Please cite as: EUAA, '4.6.2. Legal representation for asylum-seeking children' in *Asylum Report 2024*, Juni 2024.

4.6.2. Legal representation for asylum-seeking children

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In 2023, FRA developed a manual for trainers of guardians, which is complemented by an e-learning platform.1063 In addition, together with the EUAA, two practical guides were developed for guardians as an introduction to international protection and to the asylum procedure.1064

A lack of guardians for unaccompanied minor applicants was reported, for example, in Belgium, the Netherlands and Slovenia which caused delays in one being appointed. The Dutch Nidos highlighted that guardians had a high caseload, making it difficult to provide sufficient guidance for each child.1065 In Slovenia, even though two public calls were launched, only a small number applied. The government planned to make amendments to address this issue. For unaccompanied minors in Slovenia, a new decree established a dedicated reception facility, which opened in April 2024.1066

The reform of the Guardianship and Care Law came into effect in January 2023 in Germany. The changes mainly impact guardianship of adults and strengthens the self-determination of adults in need of support, in line with the CRPD. In addition, the new law includes provisions to ensure high-quality professional support. Children's rights and their guardians' duties were standardised. When a permanent guardian cannot be appointed immediately for a child, the family court will appoint a temporary guardian. This can also be the youth welfare office or a guardianship association, which must then appoint a member of the association.1067

A bill proposal on guardianship and fostering children was approved by the Cypriot Council of Ministers to enhance protection and support for children in the care of the Social Welfare Services, currently the majority of them unaccompanied minor applicants.1068

Amendments to the Law on International and Temporary Protection in Croatia specified that the guardian is obliged to start family tracing as soon as possible for unaccompanied children. In addition, confidentiality must be respected when managing information on a child and the family in order to not jeopardise the child's safety.1069

The Network for Children's Rights noted that, even though a law on a national system of guardianship for unaccompanied minors was adopted in 2022 in Greece, its implementation was

still not in force.1070 The Greek Council for Refugees added that the procurement procedure for guardians was finalised in autumn 2023 and the first guardians were expected to be hired and trained until the end of 2023, to start in the beginning of 2024.1071

The ECtHR found a violation of the ECHR, Article 8, but not that of Article 3, for a minor who had arrived to Italy and was at first assessed to be an adult during an age assessment procedure that took place without the appointment of a legal guardian. Even though he presented a birth certificate showing his age, the authorities did not apply the presumption of minor age, which the court underlined to be an inherent element of the right to respect for the private life of an unaccompanied minor.

The Administrative Court in Košice, Slovakia found serious misconduct by the authorities for not applying for a legal guardian for a 15-year-old child who was accompanied by an older brother. The court underlined that only parents or court-appointed guardians can be considered as a legal guardian for a minor. The procedural mistakes led to the child's detention, and the court also annulled the detention decision.

In 2023, the Association for Legal Intervention initiated the project "Support system for the reception of unaccompanied minor migrants in Poland" to ensure that a sufficient number of guardians for unaccompanied minors are available. The project targets lawyers wanting to be guardians and foster care institutions admitting foreign minors.1072

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