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6.4 Legal representation of minors



Typically Member States which faced an increasing number of applications from unaccompanied minors implemented changes in their legislation and policy related to legal representation in 2019. Guardianship systems remain widely diverse across the EU, and international organisations and civil society organisations continued raising awareness about major gaps in the appointment process, the scope of a guardian's tasks, communication between the representative and the child, and the guardian's workload and training in general.

The Ministry of Labour, Social Security and Social Solidarity in Greece issued several ministerial decisions throughout the year related to the registry of professional guardianship, guardian selection criteria, training and the procedures for the assessment and determination of the best interests of the child. These changes, however, were assessed by NGOs to not have achieved significant improvement within the system.[231] In addition, civil society organisations expressed concern about the transition of the implementation of the Guardianship Law from the NGO, METAdrasi, to the National Centre of Social Solidarity by 1 March 2020, since state-employed guardians would not fulfil the full scope of protection services currently offered and the process is dependent on other psycho-social assessment procedures, which will be carried out by already-overstretched public services.[232]

In order to prevent delays, a fast-track procedure was put in place in Malta with an interim care order to appoint the Head of the Agency for the Welfare of Asylum Seeker (AWAS) as a legal guardian for unaccompanied minors. The head of the agency may delegate this task to AWAS social workers. Nonetheless, the NGO, aditus, reported that delays persisted in the appointment process throughout the year.[233] UNHCR also expressed some concerns on how the lack of staff and resources to AWAS resulted in some basic standards falling short in the best interests of the child and guardianship.[234]

Slight delays were also observed in Hungary in the appointment of guardians. NGOs generally had a good working relationship with guardians. However, it was noted that many guardians did not receive training or have any prior experience with unaccompanied minors, while they were often tasked to care for 40 to 45 children in parallel, not leaving sufficient time to properly look after each individual child.[235] The 2019 updates of the AIDA reports also underlined the need for interpreters to assist guardians so establish clear communication between the guardian and a child.[236]

In Romania, the process to amend the legislation on child protection was initiated. In this respect, UNHCR and GII proposed that clear provisions be introduced on the responsibilities of a

legal representative when providing assistance to an unaccompanied minor during the asylum procedure. The draft is currently under approval.[237]

Civil society organisations in Switzerland noted that duties need to be defined in law or it could lead to discrepancies in practice.[238]

Among initiatives to improve the quality of the guardianship system, the Guardianship Service in Belgium continued with an AMIF-funded project to develop a methodology for monitoring guardians and the assessment of the best interests of minors. It worked on improving communications with all stakeholders.[239] The protocol agreements between the Guardianship Service and the guardians' associations were adjusted as the allowances of the associations were increased, following the amendment of the relevant Royal Decree in 2018.[240] The country faced challenges in retaining guardians: while 42 new guardians were recruited in 2019, their overall number decreased slightly.

To address a similar issue, the federal government in Germany funded a project to attract more voluntary guardians. The AMIF-funded Competent Representative *(Osaava edustaja)* project was launched in Finland to develop online training for representatives of unaccompanied minors. Universities from Cyprus, Greece, Italy and Lithuania developed Standard Operating Procedures for Guardians in the framework of the Alliance for Children on the move project.[241] The European Guardianship Network was formalised in the framework of the Touchstone project aiming to improve the quality of guardianship through exchanging expertise with organisations from Austria, Belgium, Croatia, Cyprus, Denmark, Germany, Greece, Ireland, Malta, Poland, Spain, Switzerland and the United Kingdom.[242]

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