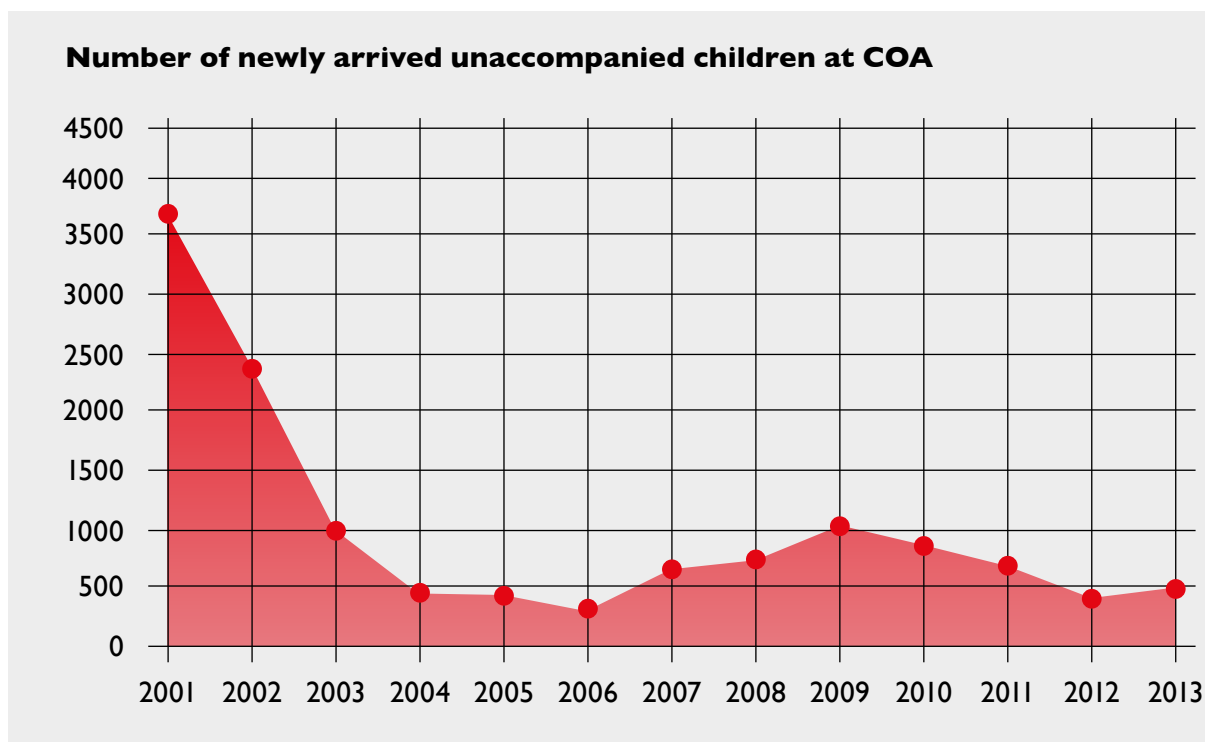


## 2. SETTING THE CONTEXT: UNACCOMPANIED CHILDREN IN THE NETHERLANDS

*Before discussing the three priority issues, this chapter presents a brief overview of the context in which unaccompanied children in the Netherlands live. After describing some recent changes in law and policy, the chapter provides core statistics, a literature overview, and a description of the asylum procedure and the most relevant actors that unaccompanied children usually encounter. The chapter ends with important features of national and international co-operation.*

## 2.1 STATISTICS

Since organisations often use different definitions and/or are responsible for particular groups of people, providing reliable statistics on the number of unaccompanied children is not easy. The data below, however, present some clarity. The [Central Agency for the Reception of Asylum Seekers](#) (COA) presents the number of newly arrived unaccompanied children amongst its population since 2001:



This shows that the Netherlands has received many unaccompanied children particularly in the early 2000s and, in comparison with other European countries, the number of unaccompanied children asylum seekers was very high during this time. The recent trend of receiving 400-500 unaccompanied children asylum seekers per year is low compared to other countries taking part in the CONNECT Project. This sharp decline can be explained by the introduction of a much stricter asylum policy for unaccompanied children in 2001 ([Monnikhof and Tillaart, 2003](#)). Detailed statistics about the recognition rates of unaccompanied children are [not available](#).

Nidos, the Dutch guardianship institution, registered 575 new clients in 2012 and approximately 675 clients in 2013. Currently, Nidos has slightly over 2000 cases of guardianship altogether in 2013, shared among nearly 150 guardians. Here it should be noted that a sharp rise in numbers in the first half of 2014 makes a prospect for the total number in 2014 of 2700. The fact that Nidos registers more clients than the [Central Agency for the Reception of Asylum Seekers](#) (COA) can for the most part be explained because COA merely registers children who have applied for asylum, whereas Nidos also has clients who have not applied for asylum. In early 2014, Nidos was responsible for a total of about 2,000 children.<sup>2</sup> Where in the early 2000s, the Netherlands particularly welcomed Angolan and Chinese unaccompanied children, the more recent trend is that children come from Somalia, Afghanistan, Congo, Eritrea, Syria and Guinea, with the vast majority over 15 years of age.

<sup>2</sup> As of 1 January 2014.

A very distinct group of ‘de facto’ unaccompanied children in the Netherlands consists of children dealt with by Nidos’ Schiphol Team. For many reasons, dozens of children who are located at Schiphol, the international transit airport, may be in need of temporary protection and guardianship. This is, for example, the case when a so-called *bolletjesslikker*, a drugs smuggler who carries drugs inside their body, is arrested upon arrival while travelling with a child. The child may either need protection for a couple of hours or, in the case of a parent being a drugs smuggler, for months or even years. In these instances, a unique and streamlined procedure is set in motion. A specialist unit of the Royal Netherlands Marechaussee contacts the Child Care and Protection Board, which requests a court order for protection and appoints Nidos as a guardian. After having explained the legal context and discussed the situation with the parent or other adult, a specialised guardian (from a pool of 13 different nationalities) can, within a couple of hours, take over custody and place the child in a foster family with their same cultural background.

## 2.2 LEGAL CONTEXT<sup>3</sup>

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Regarding unaccompanied children, this report has children seeking asylum as its main focus, with a secondary focus on children who are (possible) victims of human trafficking. Other separated and unaccompanied children are not discussed, as their numbers are perceived to be low (compared to numbers in some of the Southern and Eastern European countries). Moreover, policies and legislation are specifically aimed at unaccompanied and separated children seeking asylum and victims of human trafficking.

In the Netherlands until 2013, foreign nationals who were under 18 years old and unaccompanied were eligible for a special unaccompanied child residence permit. The permit would be issued if local adequate accommodation was lacking in the country of origin or another country to which they could reasonably be expected to go. It also applied to unaccompanied children aged 16 and 17 years old who could not look after themselves independently in the country of origin or another country to which they could reasonably be expected to go.<sup>4</sup> A foreign national was deemed to be unaccompanied if they were not supervised by their parent(s), if they had not reached the age of majority, or possibly had a guardian appointed abroad<sup>5</sup> (Immigration and Naturalisation Service Information and Analysis Centre (INDIAC)/European Migration Network (EMN) 2013).

In June 2013, the Netherlands implemented a new asylum policy for unaccompanied children. Government felt the need to develop this new policy following a national debate about the position of [Mauro](#), a well-integrated Angolan unaccompanied child asylum seeker who had resided in the Netherlands for years on the basis of the temporary residence permit. When he turned 18 and was threatened with deportation, this sparked a serious discussion in Parliament about the existing policy regarding unaccompanied children. One of the main goals of the newly developed asylum policy is to provide quicker clarity to unaccompanied children on whether a stay in the Netherlands is temporary or not. Procedures were shortened with the aim of reaching a quicker decision, so asylum-seeking children can know their outcome sooner.

As the special unaccompanied child residence permit no longer exists, this means that unaccompanied children whose applications are rejected basically become undocumented aliens. In practice, however, unaccompanied children who have not been granted refugee protection are still allowed to stay in the Netherlands until they are 18 years of age (and will not be deported before this time) as long as no adequate protection is available in their country of origin. In effect, not much has changed with the removal of the permit, although not having an accepted means of identification may lead to many practical difficulties in the lives of these children.

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<sup>3</sup> Information in this paragraph is largely based on the report, “Migration and Asylum in the Netherlands”, INDIAC, NL EMN, NCP, May 2013.

<sup>4</sup> See Article 3.56, paragraph 1, Aliens Decree 2000.

<sup>5</sup> See C2/7.1.3. Aliens Act Implementation Guidelines 2000.

In the Dutch legal context, all unaccompanied children have a guardian from [Nidos Foundation](#), the Dutch guardianship institution for unaccompanied child refugees, asylum seekers, and undocumented migrants. Dutch law stipulates that an adult must be assigned to each child to take over parental custody. This adult is the child's parent or, in the absence of a parent, a guardian. Guardianship of unaccompanied children in the Netherlands means that Nidos has the lawful duty to supervise these young people through to adulthood and promote their best interests. The guardian provides long-term continued care and has responsibility for the mental and physical wellbeing of the child and the on-going development of their personality. More information about the system of Dutch guardianship can be found in Section 3.8 of the European Network of Guardianship Institution's (ENGI) Report, *Towards a Network of European Guardianship Institutions*.

## 2.3 POLICY DEVELOPMENTS

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The Ministry of Security and Justice is in charge of asylum policy with responsibility for the procedures, reception, guardianship, and return. Separate agencies are responsible for the different tasks with the division of roles and responsibilities laid down in policy and legislation: Immigration and Naturalisation Service (IND) for procedures, Central Agency for the Reception of Asylum Seekers (COA) for reception, Repatriation and Departure Service (DT&V) for return and, as an independent foundation, Nidos for guardianship.

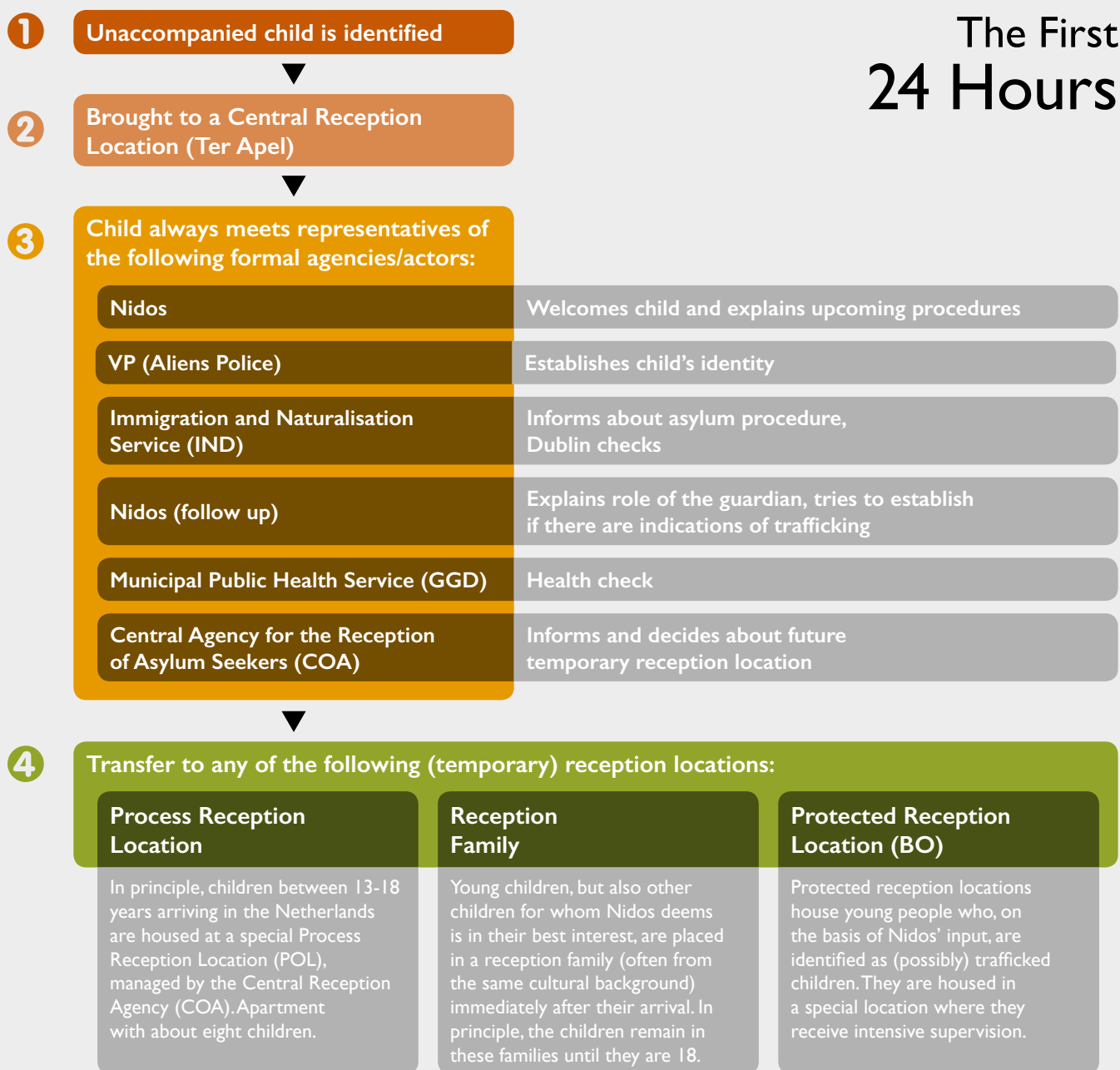
Each of the different agencies is responsible both for their own tasks as well as their own professional development and trainings, but the Ministry co-ordinates the overall system through the policy framework. On case level, the co-ordination lies with Nidos as the legal guardian of an individual child. When it is functioning well, the division of roles can be seen as a system of checks and balances supporting the child. The varying numbers of asylum-seeking children bring about changes in practices and sometimes policies, but responsibilities between actors largely remain the same.

System watchdogs on both a policy level and case level are NGOs (such as the Dutch Refugee Council, Defence for Children International, and UNICEF Netherlands) and other state organisations or agencies (such as the National Rapporteur on Human Trafficking and the Ombudsman for Children). Many other organisations are active in lobbying politicians, supporting individual children, or providing legal support.

Immigration policies are constantly being updated and developed. Currently, there are two major policy developments deserving specific attention in the context of this report. Firstly, in line with the Trafficking Directive, the Ministry of Security and Justice is working on a national referral mechanism to be implemented in spring/summer 2014. A second major development concerns the restructuring of reception facilities for unaccompanied asylum seekers. Parliament has expressed the wish to host children in reception families, rather than in large-scale reception centres. At the time of writing, the new reception policy is still being discussed.

## 2.4 ASYLUM PROCEDURE AND ACTORS INVOLVED

Unaccompanied children who do not apply for asylum are, when otherwise identified, all appointed a Nidos guardian. The guardian typically places them in a reception family, but when they are nearly 18 years of age, it is also possible that they are placed in an Immigration and Naturalisation Service (COA) reception facility. The vast majority of identified unaccompanied children in the Netherlands, however, do apply for asylum. In this section, we will briefly sketch the asylum procedure in the Netherlands, with a focus on the different actors that the child may engage with during this procedure.<sup>6</sup> Depending on the circumstances, many more actors may come into play, however, here only the most relevant ones are highlighted.



<sup>6</sup> Much more information about the general characteristics of the Dutch asylum system can be found on the [Asylum Information Database](#).

Taking the situation in a Process Reception Location (POL) as an example, in the next three weeks the child will, often through interpreters, typically encounter the formal actors<sup>7</sup> below:

In addition, during this period the child will also engage with numerous informal actors such as room-mates, school mates, and sports buddies. Many will keep in touch with friends or family members (either abroad or already in the Netherlands) by telephone or email, they may still have contact with a travel agent/smuggler, or be approached by representatives of churches or other religious institutions offering assistance.

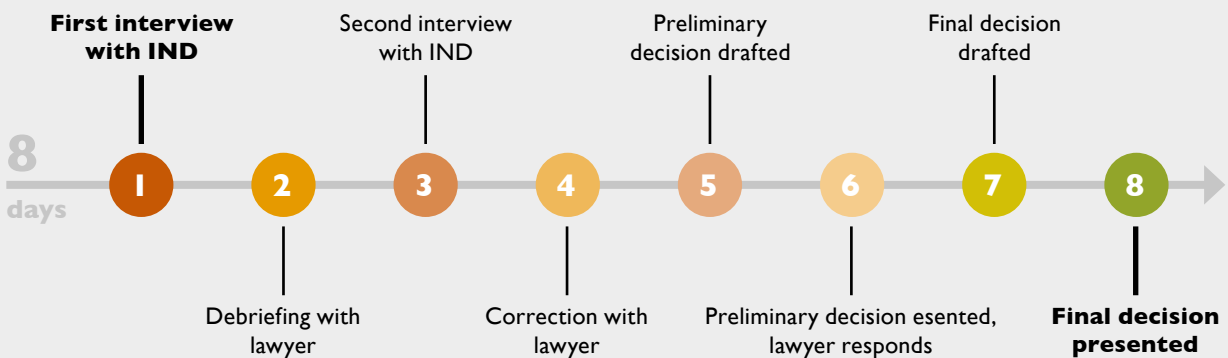
## Three Weeks Rest and Preparation Time



<sup>7</sup> Depending on the personal situation, the child might in this phase also meet other (more or less) formal actors, such as experts related to age assessment, representatives of NGOs such as ['Beyond Borders'](#) project working on 'future perspectives', Foundation ['De Vrolijkheid'](#) providing children's activities, or [New Dutch Connections](#) which organises various activities for unaccompanied children.

## THE EIGHT-DAY ASYLUM PROCEDURE

The process of applying for asylum for unaccompanied children is similar to the [regular short procedure for asylum seekers](#). In principle, it takes eight days (exceptions are possible, see Section 2.6) and is highly structured. Procedures for unaccompanied children are dealt with in one Immigration and Naturalisation Service (IND) office in Den Bosch where specialised IND staff members conduct the interviews.<sup>8</sup> Easily accessible Nidos guardians have an office in this building and receive the children before they are interviewed. The procedure is as follows:



In addition to the child, an IND interviewer, and an interpreter, there is often a fourth person in the room when the interview takes place; in only exceptional circumstances, this is the child’s lawyer. It is more common that the child is joined by a representative of VWN, the Dutch Refugee Council. These are volunteers who have received general training, as well as a two-day training on IND interviews. They are often retired people, but can also be students or recent graduates and are in a way ‘passive bystanders’ in the procedure, often making a verbatim report of the interview. Since the VWN representatives do not hold a formal position in the procedure, Nidos guardians accompany a child during the asylum application when possible to see how they are emotionally coping with the procedure and to intervene, where necessary.

The guardian is responsible for overseeing the situation of the child in general, while the lawyer is responsible for the specific procedure. In difficult cases, a lawyer or guardian may as an exception choose to be present. Also, in those cases, a guardian may seek advice from their back-up internal services such as the legal department or psychologists working within the organisation.

Depending on the outcome of the asylum procedure, the child typically proceeds in one of the following ways:

### After the First Decision

#### Disappears

If the child has not applied for asylum. An extensive description of what happens after disappearance is presented in Chapter 4.

#### Goes to small-scale reception location or reception family

Children who have had their asylum claim approved as well as children who have been rejected are, in principle, sent to a reception family or housed in small groups in a children’s communal home or small-scale housing unit. The small-scale reception facilities are typically run by youth care organisations.

#### Goes to campus

A campus typically houses 16-17 year old children without the possibility of a residence status. These young people’s campuses are usually housed in a section of the regular asylum seekers’ centres.

<sup>8</sup> All Immigration and Naturalisation Service (IND) interviewers working with unaccompanied children are trained to interview children and a limited number specifically trained with applicants under 12 years of age.

## 2.5 FEATURES OF NATIONAL CO-OPERATION

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The Netherlands has a relatively comprehensive legal and policy framework on unaccompanied migrant children. Many special procedures have been developed and special(ised) programmes, units, and organisations work with the issue. The Nidos guardians are proactive agents in the child protection system and generally take a co-ordinating role in safeguarding the best interests of the child. Ideally, all actors inform the guardian about all relevant issues in relation to the child. For example, if the child non-confidentially informs Central Agency for the Reception of Asylum Seekers (COA) mentors or volunteers of the Dutch Refugee Council about possible whereabouts of family members, this information is often shared with the guardian. The guardian regularly has meetings with the COA mentor and the child.

Interestingly, many respondents mentioned that informal meetings with other actors were of particular relevance. “We all have the same goal; making the best of it for these children”, as one respondent said. If the many actors involved take formal positions without acknowledging the interests of the other actors, and without openly discussing these interests, there is a risk that the best interests of the child will be compromised.

In this respect, it is important to note that the Immigration and Naturalisation Service (IND) and Nidos signed an agreement in April 2012 enabling both organisations to communicate more openly. The agreement includes some formal and procedural arrangements. Nidos, for example, now has the opportunity to issue a motivated request to extend the three-week Rest and Preparation Period. Perhaps more important is that since the agreement, IND interviewers and Nidos guardians in preparing for an asylum hearing briefly contact each other to exchange any relevant information. This allows the guardian to share some information about the emotional state of the child and may lead the interviewer to prepare differently for the case. Where a child is very nervous or emotional, the interviewer could plan more time for the interview and schedule more breaks. The guardian may also inform the interviewer that a child expects to receive certain important documents and may request adjournment of the interview. One of the guardians was very positive about these developments: “As long as you don’t over-ask, and only request for an exception in exceptional circumstances, this works very well.”

Where formal and informal co-operation between supporting actors has over the past years been considerably improved, co-operation and co-ordination on, and between, other levels might still need some extra attention. With regard to trafficking, for example, the range of organisations is increasingly co-operating within the framework of projects as well as structurally, but as the issue is complex and all play different roles, much work remains. A Central Agency for the Reception of Asylum Seekers (COA) mentor stated it was important that certain trends or signs which are nationally or even internationally known by analysts are ‘channeled down’ to the people working with the children on a daily basis. It would strengthen their information base and create more awareness of possible risks.

Finally, a key feature of the Netherlands is that government, inter-governmental agencies and non-governmental organisations jointly run projects to promote the voluntary/independent return of rejected unaccompanied children asylum seekers. For example, the project, [UAM4](#), aims to support 23 current, and 45 former, unaccompanied children to return to countries like Angola, Afghanistan, Guinea and Iraq within a two-year timeframe. The project is financed through the Ministry of Justice’s Repatriation and Departure Service and implemented by International Organisation for Migration (IOM), the Netherlands. The NGO, [Beyond Borders](#), co-operates by setting up a youth network in Iraq, while Nidos also engages by providing information about the project through its guardians. Structural and practical modes of co-operation between governmental and non-governmental actors exist particularly in relation to voluntary return, with all actors satisfied with current possibilities and programmes in this regard.

Regarding co-operation between actors, questions may arise whether some actors are less emphasised in the Dutch context than in comparison with other countries, particularly as lawyers, psychologists, and cultural mediators are hardly mentioned in the context of this research. The main reason is that these actors play a role on the case level - lawyers assist the child in the procedure, psychologists are brought in when needed, and the Netherlands does not have a history of using cultural intermediaries.

## 2.6 FEATURES OF INTERNATIONAL CO-OPERATION

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Dutch actors are to some extent connected to European partner institutions. Dutch government bodies regularly co-operate with government actors in developing common policies for unaccompanied children, while initiatives at various levels foster cross-border co-operation between non-governmental organisations; Nidos has set up and joined a number of EU-funded programmes. In the context of this report, it is noteworthy that Nidos is one of the initiators of the European Network of Guardianship Institutions ([ENGI Project](#)) that established a network of guardianship organisations in Europe. This had led to exchanges of information, sharing of best practices, and increased professionalisation of guardianship. The Dutch Charter of Defence for Children, in its “[Core Standards for Guardians Project](#)“, also strives to improve the role of guardians. On a practical level, Dutch actors regularly engage with international counterparts and participate in all relevant trans-national initiatives on information exchange. Despite this, there seems to be quite limited structural operational contact with actors in different countries; the contacts that exist are not systematic, but fairly ad hoc.

A key feature of international co-operation between the Netherlands and countries of origin is that the Dutch Government pioneered the creation of adequate reception facilities for rejected children asylum seekers in countries of origin. In 2003, the Dutch Ministry of Justice decided to finance the modernisation and expansion of Mulemba orphanage in Luanda, the capital of Angola ([Van Wijk, 2005](#)). Notwithstanding the many legal and practical problems involved, the Dutch replicated this model in Congo and, ever since, the “Dutch model” of upgrading orphanages in countries of origin has been a recurring topic on the international agenda ([Pedersen et al., 2013](#)). The European Return Platform for Unaccompanied Minors, [ERPRUM](#) project, for example, follows similar lines, however, so far many of these projects have not yielded many tangible results (see National Report on Sweden for more information).

Finally, it is interesting to note that some actors in the Netherlands have succeeded in taking the first steps towards proper monitoring of (former) unaccompanied children and other children upon return. Hit Foundation, in co-operation with a number of other actors including Nidos, initiated the pilot project, “Monitoring Mechanism for Returned Minors” ([MRM](#)). This EU-funded research project aims to develop a monitoring instrument that contributes to a more sustainable and safer return for children. In addition, there are several other on-going examples of European co-operation such as the setting up of child-specific country of origin reports by UNICEF Netherlands, the creation of an international helpdesk for guardians on Dublin cases, and the European co-operation on the reception of unaccompanied children in families, both by Nidos.

## 2.7 REPORTS

In the Netherlands, many policy reports have been published in recent years, describing the position and situation of unaccompanied children or evaluating certain programmes, among others. Below, a selection of Dutch reports on unaccompanied children is provided with emphasis given to studies which (to a certain extent) discuss the three topics more extensively covered in this report.

<p><b>Defence for Children and Unicef (2013)</b>  <i>Bescherming alleenstaande minderjarige vreemdelingen in de knel; zorgpunten en aanbevelingen bij de herijking van het beleid</i>, available at: <a href="http://goo.gl/LLTegR">http://goo.gl/LLTegR</a>          Defence for Children and Unicef, April</p>	<p>General policy advice to improve the situation of unaccompanied children</p>
<p><b>Kromhout, M. and Liefwaard, T. (2010)</b>  <i>Tussen beheersing en begeleiding; een evaluatie van de pilot 'beschermde opvang risico-AMV's'</i>, available at: <a href="http://goo.gl/1lm9oD">http://goo.gl/1lm9oD</a>          The Hague: WODC</p>	<p>Evaluation of pilot project to offer protected reception facilities for possible child victims of trafficking</p>
<p><b>Bruins M. and Van Dam, R. (2012)</b>  <i>Indicatiestelling van Minderjarige slachtoffers van Mensenhandel</i>, Master's Thesis, available at: <a href="http://goo.gl/LyJgEy">http://goo.gl/LyJgEy</a>          Hogeschool Leiden</p>	<p>Discusses which signs lead to the assessment of 'extra vulnerability' for unaccompanied children</p>
<p><b>Immigration and Naturalisation Service Information and Analysis Centre (INDIAC)/European Migration Network (EMN)(2010)</b>  <i>Unaccompanied minors in the Netherlands: policy on reception, return and integration arrangements for, and numbers of, unaccompanied minors</i>, available at: <a href="http://goo.gl/9r5f9f">http://goo.gl/9r5f9f</a>          The Hague: Ministry of Justice, February</p>	<p>Review of policy relating to unaccompanied children. Please note: since 2013, major changes in policy</p>
<p><b>Kaandorp, M. and Blaak, M. (2013)</b>  <i>Kinderhandel in Nederland</i>, available at: <a href="http://goo.gl/x2BEqA">http://goo.gl/x2BEqA</a>          Leiden: UNICEF Netherlands and Defence for Children International</p>	<p>Discusses child trafficking in the Netherlands</p>
<p><b>Inspectie jeugdzorg (2012)</b>  <i>Grootschalige opvang van minderjarige alleenstaande vreemdelingen; opvang van AMV's op de proceslocaties</i>, available at: <a href="http://goo.gl/oOTkiE">http://goo.gl/oOTkiE</a>          Utrecht, November</p>	<p>Evaluates the quality of Central Agency for the Reception of Asylum Seekers (COA) reception facilities for unaccompanied children</p>
<p><b>Margrite E. Kalverboer</b>  <i>The best interests of the child in migration law; significance and implications in terms of child development and child rearing</i>          2014 SWP Publishers, Amsterdam</p>	<p>Discusses the position of the best interests of the child in (primarily Dutch) migration and asylum law and its implications and effects on children</p>
<p><b>Grund, J-P.C., Brecksema, J.J., Braam, R., De Bruin, D. (2011)</b>  <i>Experiment Perspectief Aanpak Voormalig Alleenstaande Minderjarige Vreemdelingen. Analyse van de Resultaten</i>, available at: <a href="http://goo.gl/hTaMKU">http://goo.gl/hTaMKU</a> Utrecht: CVO</p>	<p>Evaluation of project supporting (former) unaccompanied children in providing them with a future outlook</p>

A brief review of literature indicates that there are very few publications that contain, or are based upon, the unaccompanied children's own views. The few exceptions are provided below.

**Staring, R. and Aarts, J. (2010)**

*Jong en Illegaal in Nederland*, available at: <http://goo.gl/5YXD3p>

The Hague: WODC

Focuses on the position of unaccompanied children in the Netherlands and their perspectives on return; based on interviews with 84 unaccompanied children

**Goeman, M. and Van Os, C. (2013)**

*Implementatie van de kwaliteitsstandaarden voor voogden van alleenstaande minderjarige vreemdelingen in praktijk, beleid en wetgeving; National rapport Nederland*, available at: <http://goo.gl/45r7ts>

Defence for Children Netherlands

In the context of the EU-funded, "Core Standards for Guardians Project", researchers interviewed five unaccompanied children about their perspectives of the role of guardians

**Van Wijk, J. (2008)**

*Terugkeer naar Angola; evaluatie innovatiepilot Angola Conexcao*, available at: <http://goo.gl/H3x348>

Hit Foundation

Evaluates pilot project that tried to link rejected asylum seekers (often unaccompanied children) to Dutch companies working in Angola.

Apart from providing information to researchers, unaccompanied children also have other channels to raise their voice and present their perspectives and opinions. It is interesting to note that during the past few years some unique initiatives have existed in the Netherlands; particularly in the mid-2000s, distinctive projects emerged when the Dutch Government put great pressure on rejected asylum seekers (including children) to return to their countries of origin. For example, Foundation for Young Angolans in the Netherlands (JAN) was set up at that time as a self-help organisation by, and for, Angolan unaccompanied children looking after their best interests. It proved quite effective in its lobbying, having meetings with the then Minister of Immigration and Integration. The NGO, SAMAH - Foundation for Unaccompanied Children Humanitas, assisted in setting up and facilitating JAN. The initiative has been copied to a limited extent by groups of other nationalities. The current population of unaccompanied children in the Netherlands is not very organised, and so their views are not taken into account in national policy-making as much as previously.

It does not mean, however, that children's voices have no impact on policy-making at all. Nidos, for example, on an annual basis systematically surveys its clients by means of the so-called *Unaccompanied Minor Monitor* (AMA Monitor).

## AMA Monitor

In co-operation with a university, it aims to measure the wellbeing and development of unaccompanied children in the Netherlands. The children are asked to reflect on their own position, functioning, health, and needs. Nidos uses the information from these surveys to improve its practice and policies. In 2008, Nidos, in co-operation with another university of applied sciences, also started organising 'World Cafés' on specific topics of interest. In informal group sessions, children and caregivers can express their wishes and expectations regarding themes such as 'living conditions' or 'return'. The guardianship institution also uses the information to improve its services.

## 2.8 CONCLUSION

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All unaccompanied children are appointed a guardian from Nidos Foundation, the Dutch guardianship institution for unaccompanied underage migrants. Guardians provide long-term continued care and have responsibility for the mental and physical wellbeing of the child and the on-going development of their personality. In 2013, Nidos registered some 675 new clients and is currently responsible for a total of approximately 2,000 children and young people. Most children are over 15 years of age and have applied for asylum. A new, integrated and comprehensive unaccompanied children's policy was implemented in 2013, and although the Netherlands has no official 'national strategy' for unaccompanied children, many special procedures have been developed and special(ised) programmes, units, and organisations exist. On a national level, structural and practical modes of co-operation between governmental and non-governmental actors exist particularly in relation to voluntary return, while co-operation between actors on an international level is quite ad hoc.

# 3. EXTRA VULNERABILITY

*This chapter aims to map which actors are involved, and how, in responding to situations of extra vulnerability. Extra vulnerability relates to issues such as trauma, health problems, (mental or physical) disabilities, and (the possibility of) human trafficking. The chapter discusses what systems are in place to respond to these circumstances and how the most important actors are qualified, resourced and mandated, and the extent to which they co-operate.*

*For the Dutch National Report, we have chosen to put a strong emphasis on assessing how actors deal with signs of human trafficking. As this chapter and Chapter 4 will demonstrate, the Netherlands has been at the forefront of trying to develop secure facilities for possible victims of trafficking. In addition, guardians play a central role in the identification of potentially trafficked children. In one way, these unique developments could be considered good practices for other countries, however, in-depth discussion of existing policies demonstrates how actors struggle with a number of legal and practical issues in achieving an integrated approach.*

In the context of this chapter, and in line with the definition of Article 3(a) of the 2000 UN Palermo Protocol, indications of trafficking include “signals that children are, for the purpose of exploitation, recruited, transported, transferred, harboured and/or received.” EU Directive 2011/36/EU places a duty on governments to fight child trafficking and to provide assistance and protection to trafficked people, with special provisions in place in relation to unaccompanied children.

## 3.1 INSTITUTIONAL CONTEXT

Section 2.5 previously referred to the existence of protected reception facilities for alleged victims of child trafficking. Chapter 4, which discusses how actors respond to disappearances, describes how Nidos staff at the Central Reception Location identify possible and/or potential victims during the intake and refer them to the protected reception facility. Apart from this way of identifying possible victims of trafficking, the Central Agency for the Reception of Asylum Seekers (COA) is another information channel. In each COA reception centre, two ‘contact persons for human trafficking’ are appointed. They have completed a two-day awareness training given by the Centre of Expertise on Human Trafficking and Migrant Smuggling (EMM) of the Dutch Police. The contact persons know what steps to take in case of signs of trafficking and are expected to help their colleagues become more aware of possible risks. Other employees can also receive shorter awareness trainings. While such trainings are generally useful and beneficial, one respondent noted that the awareness trainings can also have an adverse effect: “Some mentors to a certain extent became paranoid”, believing that any extraordinary behaviour could be a sign of human trafficking.

From an institutional perspective, it is important to note that many actors collectively meet each other during the so-called ‘COBO Meeting’ (Casuistic Consultation Protected Reception). Co-ordinated by Nidos, representatives from the Police, Central Agency for the Reception of Asylum Seekers (COA), Jade, the Co-ordination Centre for Human Trafficking (CoMensha), Repatriation and Departure Service (DT&V), Immigration and Naturalisation Service (IND), and the Legal Aid Board come together every eight weeks to discuss any items put on the agenda. Depending on the agenda items, other actors such as the Netherlands’ Centre of Expertise on Human Trafficking and Migrant Smuggling (EMM) and the International Organisation for Migration (IOM) are also invited. The goal of the meeting is to share information, strengthen the network, and present other practical advice relating to the protected reception. Disappearances or issues of return are also discussed in this informal meeting. For example, the Police recently stressed again the importance of the child presenting *concrete* information when filing a report of being trafficked (Section 3.4 will give further details and explanation).

In addition to those mentioned, there are many other governmental, non-governmental and inter-governmental organisations actively engaged in shaping and implementing policies on human trafficking, with most of the organisations also specifically working with or for (potentially) exploited children.

## Ahmed

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Ahmed was joined by his 20 year old niece when I first met him. The boy walked around like a zombie. Didn't talk to anyone, not even to other Somalis. Just staring. In school, they transferred him to the toddlers, hoping that he would pick up some wooden blocks or anything of that sort. Luckily, I could arrange adjournment of his interview. Weeks after his arrival he started blossoming a bit, started talking and even laughing. I accompanied him to his interview, together with his niece. The interviewer continuously asked questions:

*'What happened when your father was arrested?', 'Which plane were you in?', 'How many days have you stayed in that house?'*

He could hardly answer these things; just said yes and no. At a certain point, I told the interviewer that I was so proud that he managed to even utter one word; that this in itself was already a small miracle. I explained a bit about his background. Days later, we received the negative decision. His lawyer appealed, but thinks the chance of success is close to zero. He cannot prove to be traumatised, because a reliable psychiatric diagnostic report cannot be finished before the Appeals Procedure. His niece's claim was also turned down. Because they come from a very unsafe part of Somalia, the two of them cannot be deported.

What will happen to Ahmed? Here is the Catch 22: the starting point is that you want to keep the two of them together. This is possible for now, because as long as she stays with him she is allowed to stay in a reception facility until he turns 18. But if she stays with him, his chances of ever being granted a status are gone. If she would disappear, however, he may eventually succeed in getting a status on the basis of his distressing position.

The boy is 12 now; he requests sleep medication, constantly approaches me with new legal questions.

The boy is 12...

## 3.2 INDICATORS OF VULNERABILITY

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Literature suggests that over the past years a variety of actors have used many different factors in identifying possible indicators of human trafficking and ways to respond. [Van Wijk](#) (2007), for example, describes how staff in reception facilities for unaccompanied children in the mid-2000s noted that Angolan children arrived at the centres with old clothing that was quickly exchanged for new, trendy clothing after arrival. They also very quickly had mobile phones, many different phone numbers, and often went out at night. When the reception staff heard from the medical services that these young people often requested condoms (contraception), and door staff at the reception centre confirmed that unknown individuals regularly picked these young women up, this was enough reason to inform the Police. For months, a police investigation took place - observation teams were used, Portuguese interpreters were asked if they had any indications if these girls could be exploited, while the unaccompanied children and their school friends were also interviewed by Police, however, there were no sufficient leads to continue investigations.

In May 2006, when an asylum lawyer reported her suspicions that a Nigerian client was a victim of human trafficking with the Netherlands' Centre of Expertise on Human Trafficking and Migrant Smuggling (EMM), this had a much bigger impact. Soon after, an analysis of flights at Schiphol Airport showed that a relatively large number of unaccompanied children from Nigeria had entered the country in the period from October 2005 to May 2006. The results of the subsequent criminal investigation, "[Koolvis](#)", which has been quite extensively documented, seriously impacted Dutch policy-making. In the course of this investigation, more than 140 possible victims of human trafficking were identified, including unaccompanied children. In December 2009, six suspects were convicted of human smuggling, yet acquitted for trafficking. The Court concluded that it could not establish that the suspects had actual knowledge of the abuse of the girls in Nigeria or any abuse that might have happened after arrival in Europe. The [Appeals Court in 2012](#), however, convicted the main suspect to seven years imprisonment for human trafficking.

[Bruins and Van Dam](#) (2012) made an extensive analysis of 60 files of unaccompanied children

who were identified as possible victims of human trafficking in the Schiphol Reception Centre by Nidos staff. As such, they qualified for protected reception.<sup>9</sup> Bruins and Van Dam conclude that a combination of verbal or non-verbal factors such as ‘fear’, ‘travel destination unknown’, ‘having been forced to engage in sexual activities’, ‘false documentation’ and ‘living in illegality’ were indicators used to establish this description. The vast majority were 16-18 year old females, coming from Guinea, Nigeria, Sierra Leone, China, and Eritrea.

This brief review of the findings in literature demonstrates how diverse the practice of identifying signs of human trafficking can be. Children themselves may, without even knowing it, through their behaviour or statements during an asylum application or while living in a reception centre, trigger the attention of legal counsellors, social workers or guardians, who may engage colleagues with their suspicions, before informing the (specialist) police unit. In practice, there is a ‘shared responsibility’ in identifying possible victims and no one, single actor or agency has sole responsibility.

In text box is a striking example of extra vulnerability from an experienced guardian, telling the story of a 12 year old Somali boy we will refer to as Ahmed.

Although Ahmed might not exactly fit the definition of an unaccompanied child presented in the Introduction (he was accompanied by an adult when entering the Netherlands who might formally or informally be responsible for him), his story does depict the dilemma to which many respondents referred. In this negative decision, with all of the physical and psychological implications it has and will continue to have, has Ahmed’s extra vulnerability fully been taken into account?

### 3.3 REGISTRATION OF POSSIBLE TRAFFICKING VICTIMS

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A striking illustration of this shared responsibility in registering indicators of human trafficking exists on the website of [CoMensha](#), the Co-ordination Centre for Human Trafficking, an NGO that has played a crucial role in the registration of signs of human trafficking. Specific regulations and agreements oblige Police Departments, the Royal Marechaussee, the Labour Conditions Inspection (SZW), Nidos, and the Central Agency for the Reception of Asylum Seekers (COA), among others, to report information on possible victims of human trafficking. The collected data is used for analytical tools and as input for studies on human trafficking.

On the website, under the heading, “Suspicious of trafficking, coercion or exploitation?”, the visitor can click on the banner, “I want to register (possible) victims”. [This links](#) to a form (only available in Dutch) that can be emailed to the Co-ordination Centre for Human Trafficking (CoMensha) administration. The person registering a possible victim can indicate on the basis of which signs they identify a possible victim. Above the banner is a total count of the number of registrations. When checked (week 8, 2014), there were 115 entries.

Referring to data collected by CoMensha, in a recent report, [Defence for Children and UNICEF](#) stated that, on average, 60 foreign child victims of human trafficking are identified and reported annually. Most of them are female and come from Nigeria, Guinea, Sierra Leone or China and are victims of commercial sexual exploitation. A limited number, particularly Afghans, are believed to be forced to act as thieves or are exploited as so-called ‘dancing boys’, providing sexual services to adult men. The National Rapporteur for Human Trafficking and Sexual Violence against Children suggests in a [2012 report](#) that the actual number of trafficked children may even be higher since a number of agencies which regularly engage with possibly trafficked children (Youth Care Agency, Nidos, the Royal Netherlands Marechaussee (Kmar), the

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<sup>9</sup> More details on the proactive identification by Nidos in Chapter 4.

Labour Conditions Inspection (SZW), the Police) have not systematically registered possible victims with CoMensha. Nidos guardians argue this is impossible, because only children who had filed a report with the Police and who entered a so-called [B8 Procedure](#) (more on this in Section 3.4) were to be registered. CoMensha recently changed this policy, so from now on, all people in protected reception facilities will be registered with CoMensha. It is expected that the number of registered potential foreign child victims of trafficking will rise considerably in the next year.

This is a main reason why one has to be *extremely cautious* in interpreting the figures. Rather than registering trends regarding the actual number of people trafficked, CoMensha seems to register trends in registration discipline and willingness. Moreover, by not providing a list of potential signs, but instead leaving it to the registering person to determine which aspects are deemed relevant, it measures highly subjective assumptions. It is all the more problematic that, in its reports, the agency often refers to numbers and characteristics of ‘victims of human trafficking’, while, in reality, it registers information on ‘possible victims of human trafficking’. Also, it cannot be ruled out that people may be registered more than once. Because other influential agencies such as the [National Rapporteur for Human Trafficking, Defence for Children, and UNICEF](#) refer to CoMensha data without carefully differentiating, the general public and policy maker views and perspectives may be inaccurate.

This is another reason why many respondents question the relevance of reporting to CoMensha. They comply with their organisation’s requirement to do so, but wonder what happens with all of the information provided. According to its website, CoMensha is an autonomous organisation within an (inter) national field, serving the public interest by registering, signaling and reporting on the topic, and sharing information with its partners, which include the Dutch Police, the Royal Military Police, the National Rapporteur for Human Trafficking, the Ministry of Justice, and the Ministry of Social Affairs.

Respondents, however, find it unclear what, and when, exactly to report. A respondent from the Police gave the following example:

“ We were tipped off by someone who took a plane from an African country to the Netherlands and noted a very young girl being accompanied by an adult Dutch man. We are currently investigating the case. I am told to report all signs of human trafficking. But should I report this? Should this information be on the street [shared with non-police actors]?”

To make things even more complex, there seems to be some sort of ‘competition’ in offering options to register possible victims of human trafficking. In the past few years, various regional agencies have opened their own web portals where indicators of human trafficking can be reported. In Amsterdam, HVO/Querido, an NGO not affiliated to CoMensha, set up a regional [Co-ordination Point for Human Trafficking](#).



Soms krijgt u duidelijke signalen dat er iets fout zit, maar onderbuikgevoel. Voor al dit soort signalen heeft de politie mensenhandel@noord-holland.politie.nl. Het grote voordeel is dat u meldingen kwijt kunt en dat de politie contact met u of informatie. In alle gevallen krijgt u te horen of uw melding

The security region of Rotterdam-Rijnmond has a joint initiative of no less than 13 organisations (including the Youth Care Agency, the Central Agency for the Reception of Asylum Seekers (COA) and the Regional Police) informing about signs of human trafficking ([www.stopmensenhandel.nl](http://www.stopmensenhandel.nl)). The website suggests four different organisations to contact regarding suspicions of human trafficking: Humanitas (social work), the Regional Police, a special anonymous police number (Meld Misdaad Anoniem) and, the Labour Conditions Inspection (SZW) in case of indications of exploitation in the labour market; CoMensha is not mentioned.

The large number of portals to register indicators of human trafficking is illustrated by the community of Niedorp (12,000 inhabitants), which in 2010 in co-operation with the Regional Police of Noord-Holland set up a special [mailbox](#) to report any suspicions of human trafficking. The extent to which these initiatives provide CoMensha with information has not been established in the context of this study.

None of the websites are specifically set up to share information about children, let alone unaccompanied children. One might argue that setting up another website might provide a solution, but perhaps the current problem in the Netherlands is not that there are too few organisations registering signs of trafficking, but rather too many, all using different and unclear criteria. The launch of another initiative specifically focused on possibly trafficked children would just create additional confusion surrounding the websites on human trafficking. Our respondents confirmed that there are rather too many agencies providing information on indicators of human trafficking. The conclusion that can be drawn is that with all of the work done and with an emphasis on co-operation, the insights on trafficked numbers are still limited.

### 3.4 CRIMINAL INVESTIGATIONS

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After signs of human trafficking are recognised and the children and young people are sent to protected reception and registered as possibly trafficked victims, a important next step for many actors, and according to international law standards are also obliged to pursue, is to try and identify perpetrators of the (alleged) trafficking and bring them to justice.

A special regulation, the [B8 Procedure](#), applies to foreign victims reporting human trafficking, enabling them to temporarily stay in the Netherlands during the investigation and prosecution of the human trafficker in order to provide evidence. Partly because of this regulation, guardians and mentors have often advised children to report being trafficked. However, the Police have not succeeded in identifying and convicting a single trafficker on the basis of information provided by children staying in protected reception. A specialist Police Officer of the Human Trafficking and Prostitution Unit explained:

*“ We register everything the children say and put it in our systems. But they just don’t provide us with enough information. They typically don’t know much more than the first name of a travel agent...”*

The effect is that the Police and Public Prosecutor have become somewhat cynical about carrying out a successful investigation based on the statements of unaccompanied children. They do not see much potential in investigating the story of a child who explicitly stated during an asylum application that they were abused or raped by a travel agent. In their experience, the potential for a successful investigation is higher in other cases. “These can be small things. In particular, when we’re tipped off by people from their network. When they have questions about someone’s behaviour”.

The result is that the Prosecutor normally closes the files on alleged suspects of human trafficking of unaccompanied children very quickly and, in practice, children who filed a report hardly ever have time to take advantage of the B8 Procedure. Regarding return, lawyers have often made official complaints that no prosecution was started, so-called ‘[Article 12 Procedures](#).’ Currently, the Prosecution Services engage more clearly where a report of human trafficking does not lead to a criminal investigation, which had led to a decrease in Article 12 complaints.

Still, lawyers and guardians advise children who claim to be trafficked to file a report with the Police. Less to make use of the B8 Regulation, but rather, to ensure it can be used in their asylum procedure, where the Court may consider trafficking stories as exceptionally harrowing circumstances.

## 3.5 CONCLUSION

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Formal actors are generally adequately qualified and trained to deal with indicators of human trafficking. Particular emphasis is given to sexual exploitation, but labour exploitation has not yet attracted much attention in the Netherlands. There is a relatively sound system in place to protect possible victims; they can be housed in a special protected reception facility, while the B8 Procedure enables them to temporarily stay in the Netherlands in order to provide evidence for the prosecution. In general, the main actors are properly trained, equipped and willing to report indications of human trafficking, however, there are (too) many different organisations registering such data and it is very unclear how the data is used. It is impossible to determine a reliable estimation of the number of trafficked children.

Law enforcement actors claim it is extremely challenging to complete a successful criminal investigation on the basis of asylum statements made by children staying in protected reception and not a single trafficker has been convicted using this information. In principle, lawyers and guardians still advise children to file a report with the Police as it can be beneficial for their asylum procedure.



## 4. DISAPPEARANCES

*The goal of this chapter is to map which actors are involved, and how, in responding to disappearances of unaccompanied children from institutionally provided care. It discusses what actors are involved in gathering, providing, or receiving information regarding disappearances, how they are qualified and resourced to act, and how, and to what, extent they co-operate. Particular attention is given to guardians, lawyers, reception centre employees and the Police in describing responses to disappearances and how disappearances are prevented.*

*Actors acknowledge that a significant number of disappearances are hard to prevent and are a direct consequence of the situation a 17 year old asylum-rejected child faces while waiting to turn 18.*

The EU Action Plan identifies disappearances as a priority issue to be addressed. Children may disappear from care for a variety of reasons, including the fact that they are trafficked or exploited in some way, desire to move to another country, fear of [Dublin transfers](#), fear of being returned to a third country, desire to work, desire to unite with relatives or family members, and the consequences of turning 18 in terms of residence status or support. In the case of disappearances, it is in the unaccompanied children's best interests that sound procedures and protocols exist and that all relevant actors take appropriate steps to identify the whereabouts of the missing children in a well co-ordinated manner. 'Responding' is defined in this context as "any actions following a disappearance."

There is, in practice, quite some overlap between actors' responsibilities and tasks in relation to the issue of disappearances and of providing extra protection where there are indications of trafficking, which is discussed in the next chapter. Some information provided in this chapter is also important in the context of Chapter 3.

## 4.1 PROTECTED RECEPTION: THE DUTCH APPROACH TO PREVENTING DISAPPEARANCES

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Since the late 1990s, disappearing unaccompanied children have caught the attention of Dutch media and policy makers ([Van Wijk, 2007](#)). It particularly became a public issue between autumn 2004 and autumn 2005, when 125 Indian unaccompanied children disappeared from the large-scale reception centres for unaccompanied children. It was also revealed that approximately 140 Nigerian unaccompanied children had disappeared from the asylum seekers' centres between January 2006 and October 2007. During 2006, a number of measures were implemented to prevent future disappearances, one of which was the tightening of security on the campuses. Following the disappearance of the Nigerian unaccompanied children, a criminal investigation was launched ([Kromhout and Liefwaard et al., 2010](#)).

In order to prevent more disappearances, in January 2008, the then Minister of Immigration Affairs and Integration started a two-year pilot for unaccompanied children who are 13 years or older and belong to the so-called 'risk category' of children for whom it has been established, based on the experiences of the Immigration and Naturalisation Service (IND), that they are greatly at risk of disappearing because of human trafficking. Since then, such children have been received in special, small-scale protection centres (BOs) and, particularly in the first two weeks after arrival, they are only allowed to leave the premises with prior permission or a staff escort. The children receive intensive coaching by specialised mentors, attend a special school, and have access to specialist psychiatric care by transcultural psychiatrists from [De Evenaar](#).

**After the two years, evaluators of the pilot established the following:**

- The target group consists of unaccompanied children who *before* being placed in protected reception had possibly been abused and also, unaccompanied children who are possibly *destined* for exploitation.
- Indian and Nigerian unaccompanied children were initially designated as groups at risk, later to be followed by Chinese and Guinean unaccompanied children.
- Since the project began, the total number of disappearances from all reception facilities (including protected reception) of the Central Agency for the Reception of Asylum Seekers decreased.
- The grounds on which children and young people are selected for placement in protected reception are typically nationality and individual characteristics, such as a child claiming to be brought to the Netherlands without having paid, claiming to be assisted by an unknown white man, claiming to be assaulted by a travel agent, or seeming to be terrified.

A particularly relevant finding of the evaluators was that risk profiles established by the Immigration and Naturalisation Service (IND) hardly played a role in the selection. Instead, Nidos guardians usually made this assessment on the basis of their own system. The evaluators highlighted, and warned, that the decision model used to assign children and young people to a ‘risk category’ for disappearances generally lacked empirical foundation. While critiquing the referral system, the 2010 evaluation concluded that a comparison with relevant (international) legislation and regulations, case law, and literature demonstrated that, contrary to what was intended, the placement and stay in protected reception was a ‘deprivation of liberty’. Since Dutch law does not provide for depriving children and young people of their liberty, the evaluators argue that the placement is a violation of both international human rights treaties and the Dutch Constitution. As the necessary judicial review is lacking and no legal aid is provided to the child (regarding their placement in protected reception), the authors conclude that these findings compel the authorities to change the legislation and/or the existing practice.

Not much has changed in the four years since publication of the report and, in practice, the special, small-scale protection centres (BOs) still function accordingly. When there are strong indications that a child is a victim of trafficking, they are still not allowed to leave the premises without prior approval or a staff escort. Nidos has, however, taken the critique seriously that it needs an empirical foundation from which to assign children and young people as a risk category. As one representative said: “You can’t send someone to protected reception on the basis of ‘gut feeling’”. Currently, all referrals to protected reception are made by at least two, and sometimes even three guardians. A feedback loop system is in place, whereby every month the protected reception mentors inform Nidos guardians in the Central Reception Location to what extent they believe the initial indication is correct or not. Nidos has also contracted an independent research organisation to develop a methodologically sound identification tool. The same representative:

“When we started eight years ago, every actor in the chain had its own tick box with signs such as: ‘If they travelled alone...’, ‘If they have no travel documents...’, ‘If they claim to have been accompanied by a white man...’ In case of three signs, this was supposed to be an indication of trafficking. But if we would follow those procedures, everyone would be trafficked... We felt we had to develop something ourselves.”

Based on a literature review, an extensive analysis of past referrals, interview data and discussions with relevant actors (such as the Immigration and Naturalisation Service (IND), the Police, and NGOs), a list of verbal and non-verbal signs has now been drafted. Even with this tool, the respondent is aware that identifying possible trafficking victims is extremely challenging.

“Identifying possible victims cannot be done by a machine. It is the work of a person after all, and let’s be realistic: we only speak to them for about an hour...”

The fact that the protected reception facility still functions without a clear legal basis has been a reason for [Defence for Children and UNICEF](#) to recently call again for its creation, or at least more detailed guidelines and instructions addressing, for example, in what instances guardians or mentors are allowed to lock a door. The Minister argued that in legal terms no deprivation of liberty takes place, deciding not to take further action as the children are not ‘locked up’ but merely under tight supervision, and that many checks and balances are in place (Minister of Justice, Letter to Parliament, 19 December 2013). The special, small-scale protection centres (BOs) indeed do not (successfully) deprive residents of their liberty given that, in early 2014, five Vietnamese children disappeared from the facility and, prior to this, a young woman from Guinea also disappeared. While the formal situation did not change since the set-up of the small protection centres, it should be noted that informally the deprivation of liberty has moved. The supervision period – in which it can be argued that a deprivation of liberty takes place – has shortened and where the children were at first uncomfortable with their position, this is currently no longer the case.

The complexities are evident in trying to develop a coherent system to prevent vulnerable children from disappearing. From a human rights-based approach, one could argue that the children are ‘de facto’ deprived of their liberty and that no government is allowed to do so without a judicial review. It could also be argued that the children are merely ‘strictly supervised’ and that, even if current practice approaches a deprivation of liberty, such may be in the best interests of the child. The practice continues and has never been challenged in court. As a representative of the reception centre said “No one has an alternative”.

## 4.2 FOLLOW-UP PROCEDURES AND ACTIONS

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We have described how actors try to prevent children and young people from disappearing and in this section will focus on the question of how actors respond when disappearances occur. While acknowledging that disappearances sometimes take place from foster families, for reasons of feasibility only disappearances from regular reception facilities and the protected reception facilities are discussed.

### **DISAPPEARANCES FROM PROCESS RECEPTION LOCATION (POL), SMALL-SCALE RECEPTION OR CAMPUS**

In 2011, the Central Agency for the Reception of Asylum Seekers (COA) registered 140 unaccompanied children who had independently left a reception facility. In 2012, this number increased to 160. Such registration takes place only if a child has not called in for a period of two weeks (Minister of Justice, Letter to Parliament, 3 June 2013); therefore, children who disappeared for less than two weeks are not included in these figures.

In 2003, a number of key actors established a protocol dealing with disappearing unaccompanied children. This 'Protocol on Disappearances of Unaccompanied Children' was drafted by the Immigration and Naturalisation Service's (IND) *Informatie en Analysecentrum mensensmokkel* (IAM). It contains a 9 page key document and 12 annexes. Most respondents know this protocol exists, but acknowledge that it is outdated and no longer consult it. Certain organisations included in the protocol do not exist anymore, responsibilities have shifted, and new insights have developed over time, with most actors having a shared view of what is expected in the case of disappearances.

Children need to report twice a day to their Central Agency for the Reception of Asylum Seekers (COA) mentors; when a child fails to report, the following steps are usually taken:<sup>10</sup>

- COA mentor checks the child's room, tries to call the child (most children have a cell phone), and asks around in the centre (friends, security, etc.) if anyone has any information.
- If this does not establish where the child is, the guardian is informed. The guardian also targets the child's network to see if their (possible) whereabouts are known.
- If there are still no clear leads, the guardian informs the Immigration and Naturalisation Service (IND).
- Within 24 hours after the child did not report, the COA mentor and guardian inform the Aliens Police. The Aliens Police again check the child's room and put out a European-wide notice under the heading, "Search, Stop and Return"(OPS).
- The COA mentor fills out a 'Disappearance Form', a detailed form including information on the description of physical features, signs, possible addresses, etc., and shares it with the Police. They also alert COA's Contact Point Security,<sup>11</sup> the Health Centre, and school.
- If the child's whereabouts remain unknown for a period of more than two weeks, COA formally registers the child as disappeared.
- COA mentor and/or guardian inform the Netherlands' Centre of Expertise on Human Trafficking and Migrant Smuggling (EMM) and possibly CoMensha (see Chapter 3).
- Guardian requests the Police to make an official report (retraction of parental responsibility).

The interviewed COA mentors estimated that in about 70-80% of non-reporting incidents children show up within two weeks. Much to the frustration of the Aliens Police, who are already involved within 24

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<sup>10</sup> Except for informing the Aliens Police within 24 hours, no hard deadlines seem to exist.

<sup>11</sup> An internal database primarily used for analytical purposes.

hours, it often turns out that that they stayed over with friends. Based on their experience, COA mentors stated they take certain disappearances more seriously than others. For example, they said that they do not take a disappearance very seriously if it concerns a child who consciously has decided not to apply for asylum. The mentors argue that such children are often on their way to another country and simply do not want to be in the Netherlands. Also disappearances of young people who are about to turn 18 do not draw much attention. ‘Taking a disappearance less seriously’ does not mean that the above steps are not taken; all forms are filled out and the Aliens Police issue an alert, but it may mean that less time is invested in trying to explore the reasons for the disappearance or to find out where the child might be.

## **DISAPPEARANCES FROM PROTECTED RECEPTION FACILITY**

‘Taking disappearances less seriously’ is something which certainly does not happen in the protection reception location. Any disappearance here receives great attention and, because of the strict regime and safeguards, this does not happen very often. In 2012, for example, only one child disappeared and it later turned out that they travelled to another country and were reunited with their mother. As mentioned in Section 4.1, more recently, six unaccompanied children have disappeared, five of whom were Vietnamese and did so all at the same time.

In addition to the above steps, mentors start searching the surroundings of the reception centre, which are located in small villages, as soon as someone is missing. Mentors and/or guardians of children disappeared from the protected reception facility also immediately inform the Regional Police and the District’s Human Trafficking and Prostitution Team. Mentors make a file of each newly arrived child including, among other information, the signs that led to the referral to protected protection, a photograph, and other specific features. In case of disappearances, this file is directly shared with the Police. The Police investigate more at the ‘scene of disappearance’: DNA is taken from toothbrushes, and telephones taken upon arrival in the protected reception are scanned for useful data. Guardians may also distribute the child’s photograph to their national colleagues.

The next steps taken by the Police depend on the context; in the case of one single disappearance, it is unlikely that a special investigation team is assigned. In fact, it is unlikely that any other steps are taken except for filing the disappearance. This may differ, however, if the disappearance creates much publicity or if there are indications that it is part of something bigger. As a member of the Police stated: “In principle, we don’t spread out to talk to everyone. But if the senior ranks believe there are reasons to investigate, we investigate.”

In the past, the Police, Jade (contracted to run the protected reception facilities), and Nidos guardians discussed the possibility of issuing public alerts about missing unaccompanied children. The most suitable system would be the international ‘Amber Alert’, which uses email and text message (SMS) to notify the general public about disappeared children. Both Nidos and Jade did not support the idea, as one respondent stated: “It is sensitive information. If you send out a picture and all that kind of information... It impacts the child’s privacy, but more importantly, it may impact the child’s safety.” When discussing the option, another respondent said that it might be wise to reconsider this view: “It depends on the situation. Are we talking about a 17 year old or a 10 year old? In some cases, solving a disappearance may be of more interest than privacy”.

## 4.3 CONCLUSION

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In 2008, the Netherlands established a protected reception centre in order to prevent child asylum seekers believed to be at risk of trafficking from disappearing. Particularly in the first weeks, children may be very closely monitored and are told not to leave the house. Human rights-based actors have argued that the children are 'de facto' deprived of their liberty and that no government is allowed to do so without a judicial review. Other support actors (those responsible for the children's rights and wellbeing) have argued that the children are merely strictly supervised and that, even if this is close to deprivation of liberty, it may be in the best interests of the child. The most recent protocol dealing with disappeared unaccompanied children was published in 2003 and is outdated; many organisations mentioned in the protocol no longer exist. Where a child fails to report at a regular Central Agency for the Reception of Asylum Seekers (COA) location, the guardian is immediately informed if there is no idea of their whereabouts. The Aliens Police is informed within 24 hours and issue a European-wide notice. When disappearances occur at the protected reception centres, a much more thorough investigation by the Regional Police and the District's Human Trafficking and Prostitution Team follows.

# 5. PROTECTION STATUS PROCEEDINGS AND INFORMATION

*The goal of this chapter is to establish what actors are involved, and how, in informing protection status proceedings about the circumstances of the child. It discusses what actors are involved in gathering, providing, or receiving information related to protection procedures, how they are qualified and resourced to act, and how, and to what extent, they co-operate. In this chapter, special emphasis is given to the phase leading up to the asylum request. This includes how children are made aware of their protection rights and the right to participate in proceedings, including other actors providing information on their behalf.*

## 5.1 THE ASYLUM PROCEDURE FOR UNACCOMPANIED CHILDREN

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In the Netherlands, the Ministry of Security and Justice, through the Immigration and Naturalisation Service (IND), decides upon asylum requests. Asylum seekers can appeal their decision in court and both the asylum seeker and IND may appeal the Court ruling to the Council of State. After a negative decision, all asylum seekers, including children, have the possibility to submit a subsequent asylum application where they can provide ‘nova’, new information relevant to the case that had not previously been considered in the first decision.

Section 2.5 provides a brief overview of the stage leading up to the asylum claim and shows that the three week preparation period and eight day asylum procedure are relatively short. The Nidos guardian takes a central, co-ordinating role in this phase and is well-equipped to do so when adequately informed by other actors. Section 2.6 notes how the most relevant actors have regular formal and informal meetings to discuss the child’s welfare and asylum proceedings.

### PREPARING THE CHILD

At least three different actors prepare the child for the asylum procedure: Nidos, their lawyer, and the Dutch Council for Refugees (VWN). Apart from verbally explaining the procedure, there are also multilingual information leaflets available. An issue to note (but not specifically related to unaccompanied children) is that government fees for professional immigration lawyers have recently been reduced, with less time spent on providing their services and so the child may be more dependent on legal advice given by VWN volunteers.

### INFORMATION BASE AND SHARING

Typically, the child provides most of the information upon which the Immigration and Naturalisation Service (IND) bases their decision. If any relevant additional information is available to the child’s lawyer or guardian, they can and will inform the IND about it. This could, for example, concern information about the child’s previously expressed views, welfare arrangements, psychological development, or additional vulnerabilities and traumas. Particularly when the child seems to have certain physical or psychological issues, they are often repeatedly questioned about possible traumas by the guardian, the lawyer, the Dutch Council for Refugees (VWN) representative, medical staff, mentors, or social workers. Typically, though, there are no specialist actors working with the child to discern possible relevant information, as it is not standard practice for the child to see a psychologist, nor country specialists to be consulted.

There is no shared access to official databases, although the most relevant formal actors working with the child (Nidos, Immigration and Naturalisation Service (IND), lawyers, and Central Agency for the Reception of Asylum Seekers (COA)), all use their own independent information systems. Information sharing does not happen automatically, but only if deemed relevant by the respective actors. Nidos and COA respondents indicated that information is never exchanged without the prior permission of the child, and COA does not share information with IND without the prior permission of a Nidos guardian.

## CHILD-SPECIFIC COUNTRY OF ORIGIN INFORMATION

Immigration and Naturalisation Service (IND) decision makers consult 'Official Reports' (*Ambtsberichten*) of the Ministry of Foreign Affairs for country information. These reports are drafted by Embassy Staff in the respective countries and contain information about the social, economic, and security situation. IND decision makers also use these official reports to assess aspects related to the best interests of the child. A number of non-state actors critique the current reports, because the child-specific information in these reports is often limited to the risks of being recruited as a child soldier or being subjected to genital mutilation. It is argued that on the basis of this limited information a proper protection assessment cannot be made. Additional elements which could be included in these reports are discrimination or marginalisation of certain groups of children such as returned children, risks of penalisation by traffickers upon return, re-trafficking, access to education, (including language difficulties), the threat of (underage) forced marriage, the quality of children's care, and child protection institutions. If lawyers want to highlight any additional elements they typically have to rely on scarcely available NGO reports.

## CONFIDENTIALITY ISSUES

When a child shares information in confidence with a mentor, such information is generally not shared with the Nidos guardian. A barrier of [silence](#) between the different actors regarding [confidentiality](#) requirements at times leads to frustration. In general, however, all actors accept that children have the right to request confidentiality from any actor.

## SPECIAL EXPERTISE

Nidos guardians are highly specialised professionals, typically social workers who completed additional courses and programmes related to taking custody of unaccompanied children with a different cultural background (as is also the case with most Central Agency for the Reception of Asylum Seekers (COA) mentors). All procedures for unaccompanied children are dealt with in one Immigration and Naturalisation Service (IND) office in Den Bosch where staff members with specific training in dealing with underage asylum seekers carry out the interviews. A limited number of interviewers are trained to specifically deal with applicants under 12 years of age. Recently, a pool of lawyers with particular expertise in working with (trafficked) children has been established, however, the Courts have no specialised judges appointed.

## ASSISTANCE IN RELATION TO THE ASYLUM APPLICATION

In most cases, the IND decision makers do not actively seek information that is relevant to the child's protection claim. The child is, in principle, responsible for providing the IND decision maker with relevant information. On a practical level, the lawyer and sometimes the guardian assist the child in obtaining relevant information. Guardians regularly provide access to the Internet and Skype, which may enable the child to request contacts in the country of origin to send relevant documents. In case the child wants to obtain a birth certificate from the country of origin, guardians inform the lawyer or the Dutch Council for Refugees (VWN) who may find assistance via NGOs or churches. Often, the child gets help via their own networks.

## AGE ASSESSMENTS

If the authorities have doubts about the age of an unaccompanied child, an age assessment is carried out with X-ray photos taken of the wrist joints and collarbones, from which a radiologist assesses the maturity of the wrist and, if necessary, the maturity of the collar bones. Following complaints about asylum procedures that included age assessments, the use of age tests has been discussed by various organisations (including the National Ombudsman). Partly in response to this criticism, age assessments are currently performed on the basis of a reviewed protocol which was developed under the responsibility of the Age Testing Committee and which specifies the actions and responsibilities of the organisations concerned.

## FAMILY TRACING

Regarding family tracing, the Minister of Justice stated in a [letter of August 2013](#) that the Dutch Authorities, in line with the [Dublin-III Regulation](#) investigate the possibilities of transferring a child to another Member State where there are ‘concrete indications’ that the child has family members in that State, however, what constitutes such indications is not clearly defined. The Minister also stated that family tracing in the country or origin only begins where a child’s asylum claim is turned down. Collateral relatives in the fourth degree (first cousins) are considered to offer ‘adequate reception.’ The Ministry uses different actors for family tracing, ranging from Embassies and the Immigration and Naturalisation Service (IND) and Royal Netherlands Marechaussee (Kmar) liaisons in the respective countries, as well as specialised agencies such as the Identity Checking Unit of the Afghan Ministry of Foreign Affairs. The child can also request the Red Cross or International Organisation for Migration (IOM) to trace their family.

## 5.2 INFORMATION OVERLOAD

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The protection procedure in the Netherlands is by and large quite well established. Most of the actors have relatively clear mandates and responsibilities, and representatives of these agencies are often qualified professionals with specific expertise. However, the interviewed respondents certainly do see opportunities to modify and improve the status proceedings. One issue a number of respondents referred to is that of asylum-seeking children in preparing for their asylum claim meet a great many different people who supply them with an abundance of information, and important aspects of the child’s rights and the protection procedure may not be taken into account.

Even before the Immigration and Naturalisation Service (IND) interview, many of the actors working with the children, with the best intentions, directly or indirectly often enquire about the child’s past; in particular, when the child presents certain physical or psychological issues, they are repeatedly questioned about the possibly traumatic flight. Although respondents said that a number of children indicate that they consider it positive to tell their story several times, they also stated that many others complain that repeating these events is very demanding. It may also lead to confusion regarding when, and to whom, they actually make an official asylum request.

As well as the verbal information provided by the actors, during the three-week rest and preparation period, the child is also, again with the best intentions, given numerous pieces of written information such as brochures, fact sheets, and information leaflets on *at least* the following issues: how to use public transport; Lesbian, Gay, Bisexual and Transgender (LGBT) Rights in the Netherlands; hygiene advice; swimming warnings; security rules and procedures in the reception centre; voluntary return information; the asylum procedure; complaints procedure of the reception centre; information on how to use the money card; access to public health facilities; sexual advice; the role of the guardian; the role of the Dutch Council for Refugees (VWN); and the school system. Typically, the actors providing information stress the importance of the content and advise the child to carefully read the material. The child, often not able to differentiate what is really important or not, typically puts all the brochures together and drags them along to each meeting. One actor argued that, because of this, they did not always provide the full package of information available: “where possible, we try to keep things small in order not to overload them.”

The image below illustrates the range of information most unaccompanied children receive in the three weeks preceding the asylum interview. Even if the child is properly informed about all their rights and the upcoming protection procedure, and if all this information can be regarded as relevant from the perspective of the best interests of the child, it is questionable to what extent one can expect the child to properly understand and absorb all of the rights-based information provided. There are simply too many formal and informal actors providing diverse and occasionally contradictory information.

## Three-week Rest and Preparation?

Don't tell them that you came through Greece!

This is a digital card with money on it... No, really you can pay with it.

In case you want to return, we can provide you with assistance of any kind!

This is the Netherlands, so we expect you to be on time.

*Kun je al een beetje Nederlands spreken?*

And what colour were the seats on the airplane?

It is very important to use the blue towel for the dishes only!

YOU HAVE THE RIGHT TO...

Have you ever had any disease?

In case the water is cold, you can file an official complaint through...

In the first hearing, they will ask questions about your travel route. In the second hearing, you will..."

The church is always open. Please call whenever you need help.

In this country, it is not strange to see a man kissing another man on the street.

Why are you in Holland? We said London. Call your Uncle!

As long as you stay calm and tell the truth, all will be fine.

Do you have any questions?



Apart from the sheer number of actors providing (different sorts of) information, an additional problem is formal actors like guardians, mentors or even lawyers may have a hard time to gain the child's trust. As one mentor stated: "Some of them learned from their early childhood not to trust dogs and Christians. They might simply not listen to what is being said. It may go in one ear and right out the other..." In contrast, advice given by informal actors like fellow nationals, family members, or travel agents is often taken very seriously.

A Nidos internal study confirms the risk of overloading the child with new actors and information in the three-week preparation period. Weeks after they had made their asylum request, Nidos asked dozens of children to name as many as possible of the organisations they had spoken to in preparation for the asylum application. They could only identify a few actors and had many difficulties in explaining the organisations' responsibilities and activities.

Solving the problem is far from easy. All unaccompanied children enter a new country with a very different culture. They must not only be informed about the legal procedure, but also be introduced to this new cultural physical environment and this takes time. The most obvious solution may be to extend the rest and preparation period, allowing the child more time to understand the information provided. It is, however, questionable whether such an extension would be politically viable and the children themselves often want the asylum application 'done with' as soon as possible. Although guardians may, in exceptional cases, request adjournment of an asylum hearing, they hardly make use of this opportunity because the children do not want any delays. Although it should be noted that the number of cases in which this does happen is growing and it is taken seriously by immigration services.

A more feasible option may be to better integrate the process of requesting and providing information. Where the child currently meets different actors in different stages all engaged in medical assessments, this could be combined, as with the meetings to prepare for the asylum procedure, where the child currently meets four different people (the guardian, lawyer and representatives from the Dutch Council for Refugees (VWN)) on at least three different occasions.

## 5.3 PROTECTION PROCEDURES AND THE BEST INTEREST OF THE CHILD

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Another 'hot issue' in the Netherlands, relating to the fact that the Ministry of Foreign Affairs official reports lack child-specific information, is the question to what extent the Immigration and Naturalisation Service (IND) demonstrates that it actually takes the best interests of the child into account when making an asylum decision. [Defence for Children and UNICEF](#) recently suggested the Minister of Justice should include a paragraph in each decision explicitly showing how the interests of the child have been assessed and how these have been weighed against other interests. In response, the Minister referred to Article 3 (1) UN CRC<sup>12</sup> and confirmed that the best interests of the child are weighed against other interests, including state interest and the interest of keeping a social support base for immigration policy (Ministry of Justice, Letter to Parliament, 19 December 2013).

When asked for their opinion whether the best interests of the child are always taken into account in asylum/immigration decisions, a number of respondents reacted rather cynically; the general tone was one of doubt and many cited examples to support this.

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<sup>12</sup> "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

## 5.4 CONCLUSION

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All procedures for unaccompanied children are dealt with in one single office of the Immigration Authorities, thus allowing specialised staff members to conduct the interviews. Recently, a pool of lawyers with particular expertise in working with (trafficked) children has been established, however, the Courts have not appointed any specialised judges. Children are informed about their rights and the upcoming procedures, but they might be overburdened with too much information and meeting too many different actors, leading to confusion about when, and to whom, they actually make an official asylum request. As Ministry of Foreign Affairs official reports hardly discuss child-specific information, it is questionable to what extent the Immigration Authorities actually take the best interests of the child into consideration when deciding upon an asylum request.



## 6. REFLECTIONS AND GOOD PRACTICES

*This country report on the Netherlands considered the roles and responsibilities of actors responding to the situation of unaccompanied children. It mapped how agencies work together, thereby contributing to the development of better understandings of actors' roles and co-operation. It specifically addressed the question of how actors identify and assess extra vulnerability and disappearances of unaccompanied children and described their response. Additionally, it discussed what actors are involved, and how they are involved, in informing protection status procedures about the circumstances of unaccompanied children.*

The system working with unaccompanied children can be identified as professional and specifically task-organised. Improvements in policy and practice can be identified but are dealt with on the political and policy level. Strong features are the specific attention that is given to the target group, national institutions that co-operate on all levels, and a professional guardianship organisation. Areas of weakness are the lack of an integrated approach on disappearances and the discrepancy that arises between being under age and the new situation suddenly faced when one turns 18.

## **EXTRA VULNERABILITY**

Given the contemporary debate in the Netherlands, the study focused exclusively on 'human trafficking' as a vulnerability factor. Formal actors are generally adequately qualified and trained to deal with indications of human trafficking and there is a relatively sound system in place to protect possible victims. In general, the main actors are properly trained, equipped, and willing to report indications of human trafficking, however, there are (too) many different organisations registering data and it is very unclear how registered data is used. It is impossible to have a reliable estimation of the number of trafficked children. Although law enforcement actors claim it is extremely challenging to complete a successful criminal investigation on the basis of asylum statements made by children staying in protected reception, lawyers and guardians still advise children to file a report with the Police as this can be useful for their asylum application.

### **Reflections and Areas of Improvement**

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- Limit the number of actors recording signs of human trafficking and professionalise the registration process and ways of handling gathered data. This leads to a more accurate assessment and encourages more actors to make use of the data.
- Continue efforts to improve the referral mechanism and indicators to identify possible victims of human trafficking.
- Continue to organise the co-called 'COBO Meetings' (Casuistic Consultation Protected Reception) where the most relevant actors dealing with (possibly) trafficked children informally discuss issues. This allows those present to quickly and openly explain issues, clarify their position, and explain their mandate.

## **DISAPPEARANCES**

In 2008, the Netherlands established a protected reception centre to prevent child asylum seekers who are believed to be at risk of trafficking from disappearing, however, human rights-based actors have argued that the children are 'de facto' deprived of their liberty and that no government is allowed to do so without a judicial review. Other actors responsible for the children's rights and wellbeing have argued that the children are merely strictly supervised and that this may be in the best interests of the child. The most recent protocol on disappeared unaccompanied children is outdated. If a child is presumed missing, the Aliens Police is informed within 24 hours and issue a European-wide notice. Where disappearances occur from the protected reception centres, a much more thorough investigation follows.

## Reflections and Areas of Improvement

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- Investigate the desirability of updating the 2003 protocol and include a procedure for the protected reception, as it was previously a used and valued tool.
- Appoint one overall co-ordinator to deal with disappearances (as no one is exclusively accountable) and limit the number of contact persons per organisation.
- Limit the number of relocations of children as this would enable mentors to build stronger rapport with the children and improve their level of information.
- Reconsider whether tools like Amber Alert should be used with a limited number of disappeared unaccompanied children. It may help to locate the children more swiftly, but can breach the child's privacy and may threaten their security.

## STATUS PROCEEDINGS

All procedures for unaccompanied children are dealt with in one single office of the Immigration Authorities, allowing specialised staff members to conduct the interviews. Children are informed about their rights and the upcoming procedures, but might be overburdened with meetings and confusing amounts of information. It is questionable to what extent the Immigration Authorities take the child's best interests into consideration when deciding upon an asylum request.

## Reflections and Areas of Improvement

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- Ministry of Foreign Affairs official reports should include more detailed child-specific information to allow the weighing of the best interests of the child against state interest and the keeping of a social support base for immigration policy.
- Streamline the three-week rest and preparation period, limiting the number of actors a child encounters and minimising information overload. Consider providing information through a phased approach on a need-to-know basis instead of everything more or less at the same time, this would allow the child to more calmly prepare for the asylum interview.
- Consider appointing judges specialised in assessing claims of unaccompanied children.

# GOOD PRACTICES

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## ❶ PROFESSIONALISE GUARDIANSHIP IN TERMS OF QUALIFICATIONS AND REIMBURSEMENTS AND PROVIDE GUARDIANS WITH A CO-ORDINATING ROLE IN THE ASYLUM PROCESS OF UNACCOMPANIED CHILDREN.

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Such a central co-ordinator could ensure no gaps in responsibility and/or accountability exist and safeguard the child's best interests in all aspects.

## ❷ IF FEASIBLE, ASSIGN GUARDIANS WITH THE RESPONSIBILITY TO IDENTIFY AND CARE FOR POSSIBLE VICTIMS OF HUMAN TRAFFICKING.

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Doing so will emphasise that the child is primarily regarded as a possible victim, rather than a potential witness who can be used in the prosecution of perpetrators.

## ❸ ORGANISE PROTECTED RECEPTION FACILITIES FOR POSSIBLE AND POTENTIAL VICTIMS OF HUMAN TRAFFICKING.

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This allows qualified and experienced staff to supervise these children in a safe environment.

## ❹ PROMOTE ORGANISATION OF THE UNACCOMPANIED CHILDREN AND PARTICIPATION IN POLICY-MAKING AND CONSULTATION.

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Organise structured opportunities for unaccompanied children to voice their opinions and express their views, as done through the Unaccompanied Minors Monitor. This creates a platform for the children to be 'heard' and allows practitioners and policy makers to consult the children's opinions on specific issues of interest.

## ❺ PROCESS ASYLUM PROCEDURES OF UNACCOMPANIED CHILDREN IN A LIMITED NUMBER OF LOCATIONS.

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This allows hearing officers, lawyers, and guardians to gain experience and build up expertise in dealing with asylum claims from unaccompanied children, which may improve the quality of decisions. It may also facilitate informal contacts between actors with possibly conflicting interests and mandates, ensure uniform processing and eventually create more standardised outcomes (similar outcomes for similar cases).

# ANNEX I

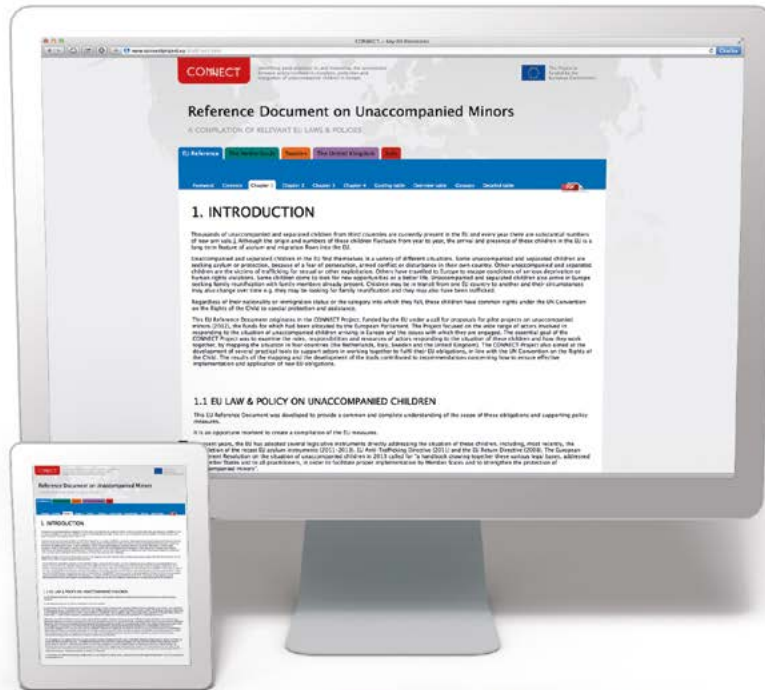
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CONNECT



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[www.connectproject.eu](http://www.connectproject.eu)