



# Case study on reception and durable solutions through apprenticeship AMIE Estrella centre, France

This case study is part of a series of in-depth reports into five reception models/practices and a range of policy areas relating to the reception, protection and integration of unaccompanied children in different countries, as part of the project, “No longer Alone: Advancing Reception Standards for Unaccompanied Children”.

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## LIST OF ABBREVIATIONS

ASE	Aide sociale à l'enfance – Child welfare services
CFA	Centre de formation de apprentis - Training centres for apprentices
CFP	Centre de formation professionnelle - vocational training centre
CIO	Centre d'Information et d'Orientation- centre of information and the orientation)
CPAM	L'assurance Maladie-National Health Insurance
Cellule nationale	National cell
DASES	Direction de l'Action Sociale de l'Enfance et de la Santé - Department of Social Action, Childhood and Health
DPMIE	Direction de la protection des mineurs isolés étrangers - Department for the Protection of Unaccompanied Children
DPJJ	Direction de la Protection Judiciaire de la Jeunesse -Directorate for Juvenile Justice Protection of the French Ministry of Justice
ECRE	Conseil européen pour les réfugiés et exilés - European Council on Refugees and Exiles
FTDA	France terre d'asile
MoJ	Ministère de la Justice - Ministry of Justice in France
OFPRA	French office for the Protection of Refugees and Stateless Persons-Office Français de protection des réfugiés et des apatrides.
SEMNA	Secteur éducatif Mineur Non Accompagné - Education Service for Unaccompanied Foreign Minors
SWOT	Strength, Weakness, Opportunities Threats
UAM	Unaccompanied Minor <sup>3</sup>
UFM <sup>4</sup>	Mineur isolé étranger - Unaccompanied Foreign Minor
UNCRC	UN Convention on the Rights of the Child

1. [http://www.ecre.org/wp-content/uploads/2016/10/France\\_Study\\_Visit.pdf](http://www.ecre.org/wp-content/uploads/2016/10/France_Study_Visit.pdf)

2. [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2016update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2016update.pdf)

3. Please note that the term has been abandoned in the French judicial system since April 2016. French judicial system is referring to them as UAMs only ever since. Therefore we will refer in this report as UAMs.

4. This is the closest translation for "mineur isolé étranger" - Ftada

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## CONTEXT

The No Longer Alone project focuses on different aspects of five reception models to assess whether they are good practice amongst EU Member States. This was analysed through field visits to develop an in-depth study of each of the reception models listed below and to identify key challenges and recommendations for improvement. The reception models/practices chosen to be part of this project were as follows:

- Dedicated facilities for trafficked children (the Netherlands)
- Dedicated reception centres with a range of integrated services (Hungary)
- Reception and durable solutions through apprenticeship (France)
- The role of guardians in ensuring appropriate reception (Scotland)
- Youth empowerment in relation to reception conditions (Sweden)

The project created a space for discussion and information sharing amongst different stakeholders, both at the national and local level through five study visits for European state officials, decision-makers and other experts involved in the protection and integration of unaccompanied minor asylum seekers and refugees. These study visits offered the possibility to directly exchange experience and information on existing practices and concrete ways to adapt them in other national contexts. In addition, they were an opportunity for participants to visit specific sites and interact with different stakeholders. Another objective was to develop common findings and recommendations for national policy-makers through feedback from the participants.

The case studies looked at five reception models and practices to underline key challenges and solutions for improvement. Each case study includes qualitative and quantitative research into a range of policy areas relating to the reception, protection and integration of unaccompanied children in the countries. The case studies looked at the organization of reception and care, including additional support provided to children through the models (the appointment of and relations with guardians, legal advice, psychological support, etc.)

Through desk research and interviews the aim of this analysis was twofold:

- to help other Member States identify opportunities and challenges related to the potential implementation of one reception model/practice, so that it could be considered when working in their own national context
- to help the Member State already applying these reception models/practices to improve their implementation

Interviews, which were a crucial part of the research, complemented the information that was gathered through the desk research and contributed to the content of the case studies.

Other outputs of the project were a compendium of the five selected practices (including the case studies and the reports from the study visits) and a toolkit on empowering children and young people themselves to evaluate and take part in policy and decision-making processes.

The project was carried out from November 2014 to July 2016. It was coordinated by ECRE, in partnership with Nidos in the Netherlands, the Hungarian Helsinki Committee, Save the Children Sweden, the Scottish Refugee Council in cooperation with the Scottish Government, and France terre d'asile in cooperation with the Directorate for Juvenile Justice Protection of the French Ministry of Justice (DPJJ) and the Groupement d'intérêt public 'Justice Coopération International' (GIP JCI).

Detailed findings on each model can be found in both the case study and study visit project reports and accompanying presentations. The background and analytical research in the case studies reflect the rapidly changing situation in many countries due to the unprecedented increase in the number of unaccompanied children arriving to seek protection in 2015. Individual case studies and feedback from participants showed that there is room for improvement in each model. Recommendations have been included for stakeholders at the national level to reflect this.

### ***Key learning from the project***

There were increased numbers of refugees seeking protection in EU countries, including many unaccompanied children. Therefore, identifying and sharing promising practices is more important than ever for humane and effective reception models. However, the high number of children arriving in some countries has also made reflection on current practices and their improvement more difficult due to resource constraints. Nevertheless, the opportunity for MS and other stakeholders to exchange information and discuss best practice during this project was useful for all who participated.

The main findings from the project include:

- The five reception models that are the subject of this project vary from one country to another and have emerged within, and in part reflect, different legal and socio-economic traditions and contexts. This means that even if an aspect of practice is considered promising it may not be directly replicable in another country. Some of the differences that were found in the project countries are:
  - o Different reception structures/models;
  - o Different national legislative and policy frameworks;
  - o The fact that some countries are transit countries, and others destination countries; and
  - o Different levels of national funds to provide better reception facilities and services for unaccompanied children.
- An 18-month project maybe too short a time-frame for good practice to be taken on board by others as this is inevitably a complex undertaking. However, good practice can be identified and disseminated as was the case for the five reception models.
- Even though common EU legislation is in place, and EU member states are subject to the same international legislation, reception practices for unaccompanied children do not always meet the same standards across the EU. The study visits involving cross-European delegations enabled participants to better understand these disparities.

Nevertheless, the study visits proved effective as in general, participants felt that as a result they were better able to:

- critically assess their own system by comparing it to the reception model visited and to appreciate its relative strengths and weaknesses more clearly
- interact with host member state authorities and learn about the recent, current, and future situation relating to unaccompanied children, in each country
- collect information and ideas useful for the development of their current and future work; and
- build a network of practitioners and get to know their counter-parts in other countries.

## METHODOLOGY

The research was based on a common methodology developed by ECRE in consultation with the project partners. However, within the common terms of reference, some adjustments were made to take into account the specific nature of each practice.

The report synthesises information gathered by both national expert and the ECRE researcher through an analysis of the existing national policy and legal framework on asylum and immigration. The researcher was assisted by Clara Mallet, expert and project partner working for France terre d'asile, who carried out initial desk research, which was then completed by the project researcher at ECRE. The statistical research was completed by the DPJJ as well as analysis of the domestic legislation. During an on-site visit to Paris, France on 27-29 May 2015, the researcher carried out face-to-face interviews with stakeholders working on reception conditions in France. These interviews were based on a semi-structured questionnaire. The report also presents and reflects the findings of the interviews.

By using a holistic approach and a Strength, Weaknesses, Opportunities and Threats (SWOT) analysis the case study investigation report analysed the quality indicators of the *AMIE Estrella centre*, and the quality of life experienced by UAMs. In addition, the report summarises the national framework of primary and secondary legislation, its implementation and to what extent it is in compliance with international and regional instruments, including the UN Convention on the Rights of the Child (UNCRC) and the EU legal framework.

During the interviews the main areas of focus were the responsibilities and role of each stakeholder interviewed, the nature of the interviewees' work with unaccompanied children, experiences with ASE, experiences and examples from AMIE Estrella centre, difficulties and weaknesses of the system, and potential ways to improve the system.

### **Stakeholders interviewed:**

A total of 10 interviews were undertaken. The following individual stakeholders and organizational representatives were interviewed at the national level as part of the case study visit:

- Gérard Seillé, Head of the UFM Project, Department for the Legal Protection of Youth, Ministry of Justice (MoJ) – Chef de projet Mineurs Isolés Etrangers, Direction de la protection judiciaire de la jeunesse, Ministère de la Justice, and another staff member
- Valentin Saumier, Director of the Unaccompanied Minor Education Service, Department of Paris (SEMNA) – Responsable du Service éducatif auprès des mineurs non-accompagnés (SEMNA), Département de Paris. Two members of staff of his department was part of the interview.
- Camille Thomas, former Deputy Director of the AMIE Estrella Centre
- Akim Boutria, the jurist of the AMIE Estrella center
- Mr. Desmeulles, Employer at Compass Group
- The head of the vocational training centre

## GENERAL OVERVIEW AND INFORMATION

### Policy and legislative background: the current changes, identified issues and room for improvement

The presence of unaccompanied minors (UAMs) on French territory appears to be a long-term phenomenon calling for organized and systematic responses. However, responding is complicated due to the legal situation of the minors, caught between legislation on the protection of children and legislation on the presence of non-EU nationals in France.<sup>5</sup>

France is a signatory to all major treaties dealing with children's rights and it has in place mechanisms to monitor the implementation of the 1989 UNCRC and an Ombudsman for children.

In France, application of considerations on best interest of the child means that unaccompanied minors are regarded first and foremost as children, prior to their status as foreign nationals. This is in line with Art. 3.1 of UN CRC and Art.24 of the Charter of the Fundamental Rights of the European Union (the Charter). In addition, UAMs can reside in France until they are 18 years old without running the risk of being expelled, which is legally forbidden in relation to minors. Therefore, once present on French territory, they can no longer be the subject to a deportation order. As a result, they do not necessarily need to seek asylum to reside in France although they can do so once they are settled or even before the minor status is recognised.

#### A new national system for sheltering, age assessment and orientation of UAMs

The protection of UAMs in France falls under the child welfare services, within the *département administration*. The law of 5 March 2007<sup>6</sup> reforming child protection system clearly states that all minors – with no distinction in terms of nationality – are entitled to child protection as soon as they are deprived of the protection of their family on French territory. UAMs who are caught at the border may also benefit from these measures intended to protect children in danger: assisted by an ad-hoc administrator, they can request the judge to let them out of the international border zone and into the protection of child welfare services.

Since the 2000s, the Ministry of Justice has been responsible for provision of solutions for the increasing arrivals of UAMs in France. The new situation has led to a reform of the entire reception system set out in a 2013 national plan and based on the principle of solidarity between *départements*. The plan aimed to distribute newly arrived UAMs among different *départements* of France and to regulate the procedures for age assessment through three steps: a social evaluation, an evaluation of ID documents, and a medical evaluation, only if the judge deemed it necessary because the two previous steps were insufficient to determine the minor status of the person.

As a result, a national system for sheltering, age assessment, and orientation of UAMs was introduced, through the ministerial circular of 31st May 2013.<sup>7</sup> It has recently been coordinated by the Ministry of Justice through a specific financing system and a national distribution system.

The system focused on streamlining the distribution of UAMs on national territory in a proportionate manner among the *départements* of France which are the territorial entities responsible for child care services. In addition, it aimed to harmonize practices for the phases of shelter, assessment, and orientation of UAMs and their care. In order to do so, and to strengthen cooperation between actors in this field, the Ministry of Justice launched a training programme for the persons within the *départements* responsible for conducting age assessment interviews. The training programme took place in Angers from 13 to 15 September to 15 2016, and was organized in partnership with the Training Academy for Public Administrators (CNFPT) and the National School for Juvenile Protection (ENPJJ). Facing massive demand from the *départements*, the Ministry of Justice, the CNFPT and the ENPJJ organized a second session in January 2017. Once more, the training session was a success, as all available places were allocated in the days following the communication to the *départements*, proving that there is a high demand for information and harmonization of practice.

5. [http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/unaccompanied-minors/09a\\_france\\_national\\_report\\_on\\_unaccompanied\\_minors\\_version\\_10june09\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/09a_france_national_report_on_unaccompanied_minors_version_10june09_en.pdf)

6. <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000823100&dateTexte=&categorieLien=id>

7. [http://www.textes.justice.gouv.fr/art\\_pix/JUSF1314192C.pdf](http://www.textes.justice.gouv.fr/art_pix/JUSF1314192C.pdf)

The training programme may reinforce confidence in the redistribution system, a lack of which has become clear in the series of interviews held in 2015. Some *départements* do not consider the protection of UAMs to be their responsibility but rather that of the state in the framework of the management of migration. Some *départements* which have to take on additional UAMs after the redistribution feel that the state should have some responsibilities in relation to the services provided by the departments. By law, however, child protection is the *départements'* responsibility. And as stipulated in the law of 5 March 2007, UAMs are children deprived of their parents on French territory, who, therefore, must be protected by child welfare services at *département* level.

The Circular also established a national cell (cellule nationale MIE), within the Directorate for Juvenile Justice Protection of the French Ministry of Justice (DPJJ). This cell is responsible for supporting the public prosecutor's office through the communication of elements that will enable the allocation of unaccompanied isolated foreign minors to the *département* level services for provision of social assistance to children. It should be noted that public prosecutors have an exclusive power to assess the best interest of the child and they do so based on the information collected through the assessment procedure and conveyed by the national cell. The cell also ensures the census of unaccompanied minors by the collection of information sent by the *départements'* general councils as well as the use of collected data. The *départements* are invited to send information concerning the UAMs. Analysis of the capacity of *départements* with fewer UAMs are also carried by this unit.

Upon minors' arrival and declaration of their minor status to the *département's* authorities, the national cell is responsible for coordination of the procedures of age assessment and of establishing the absence of a guardian or person in charge of the minor. Following the confirmation of minor status and the absence of a guardian, the public prosecutor's office may ask the UAM national cell for the orientation procedure. The national cell can propose either continued responsible of the current *département* or the relocation of the minor to another department of the French metropolitan territory, understood as the European continental territory and Corsica.

The *département* authorities have to shelter and take care of the persons until the assessment is finished. The state finances the *département* for the five first days of the age assessment procedure, although the average duration of the procedure is longer. Finally, the national cell is responsible for updating the UAMs national placement distribution grid. The grid shows the distribution of young persons (under 19 years of age) in each *département* and sets the national distribution of UAMs. For example, a *département* allocated 2% of the national population of young persons should take care of 2% of the UAM's newly arrived and assessed during the year. Based on the figures received daily from the *départements* and the decisions on allocations made by prosecutors, the unit updates the national grid every day, to keep a record of national distribution as close as possible to the reality.

In 2015, 5,990 persons who declared themselves to be UAMs were assessed as UAMs by the 96 French *départements*. In 2016, responsibility for 8,054 UAMs was assumed by the *départements*.

The ministerial circular of 31<sup>st</sup> May, 2013 was partially cancelled in January 2015 by the Council of State (*Conseil d'État*)<sup>8</sup>, the administrative Supreme Court, following a request from several *départements* to have the circular declared illegal. The Council of State pointed out that the Minister of Justice could not impose a distribution key through a ministerial circular because an action of this type required a law to be adopted by parliament. It was ruled to be an illegal interference with the exclusive power of public prosecutors and the judge for juveniles to determine the *département* responsible based on their assessment of the best interest of the child. The Council of State therefore cancelled this point but confirmed the importance of a national distribution system and of solidarity between *départements*.

After a year and a half of debate, a new law on child protection was voted in on 14 March 2016.<sup>9</sup> This new law provides a legal basis for the distribution system for UAMs on the French metropolitan territory, brings back the principle of solidarity between *départements*, and brings forward the interest of the child as a primary factor in determination of hosting *département*. In addition, a new decree of 28 June 2016<sup>10</sup> sets out a new distribution key, which considers both the percentage of the national population aged 19 or under in the *département* and the number of UAMs already cared for by the *département* on 31 December of each previous year. This law further allows the juvenile court judges to integrate the distribution process: the public prosecutor's office is not the sole entity able to ask the national cell to propose a *département* of care, based on the distribution key and the best interest of the child.

8. <http://www.conseil-etat.fr/Decisions-Avis-Publications/Decisions/Selection-des-decisions-faisant-l-objet-d-une-communication-particuliere/CE-30-janvier-2015-Departement-des-Hauts-de-Seine-et-autres>

9. <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032205234&categorieLien=id>

10. <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032770349&fastPos=6&fastReqlId=683503895&categorieLien=id&oldAction=rechTexte>

## Child welfare services (ASE) and Département of Paris, Education Service for Unaccompanied Foreign Minors (SEMNA)

All UAMs placed under protection/welfare services of ASE via the process of the assessment and orientation or directly by decision of the juvenile court judge, have access to accommodation, legal advice, health treatment, education and professional training, and leisure activities. The application of these rights under the protection services of ASE is in line with UNCRC and relevant articles of the Recast Reception Directive.

UAMs are not represented during the age assessment evaluation but have the option of being referred to a juvenile court judge. Once the UAM is admitted into the child protection welfare procedure and benefits from educational assistance measures, the ASE becomes the institutional guardian and has the right to take decisions on aspects of everyday life, such as medical intervention, authorization for a school trip, etc. For less usual actions, including opening a bank account, a decision regarding educational direction, etc, a family court judge is responsible for designating a guardian. This procedure is rarely used, especially in big départements such as Paris, due the fact that it takes more than one year in most cases. As a consequence, if a young person arrives at the age of 17, it is useless to launch such a procedure because there is little chance of a guardian being appointed before he or she turns 18.

Since the inter-ministerial circular of 25 January 2016, this procedure has become a standard procedure. Once they are allocated to a département's child services in application of a judgment (either by the prosecutor's office or a judge for children), the département must launch procedures to open a guardianship.

The Education Service for Unaccompanied Foreign Minors (SEMNA) was created in 2011 for the département of Paris only, to respond to the needs of the increasing number of UAMs arriving in Paris.<sup>11</sup> The period during which an UAM is accompanied by this service is very short since most of the UAMs arrive between the ages of 16 and 18.

During the interviews, the importance of building an educational (vocational training) project with the adolescents, was stressed, taking into account their desires and dreams. This is done through a "Contrat Jeune Majeur"<sup>12</sup> signed between the young person and child welfare services or ASE.<sup>13</sup> According to article L222-5 of the Code for Social Action and Families, this contract is signed between the child welfare services and the youth, when they turn 18 if they experience difficulties in social insertion due to the lack of resources and the absence of family support. The UAMs who enter into a contract with the child welfare services often commit to finish their training or studies, in return for material care (accommodation, financial support, etc).

Last but not least, it should be highlighted that only a few UAMs apply for asylum (only 321 in 2015). As explained during the interviews, an unaccompanied child in France is protected and supported by child welfare services and does not need to apply for asylum to be protected. Besides, it was pointed out by the interviewees that asylum procedures can be very heavy and stressful for children who may have difficulties in expressing their story verbally. Another reason is that UAMs receive protection and have the right to stay until they turn 18. Therefore, applying for asylum is less crucial immediately after their arrival and does not always reflect their best interest. Moreover, based on the country of origin, the French authorities may evaluate that UAMs do not meet the standards and requirements for an asylum status.

### Education system<sup>14</sup>

While no provision of the Education Code covers the case of children of asylum seekers, the law provides that they are subject to compulsory education when they are 6 to 16 years old,<sup>15,16</sup> under the same conditions as any child. As a result, UAMs automatically enjoy the same right to education as French children, which is provided free until the age of 18. In addition, as stated in the circular N° 2012 -141 of 2 October 2012 on the organization of education for newly arrived non-French-speaking students it is stated that "Education is a right for all children living on the national territory, whatever their nationality, migratory or past as stipulated in the education code".

11. Interview with Valentin Saumier (SEMNA, Department of Paris) explained the objectives of the unit created for providing services for UAMs arriving in the Department of Paris.

12. <http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006074069&idArticle=LEGIARTI000006796426>

13. <https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006074069&idArticle=LEGIARTI000006796802&dateTexte&categorieLien=cid>

14. Reference is made to AIDA Country Report FRANCE: update 2016, available at <http://www.asylumineurope.org/reports/country/france>

15. See Article L131-1 Education Code.

16. See Ordonnance n°59-45 du 6 janvier 1959 portant prolongation de la scolarité obligatoire

Enrolment in a secondary school (high school) is made directly to the institution closest to the place of residence of the child. If the children have sufficient command of the French language, the evaluation process will be supervised by a Counselling and Information Centre (“Centres d’information et d’orientation”, CIO). This state structure is dedicated to the educational guidance of all students. When the children do not speak French, or do not have a sufficient command of the language, their evaluations fall under the competency of the Academic Centre for Education of Newcomers’ and Travellers’ Children (CASNAV).<sup>17</sup> The test results will enable teachers to integrate the child within the appropriate schemes e.g. training in French adapted to non-native speakers (“français langue étrangère”) (FLE) or initiation classes.

Education for asylum-seeking children is usually provided in regular schools but can also sometimes be provided directly in reception centres (large emergency reception facilities for instance).

Recent legislation on education identified the need for direct orientation to qualifying skills programmes. Minors (including UAMs) in agreement with educators (social workers from ASE), who in the meantime have identified the difficulties of a minor to continue in education after 16, consider the possibility of professional training in a CFA (Centre de formation de apprentis – training centres for apprentices) or CFP (Centre de formation professionnelle – vocational training centres).

There are two types of trainings:

- training that requires a work permit, such as apprenticeship contracts and professional training contracts for which UAMS over 16 years must obtain a provisional work permit (autorisation provisoire de travail) (APT) from the competent Regional Offices for companies, competition, consumption work and employment (Direction regionale des entreprises, de la concurrence, de la consommation, du travail et de l’emploi)
- training that does not require work permit, that is carried out within professional highschoools (*lycées professionnels*) and that does not present a specific obstacle for UAMS, who can be admitted so long as there are available places, in the same way as other students.<sup>18</sup>

The first type of training, vocational training is of a particular interest for UAMs as it allows them access to quicker social and financial independence and durable professional integration. This option is crucial as it helps them to get a residence permit (“private and family life” or “temporary worker” residence permits) once they turn 18, by showing to the prefecture that key essential elements are in place, including proof about their integration into French society.

For asylum-seeking UAMs access to apprenticeships is not possible as it would entail access to a work permit that is not usually granted to asylum seekers before nine months into the asylum procedure as per the law of 29 July 2015. French language courses are organized in some reception centres, depending on the availability of volunteers. Young adults are often forced to set aside their career or training pending the decision on their asylum application, which may represent a considerable loss of time. Finally, asylum-seeking children with special needs are faced with the same difficulties as children with special needs in general. Access to trained and specialized staff (“auxiliaires de vie scolaire”) tasked with supporting these children during their education in regular schools is very limited.<sup>19</sup>

17. See Circular n° 2012-143, 2 October 2012.

18. EMN French country Report 2014: Policies, practices and data on unaccompanied minors 2014 [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/unaccompanied-minors/10a\\_france\\_uams\\_study\\_english\\_version\\_final.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/10a_france_uams_study_english_version_final.pdf)

19. AIDA Country Report FRANCE: update 2016, available at <http://www.asylumineurope.org/reports/country/france>

## Residence permit

The request procedures to obtain a residence permit for UAMs once they are adults must be undertaken “during the year following their 18th birthday”. From eighteen years of age, a foreign national without residence or ongoing procedures linked to a residence permit or asylum is considered to be illegally staying and can therefore be subject to a removal procedure.

The circular of 28 November 2012 on the conditions of admission for residence for illegally staying foreign nationals, stipulates that the discretion afforded by articles L.313-15 should be applied if the UAM who has become an adult meets the conditions set out in the article and if their education and training will allow their durable integration into French society.

The issuing of the residence permit is left to the discretion of the prefecture, acting within the scope of the statutes that regulate the issuing of those permits. For instance, a specific article (L. 313-11 2° bis of the CESEDA (the entry and stay of foreigners and asylum code)) provides that UAMs who have been taken into care by the French social services before their 16th birthday must be delivered a residence permit for the year following their 18th birthday.

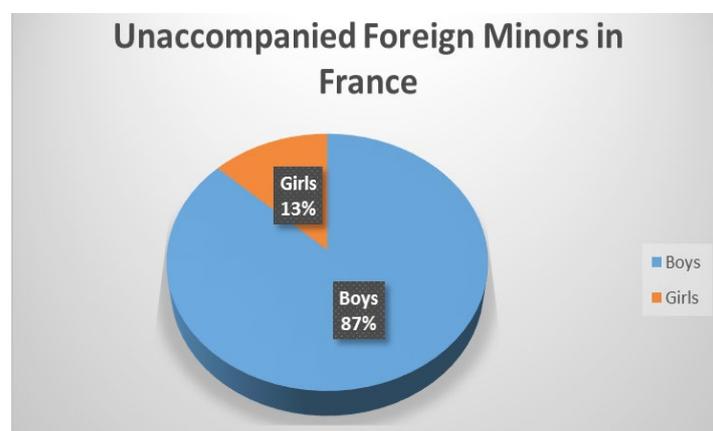
## Typologies and statistics

As is the case for the reasons for arrival, the circumstances of the arrival of UAMs in France vary significantly. According to the social typology of Angelina Etiemble,<sup>20</sup> these UAM fit seven different profiles:

- **Exiles**, fleeing from persecution
- **Emissaries**, sent by their parents to continue their education or to work and send money back to their families remaining in the country of origin
- **Victims of trafficking in human beings** (networks of prostitution, illegal activities etc.)
- **Runaways**
- **Vagrants**, who were already vagrants in their native country
- **Aspirants**, who are looking for better life conditions. Their decision to come to France is personal.
- **Rejoinders**, who aim is to be reunited with a parent or member of their extended family

Statistics show that in 2014, 6,158 UAMs were present on French territory and in 2015, 5,990 youngsters were recognised UAMs and 8,054 in 2016.

In 2016, 15.6% of UAMs were under 15 years old on the day they entered the child protection services (on the day that a decision was taken for them); 58.7% were older than 16 (so 25% were fifteen).



(NB the current ratio of female to male UAMs is 7% to 93%. The graph shows the average from 1 June 2013 to 31 December 2016).

20. Les mineurs isolés étrangers en France : évaluation quantitative de la population accueillie à l'Aide sociale à l'Enfance, les termes de l'accueil et de la prise en charge ; Angelina Etiemble, 2002.

## Compilation of the national legislation and SWOT analyses of the domestic legislation

The table is a compilation of rights in the UNCRC and key EU provisions which provide for their implementation and/or application. It serves as a check-list for national partners to provide information as to where domestic reception practice/model are based on legal instruments referred to in the table.<sup>21</sup>

CRC Cluster	Rights	CRC	Recast reception conditions	Anti- trafficking directive	Recast Asylum procedure	French Legislation
II General Principles	Best interest of the child	Art 3.1	Preamble 9 (22), Arts 2 (j), II. 2.23.24	Preamble 8 and 22 Art 13		Article L-112-4 of the Code for Social Action and Families
	Right to information, Right to be heard/ Right to participation	Art. 12.	Art. 23.2			Article 388-1 of the Civil Code
	Right to life, survival and development		Art. 23		Preamble 33	Articles 375 to 375-9 of the Civil Code Article L-112-4 of the Code for Social Action and Families
III Civil rights and freedom	Identification as a child		Arts 21,22	Preamble 23	P r e a m b l e (22) Art. 25.5	Article 388 of the Civil Code  Article L744-6 of the Code of entry and residence of foreigners and asylum Circular of May, 31 2013  Interministerial circular of January, 25th 2016  Law on protection of the child March 14th 2016
	Registration and documentation	Arts. 7,8		Art.6		Articles 46 and 55 of the Civil Code
IV. family environment and alternative care	Rehabilitation and reintegration of victims of violence	Art, 19,39	Art.23.4	Preamble 18,22		Article 375 of the Civil Code  Articles R316-1 to R316-10 of the Code of entry and residence of foreigners and asylum
	Assistance of victims of trafficking/violence	Art, 19,39	Arts 23.4,25.1	Art. 13,14,17		Article 706-53 of the Criminal procedure code  Articles 316-1 to 316-10 of the Code of entry and residence of foreigners and asylum
	Reception staff specific training		A r t . 18.7,24.4,25.2	Preamble 25		Article L 226-12-1 of the Code for Social Action and Families  Article L542-1 of the Education Code

21. Please note that “The Overview table of key EU provisions on Unaccompanied Minors” reference is made to the CONNECT project’s ‘EU Reference Document Table’ at: [http://www.connectproject.eu/overview\\_table.html](http://www.connectproject.eu/overview_table.html)

V. Basic health and welfare	Access to health services	Art. 24	Art; 19	Art. 11.5		Preamble to the 1946 Constitution
	Accommodation	Art. 27.1-3	Art.24.2	Art. 11.5		Article 375 of the Civil Code Article L 222-1 of the Code for Social Action and Families
	Right to social security	Art 26.				Article L 1111-5 of Public Health Regulations
	Right to adequate standards of living/material support	Art. 27.1-3	A r t . 17,18,20,23.1	Art. 11.5		Article 375 of the Civil Code Article L 222-1 of the Code for Social Action
VI Education, leisure and cultural activities	Right to education	Art. 28	Art. 14	Art.14.1		Articles L111-1 and L131-1of the Education Code Circular n° 2012-141 of October, 2nd 2012
	Right to rest, play and participate in artistic and cultural activities	Art.31	Arts. 11.2,23.3			Preamble to the 1946 Constitution
VII. Special protection measures	Guardianship/ representation	Arts18.1, 20	Art. 24.1	Preamble (23), (24), art. 16.3	Art.25	Articles 373, 375 and 390 of the Civil Code Article L741-3 of the Code of entry and residence of foreigners and asylum From Article 752-2 of the Code of entry and residence of foreigners and asylum
	Legal information, assistance and representation	Arts 37 (d), 40.2 (ii)	Arts. 9.6,26.2-3-6	Art.15.2	Arts. 19, 20, 21, 22, 23, 25.4	Order of February, 2nd 1945 Articles L221-1 to L221-6 of the Code of entry and residence of foreigners and asylum
	Durable solutions			Preamble 23, arts/ 14,16.2		Article L 741-4 of the Code of entry and residence of foreigners and asylum Article L331-1 of the Code of entry and residence of foreigners and asylum
	Access to protection procedures			Arts. II.5-6,12.3	Art. 7.3-4	Article L741-3 of the Code of entry and residence of foreigners and asylum Article L744-6 of the Code of entry and residence of foreigners and asylum
	Child sensitive procedural measures	A r t , 3 , 12,19		Art. 8,15.3,12.3		Articles 706-48 to 706-53 of the Criminal procedure code
VIII General measures of implementation (GMI)	Actors training and qualifications		Arts, 29.1	Preamble 15, 25, Arts, 9.3, 15.3,18.3	Preamble 16,26 Arts, 4.3, 6.1,14.1, 25.3,34.2,	Article L 226-12-1 of the Code for Social Action and Families Article L744-6 of the Code of entry and residence of foreigners and asylum
	Monitoring and review		Preamble 30, arts 28, 30	Art. 23	Preamble (55), art.50	-
	Complaints					Law n°2015-1463 of November, 12th 2015

## Summary of the French domestic legislation in French in relation to the above table<sup>22</sup>

Legislation		Paragraphs
Preamble to the 1946 Constitution		« Elle garantit à tous, notamment à l'enfant, [...] la protection de la santé, la sécurité matérielle, le repos et les loisirs. »
Order of February, 2nd 1945 Article 4-1:		« Le mineur poursuivi doit être assisté d'un avocat. »
Circular n°2012-141 of October, 2nd 2012		« La scolarisation des élèves allophones relève du droit commun et de l'obligation scolaire. [...] Assurer les meilleures conditions de l'intégration des élèves allophones arrivant en France est un devoir de la République et de son Ecole. » « L'école est un droit pour tous les enfants résidant sur le territoire national quels que soient leur nationalité, leur statut migratoire ou leur parcours antérieur [...] »
Circular of May, 31 2013		« Une évaluation réalisée selon des modalités rigoureusement identiques dans l'ensemble des départements concernés, afin de s'assurer de la minorité et de l'isolement des jeunes, est, pour ceux qui en feront l'objet, la garantie de la qualité de la procédure et de leur égalité de traitement quel que soit le département où ils se présentent. »
Interministerial circular of January, 25th 2016		« Il appartient aux conseils départementaux d'organiser l'évaluation sociale de la minorité et de l'isolement de la personne se présentant comme MIE et au-delà, de la situation de danger dans laquelle est susceptible de se trouver le mineur.»
Law n°2015-1463 of November, 12th 2015		« Est autorisée la ratification du protocole facultatif à la convention relative aux droits de l'enfant établissant une procédure de présentation de communications [...] »
Law n° 2016- 297 of March 14th 2016 and decree of June 24th		concerning the reception and assessing conditions of minors temporarily or definitively deprived of the protection their family
Code for Social Action and Families: Article L-112-4		« L'intérêt de l'enfant, la prise en compte de ses besoins fondamentaux, physiques, intellectuels, sociaux et affectifs ainsi que le respect de ses droits doivent guider toutes décisions le concernant. »
Article L 222-1		« Sans préjudice des pouvoirs reconnus à l'autorité judiciaire, les prestations d'aide sociale à l'enfance mentionnées au présent chapitre sont accordées par décision du président du conseil départemental du département où la demande est présentée. »
Article L 226-12-1		« Les cadres territoriaux qui, par délégation du président du conseil départemental, prennent des décisions relatives à la protection de l'enfance et fixent les modalités de leur mise en œuvre doivent avoir suivi une formation adaptée à l'exercice de ces missions. Cette formation, en partie commune aux différentes professions et institutions, est dispensée dans des conditions fixées par voie réglementaire.»

22. <https://www.legifrance.gouv.fr/lois/loi/2015/1463>

<p>Civil Code :</p> <ul style="list-style-type: none"> <li>• Article 46</li> <li>• Article 55</li> <li>• Article 373</li> <li>• Articles 375 to 375-9</li> <li>• Article 388</li> <li>• Article 388-1</li> <li>• Article 390</li> </ul>	<p>« Lorsqu'il n'aura pas existé de registres, ou qu'ils seront perdus, la preuve en sera reçue tant par titres que par témoins ; et, dans ces cas, les mariages, naissances et décès pourront être prouvés tant par les registres et papiers émanés des pères et mères décédés, que par témoins. »</p> <p>« Lorsqu'une naissance n'a pas été déclarée dans le délai légal, l'officier de l'état civil ne peut la relier sur ses registres qu'en vertu d'un jugement rendu par le tribunal de l'arrondissement dans lequel est né l'enfant, et mention sommaire en est faite en marge à la date de la naissance. Si le lieu de la naissance est inconnu, le tribunal compétent est celui du domicile du requérant. »</p> <p>« Est privé de l'exercice de l'autorité parentale le père ou la mère qui est hors d'état de manifester sa volonté, en raison de son incapacité, de son absence ou de toute autre cause. »</p> <p>« Si la santé, la sécurité ou la moralité d'un mineur non émancipé sont en danger, ou si les conditions de son éducation ou de son développement physique, affectif, intellectuel et social sont gravement compromises, des mesures d'assistance éducative peuvent être ordonnées par justice à la requête des père et mère conjointement, ou de l'un d'eux, de la personne ou du service à qui l'enfant a été confié ou du tuteur, du mineur lui-même ou du ministère public. »</p> <p>« Il doit [...] se prononcer en stricte considération de l'intérêt de l'enfant. »</p> <p>« Lorsqu'un service de l'aide sociale à l'enfance signale la situation d'un mineur privé temporairement ou définitivement de la protection de sa famille, selon le cas, le procureur de la République ou le juge des enfants demande au ministère de la justice de lui communiquer, pour chaque département, les informations permettant l'orientation du mineur concerné.</p> <p>Le procureur de la République ou le juge des enfants prend sa décision en stricte considération de l'intérêt de l'enfant, qu'il apprécie notamment à partir des éléments ainsi transmis pour garantir des modalités d'accueil adaptées. »</p> <p>« Le mineur est l'individu de l'un ou l'autre sexe qui n'a point encore l'âge de dix-huit ans accomplis.</p> <p>Les examens radiologiques osseux aux fins de détermination de l'âge, en l'absence de documents d'identité valables et lorsque l'âge allégué n'est pas vraisemblable, ne peuvent être réalisés que sur décision de l'autorité judiciaire et après recueil de l'accord de l'intéressé.</p> <p>Les conclusions de ces examens, qui doivent préciser la marge d'erreur, ne peuvent à elles seules permettre de déterminer si l'intéressé est mineur. Le doute profite à l'intéressé. En cas de doute sur la minorité de l'intéressé, il ne peut être procédé à une évaluation de son âge à partir d'un examen du développement pubertaire des caractères sexuels primaires et secondaires. »</p> <p>« Dans toute procédure le concernant, le mineur capable de discernement peut, sans préjudice des dispositions prévoyant son intervention ou son consentement, être entendu par le juge ou, lorsque son intérêt le commande, par la personne désignée par le juge à cet effet.</p> <p>Cette audition est de droit lorsque le mineur en fait la demande. Lorsque le mineur refuse d'être entendu, le juge apprécie le bien-fondé de ce refus. Il peut être entendu seul, avec un avocat ou une personne de son choix. Si ce choix n'apparaît pas conforme à l'intérêt du mineur, le juge peut procéder à la désignation d'une autre personne.</p> <p>L'audition du mineur ne lui confère pas la qualité de partie à la procédure.</p> <p>Le juge s'assure que le mineur a été informé de son droit à être entendu et à être assisté par un avocat. »</p> <p>« La tutelle s'ouvre lorsque le père et la mère sont tous deux décédés ou se trouvent privés de l'exercice de l'autorité parentale. »</p>
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<p>Code of entry and residence of foreigners and asylum.</p> <ul style="list-style-type: none"> <li>Articles L221-1 to L221-6</li> <li>Articles R316-1 to R316-10</li> <li>Article L331-1</li> <li>Article L741-3</li> <li>Article L741-4</li> </ul>	<p>« L'étranger maintenu en zone d'attente est informé, dans les meilleurs délais, qu'il peut demander l'assistance d'un interprète et d'un médecin, communiquer avec un conseil ou toute personne de son choix et quitter à tout moment la zone d'attente pour toute destination située hors de France. Il est également informé des droits qu'il est susceptible d'exercer en matière de demande d'asile. Ces informations lui sont communiquées dans une langue qu'il comprend. »</p> <p>« Lorsqu'un étranger mineur non accompagné d'un représentant légal n'est pas autorisé à entrer en France, le procureur de la République, avisé immédiatement par l'autorité administrative, lui désigne sans délai un administrateur ad hoc. Celui-ci assiste le mineur durant son maintien en zone d'attente et assure sa représentation dans le cadre des procédures administratives et juridictionnelles relatives à ce maintien.</p> <p>Il assure également la représentation du mineur dans toutes les procédures administratives et juridictionnelles afférentes à son entrée en France. »</p> <p>« Le service de police ou de gendarmerie qui dispose d'éléments permettant de considérer qu'un étranger, victime d'une des infractions constitutives de la traite des êtres humains ou du proxénétisme prévues et réprimées par les articles 225-4-1 à 225-4-6 et 225-5 à 225-10 du code pénal, est susceptible de porter plainte contre les auteurs de cette infraction ou de témoigner dans une procédure pénale contre une personne poursuivie pour une infraction identique, l'informe :</p> <ol style="list-style-type: none"> <li>1° De la possibilité d'admission au séjour et du droit à l'exercice d'une activité professionnelle qui lui sont ouverts par l'article L. 316-1 ;</li> <li>2° Des mesures d'accueil, d'hébergement et de protection prévues à la section 2 du présent chapitre ;</li> <li>3° Des droits mentionnés à l'article 53-1 du code de procédure pénale, notamment de la possibilité d'obtenir une aide juridique pour faire valoir ses droits.</li> </ol> <p>Le service de police ou de gendarmerie informe également l'étranger qu'il peut bénéficier d'un délai de réflexion de trente jours, dans les conditions prévues à l'article R. 316-2 du présent code, pour choisir de bénéficier ou non de la possibilité d'admission au séjour mentionnée au deuxième alinéa.</p> <p>Ces informations sont données dans une langue que l'étranger comprend et dans des conditions de confidentialité permettant de le mettre en confiance et d'assurer sa protection.</p> <p>Ces informations peuvent être fournies, complétées ou développées auprès des personnes intéressées par des organismes de droit privé à but non lucratif, spécialisés dans le soutien aux personnes prostituées ou victimes de la traite des êtres humains, dans l'aide aux migrants ou dans l'action sociale, désignés à cet effet par le ministre chargé de l'action sociale. »</p> <p>« Les étrangers qui quittent la France pour s'établir dans leur pays d'origine et qui bénéficient à ce titre, sur leur demande, d'une aide publique à la réinsertion perdent les droits attachés aux titres de séjour et de travail qu'ils détiennent. Les intéressés restituent leurs titres et reçoivent une autorisation de séjour provisoire suivant des modalités fixées par décret. »</p> <p>« Lorsque la demande d'asile est présentée par un mineur sans représentant légal sur le territoire français, le procureur de la République, avisé immédiatement par l'autorité administrative, lui désigne sans délai un administrateur ad hoc. Celui-ci assiste le mineur et assure sa représentation dans le cadre des procédures administratives et juridictionnelles relatives à la demande d'asile.</p> <p>L'administrateur ad hoc est désigné par le procureur de la République compétent sur une liste de personnes morales ou physiques dont les modalités de constitution sont fixées par décret en Conseil d'Etat. Ce décret précise également les conditions de leur indemnisation.</p> <p>La mission de l'administrateur ad hoc prend fin dès le prononcé d'une mesure de tutelle.</p> <p>Le président du conseil départemental est immédiatement informé, en application de l'article L. 226-2-1 du code de l'action sociale et des familles, afin de lui permettre d'évaluer la situation du mineur sans représentant légal et de déterminer les actions de protection et d'aide dont ce mineur a besoin. »</p> <p>« Dès que possible après la présentation d'une demande d'asile par un mineur non accompagné, l'autorité administrative procède à la recherche des membres de sa famille, tout en protégeant l'intérêt supérieur du mineur. Dans les cas où la vie ou l'intégrité physique d'un mineur ou de ses parents proches pourraient être menacées, cette recherche est menée de manière confidentielle. »</p>
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<ul style="list-style-type: none"> <li>Article L744-6</li> </ul>	<p>« A la suite de la présentation d'une demande d'asile, l'Office français de l'immigration et de l'intégration est chargé de procéder, dans un délai raisonnable et après un entretien personnel avec le demandeur d'asile, à une évaluation de la vulnérabilité de ce dernier afin de déterminer, le cas échéant, ses besoins particuliers en matière d'accueil. Ces besoins particuliers sont également pris en compte s'ils deviennent manifestes à une étape ultérieure de la procédure d'asile. Dans la mise en œuvre des droits des demandeurs d'asile et pendant toute la période d'instruction de leur demande, il est tenu compte de la situation spécifique des personnes vulnérables.</p> <p>L'évaluation de la vulnérabilité vise, en particulier, à identifier [...] les mineurs non accompagnés, [...] les victimes de la traite des êtres humains, [...] et les personnes qui ont subi des tortures, des viols ou d'autres formes graves de violence psychologique, physique ou sexuelle, telles que des mutilations sexuelles féminines. L'évaluation de la vulnérabilité du demandeur est effectuée par des agents de l'Office français de l'immigration et de l'intégration ayant reçu une formation spécifique à cette fin. »</p>
<ul style="list-style-type: none"> <li>Article 752-2</li> </ul>	<p>« Lorsqu'une protection au titre de l'asile est octroyée à un mineur non accompagné, des mesures sont prises dès que possible pour assurer sa représentation légale. Dans toutes les décisions le concernant, notamment en matière de placement et de recherche des membres de sa famille, il est tenu compte de son intérêt supérieur, de ses besoins particuliers ainsi que de son avis, en fonction de son âge et de sa maturité.</p> <p>Si la recherche des membres de sa famille n'a pas commencé, il y est procédé dès que possible. Dans le cas où la vie ou l'intégrité physique du mineur ou de ses parents proches restés dans le pays d'origine serait menacée, cette recherche est menée de manière confidentielle. »</p>
<ul style="list-style-type: none"> <li>Criminal procedure code : Articles 706-48 to 706-53</li> </ul>	<p>« Les mineurs victimes de l'une des infractions mentionnées à l'article 706-47 peuvent faire l'objet d'une expertise médico-psychologique destinée à apprécier la nature et l'importance du préjudice subi et à établir si celui-ci rend nécessaires des traitements ou des soins appropriés. »</p> <p>« Le procureur de la République ou le juge d'instruction informe sans délai le juge des enfants de l'existence d'une procédure concernant un mineur victime de l'une des infractions mentionnées à l'article 706-47 et lui en communique toutes pièces utiles, dès lors qu'une procédure d'assistance éducative a été ouverte à l'égard du mineur victime de cette infraction. »</p> <p>« Le procureur de la République ou le juge d'instruction, saisi de faits commis volontairement à l'encontre d'un mineur, désigne un administrateur ad hoc lorsque la protection des intérêts de celui-ci n'est pas complètement assurée par ses représentants légaux ou par l'un d'entre eux. L'administrateur ad hoc assure la protection des intérêts du mineur et exerce, s'il y a lieu, au nom de celui-ci les droits reconnus à la partie civile. En cas de constitution de partie civile, le juge fait désigner un avocat d'office pour le mineur s'il n'en a pas déjà été choisi un. »</p>
<ul style="list-style-type: none"> <li>Education Code :</li> <li>Article L111-1</li> <li>Article L131-1</li> <li>Article L542-1</li> <li>Public Health Regulations: Article L 1111-5</li> </ul>	<p>« L'éducation est la première priorité nationale. [...] [Le service public de l'éducation] [il] veille à l'inclusion scolaire de tous les enfants, sans aucune distinction. [...] Le droit à l'éducation est garanti à chacun afin de lui permettre de développer sa personnalité, d'élever son niveau de formation initiale et continue, de s'insérer dans la vie sociale et professionnelle, d'exercer sa citoyenneté. »</p> <p>« L'instruction est obligatoire pour les enfants des deux sexes, français et étrangers, entre six ans et seize ans. »</p> <p>« Les médecins, l'ensemble des personnels médicaux et paramédicaux, les travailleurs sociaux, les magistrats, les personnels enseignants, les personnels d'animation sportive, culturelle et de loisirs et les personnels de la police nationale, des polices municipales et de la gendarmerie nationale reçoivent une formation initiale et continue, en partie commune aux différentes professions et institutions, dans le domaine de la protection de l'enfance en danger. Cette formation comporte un module pluridisciplinaire relatif aux infractions sexuelles à l'encontre des mineurs et leurs effets. Cette formation est dispensée dans des conditions fixées par voie réglementaire. »</p> <p>« Par dérogation à l'article 371-1 du code civil, le médecin ou la sage-femme peut se dispenser d'obtenir le consentement du ou des titulaires de l'autorité parentale sur les décisions médicales à prendre lorsque l'action de prévention, le dépistage, le diagnostic, le traitement ou l'intervention s'impose pour sauvegarder la santé d'une personne mineure, dans le cas où cette dernière s'oppose expressément à la consultation du ou des titulaires de l'autorité parentale afin de garder le secret sur son état de santé. Toutefois, le médecin ou la sage-femme doit dans un premier temps s'efforcer d'obtenir le consentement du mineur à cette consultation. Dans le cas où le mineur maintient son opposition, le médecin ou la sage-femme peut mettre en œuvre l'action de prévention, le dépistage, le diagnostic, le traitement ou l'intervention. Dans ce cas, le mineur se fait accompagner d'une personne majeure de son choix.</p> <p>Lorsqu'une personne mineure, dont les liens de famille sont rompus, bénéficie à titre personnel du remboursement des prestations en nature de l'assurance maladie et maternité et de la couverture complémentaire mise en place par la loi n° 99-641 du 27 juillet 1999 portant création d'une couverture maladie universelle, son seul consentement est requis. »</p>

## SWOT analyses per the table below:<sup>23</sup>

SWOT analyses: national legislative evidence	Guidance / Reflections / Key points of legislation in line with international and EU acquis where relevant.
<p><b>Strengths:</b></p> <p>Circular of 31 May 2013 on the assistance provided to foreign unaccompanied minors: national shielding, evaluating and referral scheme</p> <p>This circular was completed by a Protocol signed by three ministries (Interior, Social affairs and Health, and Justice) and the president of the Association of the French départements. This protocol foresees the geographical distribution of the foreign unaccompanied children on the territory according to demographical data.</p> <p>Age assessment: Law n. 2016-297 of 14 March 2016 relating to child protection states that the age assessment decision must be notified in writing and mention available remedies.</p> <p>As of 14 March 2016, this mechanism has been consecrated by law. The geographical distribution is done according to criteria defined by a Decree of 28 June 2016:</p> <ul style="list-style-type: none"> <li>· The part of the local population over 19 years-old;</li> <li>· The number of unaccompanied minors sheltered and supported at the end of the year;</li> <li>· The transmission to the Ministry of Justice of the number of unaccompanied minors taken in charge by Childhood Welfare as of 31 December.</li> </ul>	<p><b>General:</b></p> <p>In the past twenty –five years, laws concerning children have multiplied in France. The recent changes aim at developing a greater legal status for minors, to reflect their place in today's society. The new legislation has also been geared towards the implementation of the fundamental rights and obligations enriched in UNCRC. The government and Parliament have tried to strike a balance between children's rights, the protection of children, and the parents' rights and duties.</p> <p>Under French legislation, access to social rights and financial benefits is in principle open to migrant children, <b>but some restrictions persist, mostly for children with irregular status</b>, since access to financial benefits is made conditional upon the presentation of documents attesting to the child's regular immigration status.<sup>1</sup></p> <p>The assessment of vulnerabilities and their consideration throughout the asylum procedure is a completely new element that has been brought in by the asylum reform.</p> <p>With regard to changes on the legislation the implementation of the Circular of 2013 is considered as an innovative by applying its 3 objectives:</p> <ul style="list-style-type: none"> <li>· Harmonizing the reception and care practices for UAMS.</li> <li>· The state finances the phase of the shelter in which the age assessment and isolation and the orientation of the young persons are carried out in the department where they were identified or requested protection, following an initial interview. The State finances this temporary emergency reception for a maximum of 5 days. The local authorities receive 250 euros per day.</li> <li>· Geographical relocation: regulating the flux of arrivals in different departments by applying an equal relocation method.</li> </ul> <p>The circular was innovative also towards attempts made to regulate the procedures for age assessment through three steps: a social evaluation, an evaluation of ID documents and a medical evaluation, only if the judge deems it necessary in the case the two previous steps were insufficient to determine the minority of the person.</p> <p>Moreover, in order to strengthen the cooperation between actors in this field, the ministry of Justice launched a training programme for the agents in charge, within the departments, to conduct the age assessment interviews. However, practice is not uniform throughout the country and only a few départements have followed the guidance so far.</p> <p>The National Commission on Human Rights, in an opinion adopted in June 2014, regretted that the circular from 31 May 2013 focuses on the management of the geographical distribution of foreign unaccompanied children over the territory <b>without taking sufficiently into account the principle of the best interests of the child.</b></p> <p>After a year and a half of debates, <b>a new law related to the protection of the child was voted on March 14th, 2016</b> by bringing forward the interest of the child as a primary factor of determination of a hosting department. This law furthermore allows the juvenile court judges to integrate the repartition process: the public prosecutor's office is not the sole entity to be able to ask the national cell to propose a department of care, based on the repartition key and the best interest of the child.</p>

23. For more information please read AIDA Country Report France, update 2016 at <http://www.asylumineurope.org/reports/country/france>

<p><b>Weakness:</b></p> <p>Foreign unaccompanied children do not constitute any specific category in the Ceseda, except for two articles which mention them in relation to the ad hoc administrator (Articles L221-5 and L751-1), or in the CASF.</p> <p>Circular of 31 May 2013 on the assistance provided to foreign unaccompanied minors: national shielding, evaluating and referral scheme</p> <p>Article 17 Law of 4 March 2002 on parental authority and by Article L.741-3 Ceseda, as amended by the law of 29 July 2015.</p> <p>The circular of 28 November 2012, on the conditions of admission for residence for illegally staying foreign nationals, and the relevant article L.313-15.</p>	<p>The term unaccompanied child has no explicit definition in French law.<sup>2</sup> The protection of these young people is therefore based on the notion of children at risk, as outlined in French legal provisions on child protection, which is applicable regardless of nationality or the status of an asylum seeker.</p> <p>Protection measures are usually initiated by children who turn to NGOs or judges for help. <b>There is no specific procedure in place for identifying unaccompanied children.</b> When they go to the Prefecture in order to lodge an asylum application, the authorities verify only whether a legal guardian is present or not. If not, a legal representative to support and represent the child in asylum procedures (ad hoc administrator) should be appointed.</p> <p>Notwithstanding the Circular of 31 May 2013, <b>the use of age assessment procedures still varies between départements.</b> Some départements place emphasis on civil status documentation, others conduct first a social evaluation and some also proceed to a bone examination. Procedures for bone examination are highly controversial, even more so when existing civil status documentation is disregarded without a thorough examination of the documents.</p> <p><b>These young people should get the benefit of the doubt in the event that an evaluation cannot establish their exact age, not least as recalled by Article 25(5) of the recast Asylum Procedures Directive.</b> Once again, practice is not uniform across the country. Young people are rarely given the benefit of the doubt in practice, and this happens less and less frequently. The State Prosecutor is the authority that decides on an age assessment procedure. In fact, the Prosecutor is responsible for issuing the order to place the child in care (temporarily or not) and may therefore request additional tests if there is a doubt about their age.<sup>3</sup></p> <p>As unaccompanied children do not have any legal capacity, they must be represented for any act under all asylum procedures (including Dublin). When they are deprived of legal representation (i.e. if no guardian has been appointed by the guardianship judge before placement in care), the Public Prosecutor, notified by the Prefecture, should appoint an ad hoc administrator (legal representative) who will represent them throughout the asylum procedure.<sup>4</sup></p> <p style="text-align: center;">Residence permit</p> <p>The request procedures to obtain a residence permit for UAMS once they are adults must be undertaken "during the year following their 18th birthday". From eighteen years old a foreign national without residence is considered to be illegally staying and can therefore, be subject to a removal procedure to the territory.</p> <p>The circular of 28 November 2012, on the conditions of admission for residence for illegally staying foreign nationals, stipulates that appreciation of the criteria in the article L.313-15 should be made, as long as the UAM who has become an adult meets the conditions set out in the article and that their education and training will allow their durable integration into the French society.</p> <p><b>The issuing of the residence permit is left to the discretion of the Prefecture.</b> Yet, the prefecture is supposed to follow some statutes that regulate the issuing of those permits. For instance, a specific article (L. 313-11 2° bis of the CESEDA (the entry and stay of foreigners and asylum code)) provides that UAMs who have been taken care by the French social services in a department (ASE) before their 16th birthday must be delivered a residence permit for the year following their 18th birthday.</p>
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**Opportunities:**

Circular of 31 May 2013 on the assistance provided to foreign unaccompanied minors: national shielding, evaluating and referral scheme

The framework of the action plan for the reforms of OFPRA

**The French authorities have attempted to improve and harmonise the functioning of the reception and assistance provided to unaccompanied children (including asylum-seeking children) through the Circular.** The Circular is aimed at limiting the disparities between the départements in terms of arrivals of unaccompanied children and at harmonising the practices throughout the country.<sup>5</sup> Some funding is provided by the national authorities, thereby acknowledging the involvement of the State in an issue which generally falls under the jurisdiction of the départements.<sup>6</sup> State funding covers the emergency reception costs of the children during the first 5 days after arrival while the evaluation the referral is carried out.

In addition, the Circular aimed at imposing a common age assessment procedure.<sup>7</sup> The assessment should be supported by a body of concordant evidence which include social evaluation (interviews based on a common template), verification of the authenticity of civil status documents, and "if doubts prevail after these steps and only in this case", a medical examination.<sup>8</sup>

OFPRA intends to improve the protection of unaccompanied minors seeking asylum. According to the Chair of the working group on unaccompanied minors at OFPRA, a number of actions and objectives have been set up:

- Training protection officers throughout all geographic sections on vulnerabilities, in particular on assessing an asylum claim introduced by an unaccompanied minor and conducting an interview with this category of asylum seekers.
- Assessing unaccompanied minors' claim in a shortened period of time: the objective is to have their claim processed within 4 months maximum.
- Raising awareness on the possibility for unaccompanied minors to apply for asylum;
- Conducting interviews of unaccompanied minors by specially trained protection officers;
- Interviewing unaccompanied minors three months after registering their claim at OFPRA to give them time to get properly prepared;
- Proceedings have been harmonised and online thematic folders on this topic have been created for protection officers.

**Threats:**

Education Code:

No provision on the Education Code to cover the case of children of asylum seekers. Nevertheless, education for asylum seeking children is usually provided in regular schools but can also sometimes be provided directly in reception centres (large emergency reception facilities for instance).

Providing schooling and education, including for asylum seeking children, is an obligation of all states sanctioned by several International and European instruments, namely Article 28 of the UNCRC, the International Covenant on Economic, Social and Cultural Rights (ICESCR) (Article 13), the European convention on Human Rights, (Article 2). The last paragraph of article 14 of the Recast Reception Directive is also relevant in this context, which foresees that where children cannot access the education system due to their specific situation, other education arrangements shall be offered in accordance with national law and practice. This is particularly important in the case of children with special needs, who shall always be offered the same assistance and special support that are available to nationals of the Members of State concerned.

1. Judicial Implementation of Article 3 of the Convention on the rights of the Child in Europe. The case of migrant children including unaccompanied children, 2012 at <http://www.statewatch.org/news/2012/nov/rights-the-child-in-europe.pdf>
2. Foreign unaccompanied children do not constitute any specific category in the Ceseda, except for two articles which mention them in relation to the ad hoc administrator (Articles L221-5 and L751-1), or in the CASF.
3. For more information please read AIDA Country Report France, update 2016 at <http://www.asylumineurope.org/reports/country/france>
4. As provided by Article 17 Law of 4 March 2002 on parental authority and by Article L.741-3 Ceseda, as amended by the law of 29 July 2015.
5. The Circular of 31 May 2013 does not apply to the département of Mayotte, which has however faced many challenges in terms of protection of unaccompanied children for many years.
6. This puts a heavy financial burden on départements and some of them, as well as members of the Senate, consider that this issue should be handled and financed by the State.
7. Circulaire du 31 mai 2013 relative aux modalités de prise en charge des jeunes isolés étrangers: dispositif national de mise à l'abri, d'évaluation et d'orientation (Circular of 31 May 2013 on the assistance provided to foreign unaccompanied minors: national shielding, evaluating and referral scheme) NOR: JUSF1314192C, available in French at: <http://bit.ly/1GUI4sG>. This circular was completed by a Protocol signed by three ministries (Interior, Social affairs and Health, and Justice) and the president of the Association of the French départements. This protocol foresees the geographical distribution of the foreign unaccompanied children on the territory according to demographical data.
8. AIDA Country Report FRANCE: update 2016, at <http://www.asylumineurope.org/reports/country/france>

# THE ORGANIZATION AND FUNCTIONING OF THE AMIE ESTRELLA CENTER

## Background

The reception centre *Accueil des Mineurs Isolés Etrangers* (AMIE Estrella) was created in 2012, and is managed by France terre d'asile, following a call for proposals launched by the Department of Paris. The Centre was developed in the context of the overall framework and orientation of the departmental plan for child protection (2010-2014). Its purpose has been to develop new responses to the care of UAMs, which is tailored to their needs and the reality of their situation.

The high number of UAMs arriving in the Department of Paris, highlighted the need to provide them with a vocational training focusing on their social inclusion and to facilitate the acquisition of a residence permit. Due to the decrease in the number of young adult contracts (*Contrat Jeune Majeur*) and the difficulties encountered by young graduates in finding a job, it was necessary to reflect on the issue of professional and vocational integration for UAMs. As explained during the interviews, the young adult contracts are provided by departmental councils, which have the exclusive right to decide whether or not to grant such a contract. In recent years, there has been a decrease in the number of young adult contracts, which is often due to a lack of budget or due to political decisions.

The AMIE Estrella centre, which is part of the general reception system in France, is foreseen as long-term accommodation for more than two years for UAMs supported by the child welfare services of the Department Paris (SEM-NA (ASE)).<sup>24</sup> Given its role, the reception center targets UAMs who can be rapidly directed towards a vocational professional training. Beneficiaries are directed towards the most relevant available training programmes after a short evaluation period, including updating skills and consideration of potential job opportunities.

Meanwhile, the AMIE Estrella center is placed within a reception center for asylum seekers (CADA) in Créteil (Paris suburb) which accommodates only families with children. The family atmosphere that prevails in this center provides a positive structure for the UAMs. In addition, this placement allows the shelter to benefit from the experience and expertise of the CADA center structure in terms of partnerships, vocational training and legal assistance, and from a range of services and identified interlocutors.

## AMIE Estrella objectives

**Global objective:** support unaccompanied minors towards their integration in France and empowerment.

**Specific objectives:**

- Teenagers undergo an extensive curriculum to be accepted in a professional training centre.
- Teenagers design a professional project and start a professional training
- Teenagers build their capacities in the reception centre and in an individual accommodation later on
- Teenagers acquire their residence permit and enjoy any right foreseen by the civil law.

The focus is mainly on the empowerment of the 20 UAMs (aged 16-18) and their integration in France through learning French language, integration through work, living independently, and getting a residence permit. The staff from the centre interviewed emphasized the different steps leading to access to a permanent job: the presentation of various professions to the young people, job shadowing, and workshops (how to write cover letter, CVs, and job interviews). One of the main tasks of the team is to help them find an employer and training, which is facilitated by the development of partnerships by the Centre with employers and training centres.

### **The AMIE Estrella Staff**

The Amie Estrella team is led by a director and gathers social workers specialized in the areas concerning the unaccompanied minors, such as:

- 4 social workers in charge of educational follow-up
- 3 social workers in charge of professional integration and partnerships
- 1 teacher of French as a Foreign Language (FLE)
- 1 social worker / legal adviser

24. <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000320195>

A secretary-accountant is appointed to ensure the effective functioning of the centre.

Partners: Compass Group, Tours', Aude's and Saint Maur's apprentice training centers, AFPA of Meudon, etc.

## Target group of the shelter for unaccompanied minors - eligibility criteria to qualify for the AMIE Estrella centre

In order to be eligible, UAMs must have a basic notion of French and a sufficient level of FLE (French as foreign language) after receiving French classes to allow their registration in CFA (Apprentice training centre (Centre de formation professionnelle)). As the purpose of the project is to favour mobility, beneficiaries need to be ready to leave the capital region Ile de France and settle in other French départements.

ASE, through the Department of Paris SEMNA sends a personal file with a request for admission to the shelter. Each file contains a social report, the appointed referee from ASE, and the personal background of the minor including personal data, migratory path, administrative status and professional aspiration. After receiving the file, the AMIE Estrella lead staff member examines the application and decides whether the recommended UAM is qualified to follow the programme of the shelter. More precisely, the UAM should already have a professional project in mind and if not he/she should accept to follow different internships. He/she should agree to follow vocational training outside Paris. As highlighted in the above paragraph, he should have a good level of French and respect the shelter rules.

A meeting to discuss the pre-admission interview is set up for the AMIE director, the referent appointed from ASE, and the referent appointed from AMIE Estrella. The interview lasts one hour without any interpreter and aims to evaluate the level of French (written and oral), professional project and motivation for working. The trainer (le formateur) de FLE and the head of service also participate in the interview. If the UAM is accepted, an admission interview (this time with interpreter) will follow to finalize the procedure

## Basic principles and the methodology of the AMIE Estrella centre

### Unaccompanied minors' profile

#### Spoken language:

- Some of them come from a French-speaking country (mainly located in Africa)
- Others are not French-native speakers (mostly from Asia)

#### Cursus :

- Some of them attended primary school
- Others never received primary education

#### To sit for AMIE Estrella's internal class, you need to :

- Know how to read and write in French at Beginner or Intermediate level
- Understand spoken French on a minimal level

The reception centre operates according to the Constitution of France, specific international conventions and EU law, as well as French law. It also has its own Rules of Operation. The center is a social facility which operates in accordance with articles L222-5<sup>25</sup>, L312-1<sup>26</sup> and next, L313-1<sup>27</sup> and next of the Code for Social Action and Families. In additions, the functioning of the center is in accordance with the Law of the 2 January 2002 renewing the social and medico-social action<sup>28</sup> as well as the Law of 5 March 2007 reforming child protection<sup>29</sup>. The UAMs are looked after in the Centre according to the standards or instructions contained in Article 375 of the Civil Code.<sup>30</sup>

25. <https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006074069&idArticle=LEGIARTI000006796802&dateTexte&categorieLien=cid>

26. <https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006074069&idArticle=LEGIARTI000020892821>

27. <https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006074069&idArticle=LEGIARTI000006797433&dateTexte=&categorieLien=cid>

28. <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000215460>

29. <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000823100&dateTexte=&categorieLien=id>

30. <https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070721&idArticle=LEGIARTI000006426776>

The shelter develops a specific two-year professional pedagogical programme, which is reviewed and approved by the directorate. The methodological programme of the centre is based on the basic principles of the UNCRC and their interpretation is as below:

- **Respect for the best interest of the child:** *it is of great importance that the child gets all the help they need to deploy their talent and skills and to develop their personality. It is vital that all factors are considered in order to arrive at the optimal decision. The individual circumstances of each unaccompanied minor are taken into account as well as their general views with regard to their professional project in order to be integrated into the French system after they leave the centre. (However, no formalized BID procedure is foreseen in any French law!)*
- **Right to be heard and participatory approach:** According to the Law of the 2 January 2002, the participatory approach of the youngsters in deciding on their future and their right to express their views remains one of the main principles of the shelter.
- **Principle of equal treatment and normalization:** According to the Constitution and French law, the shelter provides fundamental rights for everyone without discrimination. During the first period of the integration process, it is stressed that the principle of equal treatment can be best applied if the children actively co-operate during the integration process. Respect for the rules of coexistence and permanent engagement in learning French are upheld. Traditions and religious customs must be respected in a material way as well.
- **Integration:** for unaccompanied minors living in child protection care, integration means integration into mainstream society. During the integration process, it is necessary for these minors to gain knowledge about the traditions and norms of their close and the more general environment and its norms. In addition, it is vital to help them learning good French, develop their professional and social skills and knowledge since these are essential for the future integration process.
- **Preparation for independent lifestyle towards a durable solution:** for unaccompanied minor is the core principle of the shelter. They require great support in the area of official administration (resident permit requisition), financial and economic management. The support provided by the staff enhanced their capacity to live in an independent way by focusing in these aspects: learning to live alone, improve their professional skills, handling their budgetary daily life, being able to deal with French administration and the administrative papers and being more integrated socially. They are encouraged to make their own decisions and be responsible for themselves. The shelter organises daily self-service tasks building on the minors' autonomy. Working together with adults, the minors can gain knowledge in indirect ways.

## Provision of full-scale services

As mentioned above, the shelter has its own Rules of Operation, which must be respected by the UAMs. The Charter of Rights (Regulation) regarding persons accommodated in the centre/shelter and a Welcome booklet is given to any new unaccompanied minor. Upon his arrival, each youngster signs a Residence contract and is explained the rules of the shelter.

The staff of the AMIE Estrella centre (in particular the appointed referee) have a set weekly meeting with the UAM during which they can discuss different issues, express their needs and expectations about the staff and the organization of the centre as such. Generally, these meetings involve tackling daily issues. Furthermore, the youngsters elect a representative who is responsible for informing the team about any issue that needs to be discussed.

The accommodation is collective, consisting of 16 double rooms and 4 single rooms. Based on the principles of the shelter, internal regulations and a two-year plan, the 20 unaccompanied youngsters benefit from the following services:

- » **Health Care:** Upon their arrival, the youngsters benefit from a health check-up which is done at the National Health Insurance (CPAM).<sup>31</sup> They are then appointed a general doctor (GP). In addition, an interview is done with the psychologist of the centre. During the stay in the shelter, they are also taught about the medical process and gain knowledge of the French medical system in general.
- » **Handling money, economizing:** The purpose of economizing is that the UAMs learn the handling and value of euro in everyday life situations. All the UAMs placed in the Center get monthly money for their needs: pocket money, money for clothing, for transportation and phone calls. UAMs are involved in their future financial planning and they are taught to be economically conscious and how to manage a budget.

31. [http://www.ameli.fr/assures/votre-caisse-paris/nos-actions-de-prevention/bilan-de-sante-gratuit-pour-les-adultes\\_paris.php](http://www.ameli.fr/assures/votre-caisse-paris/nos-actions-de-prevention/bilan-de-sante-gratuit-pour-les-adultes_paris.php)

- » ***Educational curricula provided by the Centre*** (Please note that the Educational Curricula is not recognized by the French Ministry of Education)

During the early months, an evaluation of their level of education is carried out by the Centre of information and orientation (CIO) of Boissy Saint Leger.

As a rule, UAMs are obliged to follow regular French courses from CAP in order to be well prepared for their entrance in the apprenticing training centre CFA. Each UAM is followed by a social worker in charge of social inclusions to discuss its professional project and make sure he/she better understands the job market and its requirements. The French courses taken permit the youngster to become familiar with a professional vocabulary as explained in the next section.

The young person can take a refresher course in numerous subjects including French, Math's, History, Geography, Science and IT before moving into the vocational training services (CAP).

The center covers the costs for the school texts which are part of the French school system. Other than those specialized books in French as a foreign language are used. The teacher of the center has developed their own pedagogical planning support for UAMs, many of them are not native French speakers and have never been to school.

### French lessons: timetable and educational content

Monday, Tuesday, Thursday: 9.15 ->11.30 am-1.15 pm->4.15 pm

Friday : 9.15 ->11.30 am-1.15 pm->3 pm

#### Content:

- **French** (grammar, vocabulary, text study, writing)
- **Mathematics** (methods of calculations, geometry...)
- **History and geography**
- **Prevention Health Environment** (hygiene, Food, budget, CV and cover letter, reproductive health...)
- **Non formal education** (philosophy groups, cooking workshops, movie nights, arts, cultural and outdoor activities)

- » ***Individual care plans socio-cultural support: Preparation for an independent lifestyle***

Upon their arrival, an interview with the social worker in charge of social inclusion/integration takes place in order to design and assess their professional project. As stated in the principle they are encouraged to make their own decisions and be responsible for themselves. The Centre's staff organizes daily self-service tasks building on the minors' autonomy, help them to build a coherent professional project and to get familiar with the professional world.

### Work Insertion

#### Teenager's pathway towards apprenticeship :

- 1st step : designing a professional project
- 2nd step : discovering different kinds of works through internships
- 3rd step : taking part in collective non formal workshops on professional theme.
- 4th step : getting the method to sign for an apprenticeship (design of CV and cover letters, interview role-plays, searching for a job on the internet);

#### In addition, the advisers work to:

- Set up partnerships with private enterprise and apprentice training centre
- Be a mediator between teenagers and employers and follow up teenager's training.
- Find an individual accommodation for each teenagers
- Build up networks with local organizations

Partnerships with different enterprises are put in place so the young person can follow an internship of three weeks to better understand the working environment. Most of employers express their satisfaction with the

work and the motivation of the young people, and in most of the cases, they are sorry they cannot hire them definitively. Several partnerships have been developed with vocational training centers and various organizations facilitating access to accommodation, local associations and institutions.

On some occasions, while they are still accommodated in the center, they may search for an employer for apprenticeship outside the Department of Paris. As above mentioned, in order to be able to begin the apprenticeship, they need a work permit granted by the Regional Directorate for Enterprises, Competition Policy, Consumer Affairs, Labour and Employment (DIRECCTE). Once they get it, they move out to an apartment near their new employer. The young adult continues to get assistance from the AMIE Estrella's center staff for a certain period about accommodation, administrative procedures etc.

» **Leisure time**

From the very beginning the youngster sign up to one of the sport activities. The staff and minors plan and organize leisure activities together. In addition, they also organize activities suited to the individual's preferences, such as taking music lessons or other art creative activities. The staff ensures that the youngster participates in the activities they have requested.

» **Administrative and legal support:**

On their arrival, an interview is organized with the jurist of the shelter in order to assess administrative procedures regarding the resident permit status. The jurist of the shelter provides legal advice and follows all the procedures to get the residence permit in different prefectures.

Research showed that the practice differs from one Prefecture to another and it is not always possible for the young person to get a resident permit. Thanks to a partnership with the Prefecture of Val Marne (Préfecture du Val Marne) it was possible for all the applications introduced there to receive a positive answer. The shelter covers also the fees to obtain a passport etc.

## Legal advising

### Three steps towards residence permit:

1. Get a passport: length of procedure, hardships to get civil status documents for teenagers from isolated places.
2. Obtain a work permit: one year work permit for underage teenagers, four month work permit for teenagers over 18. Passport and apprenticeship contract are requested to apply for a work permit.
3. Apply for residence permit: teenagers apply for these two types of residence permits : « private and family life » and « employee ». Those can be applied one year after their 18th birthday at the latest. Length of procedure : app. 9 months

### Residence permit « private and family life »:

- Being cared by the child protection service at the age of 16. at the latest
- Lack of bonds with their country of origins
- Seriousness of the training
- Social reports of the accommodation centre on the degree of integration

### Residence permit « employee»:

- Being cared by the child protection service between 16 to 18 years old
- Sit for a professional training for at least 6 months
- Bonds with the country of origins
- Seriousness of the training
- Social reports of the accommodation centre on the degree of integration

Application for both « private and family life » and « employee » permits



Attestation of application valid for four months. Renewal possible



From 4 to 6 months after application: 6 months receipt



Two months afterwards : appointment to the Office Français de l'Immigration et l'Intégration



One to two months afterwards : residence permit



## Leaving the AMIE Estrella

When it is time for a young person to leave the shelter, an interview is organized between the young person, their referee, the social worker in charge of professional integration and the Director. They receive a list of administrative procedures to follow after leaving the shelter, including any deadlines and contact details. The shelter ensures that the young person receives all personal documents (ID, child welfare service documents, provisional work permit, etc), belongings, copies of medical documentation, and savings. In addition, the young person receives a phone book which includes all the contact details of relevant officials and other stakeholders (health, accommodation, the prefecture etc) that may be needed.

On leaving the shelter, the youngster is helped to find accommodation as well as provided with financial support as a loan to pay the deposit for a flat. Continuous support is provided by the social workers for administrative needs and on how to manage living alone.

A full completed personal file is kept in the shelter.

## FINDINGS: ASSESSMENT, QUALITY INDICATORS AND SWOT ANALYSES

Evidence was gathered to evaluate if UAMs have full access to the child welfare services in France or not. In general, the quality indicators can be influenced by different factors, such as funding or political will, and more internal factors like the qualifications of the staff or their involvement with UAMs, participation of UAMs themselves etc. Regarding the quality of life experienced by UAMs in the AMIE Estrella centre, this is affected not only by having access to basic material conditions, but also by the amount of living space they have, the number of staff supervising them, access to support (e.g. counsellors, medical support and psychological support), and access to leisure activities.

The main legal basis for this section is the recast RCD read in conjunction with the EU charter, which further clarifies the notion of “dignified standards of living”. It should be read in conjunction with the UNCRC to ensure full compliance with the principles of the best interest of the child.

While in several ways, the findings cannot provide a fully comprehensive overview, this section will not only provide a general assessment, but will also try to evaluate at how the AMIE Estrella (reception centre) conforms to the standards and indicators in the relevant instruments, including on the following:

- Identification, assessment and response to special needs

- Housing in the centre,
- Clothing and other non – food items
- Daily expenses
- Integration measures such as access to healthcare, education and leisure activities and employment (vocational training)
- Staff training

## General assessment

The term “unaccompanied child” has no explicit definition in French law.<sup>32</sup> The protection of these young people is therefore based on the notion of children at risk, as outlined in French legal provisions on child protection, which is applicable regardless of nationality or the status of an asylum seeker. Local authorities (*Départements/Conseils généraux*) oversee children at risk so they must protect unaccompanied children in France. It is therefore difficult to obtain an overview of the situation for unaccompanied children at the national level. The Ministry of Justice has overseen the coordination of this issue at national level since 2010, but its role under the 2013 Circular is limited in practice to the distribution of children among local authorities.<sup>3334</sup>

The procedure and criteria are spelled out in the new Law n. 2016-297 of 14 March 2016 relating to child protection and circular issued in January 2016 (Circular NO: JUSF1602101C), requiring a multidisciplinary approach and relevant information and procedural guarantees. Although the circular issued in January 2016, specifies that a social evaluation should prevail over medical bone examinations, especially when it cannot be established that available documentation is not authentic, only few *départements* have effectively implemented the legal framework set out in the 2016 Circular.

Practice is not uniform across the country but it seems that young people are rarely given the benefit of the doubt in practice, and this happens less and less frequently.<sup>35</sup> And as a rule, after identification, unaccompanied children (including those between 16 and 18) are placed in specific children’s shelters that fall under the responsibility of the departmental authorities.

On the other hand, as also stated in the above SWOT analyses, the assessment of vulnerabilities and their consideration throughout the asylum procedure is a completely new element that has been introduced by the latest asylum reforms and is now part of the legislative framework. This positive development should be examined as a possible model that can be used and replicated in other Member States.

As a further matter, it still needs to be evaluated by the government and other stakeholders in France, if the national system for sheltering, age assessment and orientation of UAMs introduced, have managed to lower the disparities between the *départements* in terms of arrivals of unaccompanied children and at harmonizing the practices throughout the country.

- **Assess to Education**<sup>36</sup>

Barriers to effective access to education are varied. Beyond the issue of the level of language, there are also a limited number of specialized language training or initiation classes and limited resources dedicated to these schemes. This is an even more acute difficulty for reception centres in rural areas which simply do not have such classes. Some schools require an address before enrolling children and this can be an issue for asylum seekers who do not have a personal address. Finally, access to education for children aged 16 to 18 is much more complicated as public schools do not have any obligation to accept them. They may be eligible for French courses offered by charities but the situation varies depending on the municipality. Access to apprenticeships is not possible as it requires a work permit that is usually not granted to asylum seekers. French language courses are organized in

32. Foreign unaccompanied children do not constitute any specific category in the Ceseda, except for two articles which mention them in relation to the ad hoc administrator (Articles L.221-5 and L.751-1), or in the CASF.

33. In total, 4,042 youngsters were recognised as unaccompanied foreign minors in order to benefit from special care between 1 June 2013 and 31 May 2014. 23% of them are concentrated in three départements, and 72% are distributed over 25 départements. See General Controllers for Judicial Services, Social Affairs and Administration, Assessment of the scheme for unaccompanied foreign children established under the protocol and the circular of 31 May 2013 (Evaluation du dispositif relatif aux mineurs isolés étrangers mis en place par le protocole et la circulaire du 31 mai 2013), July 2014, available in French at: <http://bit.ly/1LWesCw>.

34. For more information please read AIDA Country Report France, update 2016 at <http://www.asylumineurope.org/reports/country/france>, pg. 91

35. Ibid, pg. 91

36. Ibid, pg 86

some reception centres depending on the availability of volunteers. Young adults and adults are often forced to put aside their career or training, pending the decision on their asylum application. For young people, this represents a considerable loss of time.<sup>37</sup>

Finally, asylum-seeking children with special needs are faced with the same difficulties as children with special needs in general. Access to trained and specialized staff (“auxiliaires de vie scolaire”) tasked with supporting these children during their education in regular schools is very limited. For example, on 10 March 2014, the Committee of Ministers of the Council of Europe adopted a resolution tackling the issue of the difficult schooling of children with autism in France.<sup>38 39</sup>

According to a March 2014 report from the CNCDH, access to education remains a concern for unaccompanied children, in particular those who are not taken charge by the competent public service and have to care for themselves. In a recent study,<sup>40</sup> the Council of Europe and UNHCR indicated that unaccompanied and separated children arriving after the age of 16 are only given access to education if places are available. Some of them arrive without ever having been to school, so they often cannot read or write. In this case, it is extremely difficult to integrate them into the mainstream education system. There is no access to free language classes, as in some other countries. Sometimes, social workers in the facilities manage to make appropriate arrangements on an ad hoc basis.

In the centres managed by the NGO France terre d’asile, all unaccompanied children arriving have classes to learn French and Math’s, as a minimum. Depending on their level of French and literacy, they are placed into one of four different groups. In that way, they immediately start an integration process, with access to basic education, while preparing their future projects.

After-care arrangements are provided upon the request of the young adult, with the support of the educational team. The decision is made by the child welfare services. After-care is available up to the age of 21, through the young adult contract (Contrat Jeune Majeur). The purpose of this contract is to set out the terms and duration of the extended support a young person can receive from the ASE between the ages of 18 and 21, with the aim of the young adult being able to live independently and integrate into French society. The department provides further financial and educational support during this time, to allow the young adult to integrate in the French society, thanks in particular to the continuation of their studies or training.

Last but not least, the general finding is that apprenticeship is perceived as the only way for UAMs in France to get a job and be integrated in France, as concluded also in the study visit report. During the interviews, the issue of the unstable nature of the residence permit was raised. And there is still room for improvement as the analysis show.

## AMIE ESTRELLA center

The aim of this case study report was to provide an understanding of how the AMIE Estrella Reception Centre works, focusing on the practice and legal obligations to provide vocational training in order to guide UAMs towards a long-term solution to integration in France. Based on the analytical research and the findings of the interviews (at the time of the visit held on 27-29 of May 2015), the following observations can be extracted as the main points:

### General overview:

The Amie Estrella center is representative of the French reception system because it is financed by the local authority, the “department”, that is responsible for the care of unaccompanied minors in need of protection on its territory.

The Centre is foreseen as long-term accommodation for more than two years for unaccompanied foreign minors supported by the child welfare services of Paris. It should be considered an innovative and original project that strives to address the specific needs and expectations of young adults who are willing to participate in French society by working and building their life in France. It is a good practice of how the creation of an adequate care

37. For more information please read AIDA Country Report France, update 2016 at <http://www.asylumineurope.org/reports/country/france>

38. Council of Europe Committee of Ministers, Autisme-Europe against France, Resolution ResChS(2004)1, Collective complaint No. 13/2002, 10 March 2014, available at: <http://bit.ly/1RIREQt>.

39. For more information please read AIDA Country Report France, update 2016 at <http://www.asylumineurope.org/reports/country/france>

40. CNCDH, Unaccompanied and separated asylum-seeking and refugee children turning eighteen: What to celebrate?, UNHCR/Council of Europe field research on European State practice regarding transition to adulthood of unaccompanied and separated asylum -seeking and refugee children, March 2014, Strasbourg, France.

service may provide new life opportunities to unaccompanied minors, and create a positive momentum, involving various stakeholders – local authorities, associations, schools, health and social services, local firms.

Many of the French stakeholders interviewed agreed that the AMIE Estrella shelter project should be replicated across France and is part of the overall framework and orientation of the departmental plan for child protection (2010-2014), in the document issued by the Department of Paris called “Specifications for a project proposal for creation of 50 places of reception for youngest under child protection service”. The document emphasizes that the minors over 16 years old that are out of the education system and are not capable to retake school, are directed through a journey of two years towards being autonomous after reached the age of majority.

Most employers hiring the young adults express their satisfaction with the work and the motivation of the young people, and in most of the cases they are sorry they could not hire them permanently. Several UAMs leaving the AMIE Estrella center, have started to work, which means have signed a contract that entitles to APT (provisional working permit authorization).

Staff responsible for reception and care:

Standard: Qualified, trained and independent staff and interpreters should be available for effective communication between the child and their legal advisors.

In general, the staff of the AMIE ESTRELLA have experience in child protection and providing reception conditions for unaccompanied minors. The staff is dedicated and had the necessary intercultural skills. However, the knowledge about the asylum procedure should be included in their training package. There is only limited specific training available for the staff members and a request for additional training was expressed.

Standard: Sufficient funding is provided to ensure good quality standards for the reception centre.

At the time of the visit, different stakeholders appealed for more funds to be allocated from both the national central budget and from the EU, to provide the children with effective tools to facilitate integration, to improve reception conditions, as well as to replicate the AMIE Estrella center in other French Departments.

- **Access to Basic Principles and Rights**

The legal obligations to respect all children rights, including the economic, social and cultural rights regardless of migration status should be recalled. This includes but is not limited to access to services for children’s well-being and development, including health care, education and accommodation.

Section IV “The organization and functioning of the AMIE Estrella center”, confirms that in general UAMs placed in the AMIE Estrella center enjoy a set of rights and provisions in line with the UNCRC and relevant EU *Acquis* (articles: 11.14, 23.2 and 23.3 of Reception Directive and article 14.1 of the Asylum Procedure directive), see table of legislation for more information.

As a result, the following can be concluded:

Many of the UAMs have followed the vocational trainings provided by CFA. The internships and vocational trainings have proven to be successful and could open doors for minors to have future jobs in those companies thanks to their motivation and hard work.

Several informal efforts using their own contacts and networks are carried out by the staff of the shelter to find business partners where minors can be placed for internships.

UAMs have access to a special Educational Curricula: The youngster can take a refresher course in numerous subjects including French, Math, and History, Geography, Science and IT before moving into the vocational training services (CAP).

UAMs have access to sport and leisure activities. Sport memberships for UAMs are partly covered by the shelter. The center also organizes pedagogical and cultural trips (cf. 2014 Activity report of the AMIE Center).

Several medical checks- ups are also provided for each unaccompanied minor.

- Health insurance or “basic CMU” is provided and the center has a partnership with the association Par-cours d’exil for psychological needs.
- Pocket money is also provided to buy in general clothes.
- Hiring apprentices: In general, the weekly minimum remuneration is based on 35 hours and the monthly

hours are 151.67 hours as stated in the Article D 6222-26 and D 62222-27 Employment Code (Code du travail).

Age	Reference Salary*	First year	Second year	Third year
Less than 18 years old	SMIC** (monthly rate)	25 % 356.42 € (subject to change depending on the annual index)	37% 527.50 € (subject to change depending on the annual index)	53% 755.60 € (subject to change depending on the annual index)
From 18 to 21 years old	SMIC	41% 584.52 € (subject to change depending on the annual index)	49% 698.58 € (subject to change depending on the annual index)	65% 926.68 € (subject to change depending on the annual index)
More than 21 years old	SMIC or minimum salary	53% 755.60 € (subject to change depending on the annual index)	61% 869.66 € (subject to change depending on the annual index)	78% 1112.02 € (subject to change depending on the annual index)

\* Please note that the salary reference is taken from the 2012 information.

\*\* <http://www.journaldunet.com/management/salaire-cadres/1071810-smic/>

The advantages of involving children and youth themselves in monitoring and evaluating reception practices are clear. It is important to dedicate sufficient time to involving children in the process, in order to establish a relationship of trust. The staff of AMIE Estrella dedicate time to listening to concerns. In discussion of the future, the focus is on how the youngsters feel about their future and what support they feel they have or lack in regards to realizing their plans. The field of interest for future jobs varied among the youngsters living in the AMIE ESTRELLA center.

When discussing possibilities and obstacles for realizing plans, the young people raised various issues, including the need for more information on what rights and obligations they have after the age of 18 and the age of 21, and what support from society they are entitled to and can ask for when older and after support and care facilities end. There is a fear about reaching the age of 21 that other children do not experience due to uncertainty about what will happen and what support there will or will not be. The difficulty of mentally preparing for the future when alone without the support of family was also expressed.

Another obstacle raised was the stress and worry over whether they will get a permanent resident permit. After turning 18 in the best-case scenario young persons receive a one-year temporary resident permit which could lead to a permanent resident permit. Many efforts are continuously made from the legal representative of the centre so that minors receive the resident permit after they reach 18. Nevertheless, it should be highlighted that many Prefectures refuse to issue residence permits to minors.

#### • **SWOT analyses**

SWOT: documentary evidence	Reflections
<p><b>Strengths:</b></p> <p>The importance of building an educational (vocational training) project with the adolescents, considering their desires and dreams.</p> <p>After-care is available up to the age of 21, through the “young adult contract” (Contrat Jeune Majeur).</p> <p><b>Amie Estrella center:</b></p> <ul style="list-style-type: none"> <li>The AMIE Estrella Centre is seen as a good model.</li> <li>Provision of full-scale services.</li> <li>Knowledge of the administrative framework and experience in the integration.</li> <li>Administrative and legal support to get the residence permit.</li> </ul>	<p>It strives to address the specific needs and expectations of young adults who are willing to participate in the French society by working and building their life in France.</p> <p>The after-care arrangements provide long-term solutions and better opportunities for integration. The relatively long after-care arrangements may be part of future advocacy when it comes to the integration of UAMs.</p> <p>However, challenges still exist, in particular linked to the assessment and specific reception of these young people. Also, the fact that the signing of the contract is left to the discretion of <b>the departmental councils and is not an obligation could be an obstacle</b>. For the last few years it has been seen a decrease in the number of “contrat jeune majeur” given, which is often due to a lack of budget or a political will.</p> <p>Considered to be a very positive aspect towards a sustainable solution. The relatively adequate care service in the AMIE Estrella centre may provide new life opportunities to unaccompanied minors, and create a positive momentum towards their future social inclusion/ integration in France through preparation for an independent lifestyle.</p>

<p><b>Weakness:</b></p> <p>Insufficient and inappropriate reception conditions for unaccompanied asylum seeking children in France.</p> <p>The low number of the asylum seeking unaccompanied children</p> <p>Residence permit and the concern for the lack of regularization</p> <p>The apprenticeship is perceived as the only way for UAMs in France to study, get a diploma and then a job.</p> <p><b>The legal representation</b> of UAMs.</p> <p>Lack of inspection and independent monitoring of reception centre. Lack of evaluation tools.</p>	<p>According to a study published by UNHCR and the Council of Europe, insufficient and inappropriate reception conditions for unaccompanied asylum seeking children in France affects the effective access of these persons to a fair asylum procedure as it hinders the possibility to prepare and lodge an asylum application. While the overall reception system for asylum seekers is currently being revised, these persons, to date, often have to stay in hotel rooms, as the child specific facilities are overcrowded. This situation is aggravated when these children turn 18 since they have to leave their hotel rooms or reception centres</p> <p><b>The only way for them to stay in facilities dedicated to children is to have a temporary contract with the département (“Contrat Jeune Majeur”) but it is established upon discretion of the département and most of them do not facilitate the conclusion of such contracts.<sup>1</sup></b></p> <p>As also reported in the study visit report, the information that only a few UAMs apply for asylum (only 321 in 2015) came as a surprise not only to the researcher but also to many members of the delegation.</p> <p>Besides the reasons explained in the ‘General Introduction’ part, pg. 11 and 12, it needs also to be highlighted the fact that asylum seeking unaccompanied minors cannot have access to apprenticeship, since it would imply access to a work permit, which is usually not granted to asylum seekers. This could be a reason that only few UAMs apply for asylum in France. In addition, lack of information might be another reason.</p> <p>Though the Decree of 28 June 2016 has established a distribution mechanism across the country, in practice, several social workers have reported in 2016 that Prefectures did not accept to register the asylum claims of unaccompanied children. In many regions, Ile de France, Bretagne, Auvergne-Rhône-Alpes, Occitanie or Aquitaine, asylum-seeking children are channelled to the usual legal procedure for unaccompanied minors and they are prevented from registering their asylum claim.<sup>2</sup></p> <p>In general, residence permits are granted for one year. After the first year, the residence permit can be renewed up to 5 years. However, young adults may encounter difficulties to get their residence permit issued or renewed as many <b>Prefectures might refuse issuing the residence permit to youngster.</b></p> <p>Granting short-term resident permit leads to uncertainty, insecurity and limits full realization of all rights/risk of remaining in legal limbo for long periods.</p> <p>UAMs do also have the possibility to access secondary studies. UAMs in France terre d’asile’s facilities are largely enrolled at high school. <b>However, the French legal system is based mostly on residence permits through work and studies. France terre d’asile has tried to adapt to the situation, in the best interest of the child.</b></p> <p><b>Signing an apprenticeship contract is often the safest way to help the young person get a residence permit.</b></p> <p>Per definition, an unaccompanied minor does not have a legal representative the territory. Lack of legal advice and/or representation.</p> <p>Currently, there is no control mechanism for the shelter but only exchanges with the SEMNA. An Internal evaluation will be done by France Terre D’asile based on internal procedure.</p>
<p><b>Opportunities:</b></p> <ul style="list-style-type: none"> <li>• Creation of a network based on different partnerships with employers and apprentice training centre.</li> <li>• Raising awareness about the existence of these youngsters in the labor market and the positive impact they might have.</li> <li>• Paving the way towards an independent life through the given support and more opportunities towards a durable solution in staying France.</li> </ul>	<p>Continuous efforts to inform the employers and change their perceptions in order to hire the youngsters.</p>

**Threats:**

- The administrative and legal bottlenecks
- The unavailability of a standard operating procedure for a formal Best Interest Determination (not only in the asylum procedure but also in the mainstream child protection procedures)
- Gap between legislation and implementation: despite legislative provisions, some arrangements remain ad hoc and discretionary, for example access to mainstream social services such as health and education.
- The difficult economic and political context in France makes it difficult to develop partnerships with employers and access employment.

Mostly related to the residence permit.

In addition, the late admissions in the centre (when they are 17 for example) create difficulties in the later integration as there will be less time for an Individual care plan; socio-cultural support and preparation for an independent lifestyle.

1. For more information please read AIDA Country Report France, update 2016 at <http://www.asylumineurope.org/reports/country/france>, pg. 57-58
2. Ibid, pg. 90-92

## RECOMMENDATIONS

### General:

1. The best interests of the child should be a guiding principle at all stages of the migration process.
2. Unaccompanied children should have access to the same rights as French children. Under French legislation, access to social rights and financial benefits is in principle open to migrant children, but some restrictions persist, mostly for children with irregular status, since access to financial benefits is made conditional upon the presentation of documents attesting to the child's regular immigration status.
3. A standard operating procedure for a formal Best Interest Determination (BID) should be put in place (both in the immigration procedure as well in the mainstream child protection procedures) based on a Best Interest Assessment (BIA).
4. Political willingness should be the driving force in providing a welcoming environment for unaccompanied children in general and for those who seek asylum.
5. Collaboration should be enhanced between all the actors involved at national and local level. More cooperation and readiness should be expected by the Prefectures in granting the residence permits (preferably long- term resident permits) to UAMs.
6. Requests for residence permits should be allowed to be submitted to the Prefecture prior to the individual turning 18 years old.
7. Age assessment: The Benefit of the doubt principle is crucial, given the widely contested reliability of medical methods in determining a person's age. If authorities cannot establish that the person is an adult, he or she must be treated as a child.
8. More information on their rights and how to access them should be provided in general to unaccompanied children in a language and manner they understand. Clear information should be also immediately provided on the relevant asylum or immigration procedure, including on rights available to them if they seek asylum and on how to lodge an asylum claim.
9. Asylum-seeking children should not only be channelled to the general legal procedure for unaccompanied children and should not be prevented from registering their asylum claims. Prefectures should agree to register the asylum claims of unaccompanied children, in line with French asylum legislation. To this end, staff in the prefectures should be adequately informed and trained not only on child protection law and rights but also on asylum procedures and relevant rights.
10. Asylum seeking unaccompanied children should have access to apprenticeships and the right to work automatically. This would require revising the 9-month time limit for asylum seekers' access to the labour market under Article L.744-11 Ceseda<sup>41</sup>
11. There should be more flexibility for school enrolment. A special curriculum at school should be provided for migrant/refugee children. Teachers should be trained in this special curriculum.
12. Continuous access to health and welfare rights and social services should be provided even after the Child Welfare Services (ASE) is no longer responsible for these young people. This is essential for preparing them for an independent lifestyle and integration in France.
13. Sufficient funds and resources should be allocated to identify, access and monitor special needs. The necessary special reception guarantees should be put in place in a timely manner.

### *The AMIE Estrella center:*

1. The AMIE Estrella Centre is seen as a good model and should be replicated throughout France. However, a wide range of care arrangements should be available, including semi-independent supervised living, small group of homes and foster care. Vocational training programmes should be provided to all unaccompanied children and include provision of full-scale services.
2. The admission of unaccompanied children to the center should be done in an effective manner and possibly prior to them turning 17 years old.
3. A monitoring mechanism and evaluation tools should be put in place for the facility.
4. Staff working with UAMs in the reception context (reception officers) should be equipped with the relevant knowledge and competences.
5. Continuous efforts are made by the staff of AMIE Estrella to find accommodation for the young people after they leave the centre. More support should be provided by the Prefectures and other local authorities to establish networks that find accommodation for the young people.

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41. See AIDA report France, pg. 85

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1950 European Convention for the Protection of Human Rights and Fundamental Freedoms

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Charter of Fundamental Rights of the European Union

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