

# Durable Solutions for Separated Children in Europe

National Report: Slovakia  
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## 1. Introduction

Children are at an increased risk of being separated from their families or customary caregivers during the chaos of conflict, flight and displacement. A separated child is a child under 18 years of age who has been separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members. Some do not travel alone but in the company of others, potentially including traffickers or smugglers.<sup>1</sup>

Separated children, like adults, flee their countries for a number of reasons. Some travel to join family who previously migrated. Others flee war, civil unrest, natural disaster or persecution. Some children migrate in search of work, opportunity, education or an improved standard of living. Additionally, children may migrate unaccompanied to escape a difficult family environment. This can involve sexual or physical maltreatment or the prospect of forced marriage. Others may migrate to escape female genital mutilation, child marriage or conscription into formal or informal armed forces.<sup>2</sup> Some separated children are also sent by their parents to pursue a better life, both for the child, in the short term, and their family, in the long term.<sup>3</sup>

A significant body of research has also emerged around the specific vulnerability of separated children post-migration, over recent years. The literature argues that separation from family and carers can be traumatic for children and thus increase their vulnerability,<sup>4</sup> contending that separated children are at a high risk of experiencing: sexual exploitation and abuse including: early/forced marriage and human trafficking; military recruitment; child labour including forced domestic labour; detention; discrimination; neglect and violence.<sup>5</sup> However, research also points to the resilience of separated children to integrate, overcome difficult experiences and thrive in new communities.<sup>6</sup> Therefore, separated children can be considered vulnerable due to their circumstances and sometimes past experiences, while also being considered resilient with the ability to forge new paths.

Separated children, once in the country of arrival, are considered to be particularly vulnerable because they lack essential adult care and the traditional support systems of parents and family.<sup>7</sup> It is for this reason that

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1. See: UN Committee on the Rights of the Child General Comment No. 6 on Treatment of Unaccompanied and Separated Children Outside their Country of Origin, Committee on the Rights of the Child, Committee on the Rights of the Child, 2005 (CRC/GC/2005/6).

2. See, generally: UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, 22 December 2009, HCR/GIP/09/08, available at: <http://www.refworld.org/docid/4b2f4f6d2.html> [accessed 9 March 2015].

3. European Migration Network, Unaccompanied Minors – an EU comparative study (2010) at 22. Available at: [http://emm.si/files/publikacije/00\\_emn\\_synthesis\\_report\\_unaccompanied\\_minors.pdf](http://emm.si/files/publikacije/00_emn_synthesis_report_unaccompanied_minors.pdf) [Date accessed: 7th August 2014].

4. See, for example: Russell, S. (1999) Unaccompanied Refugee Children in the United Kingdom. *International Journal of Refugee Law* 11(1), Bhabha, J. and Young, W. (1999) Not Adults in Miniature: Unaccompanied Child Asylum Seekers and the New U.S. Guidelines. *International Journal of Refugee Law* 11(1) and Bhabha, J. (2004) Demography and rights: women, children and access to asylum. *International Journal of Refugee Law* 16(2).

5. See, generally: Bhabha, J. (2014) *Child Migration and Human Rights in a Global Age*. Princeton, Princeton University Press. & See, for example: Communication from the Commission to the European Parliament and the Council - Action Plan on Unaccompanied Minors (2010 – 2014) SEC(2010)534 /\* COM/2010/0213 final and Bhabha, J. and Young, W. (1999) Not Adults in Miniature: Unaccompanied Child Asylum Seekers and the New U.S. Guidelines. *International Journal of Refugee Law* 11(1) .

6. See, for example: M. Ni Raghallaigh & R. Gilligan (2010) Active survival in the lives of unaccompanied minors: coping strategies, resilience, and the relevance of religion *Child and Family Social Work* 15:2, 226-237.

7. See, generally: Separated Children in Europe Programme, SCEP Statement of Good Practice, March 2010, 4th Revised Edition , available at: <http://www.refworld.org/docid/415450694.html> [accessed 9 March 2015].

the European Commission and others argue that a durable solution for separated children must be found as a matter of priority.<sup>8</sup>

### 1.1 Durable Solutions: International Law and Guidance and the European Union

The European Commission, in their Mid-term report on the implementation of the Action Plan on Unaccompanied Minors, identified ‘prevention, reception and identification of a durable solution’ as one of the main strands to focus on in respect of promoting a European-wide approach to the care of separated children, reiterating the need for European harmonisation.<sup>9</sup> In order to harmonise the aforementioned strands across Europe, there must be an understanding of the key principles and terminology at play. In the case of ‘durable solutions’, there is a general lack of clarity around the term.

The term ‘Durable solutions’, in the context of separated children, appears in a number of comments, reports and guidelines. The European Commission,<sup>10</sup> UNHCR,<sup>11</sup> SCEP,<sup>12</sup> the Committee on the Rights of the Child,<sup>13</sup> the Council of Europe’s Life Projects,<sup>14</sup> UNICEF’s Child Notices,<sup>15</sup> the Core Standards for Separated Children in Europe,<sup>16</sup> the Fundamental Rights Agency,<sup>17</sup> UNHCR and UNICEF’s Safe and Sound<sup>18</sup> report as well as European legislation<sup>19</sup> all suggest that finding a durable solution that is in the best interests of the child is part of a robust system of safeguarding separated children. UNHCR further notes that this principle applies both in the case of a child who has been granted asylum and one who has received a negative decision in relation to an asylum claim. UNICEF and UNHCR note the importance of considering child specific protection needs in the effort to determine durable solutions, in particular, one which includes providing international protection

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**8.** European Commission, Report from the Commission to the Council and the European Parliament. Brussels 28.9.2012 COM(2012) 554 final.

**9.** Ibid.

**10.** Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors. Adopted by the Committee of Ministers on 12 July 2007 at the 10002nd meeting of the Ministers’ Deputies.

**11.** UN High Commissioner for Refugees (UNHCR), Field Handbook for the Implementation of UNHCR BID Guidelines, November 2011, available at: <http://www.refworld.org/docid/4e4a57d02.html> [accessed 9 March 2015].

**12.** Separated Children in Europe Programme, SCEP Statement of Good Practice, March 2010, 4th Revised Edition, available at: <http://www.refworld.org/docid/415450694.html> [accessed 9 March 2015].

**13.** UN Committee on the Rights of the Child (CRC), General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6, available at: <http://www.refworld.org/docid/42dd174b4.html> [accessed 9 March 2015].

**14.** L. Drammeh (2010) Life Projects for Unaccompanied Migrant Minors : A handbook for front-line professionals. Council of Europe Publishing (hereinafter Life Projects 2010). Available at [http://www.coe.int/t/dg3/migration/archives/Source/ID10053-Life%20projects\\_GB.pdf](http://www.coe.int/t/dg3/migration/archives/Source/ID10053-Life%20projects_GB.pdf) [accessed 30 September 2014] (c).

**15.** See, for example, UN Children’s Fund (UNICEF), Child Notice Afghanistan 2013, January 2013, available at: <http://www.refworld.org/docid/5124c09e2.html> [accessed 9 March 2015].

**16.** See: <http://www.corestandardsforguardians.com/> [accessed 19 May 2015].

**17.** European Union: European Agency for Fundamental Rights, Guardianship for children deprived of parental care: A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking, June 2014, ISBN 978-92-9239-464-6, available at: <http://www.refworld.org/docid/53b14fd34.html> (hereinafter Handbook 2014) [accessed 30 September 2014], p 92-98.

**18.** UN High Commissioner for Refugees (UNHCR), Safe and Sound: what States can do to ensure respect for the best interests of unaccompanied and separated children in Europe, October 2014, available at: <http://www.refworld.org/docid/5423da264.html> [accessed 9 March 2015].

**19.** European Union: Council of the European Union, Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, 15 April 2011, 2011/36/EU, available at: <http://www.refworld.org/docid/50ec1e172.html> [accessed 30 September 2014]. Preamble: Recital 23 & Article 16(2).

(refugee or subsidiary/complimentary protection).<sup>20</sup> UNHCR argues that a solution should be identified on a case-by-case basis and all aspects of the case should be duly weighed and considered in respect of the best interest of the child.<sup>21</sup>

SCEP and the Core Standards contend that the best interest of the child must be determined in the short and long term through identifying a durable solution that addresses all their protection needs, considers their own views and, wherever possible, leads to overcoming the situation of being unaccompanied or separated, including through exploring the possibility of family reunification in the country of arrival, third country or in their home country.<sup>22</sup>

The Committee on the Rights of the Child holds that regard must be had to the child's identity when making a Best Interests Determination. European law requires that such a determination take into account the child's nationality, upbringing, ethnic, cultural and linguistic background,<sup>23</sup> particular vulnerabilities and protection needs and also the child's views in accordance with their age and maturity,<sup>24</sup> including when determining their accommodation arrangements.<sup>25</sup> The Council of Europe in the Life Projects contends that the purpose of considering these factors is to develop the capacities and potential of each child, to support the development of independence and responsibility and resilience to enable each young person to become an active member of society whether they remain in the host country or return to the country of origin.<sup>26</sup> This guidance highlights the inter-connectivity of the durable solutions process and the best interest determination process. Therefore, the durable solution must involve a best interest determination and indeed be a solution that reflects the best interest of the child. This is supported by the UNHCR's description of the durable solution process, noting that consideration for Article 3.1 of the CRC, which relates to the best interest,<sup>27</sup> must be considered at the outset, before a durable solution decision can be taken.<sup>28</sup> In this way, the best interest assessment must come before

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**20.** UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, 22 December 2009, HCR/GIP/09/08, available at: <http://www.refworld.org/docid/4b2f4f6d2.html> [accessed 9 March 2015].

**21.** UN High Commissioner for Refugees (UNHCR), Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum, February 1997, available at: <http://www.refworld.org/docid/3ae6b3360.html> [accessed 30 September 2014].

**22.** Separated Children in Europe Programme, SCEP Statement of Good Practice, March 2010, 4th Revised Edition, available at: <http://www.refworld.org/docid/415450694.html> [accessed 30 September 2014], p 36.

**23.** European Union: Council of the European Union, Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), 29 June 2013, L 180/96, available at: <http://www.refworld.org/docid/51d29db54.html> [accessed 30 September 2014].

**24.** Ibid & UN Committee on the Rights of the Child (CRC), CRC General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6, available at: <http://www.refworld.org/docid/42dd174b4.html> [accessed 30 September 2014], 79-94.

**25.** European Union: Council of the European Union, Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), 20 December 2011, OJ L 337; December 2011, pp 9-26, available at: <http://www.refworld.org/docid/4f197df02.html> [accessed 30 September 2014], Article 30(3).

**26.** Life Projects 2010.

**27.** Convention on the Rights of the Child 1989, Article 3 1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. 2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures. 3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

**28.** See Figure 1 in UNHCR (2014) Safe and Sound: What States can do to ensure respect for the best interests of unaccompanied and separated children in Europe, p 16.

decisions relating to the durable solution are made. As the durable solution process evolves, the best interest must also be re-assessed in line with any changes in circumstances or wishes of the child. The above named reports and guidelines argue that provision must be made for progress, monitoring and reviewing or revising the project both routinely and in response to changes in the minor's situation.

The Life Projects argue that the solution must be 'lasting'<sup>29</sup> for both Member States and the minors themselves, meeting the challenges arising out of the migration of unaccompanied minors.<sup>30</sup> The Fundamental Rights Agency argues that it must also ensure that the child's rights are secured into the future.<sup>31</sup>

In summary, the existing guidance, research and projects tell us that a durable solution is a lasting solution, determined as early as possible with the possibility of review and revision which takes into account the child's individual best interest by considering the child's: family circumstances; background, including nationality, religion and culture; safety, including risks of trafficking; particular vulnerabilities and protection needs and their views in accordance with their capacity. The determination of a durable solution is therefore a process.

This project aims to analyse the durable solution process for separated children in Ireland through a review of existing research and interviews with service providers and young people.

## 2. Introduction: Slovakia

The conditions and procedures for entry and residence of aliens in the territory of Slovak Republic (herein after referred to as "SK") are defined in the Act No.404/2011 Collection of Laws on Stay of Aliens, as amended (herein after referred to as "Act on Stay of Aliens"). This Act also contains provisions concerning stay of unaccompanied minors (herein after referred to as "UM"), as well as provisions protecting unaccompanied children against the administrative expulsion and apprehension.

The Police Dept. will grant tolerated stay to the third country national person, who is the minor person found in the territory of Slovak Republic<sup>32</sup>. Such an application is made by the guardian of the minor. The tolerated stay may be granted for maximum of 180 days with the possibility of an (even repeated) extension. It is possible to extend the UM's stay repeatedly until they reach the age of 18. An alien, who was granted a tolerated stay and does not possess a passport, whereas does not know how to obtain one, may apply for alien's passport, which allows him to exit SK, but not to return. The guardian may apply for the passport on behalf of UM.

Under the amendments of the Act on Stay of Aliens, which will take effect on 20.07.2015, the Authority for socio-legal protection and social care (herein after referred to as SLP and SC) may apply for tolerated stay on behalf of the minor immediately after the child's placement in child's home, i.e. it is no longer necessary to wait for the court's decision on appointment of the guardian.

Ministry of Internal Affairs may grant permanent residence for indefinite period, without complying with the conditions laid down in the Act on Stay of Aliens, to adults, who have been granted tolerated stay (described above) for at least three years and were studying in the territory of SK during this period<sup>33</sup>. This means, that if the UM has been granted above-mentioned tolerated stay at least three years before they reach majority

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**29.** Life Projects 2010 p 9.

**30.** Ibid.

**31.** European Union: European Agency for Fundamental Rights, Guardianship for children deprived of parental care: A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking, June 2014, ISBN 978-92-9239-464-6, available at: <http://www.refworld.org/docid/53b14fd34.html> (hereinafter Handbook 2014) [accessed 30 September 2014], p 92-98.

**32.** Article No. 58, Section 2 letter a) Act on Stay of Aliens

**33.** Article No. 46, Section 2 letter e) Act on Stay of Aliens

of age and during this period were studying at Slovak school they are entitled to apply for permanent stay for unlimited period, and Ministry of Internal Affairs may grant this application (this means, there is no legal right for the grant) without even complying with legal conditions (e.g. without presenting valid passport, or if they do not meet the legal obligation to demonstrate adequate financial situation, etc.). In practice it is thus possible to apply this Provision on UM, who arrived to Slovakia when they were 15 years old, i.e. three years before they reached majority, whereas almost all unaccompanied children (with a few exceptions) arriving to Slovakia are more than 15 years old. We are not aware of any case, where permanent residence was granted to UM<sup>34</sup>.

Police Department cannot legally expel a child minor 18 years; this does not apply if the expulsion is in the interest of the child<sup>35</sup>. The administrative expulsion of unaccompanied minors is not being seen in practice. Also it is not possible to apprehend a minor person, who does not have any legal representative<sup>36</sup>.

Conditions for international protection and asylum procedure are defined in the Act No. 480/2002 Collection of Laws on Asylum, as amended (hereinafter referred to as “Act on Asylum”).

There are two types of international protection defined by law – asylum and subsidiary protection.

In accordance to this Act it is also possible to grant asylum on humanitarian grounds. Asylum or subsidiary protection is subject to a decision of Migration Office within Ministry of Internal Affairs in SK in the same procedure – asylum procedure.

Asylum procedure begins, when alien presents declaration regarding their request on asylum or subsidiary protection at the competent Police Department. Legal representative or court-appointed guardian will present the declaration on behalf of the minor alien. The procedure will not begin if it is found, that the declaration has been made by minor person.<sup>37</sup>

Migration Office within Ministry of Internal Affairs in SK will assess each application individually and will take into consideration all grounds and circumstances in each case, however the fact, that the applicant is a minor child in Slovakia unaccompanied by parent is not a substantive reason for granting the asylum, subsidiary protection or asylum on humanitarian grounds. However, the Act on Asylum contains provisions concerning the particularity of the status of the minors during the asylum procedure. These special provisions include e.g.:

- The authorized worker of the Ministry shall take into consideration during the interview with the minor person the age and degree of mental and will maturity;
- The minor person can be interviewed only in the presence of their guardian, the guardian shall have the possibility to inform the unaccompanied minor about the meaning and possible consequences of the interview and prepare the minor person for this interview<sup>38</sup>;
- The Ministry shall not disapprove the application for asylum as clearly unfounded if it is a case related to unaccompanied;
- The application shall be assessed by authorized worker of the Ministry, who possesses relevant knowledge in the area of asylum; and in case of unaccompanied minor also relevant knowledge concerning the minor`s needs<sup>39</sup>;

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**34.** Based on our the request sent to Office of Border and Alien Police of the Presidium of Police Corps (Úrad hraničnej a cudzineckej polície Prezídia PZ), where we have requested information concerning number of granted permanent residencies as defined in Article No. 46, Section 2 letter e) Act on Stay of Aliens, we have found that Office of Border and Alien Police of the Presidium of Police Corps does not possess any records on relevant statistics.

**35.** Article No. 83 Section 8 letter a) of the Act on Stay of Aliens

**36.** Article No.88 Section 9 of the Act on Stay of Aliens

**37.** Article No. 3 Section 1 of the Act on Stay of Aliens

**38.** Article No. 6 Section 6 of the Act on Stay of Aliens

**39.** Article No. 19a Section 9 of the Act on Asylum

- The Ministry shall provide adequate health care to minor applicants for asylum, who may be victim of abuse, neglect, exploitation, torture, cruel, inhuman or degrading treatment or suffered the consequences of armed conflict<sup>40</sup>;
- The Ministry shall provide adequate conditions for accommodation and care for the unaccompanied minors in the asylum facility<sup>41</sup>;
- When placing the alien into asylum facility the Ministry shall take into consideration the age, health condition, family relationships, national, ethnic or religious specificities.  
Men, women, minor persons and adults are placed separately, considering family relationships.  
Moving alien from one asylum facility to another shall happen only in individual cases<sup>42</sup>;

## 2.1 Background to care arrangements

Protection of minors, their rights, and their law protected interests are in Slovak Republic carried out particularly in the Act No. 36/2005 of the Family Code, as amended (herein after referred to as "Family Code") and in the Act No. 305/2005 Collection of Laws on Socio-Legal Protection and Social Care, as amended (herein after referred to as "Act on SLP and SC"). This Act governs Socio-Legal Protection and Social Care as a set of measures, which are provided to the child, especially through social work and other appropriate methods and procedures.

In accordance to Act on SLP and SC the accompanied minor child is a child, who is not a citizen of Slovak Republic and is in the territory of Slovak Republic unaccompanied by parent or any other adult person who could have the child's custody<sup>43</sup>.

Identification procedures of the alien are the first procedures carried out, after the alien's apprehension, generally near the Slovakia-Ukraine border, subsequently are the UMs brought before Department of Border Control or Alien Police Department in order to submit explanation (in case of unlawful entry into Slovak territory). At the moment, the alien is identified as minor (in case of doubts regarding their age, the police may order medical examination for age determination purposes), the Police Department is obliged not to take any further action with the child and immediately inform competent SPOD and SK Authority (locally competent Office of Labour, Social Affairs and Family), that the minor has been found.

SPOD and SK Authority will immediately apply for interim measures concerning the placement of the child, who was left without care into child's home and also to appoint a guardian.

The court shall issue interim measures within the following 24 hours since the application has been made. Subsequently the child is placed into Child's Home for Unaccompanied Minors in Medzilaborce (it is the only home for unaccompanied minor children in SK). The UM's placement into child's home is usually carried out by SPOD and SK Authority, which applied for interim measures at the court. The guardian, the court appointed guardian is usually SPOD and SK Authority and local competent authority in accordance to location of the child's placement (Office of Labour Stropkov, branch office Medzilaborce). The guardian is appointed in order to carry out all legal actions, which are in the interest of the minor, e.g. application for asylum, application for tolerated stay, application for alien's passport, etc.

It is worth emphasising, that all UMs are placed into child's home, however if they decide to apply for asylum they are relocated to holding camp under Migration Office within Ministry of Internal Affairs SK in Humenné. This practice has been criticized by UNHCR, non-governmental organisations and even by Ministry of Labour, Social Affairs and Family SK, as the facilities under Migration Office within Ministry of Internal Affairs SK are

40. Article No. 22 Section 5 second sentence of the Act on Asylum

41. Article No. 39 Section 1 of the Act on Asylum

42. Article No. 39 Section 2 of the Act on Asylum

43. Article No. 2 item a) letter 3 of the Act on SLP and SC

not eligible for children and UMs are placed in these facilities together with adult asylum seekers, which have negative influence to UMs. The Act on Asylum and Act on Socio-Legal Protection and Social Care are currently in the process of amendment, in virtue of this amendment the children shall no longer be relocated from child's home to reception center since 20.07.2015.

Children are in child's home placed in a special diagnostic group, where are separated from other children during the first days of the stay in child's home, during this period is being performed the first medical examination and it is found if the child doesn't carry any of the infectious diseases. This type of placement lasts usually from 3 up to 7 days; during the stay in the diagnostic group is the child entitled to walks in the company of an educator. The goal is to prevent spreading of infectious diseases, and therefore protect other children from infection. At the time of placement in separate diagnostic group, the child is given basic information, mainly in the form of information brochures in various languages.

The UM is transferred to common area of home after the completion of the medical examination. The first interview (in a presence of an interpreter) with the child is generally conducted at the time of the child's transfer to common area of the child's home. In case that the UM has been already appointed a guardian the guardian is also present at the interview together with the child's home social worker. The UM is explained the operational rules of the child's home the role of social worker, of the guardian, and legal options for addressing their situation. During the interview are identified the reasons for their arrival to Slovakia, information on family, final destination, UM's views on solution of their situation.

The UM is entitled to free movement within the Home and to walks accompanied by an educator. Considering the large number of disappearances, respectively escapes of the unaccompanied minors from the child's home, the child's home is gradually introducing several preventive measures in order to improve child's protection. For example, the child can leave the child's home (for walk, shopping, etc.) only in the company of an educator (regardless the child's age, which means also older children), the child's mobile phone is safely kept by the child's home (this is explained to the child), whereas the child can make phone calls only using the home's special mobile phone for this purpose (the numbers dialled by UM are recorded). Educators regularly control the child's movement even within the child's home (e.g. night control, if the UM is at his room, etc.).

It is possible to apply for asylum, only after the appointment of a guardian. The guardian is in some cases (the court's practice differs) appointed together with the interim measures concerning the UMs placement to child's home (in one single decision), in other cases is the guardian appointed after the UM's placement into child's home (this can take various days or weeks depending on the time of the application submission at the court and of how fast is the court's decision issued). Until the day a guardian is appointed to UM, all necessary actions on behalf of the child are made by local competent SLP and SC Authority, however this authority cannot represent the UM in any legal action, i.e. cannot apply on asylum or tolerated stay.

As long as the UM's legal situation is not resolved (at least temporarily, e.g. by granting tolerated stay), neither their school enrolment can be addressed. In case the UM applies for asylum, and therefore is relocated to reception center and then to accommodation center (the stay in reception center in Humenné lasts approximately two or three weeks, then is the UM relocated to accommodation center for Asylum Seekers in Opatovská Nová Ves). UM's school enrolment is not addressed until the time the asylum procedure is terminated and the child is back in child's home (this can take months, but also more than an year, depending on the length of asylum procedure). According to data provided by Migration Office within Ministry of Internal Affairs SK, none of the UMs placed in the camp of Migration Office has attended school in the past 5 years (2009 -2013).

If they are granted asylum or subsidiary protection the UM can be relocated to other child's home, where

they can be placed with Slovak children. The list of such children`s homes is provided by Ministry of Labour, Social Affairs and Family.

Services for children in Child`s Home for Unaccompanied Minors in Medzilaborce are also provided by non-governmental organisations, in particular The Human Rights League (Liga za ľudské práva), which provides legal advice to UM in collaboration with the guardian, and The Slovak Catholic Charity (Slovenská katolícka charita) provides Slovak language teaching services and psychological help and support for children. The child`s home employs child psychologist on a part time term, who offers her service also to unaccompanied minors. The child`s home provides interpretation services on its own costs, however due to the child`s home location in a small town, the availability, choice and flexibility of interpreters is not ideal.

## 2.2 Demographics

Data on number of UMs are recorded by Alien Police (Office of Border and Alien Police of the Presidium of Police Corps – data on number of unaccompanied minors apprehended when illegally crossing the border or during their illegal stay); Socio-Legal Protection and Social Care Authorities (established by Central Office for Labour, Social Affairs and Family – records numbers of unaccompanied minors, who are placed in child`s homes); and lastly Migration Office within the Ministry of Internal Affairs SK (data on number of unaccompanied minors as asylum seekers). In this section we provide statistical information on number of UMs for the past 5 years.

Year	Number of children apprehended when illegally crossing border or during illegal stay	Number of children placed in child`s homes	Number of child asylum seekers	Number of children who disappeared (child asylum seekers are not included)
2010	259	264	7	N/A
2011	145	169	18	110
2012	147	151	5	135
2013	52	72	5	35
2014	20	21	11	12 <sup>44</sup>

## 2.3 Concluding remarks

In regard to care system for UMs in Slovakia and in relation to possibility of durable solutions for these children, it is above all necessary to consider the fact, that the situation of the unaccompanied minor children in terms of care services is very similar to situation of Slovak children. All unaccompanied children are placed in child`s homes, since 2014 it is the Child`s Home in Medzilaborce, where are provided care services also for Slovak children. The previous child`s home (in Horné Orechové), was causing in children an unpleasant feeling of an isolation due to its location in forest and far from town, and the children felt negatively and rejected by society. This problem has been solved and the child`s home designed to care UMs is now situated in the middle of the town. However the UMs are still being placed into facilities of Migration Office within the Ministry of Internal Affairs SK during the asylum procedure. The Act on Asylum and Act on Socio-Legal Protection and Social Care are currently in the process of amendment and the practice should be changed in such a manner, that the children will be placed only in child`s homes.

Problem areas in terms of possibility of durable solutions for unaccompanied children appear to be as follows:

**1) Disappearance:** The majority of UMs placed in child`s homes relatively quickly disappear without knowing their subsequent faith. These disappearances generally occur within a few days after the placement in the child`s home, which gives to competent persons (guardian, social workers) only a little possibility to work

44. Data provided by Office of Border an Alien`s Police Presidium of Police Corps

with the children, to find out what are their needs and look for durable solutions. The fate of these children after leaving the child's home also raises concerns. The Government of the Slovak Republic and competent authorities are also aware of this problem, and in the document called Integration Policy of Slovak Republic (Integračná politika Slovenskej republiky), in the chapter dedicated to unaccompanied minors it is considered an adoption of preventive and protective measures<sup>45</sup>, whereas the identification of the reasons for disappearance is considered to be one of the measures.

**2) No appointment of a custodian:** In the Act on Social-legal protection of children, Article No. 29 is assumed, that the UM will be appointed a custodian by court. In practice, unaccompanied minors are appointed guardians in order to represent them in all legal actions. This procedure is being considered correct, whereas the function of the custodian and guardian is very different. While the custodian substitutes parents (with the exception of personal care), the guardian is being appointed for concrete actions and it is not their duty to take an interest in education and school education of the child, etc. It is worth mentioning, that one of the reasons for not appointing the custodians is the already mentioned very fast disappearance of the children.

**3) Transport of the children to facilities of Migration Office within Ministry of Internal Affairs SK:** The current practice has been criticized by The Human Rights League (Liga za ľudské práva) since 2009. This practice has very negative influence to development, health, education, mental state, and general wellbeing of the child and in our opinion, is in violation of Convention of the Rights of the Child. One of the most negative results are from the perspective of the children delayed school enrolment due to the relocation.

**4) The availability of legal options in the period until they reach 18 years:** Children who do not apply for asylum or who are not granted international protection within the asylum procedure (asylum or international protection) have very restricted options for obtaining residence in Slovakia. These children are granted tolerated stay, which is being extended until they reach the majority of age. The tolerated stay is the least favourable type of legal stay, in principle it just means tolerating the person in the territory of Slovak Republic and it represents only a temporal solution of the child's legal status. If the child does not possess a passport, they are practically not entitled to apply for any other possible type of stay which would not be automatically terminated when they reach the majority of age. e.g. temporal residence for purpose of study.

**5) The availability of legal options after reaching the age of majority:** The Act on Stay of Aliens provides to UM, who reached the majority of age the possibility to apply for permanent residence for indefinite period (as defined in Article 46, Section 2) without even complying with legal conditions (e.g. without passport), provided, that the alien had been granted tolerated stay for at least three years before they reached the majority of age, whereas during this period were studying in SK.(i.e. attending school). This way of granting permanent residence could be legally considered as durable solution to the child's respectively young adult's legal state, however this solution is available only to unaccompanied children, who were granted tolerated stay and arrived to Slovakia at the age of 14, respectively on the day of their 15th birthday at the latest, in order to be able to meet the condition of tolerated stay of three years. In practice it is a tiny percentage of children as in accordance to statistics the children arriving to Slovakia are mostly 16 and 17 years old. As defined in the Citizenship Act of Slovak Republic, it is possible to grant citizenship of SK to unaccompanied minor, whose legal representative or custodian is Slovak citizen or legal person appointed by court of SK, and who have continuous permanent residence for at least two years immediately preceding the date of the application for citizenship of SK; the length of stay does not apply to minor children up to two years of age. This provision is in practice also available only to tiny percentage of unaccompanied children for above-mentioned reasons.

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**45.** The Human Rights League (Liga za ľudské práva) issued Position Paper called Disappearing Children, also elaborated Solution Analysis. The Position Papers and Solution Analysis are result of a one year research focused on finding the most common reasons for disappearance of separated children and analysis of following procedures and search for these children. Available in Slovakian on the Human Rights League's (Liga za ľudské práva) website in section Publications.

### 3 The Durable Solution Process in Slovakia

In accordance to Act on SLP and SC and related implementing Acts. Internal standards of the Central Office of Labour, Social Affairs and family (Ústredie práce, sociálnych vecí a rodiny),, No. IN – 051/2007 “As defined in Article No. 3 of UN Convention on the Rights of the Child. In all actions concerning children the primary consideration shall be the best interests of the child. In order to find durable solution to their situation, the Child’s Home in Medzilaborce (hereinafter referred to as Child’s Home) shall find the child’s views for all circumstances, which are in their concern. “<sup>46</sup> The first measures taken by competent national authority concerning durable solutions for UM are to be implemented at the moment of placement of the child in child’s home.

So-called “Individual Plan for Personal Development” is to be elaborated by SLP and SC in each UM’s case, this Plan also contains “Plan for Educational Work with the Child and their Family”. Individual Plan for Personal Development contains proposal for measures, which lead to child’s stabilization and the plan for durable solution to UM’s situation is a part of it. All three plans are elaborated immediately after the child’s placement into Child’s Home. Each child is given a time to find their feet in the new environment. This adaptation stage lasts two weeks as in accordance to the Internal Standard of Central Office of Labour, Internal Affairs and Family (ÚPSVaR). During the adaptation stage the UM’s guardian conducts interview with the child in the presence of an interpreter, who speaks a language understandable to the child. The guardian is mainly focused on information concerning UM’s family, separation circumstances, persons who are not family members, but are important to UM, circumstances in which the UM has been found, his life before and after separation, his physical and health state, education, desires and plans for future and also on preliminary assessment of UM’s mental and emotional development, their maturity and age. Based on UM’s answers, the guardian together with Child’s Home staff assess the best solution in the best interest of the child.

The process of finding durable solution is aimed to overall stabilization and integration of the child. Taking into consideration the law, the following durable solutions to their legal status are applicable to UM in Slovakia<sup>47</sup>:

#### 3.1 Reunification of Separated Children with family/relatives

Based upon the fundamental principle, that the child must grow up in family environment, it is the duty of SLP and SC Authority to find out, if the UM has any interest to return to their country of origin, country of their usual origin or to leave to third country and if in general prevails his desire to reunify with their family. The SLP and SC Authorities will find out if the UM is in contact with their parents. The family reunification may occur in UM’s country of residence, EU country or any other third country.

The SLP and SC Authorities cooperate on search for UM’s parents or any other relatives. As defined in Internal Standard of Central Office of Labour, Internal Affairs and Family (ÚPSVaR) “if it is found that UM’s final destination is any third country, where are located their parents or their close adult relatives, then it is necessary to begin the family reunification process as soon as possible.

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**46.** Internal standard of Central Office of Labour, Social Affairs and Family (Ústredie práce, sociálnych vecí a rodiny), č. IN – 051/2007

**47.** It is necessary to emphasize, that these are “durable solutions” to UM’s legal status identified by us, which may not be necessarily identical to durable solution in the perception of the child. The research showed, that the term “durable solution” should rather be seen as a process of finding solutions in the best interest of the child and not as a result of this process. During this process, the original intention of solving the child’s situation may change, e.g. because of changed circumstances (child’s parents have been found) or changed perspective, child’s will or change in child’s legal status (e.g. child has been granted international protection), etc., therefore it is necessary to reassess the original intention too.

SLP and SC Authorities proposes the reunification to the representation offices of third countries of the usual residence of the UM, and where are located their parents or a person, in whose custody is the child, and provide information on measures concerning such a reunification.<sup>48</sup>

The Central Office of Labour, Social Affairs and Family (ÚPSVaR) carries out the communication with the embassies of the third countries and finds out, where exactly are UM's parents located and if they have in the particular country permanent residence and if the UM will be accepted by the third country. During the reunification process is being considered the safety of the country and if the country is an adequate place for the UM. If is by the third country evaluated as a safe and adequate all necessary documents are obtained and the UM's reunification with family or other relatives can be arranged.

If it is confirmed that UM's parent/s are located in another country, all necessary measures are pursued in order to ascertain, that they are real UM's parents. As an evidence are mainly used birth certificates as well as other relevant evidence proving family relationship. In accordance to the Internal Standard "it is necessary to begin the process of search for child's parents, provided, that such an action does not endanger the family members of the child located in the country of origin. While searching for the family members it is possible to ask for the support of United Nations High Commissioner for Refugees (hereinafter referred to as "UNHCR"), Ministry of Internal Affairs of SK, and International Organisation for Migration (IOM), and Red Cross. It is essential, that UMs are very well informed on the search process. If possible and appropriate, the child should be mediated contact with parents.<sup>49</sup>

The UM's return is carried out by Central Office of Labour, Internal Affairs and Family (ÚPSVaR) and embassies in cooperation with SLP and SC Authorities in whose territorial jurisdiction is UM located and in cooperation with the guardian. The SLP and SC Authorities are also cooperating with International Organisation for Migration, which provides logistic arrangements during the UM's trip to their parents.

In particular, purchase of the airline ticket and other tickets, and arranges the person who travels with the UM to the country of reunification leaving the UM with their parents or authorized persons.<sup>50</sup>

### **3.2 Granting permanent residence for indefinite period**

One of the options of legal stay for unaccompanied minors after reaching the majority of age in the territory of Slovak Republic is permanent residence for indefinite period. In accordance to Act on Stay of Aliens, the Ministry of Internal Affairs may grant the permanent residence even without complying with the conditions defined in the Act on Stay of Aliens to an adult person, who was granted tolerated stay as defined in Article No. 58, Section 2, letter a) of the Act on Stay of Aliens<sup>51</sup> at least three years whereas was studying in the territory of Slovak Republic during this period.

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**48.** In accordance to Article No.19, Section 1, letter b) of the Act on SLP and SC " The Authority for Socio-Legal Protection and Social Care notifies the country's embassy of the UM's usual residence the measures for return or relocation of the unaccompanied minor and requests their return or relocation to their country of usual residence, where it is clear that the residence is in safe country and does not apply the Hague Convention on Civil Aspects of International Child Abduction (Notification No. 119/2001 Collection of Laws).

**49.** Internal Standard of Central Office of Labour, Internal Affairs and Family No. IN – 051/2007, Page No. 22

**50.** Within the experience of The Human Rights League (Liga za ľudské práva) we have recorded 2 successful UM cases of reunification with family. The first case concerns 3 Chechen children, who were reunified with their parents in Sweden and second case concerns two Afghan children who were reunified with their parents in Switzerland after 9 month stay in Slovakia.

**51.** Article No. 58, Section 2, letter a) of the Act on Stay of Aliens: the Police Department shall grant the tolerated stay to third country citizen, if there are no reason for rejection of the application as defined in Article No.59, Section 12, letter a) and who is a minor person found in the territory of Slovak Republic.

At the moment of application for permanent residence the unaccompanied minor must prove that the tolerated stay had been granted before they reached the majority of age and also must present student certificate for this period.

In case of unaccompanied minors the SLP and SC Authorities must apply for the tolerated stay immediately after their placement into child's home.

Failure to meet the conditions of having three years of tolerated stay granted in Slovakia may prevent the granting of this type of residence to the former unaccompanied minor.

It is also essential that the unaccompanied minors are admitted to school as soon as possible because the delay in UM's school enrolment may prevent the granting of permanent residence for indefinite period in the future.

No unaccompanied minor has been granted permanent residence for indefinite period since this provision came into force. One of the reasons is undoubtedly the fact, that UMs do not meet the condition of three-year stay before they reach the majority of age, since the majority of unaccompanied minors arrive to Slovakia at the age of 16 or 17.

### **3.3 Granting citizenship**

In accordance to Act No. 40/1993 Collection on Slovak Citizenship the citizenship may be granted to minor child, whose legal representative or custodian is Slovak citizen or legal person appointed by court, whereas has continuous residence in the territory of Slovak Republic at least two years immediately prior to the submission of the application for citizenship.

The application is submitted by the court-appointed guardian on behalf of the unaccompanied minor. The unaccompanied minor must have at the time of the submission of the application granted stay in the territory of Slovak republic at least two years prior the submission of the application. As defined by law, the stay must be continuous. The law does not require any specific type of stay, therefore it may be tolerated stay, temporary residence or permanent (long-term) residence.

The Citizenship Act legislation is to the unaccompanied minors more favourable than the legislation in the Act on Stay of Aliens, in particular in regard to stay in Slovakia before submitting the application (2 to 3 years) and it does not require to meet any other conditions (school attendance).

The application for citizenship is submitted by legally appointed representative or custodian on behalf of UM at the regional authority office in accordance to place of residency of the UM. UM must submit all requirements included in Article No. 8, Section 3 of the Citizenship Act<sup>52</sup> with the application. The law also defines that the "applicant" who reached the age of 14 when submitting application for citizenship of Slovak Republic must also complete questionnaire for applicants who apply for citizenship of Slovak Republic (hereinafter referred to as "questionnaire"). The questionnaires of the applicants who have not reached the age of 18 are also signed by their parents. The legislature has omitted the situation, where the applicants for citizenship may be minor children, who were appointed a representative by court (guardian, custodian), however according to Ministry of Internal Affairs in such a case may be accepted a signature of UM's representative.

### **3.4 Granting asylum**

The asylum procedure is governed in the Act on Asylum. There are three types of asylum defined by Slovak

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52. e.g. concise CV, identification document, etc.

legislation. In relation to unaccompanied minors can be considered two types. Asylum may be granted to the applicant, who suffers well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership in particular social group in their country of origin and because of this fear is not able or is unwilling to return to such a country, or is in the country of origin persecuted for exercising political rights and freedom.

In case of unaccompanied minors is also relevant the asylum on humanitarian grounds, which may be granted by Migration Office to unaccompanied minor, although no reasons for persecution are found in the procedure as defined in Act No. 8 Act on Asylum.

In case the asylum is not granted, the Migration Office decides on subsidiary protection for the unaccompanied minor. Subsidiary protection is granted, if there are any serious grounds to believe, that the unaccompanied minor can face a serious risk of harm if they return to their country of origin.<sup>53</sup>

Application for asylum respectively for subsidiary protection is made by legal representative or custodian on behalf of the unaccompanied minor at the competent police department. In case of unaccompanied minors placed in the child's home is the competent police department according to the administrative location of socio-legal protection for children and social care (most often Department of Alien Police of the Presidium of Police Corps (OCP PZ) Michalovce), competent for lodgement of declarations of children placed in Child's Home in Medzilaborce). Asylum procedure begins by lodgement of declaration, i.e. by completing the form annexed to Act on Asylum.

Ministry will grant subsidiary protection, if there are any serious grounds to believe, that the unaccompanied minor can face a serious risk of harm if they return to their country of origin. Unless legally stipulated otherwise.

Asylum is more favourable compared to subsidiary protection as a form of international protection in such a manner, that it provides to unaccompanied minors better legal stability and more durable type of protection. Asylum is granted for indefinite period and together with asylum is obtained the right for permanent residence. With granted asylum the unaccompanied minor acquires almost the same legal status as other minor children in Slovakia. Subsidiary protection is granted for one year and in case of extension for two years.

In case the unaccompanied minor reach the age of majority before he could apply for citizenship in accordance to the favourable conditions defined in Article No. 7, Section 2, letter d) of the Citizenship Act, they may apply for citizenship of Slovak Republic in accordance to Article No. 7, Section 2, letter e), thus on the grounds, that they were granted asylum at least four years prior to the submission of the application for citizenship. If the unaccompanied minor will be still minor of age two years after the asylum was granted, they may apply for citizenship as defined in the paragraph above, already 2 years after the asylum was granted.

If UM applies for asylum through their legal representative or custodian, he is no longer entitled to tolerated stay, however they are authorized to stay in the territory of SK until the decision on their asylum is made.

In accordance to internal standard of Central Office of Labour, Social Affairs and Family (ÚPSVaR) "if the UM is granted asylum, based on decision of Ministry of Internal Affairs, SLP and SC Authority will support their smoothest integration into society (to UM applies the same measures of SLP and SC as for minor citizens of SK).

Internal standard of Central Office of Labour, Social Affairs and Family (ÚPSVaR) stresses, that it is desirable to place children minor 15 years to foster family of within their culture and that siblings should be placed together.

### 3.5 Concluding remarks

SLP and SC Authorities may in case of UM consider four types of durable solutions: reunification of UMs with families or relatives, permanent residence for indefinite period, citizenship or asylum. In case of Slovak Republic, the SLP and SC Authorities most frequently apply for asylum procedure, which however do not end positively in terms of granting asylum. Compare to two other types of legal possibilities of durable solution such are permanent residence for indefinite period and citizenship is for UM paradoxically more favourable the Citizenship Act than the Act on Stay of Aliens.

The Citizenship Act requires at the moment of application submission 2 years of consecutive stay in the territory of SK against 3 years of UM`s tolerated stay in Slovakia when applying for permanent residency for indefinite period. In addition, in the application for permanent residence for indefinite period must the UM prove, that they were studying at primary or high school during the tolerated stay period.

Since the UMs generally do not stay in Slovakia for longer periods of time and are disappearing/escaping from child`s home, durable solutions are applied only to very low numbers of UM.

### 4 Who is responsible for determining the durable solution in your country

Various national authorities are competent in securing rights and interests of UMs in Slovakia.

#### 4.1 Ministry of Labour, Social Affairs and Family (Ministerstvo práce, sociálnych vecí a rodiny SR)

Within the Ministry of Labour, Social Affairs and Family was established the Department for Strategy in Social Protection of Children and Family and Department for Migration and Social Integration of Aliens (Odbor stratégie sociálnej ochrany detí a rodiny and Oddelenie migrácie a integrácie cudzincov). Socio-legal protection of children and social care falls within the field of competence of Department for Strategy in Social Protection of Children and Family.<sup>54</sup> Department for Migration and Social Integration of Aliens has a coordination function for matters of alien`s integration, and therefore integration of UMs to society.

#### 4.2 Central Office of Labour, Social Affairs and Family (Ústredie práce, sociálnych vecí a rodiny)

**Central Office of Labour, Social Affairs and Family** plays the following role in socio-legal protection of children and social care: advises, monitors and methodically directs state administration in the area of socio-legal protection of children and social care, elaborates drafts on socio-legal protection of children and social care; establishes, monitors and methodically directs child`s homes and child`s homes for unaccompanied minors, approves internal organisation structure in these homes, elaborates drafts for enforcement of judgments in child`s homes and in child`s homes for unaccompanied minors, coordinates support for unaccompanied minors; carry out actions in the interest of unaccompanied minor as defined in Article No. 29, Section 1, letter

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**54.** In accordance to Article No. 2, letter a) item 3 of the Act on SLP and SC “Socio-legal protection of children and social care are provided to a child, who is not a citizen of Slovak Republic and is located in Slovak Republic unaccompanied by parent or accompanied by any other physical person, who could be granted minor`s custody (hereinafter referred to as “unaccompanied minor”)”

In accordance to Article No. 1, Section 2, letter a), b) and c) of the Act on SLP and SC “Socio-legal protection of children is a set of measures securing the child`s protection, which is necessary for their wellbeing, and in the best manner possible respects their interests in accordance to international convention, education and all-around development in their natural family environment or in substitute environment for the child who cannot be brought up in their own family.

In accordance to Article No. 1, Section 3 of the Act on SLP and SC “Social care is a set of measures eliminating, mitigating and preventing the deepening or recurrence of mental development defects, physical development and social development of the child or adult and providing support depending on severity of the child`s or adult`s disorder or situation.”

b) and c); coordinates activity of offices of labour, social affairs and family in matters of completing tasks of national programs, social prevention, socio-legal protection of children and social care; organises and provides professional trainings for employers of socio-legal protection of children and social care authorities in the field of socio-legal protection of children and social care and supervision; processes surveys (...)<sup>55</sup> Central Office of Labour, Social Affairs and Family is the main office for all Offices of Labour, Social Affairs and Family.

#### **4.3 Office of Border and Alien Police of the Presidium of Police Corps (Úrad hraničnej a cudzineckej polície Prezídia Policajného zboru)**

In order to be able to deal with durable solutions to UMs, it is essential, that they are permitted the entry into the territory of Slovak Republic. As is well known, UMs are in general found in the territory of Slovak Republic following unauthorized entry, respectively stay. Competent police departments of Office of Border and Alien Police of the Presidium of Police Corps represent the first authorities who come into contact with the UMs in Slovakia. Their decision has significant impact on legal position of UM. In accordance to Act on Stay of Aliens must the police departments notify the competent SLP and SC Authority on finding of UM. Before is the UM handed to SLP and SC Authority, may the police department, in case of doubts, order a medical examination for detection of age.

If it is ascertained, that the citizen of the third country is minor age, respectively if the age was not disputed, the competent police department will hand the UM to competent SLP and SC Authority. Alien Police also plays an important role in regard of granting one of the types of stays appropriate for UM as defined in the Act on Stay of Aliens (tolerated stay, permanent residence for indefinite period, or possibly temporary residence for the purpose of study, if the minor possess a passport and meets the conditions for granting such a type of stay).

#### **4.4 Socio-Legal Protection of Children and Social Care Authority (Orgán sociálnoprávnej ochrany detí a sociálnej kurately)**

SLP and SC Authority provides measures for socio-legal protection of children and social care in regard to UM, notifies embassy of the country of UM`s usual residence. Provides measures concerning UM`s return or relocation and requests their return or relocation to a country of UM`s usual residence, when it is certain, that it is a safe country<sup>56</sup> and UM is not a subject of Convention on the Civil Aspects of International Child Abduction (Notification No. 119/2001 Collection of Laws)<sup>57</sup>, arranges enforcements of judgements regarding UM`s placement to facilities for enforcement of judgements (child`s homes), perform the function of a guardian/custodian and have other functions in the interest of the UM. SLP and SC Authority immediately after placing UM in child`s home determines the possibility of UM reunification with their relatives.<sup>58</sup> The SLP and SC is obliged to apply for interim measure as in accordance to Civil Procedure Code where there is no possibility to place UM into custody of other person or their close relative. In accordance to this interim measure is the UM placed into facilities for enforcement of judgement i.e. child`s home. As all UMs must have their representative, the socio-legal protection of children and social care representatives are appointed by court<sup>59</sup>, and they deal with urgent issues on behalf of UM even before the appointment of the guardian. These urgent issues are mainly health and quarantine medical care, but also counselling, respectively actions related to UM`s reunification with family or other relatives. Besides the function of a guardian, the SLP and SC Authority also performs the

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55. Article No 27, Section 1 of the Act on SLP and SC

56. Slovak Government Regulation No. 716/2002 Collection of laws establishing the list of safe third countries and safe countries of origin as amended by Slovak Government in Regulation No. 288/2004 Collection of Laws

57. Article No. 29, Section 1, letter b) of the Act on SLP and SC

58. In accordance to Article No. 29, Section 3 of the Act on SLP and SC "SLP and SC Authority cooperates on the search for parents or other members of the family of the unaccompanied minor for the purpose of unaccompanied minor`s reunification with their family.

59. Please see Article No.60 of the Family Code: The Court shall appoint a guardian of a minor child if it is necessary for other reasons, while it is in interest of the minor child.

function of a custodian.<sup>60</sup>

It is the guardian's duty to find out UM's views on all matters and facts which are in their concern, if UM's age and mental maturity allows to do so. This must be done before performing any of the tasks related to relocation, reunification, and return to country of origin or applying for asylum. In relation to the specific actions performed towards durable solutions for UM in Slovakia SLP and SC Authority carries out following tasks: after the UM's adaptation stage in child's home, it is conducted an interview in the presence of an interpreter, who speaks the language understandable to UM, in order to find out all facts concerning the UM, to find out their needs and interests, reason for leaving the country of origin and arrival to SK, opinion on relocation, reunification with their family, return to their country, opinion on asylum procedure<sup>61</sup>; and participates on the evaluation of the best solution in the interest of the child and proposes the subsequent steps, submits the application for asylum on behalf of the UM, subsidiary protection and represents the child in asylum procedure; submits appeals against decisions of Office of Border and Alien Police of the Presidium of Police Corps (ÚHCP P PZ) in case of Illegal Administration Removal; submits appeals against decisions of Migration Office in case of the not granted asylum; helps in reunification with their family if they are located in another country.<sup>62</sup>

#### **4.5 Child's Home and Child's Home for unaccompanied minors in Medzilaborce**

Currently are the minor unaccompanied aliens being placed in the facility "Child's Home and Child's Home for Unaccompanied Minors in Medzilaborce" specialized for UMs.<sup>63</sup> child's home is a facility for courts judgement enforcement, where is performed social work, education treatment and psychological care, social-legal counselling, and other professional activities. Child's Home provides health care, psychotherapy, education and professional training, basic care related to accommodation, alimentation, service and personal equipment such as clothing, shoes, hygiene products and other personal items. Special child's homes can also provide care for UM, who has been granted international protection.<sup>64</sup> Child's home is responsible for UM's alimentation. After the UM's adaptation stage, the child's home collaborates with SLP and SC Authority, when finding out UM's views on all facts, which are in their concern such as the reason for leaving the country of origin and arrival to SK, opinion on relocation, reunification with family, return to their country, opinion on asylum procedure, and participates on determining the best solution in the interest of the child.<sup>65</sup> A social

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**60.** n accordance to Article No. 73(2) letter b) item 3 and 4 Office of Labour, Social Affairs and Family performs the function of a guardian in accordance to a specific provision and function of a custodian of an unaccompanied minor In accordance to Article No. 25, Section 3 of the Act on SLP and SC, and unaccompanied minor is placed into facilities established in accordance to this Act or in facilities established in accordance to special provisions, 27) the socio-legal protection of children and social care authority cooperates with this facility.

In accordance to Article No. 29, Section 1, letter d of the Act on SLP and SC socio-legal protection of children and social care authority presents declarations in accordance to special provision.

**61.** If it is not possible to proceed in accordance to letters b) and c) or on the request of the unaccompanied minor, and arranges their placement into appropriate asylum facility.

**62.** Mittelmannová M.2014, small thematic study of National Contact Points of the European Migration Network in Slovak Republic: politics, practice, statistics on unaccompanied minors in Slovak Republic. National Organisation for Migration.73 pages. ISBN: 978-80-89506-56-9. Page No. 32-33

**63.** In accordance to Article No.45, Section 1 of the Act on SLP and SC "Measures defined in this Act shall be conducted in such facilities as child's homes, child's homes for unaccompanied minors, crisis centres, re-socialization centres for drug addicts and other addicts (hereinafter referred to as "re-socialization centre") and in other types of facilities established for practicing measures defined in this Act.

**64.** Mittelmannová M. small thematic study of National Contact Points of the European Migration Network in Slovak Republic: politics, practice, statistics on unaccompanied minors in Slovak Republic. National Organisation for Migration.73 pages. ISBN: 978-80-89506-56-9. Page No. 22

**65.** In accordance to Article No. 50, Section 5 of the Act on SLP and SC "It is the duty of child's home for unaccompanied minors to find out UM's views on all matters and facts which are in their concern, if UM's age and mental maturity allows to do so. This must be done before performing any task related to relocation, reunification, and return to country of origin or applying for asylum or subsidiary protection. For the purpose of determining the child's views, as defined in the first sentence, child's home of Unaccompanied Minors shall provide an interpreter, who shall interpret in the language understandable to the child. "

worker is appointed to work with UM as in accordance to the organization structure of the child's home, the social worker maintains UM's dossier, cooperates with the guardian, non – governmental organisations, courts and biological family.<sup>66</sup>

In Child's Home in Medzilaborce is the UM provided with psychological counselling and consultation with psychologist eventually with non-governmental organization (currently The Slovak Catholic Charity (Slovenská katolícká charita), the UM is also attended by 3 educators and 2 educator's assistants within 1 single group (maximum 10 children), whereas 1 worker is attending 2 UMs. Child's home maintains UM's dossier, which contains courts decisions on institutional care, interim measures, educational measures, records on mental development, physical and social development of the child, records on parent's visits and individual plan for personal development of the child.<sup>67</sup>

#### **4.6 Migration Office within Ministry of Internal Affairs in Slovak Republic (Migračný úrad Ministerstva vnútra Slovenskej republiky)**

**Migration Office within the Ministry of Internal Affairs in Slovak Republic** decides on asylum granting and on subsidiary protection for UM. Provides care for UM's placed in asylum facilities (Holding Camp in Humené and Residential Camp in Opatovská Nová Ves), where is the UM relocated after submitting declaration on asylum.<sup>68</sup>

#### **4.7. The Human Rights League (Liga za ľudské práva)**

Non-governmental organization, **The Human Rights League** collaborates with SLP and SC Authority and child's home on legal counselling and helps to find and carry out durable solutions to UM's situation. In the past also participated on reunification of UMs placed in child's home with their parents in a third country. This organisation was in particular arranging communication and presenting solutions for reunification of UM with their parents.

In addition the Human's Rights League is actively involved in legislative process of consultation of forthcoming draft acts, within which is trying to promote the most favourable legislation for UMs.

#### **4.8. United Nations High Commission for Refugees (UNHCR)**

**United Nations High Commission for Refugees (UNHCR)** monitors the UM's entry to the territory of Slovak Republic and to asylum procedure, admission conditions in asylum facilities, where are UMs being placed and in child's homes for unaccompanied minors. UNHCR is not present in Slovak Republic; falls within the competence of regional office in Budapest (HU).

#### **4.9 International Organization for Migration (IOM)**

**International Organization for Migration (IOM)** provides support in UM's reunification with relatives, respectively has the possibility to arrange UM's assisted voluntary return to the country of origin or to other country, and also helps in their reintegration.

#### **4.10 Ministry of Education, Science, Research and Sport of the Slovak Republic**

**Ministry of Education** is the central government body of Slovak Republic for kindergartens, primary schools, secondary schools and universities, school facilities, lifetime facilities, lifelong education, science and technology, state care for youth and sports. In accordance to Education Act<sup>69</sup>, In order to overcome language

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66. IOM Study

67. See Article No. 60, Section 1 and 3 of the Act on SLP and SC

68. In accordance to amendments of the Act on Asylum and Act on SLP and SC since the 01.07.2015 shall the UMs stay in homes for children and no longer be relocated to asylum facilities under Office of Migration within Ministry of Internal Affairs SK.

69. Article No. 245/2008 Collection of Laws on Education and Training (Education Act), Article No. 146 Education of Aliens.

barriers are for children – aliens organized basic and advanced courses of the national language. After discovering the level of their education and level of knowledge of national language UMs are placed into the corresponding grade by the director of the school no later than three month after the asylum procedure begins. Due to the lack of knowledge of the national language it is possible to place the UM conditionally into the corresponding grade in accordance to age for maximum of one academic year. UM's education prior to school enrolment is particularly organized by child's home, respectively by Migration Office if the UM is placed in asylum facility.

## **5 Durable solutions: in practice**

In accordance to the main actors of the governmental institutions involved in the decision-making process of finding and identifying durable solutions are the durable solutions considered to be a process, which cannot be limited by short term period, and where the best interest of the child must be considered, it is subject to updating, and children's rights under the Convention of the Rights of the Child must be taken into consideration. A substantial part of this process is to find an optimal solution in the interest of the child, either in Slovakia, or in another country. It also requires that the responsible persons (guardians, social workers, educators and psychologists) are being adequately prepared, in order to be able to correctly apply any durable solutions. Process and cooperation are essential. Decision-making in regard to durable solutions are results of joint work of several subjects, mainly of the guardian, child's home staff (directors, social workers, educators, and educator's assistants), police departments, representatives of non-governmental organisations providing counselling in child's homes. In each case is the guardian who must propose a durable solution and guide the cooperation in the best interest of the child. The concerned persons are in regard to application of durable solutions guided by internal standards of Central Office of Labour, Social Affairs and Family (ÚPSVaR), which govern the general procedure.

The situation of UM has significantly changed with the decision to have only one specialized child's home for UMs. In accordance to state representatives has the Child's Home for Unaccompanied Minors qualified staff. Many people agreed, that in respect to durable solutions it is essential to create good conditions for the UMs, so they are motivated to stay in Slovakia. The situation is currently opposite as the majority of the unaccompanied minors disappear/escape from the child's homes. Representatives of the authorities believe, that if the UMs are offered stability and perspective (e.g. they will not be relocated to asylum facilities) they will have more motivation to stay in Slovakia.

### **5.1 when is a durable solution implemented & how is it reviewed?**

National institution agreed, that the key subject in proposing and decision – making in regard to durable solution is the SLP and SC Authority, particularly the SLP and SC employer, who plays the role of the guardian. The first information on child's solution to their situation are received by UM during the placement in diagnostic group (brochure containing general information about the child's home, guardian, asylum, etc.). Each UM is provided with two weeks adaptation stage, where is built trust and where solutions for the UM's situation are being already searched; it is necessary to find out where the UM comes from, and how he arrived to Slovakia, what they have experienced, etc.

An important starting point for determination of durable solution is the interview with UM conducted by the guardian in the presence of interpreter, where the guardian together with UM considers the solution possibilities to UM's situation.

Proposal on durable solution is recorded by the guardian in so-called Plan for Personal Development of the Child, the recording is made on the basis of professional diagnostic of UM, it is being found, whether the UM is not a victim of trafficking, soldier or victim of armed conflict, if they are not traumatized as a result of what happened to him in the home country or during the trip to Slovakia, etc.

The guardian decides on durable solution, when is obtained enough information on UM and after solving the primary question of stay.

Durable solution depends on a long-term aim, while e.g. UM`s reunification with their family is a “long road”. The national institution acknowledge the possibility of changing durable solutions in cases of UMs, but in practice the review of durable solutions takes place only in a very few cases and mainly when any substantial information appears. The Migration Office SK representatives, reported, that with the child`s entry to asylum procedure and their placement into facilities are assuming the responsibility for UM`s well-being as well as durable solution to the child`s legal situation, which in their opinion means granting of asylum.

They have admitted, that subsidiary protection is not a permanent solution, but they have stressed, that in the decision – making process they must follow mainly provisions of the Act on Asylum, where are clearly defined conditions for asylum and subsidiary protection granting. The practice shows that UMs are more likely to be granted subsidiary protection before asylum. As for asylum on humanitarian grounds, which can be granted by the Ministry in accordance to Act on Asylum, but there is no legal right for the granting, it is the type of asylum considered in every UM case, but there are no established procedures or rules in this process, e.g. it is not clear what exactly is considered, what circumstances are considered to be humanitarian grounds in case of UM, etc. It rather depends on a free consideration of the responsible Procedural Department of the Migration Office within the Ministry of Internal Affairs SK. This procedure is also missing any guidance in relation to the application of the child`s best interest principle in asylum procedure.

## **5.2 what factors are considered and to what extent are children`s voices heard in this process?**

In the national institution`s view, there is no universal model of the procedure in relation to durable solutions. However, it is important that the process and procedure are consistent and well –adjusted. In order to determine the child`s best interest it is conducted an interview with UM, where views and expectations represent the starting point (but which need to be evaluated in the light of affordable and realistic solutions), for determination of the child`s best interest are also used documents brought by UM, respectively documents issued by other national authorities (e.g. police department) court`s case files, information from Red Cross, opinions of child`s home staff, or information provided by non-governmental organisations. The national institutions are aware, that it is also important to build a trustful relationship with the UM, but on the other they admit that this is not always succeeded. As one of the reasons they indicate the fact, that UMs very rapidly disappear from the child`s homes, this occurs even before the interview can be conducted or immediately afterwards.

In the view of various national institution, it takes a long time to reunify the UM with their family and it is essential to speed up this process, it is also necessary to have complete information quickly and work more flexibly. If the child travels in order to reunify with their family, it is essential to do the best in order to accomplish this reunification. It is always necessary to evaluate the suitability of this reunification, if it does not represent any risk for the UM. Some SPL and SC authorities indicate, that is not possible for the guardian to search for the relatives on their own and therefore support of other authorities is indispensable. Guardian searches contacts for parents eventually for other relatives the UM may be reunified with. The contacts for parents or for relatives are verified as they are not always relevant. In accordance to representatives of Migration Office within the Ministry of Internal Affairs SK, is within the asylum procedure or in case of other interviews not only important to hear the child`s views, but also the views of the guardian/custodian, therefore their opinions are required in every UM`s application in asylum procedure. In addition, the Migration Office within the Ministry of Internal Affairs SK requires child`s social profile, which is elaborated by asylum seeker`s facility staff, where the child is placed. The role of a guardian is seen as indispensable in the asylum procedure, especially during the asylum interviews, where can be expressed the guardian`s opinion on UM`s asylum application, the UM`s statements can be complemented and where the guardian provides psycho-

logical support to UM.

### 5.3 Statistics on UM asylum seekers are collected by Migration Office.

Number of submitted applications is available on the website of Ministry of Internal Affairs [www.minv.sk](http://www.minv.sk). Regarding an acquisition of more detailed data such as asylum granting in accordance to Article No. 8 of the Act on Asylum (reasons of persecution) or in accordance to Article No.9 of the Act on Asylum (humanitarian grounds) an application must be submitted directly to Migration Office.

Year	2009	2010	2011	2012	2013	2014 <sup>70</sup>
Number of UM applications for asylum	28	7	13	4	5	11
Granted asylum in accordance to Article No.8	N/A	0	0	0	0	0
Granted asylum in accordance to Article No.9	N/A	1	0	0	3	0
Granted subsidiary protection	N/A	2	7	1	0	0

### 5.4 Concluding remarks to include notable concerns or deficiencies (eg aging out)

All matters related to UM, and especially the determination of durable solutions, fall within the competence of SLP and SC Authorities, i.e. Office of Labour, Social Affairs and Family. Direct competence within this scope is performed by authorized employer of SLP and SC Authority, who primarily proposes a durable solution to UM's legal situation, while informing their opinion to other relevant national authorities and also assessing comments and opinions of these authorities. SLP and SC Authorities may consult their decisions with Central Office of Labour, Social Affairs and Family in Bratislava, respectively with Ministry of Labour, Social Affairs and Family SK. Practice revealed, that SLP and SC Authorities choose to exchange their experiences with other colleagues from Office of Labour, Social Affairs and Family rather than hearing opinions from their colleagues from Central Office of Labour, Social Affairs and Family (ÚPSVaR) and Ministry of Social Affairs and Family SK (MPSVaR), who in their opinion work rather methodically than practically.

We have asked the responsible staff of the national authorities as well as of non-governmental organisations, for their opinion on ongoing limitations, challenges and possible improvement. Various representatives of national authorities have pointed to many "escapes", i.e. children's disappearance of unaccompanied minors and the language –barrier. There was also an opinion saying that from the perspective of durable solutions would be useful if more children were granted asylum by Migration Office within the Ministry of

**70.** In all 11 cases was the asylum procedure terminated for the following reason: "the asylum seeker left the asylum facility for more than 7 days without a permission" (Article No.19, Section 1, letter f) of the Act on Asylum), i.e. asylum seeker left the facility for asylum seekers.

Internal Affairs SK. The guardian relies on cooperation with other authorities in question of family reunification when searching for the family members and in communication with them. Document verification and obtaining documentation for proof of kinship and thus reliable verification of alleged family members, who may be considered in the reunification process becomes very difficult in practice. Another opinion expressed absence of established, effective, and best practice in regard to family reunification. It also remains unclear how the reassessment of durable solutions is carried out in practice. Verification of the contacts, which the child speaks with over phone, represents another problem. The child's home began to record the phone numbers, but the problem is to examine the content of the phone call as well as to check to who is the child really speaking to.

In accordance to respondent's answer in regard to an improvement, the budget of the child's home should be increased in order to be able to provide complete support, more hours of interpretation, more quality classes of Slovak language as well as classes of demographic realities, and to ensure, that UM's are provided with assistance in education. More work should also be done on children's preparation for labour market, and if they are interested to facilitate them part-time work already during the time spent in homes for children, when they fully comply with the requirements of the Labour Code. It should be emphasised, that the UM should not be considered as an object but subject of the support. It is necessary that UMs are given proposals, however they must decide on their own if they accept them. In order to be able to implement any kind of durable solutions it is important that UMs are motivated to stay in Slovakia, therefore it is necessary to provide them with more stabilization, to build trust, and to motivate them.

There is also a room for an improvement in the area of interpretation, specifically, that the interpreters should be trained in order to understand the UM problematics; it would be useful to record the interpretation in order to see what is being interpreted and for the possibility of evaluation of the quality of the interpretation.

## **6 Durable solutions: in consultation (young people's group)**

There was no possibility of organising joint workshop due to low number of UM's arriving to Slovakia in 2014. Moreover, the UMs who arrived and were placed to child's home have not spent much time there as they "disappeared" or were relocated to facilities of Migration Office and subsequently "disappeared" from this facility. Therefore we have decided to replace the UM forums by young adult forums, who arrived to Slovakia as UMs and are now adult and independent. They have been through the UM care system, therefore they have personal experience, which they have shared with us. We think, that the testimonies of young adults, who already know whether they have found truly durable solution to their situation in Slovakia and know what was their path to this solution, represent an added value to this project, because young adults speak about their experience and views from different perspective than children, we believe that their statements are valuable for comparative analysis. Some of the testimonies have been left in the form of citations.

### **6.1 What does 'durable solution' mean to you?**

Young people, who we have spoken to, have not experienced "durable solutions". The interviews we have conducted revealed that durable solution means to this young people either reunification with family in other EU country or permanent residence in Slovakia. An Afghan boy, who arrived to Slovakia when he was 16 years old said:

*"I want asylum, document. Because I want to live in Slovakia. Why did I leave my country? Because I want asylum, I want to live. If I wanted to die, why would I come here? I want to live in Slovakia, to have wife and live as normal people. I want to have a good future."*

The word "asylum" is often mentioned in these testimonies.

*“The biggest problem is, that all hope for asylum, as we are actually refugees. We actually do not need that Slovakia pays money I don’t know for accommodation, I don’t know for food....we are here as we are refugees and we want asylum. If we would have asylum we would be left in peace.”*

None of the young adult responders consider subsidiary protection as a durable solution, because it does not provide sufficient security; they are afraid that Migration Office may withdraw it or that it will not be renewed, therefore they feel discomfort and are stressed and afraid; they cannot concentrate on studying. A boy, who was granted subsidiary protection and decided to leave school after he reached the age of majority explains his decision as follows:

*“.....if they don’t give me asylum, why do I study? I was so afraid, that when I was studying I didn’t understand anything. I was thinking the whole day, also at the evening, what will be, what will not be, what will be, what will not be...until when is this subsidiary protection? Eight or nine month, than interview again? How many times I have to pass the interview? Tell me if I’ll get asylum or not?”*

In relation to durable solutions the boys often emphasised great importance of an education. The arrival to Europe means for many of them also the possibility of an education, which they were unable to receive in their country.

*“When I was in Afghanistan and I went to school I told everybody I want to be a doctor. When I came to Slovakia I thought I will study five years six years or even seven and I will become a doctor.”*

## **6.2 Why do you think determining a durable solution is important?**

In accordance to these interviews it is relatively easy to identify that from the perspective of the UMs respectively young adults is the feeling that a durable solution is important so they feel security and stability and well-being indispensable for planning their future, and building a new life. Otherwise, if these young people do not feel that their situation is solved on a long-term basis, but only temporarily while they are particularly pointing out their legal status, they fall into uncertainty, stagnation, and almost resignation, they feel that their future is not in their hands and they cannot make plans for future, cannot build their new life, they are paralysed, and often suffer psychologically (they are afraid of the return to their country of origin, have nightmares, they cannot concentrate e.g. for studying) suffer from ongoing posttraumatic stress disorder, etc.) They do not see any sense of what they are doing, do not have the motivation to continue in their education or to improve their knowledge of Slovak language, do not feel to be welcomed in this country and also do not understand why, if Slovakia does not want to give them asylum cannot let them go to another country (they mean the system established by Dublin Regulation). All the boys, with whom we spoke, have tried at least once to leave Slovakia to other countries of Western Europe, usually to one of the Scandinavian countries, primarily because there are their relatives (often remote ones) or acquaintances. The important motivation in this case represents the fact, they are not provided with durable solutions in accordance to their perception and needs. These children have never left Slovakia immediately, but only after few months to over one year after the arrival to Slovakia, because they have not seen their future. In their testimonies they put special emphasis on:

- a) Stability of their stay:** as a basis for a feeling of security, stability and possibility to build a new home in Slovakia all respondents reported the importance of asylum respectively of permanent residence in Slovakia.
- b) The importance of an education:** the majority of young adults to whom we spoke, emphasized the importance of education for their future.
- c) Presence of kin:** likewise they stressed the importance of an adult, a kind of trustee who should assist them and advised them in the process of searching and determining durable solutions.

Here are some testimonies of these young people:

*“You study here for four years and you still do not know what will happen next. Then it is very difficult and you are very sorry. If you will try to go to other country, and you will study there, you will feel the same.”*

*“I was just sitting in the camps. Two free years are just gone; I was not going to school... One year I was just sleeping in Opatovská. I was thinking why am I sleeping? But that is not up to me, it is up to migration.”<sup>71</sup>*

*“I have very bad feeling, I am still thinking and thinking, sometimes I feel really sick, because I think so much, and I do not know what will be next, what the government is going to do with us, I have many problems that is why I think that much and my situation is getting worse with every day and here in Slovakia I only hope and do not know when I will be given asylum. And I want too, I think, that this time is very important to me. My time is like gold to me. The time goes very fast, very fast. I feel so sorry, that is why I am so unhappy. I want to use this time for something else. I think I am in this word to do something for somebody else. I am not here only to eat and sleep. I did not mean that, I mean that I am here to do something for somebody else. And sometimes, I feel very sorry when I do not know what to do. “*

### **6.3 If you were determining a durable solution for another young person – how would you do it?**

In reference to durable solutions the young people stressed the importance of the communication, presence of a person whom they trust; consideration of the child's views and plans for future, respect their opinion on type of education they choose; immediate school enrolment so the children do not lose unnecessary time waiting in facilities for asylum seekers; searching for the possibility of reunification with family living in Western Europe (many of the respondents have remote relatives e.g. in Scandinavian countries and they were not provided with the possibility to reunify with them, whereas the relatives feel they need their support, and often visit them). Some of the respondents stressed the need of psychological counselling and the need of support immediately after UM's arrive to Slovakia.

When an Iraqi boy was asked how he would proceed in relation to durable solutions, if he was a social worker he answered:

*„If I had been a social worker, I would have firstly interviewed the child and advised them on possible solutions, I would have heard their opinion and helped them to find their family and supported the reunification with them.“*

Another boy stressed that in order to make the children feel good in Slovakia, it is important to:

*„...immediately send them to school, the children would live in the house in the town or close to town, so they can be in contact with other people...what I want is they go to school, you know? So they can feel they live among people and there are no differences, but they feel good.“*

Another respondent points out the fact, there is no universal model to be applied in regard to durable solutions, but each child is different and has different problems, different possibilities and each solution must be individual:

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**71.** In accordance to response to the request reference No. MU-OPO-2014/000204-003 of Migration Office within the Ministry of Internal Affairs SK, attachment: in accordance to data provided was the number of unaccompanied minors attending primary school, respectively secondary school in years 2010 -2013: 0

*„We are not the same, each of us has different problem.“*

A boy from Afghanistan says, that unaccompanied children arriving to Slovakia want to live like Slovakian children, they want to go to school, go for trips and they should be provided with such possibilities immediately after the arrival to Slovakia, before the durable solution is found or determined.

*„We want to live like Slovakian children, be happy. When I live in the camp, I cannot go for a trip. I cannot go to school. Nothing. What I need is to give me the books and take me to trips. “*

#### **6.4 Concluding remarks**

The interviews revealed that these young people would like to have the chance to start new life in Europe. Some of them have relatives in Western Europe, but they were not given the opportunity to reunify with them (e.g. auntie, uncle, etc.). It is very important for them to feel welcomed in Slovakia; that the asylum procedure does not take too long and that they are indeed granted asylum and not subsidiary protection, which they do not consider to be a durable solution. Many of them would like to study and finish university, they want to be lawyers, doctors and engineers. However, young adults whom we spoke, expressed, they have not been given enough support in respect to their education. Their plans and dreams on education remained unfulfilled. They are already adults, and work on low-skilled positions and feel that education is out of reach, because they have to earn for living.

The testimony of an Afghan boy reflects in the best way the aspirations of young migrants:

*“All I need is: give me books and take me for trips.“*

#### **7 Final remarks: Compare and contrast in brief the youth perspective and the reality in your country**

The performed research, conducted interviews, as well as more than six years of experience of the Human Rights League with UMs revealed the difference between the aspiration or perspective of the children and the reality. It is important to emphasise, that Slovakia is not considered to be a final destination of the children when they leave their country of origin, because Slovakia is a small, young and for people in distant countries relatively unknown country. People in countries such as Afghanistan, Somalia or Vietnam have heard about Germany, England, and France or about European Union but only few families who send their children to safety in order to find a better life choose Slovakia as a final destination, as they may never heard about such a country. The final country chosen by the families or by the traffickers is some of the countries where live any distant relatives or acquaintances from certain city, town, and clan so they can rely on “compatriots” who help their “children” if it is necessary. Therefore, e.g. Scandinavian countries with relatively large number of immigrant communities represent frequent destination to UMs. It is no wonder if these children at the first interview with social worker/guardian respectively to migration police and alien’s police, or in application for asylum, claim that their final destination was originally another EU Member State, as they often do not know how they arrived to Slovakia, and what actually Slovakia is.

We perceive the tendency of Slovakian national authorities; not only in relation to UM but also to other refugees in general, to blame the immigrants for not to choose the Slovakia as their final destination.

If the alien declares that they initially ment to arrive to other country, this is often used in their contra in the following procedure or in the approach towards them, as if it would be in advance anticipated that they leave Slovakia. In UM’s cases it sometimes seems as if the responsible authorities, including courts were „waiting“ for their escape. Only when they stay in the child’s home and in this manner they prove their willingness to stay in Slovakia the process on determination of durable solution actually starts and while the first moments and days are crucial in regard to durable solution, where it is decided whether they stay in Slovakia or leave to other country.

In our opinion, this type of approach can be seen in various measures and procedures, which are in UM's cases only temporal. Children are placed in child's homes on interim measures basis issued by court. After they apply for asylum, they are relocated to facilities for adult asylum seekers, which are not designed for children, where the children are often under negative influence of adult asylum seekers and the contact with traffickers is much easier. The children are appointed a guardian, whereas in accordance to Act on SLP and SC they should be appointed a custodian.<sup>72</sup>The proposal on custodian appointment, as well as regulation of institutional care usually occurs only after when the UM is granted a subsidiary protection. Internal standards of Central Office for Labour, Social Affairs and family specify the following: „SLP and SC Authority which was for guardianship appointed by court, or is responsible for guardianship in accordance to the location of the UM, shall as soon as it is necessary (at the latest when UM is granted asylum or subsidiary protection) submit an application for appointment of a custodian to the competent court.“Likewise, the process of a placement of the child in educational process (school) occurs in practice only after the termination of the asylum procedure. Thus happens, that the child spends several months, even a year and more<sup>73</sup> under this „temporary“ measures (interim measure; relocation within the facilities for asylum seekers; guardian instead of a custodian; they are not included in proper education process; and finally they are granted subsidiary protection instead of asylum even though the testimonies prove that young people indicate, that the subsidiary protection is being perceived as a sort of continuation of the asylum procedure and it does not represent a durable solution to their legal status.) All these facts, have negative influence to UM's psychological and mental condition. Young people clearly expressed the view, that they do not feel welcomed in Slovakia and their primary needs are not met, primary need in their opinions are:

- Presence of kin, who would be constantly around, give them advices, and it would be like their „second mother“<sup>74</sup>;
- Immediate school enrolment and intensive teaching of Slovak language;
- Fast and immediate solution of their legal situation, which in perspective of the children represents reunification with family living in Western Europe or asylum in Slovakia;
- Education support even after they reach the age of majority – provision of such material conditions and stable environment so the separated children have more opportunity to concentrate on their education, and finish secondary school eventually continue to study at university.

Above-mentioned expectations of the children were generally not met. We believe, that the forthcoming change in legislation since 20.07.2015., where the children will no longer be relocated to facilities for asylum seekers following the application for asylum and the fact they remain in child's home will help to eliminate at least some of the problematic issues. We also believe that custodians will be appointed earlier, and regulation on institutional care and school enrolment will also be faster. In regard to durable solution to UM's situation is necessary to develop a more efficient mechanism for family reunification, which also requires the existence of political will that these children remain in territory of SK. (e.g. asylum on humanitarian grounds), which is in our point of view absent.

The result of the conflict between the reality and the UM's expectations causes such a problem, that children

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**72.** Article No. 29, Section 1, letter a) of the Act on SLP and SC

**73.** In the event of an appeal submitted to court, the asylum procedure can take more than one year. We have interviewed a boy, who was in asylum procedure approximately one year and half and spent the whole time waiting in the camp for asylum seekers while he was not attending school, he perceived above mentioned circumstances very negatively and it caused him psychological problems.

**74.** It should be noted, that the guardian's approach have substantially changed in the past years. The guardian accompanies the child in all acts and proceedings in the territory of SK, however their role remains very limited whether by their time possibilities or by court's decision to appoint a guardian, where it is assumed that the guardian represents the child in all legal actions (this is not met in practice) but unlike custodian „who on long term basis carries out parental rights and responsibilities related to child's education, represents the child, manages their assets instead of parents, the guardian carries out only concrete and specific legal acts and the scope of guardian's rights and responsibilities is very limited by the court's decision. Guardian's function is terminated when it meets its purpose.“ (quotation from Internal Standard of Central Office of Labour, Social Affairs and Family).

who decided to stay in Slovakia even though it was not their final destination, do not feel satisfaction in their lives. They feel they did not have a chance to fulfil their potential by receiving proper education. Those who did not leave abroad to live with their families in Western Europe, they muddle through life alone working in low-skilled positions in factories, warehouses or fast foods restaurants (“kebab”) often under unfair and exploitative conditions. They are depressed and have psychological problems, often suffer from insomnia. Yet, they just do not lose their dream life, but also Slovakia is losing skilled young people, who could enrich the country and help with its development. Many former unaccompanied minors arrived to Slovakia with a big potential, they are often fluent in various languages.

In the end should be added, that the competent authorities are preparing other measures in the interest of the children`s safety and care, in addition to above-mentioned amendment to Act under which the children will no longer be relocated to facilities for asylum seekers. Specifically, these are measures contained in Integration Policy of SK<sup>75</sup> as well as measures contained in National Action Plan for Children for the years 2003-2007<sup>76</sup>. Despite the fact, that these adjustments can provide positive changes in working with UMs. As the most important we consider the attitude and approach of the competent authorities towards this vulnerable category of children that should be primarily considered as children respectively young adults calling for help, and not as “illegal immigrants”.

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**75.** Measures aimed to identify the causes of UM`s disappearances/escapes and the subsequent establishment of the effective and preventive measures in order to enhance the protection of UMs; measures to develop procedures for application of the principle „best interest of the child“ in relation to UM.

**76.** Measures addressing e.g. education monitoring of UM`s applying for asylum or measures for revision of the procedures applied in determining the UM`s age under which was set up inter-departmental group coordinated by Ministry of Labour, Social Affairs and Family.

**List of responsible authorities and organisation and their representatives which we conducted the interview with**

- 1) Ministry of Labour, Social Affairs and Family (Ministerstvo práce, sociálnych vecí a rodiny)
- 2) Central Office of Labour, Social Affairs and Family (Ústredie práce, sociálnych vecí a rodiny)
- 3) Office of Labour, Social Affairs and Family (Úrad práce, sociálnych vecí a rodiny)
- 4) Child`s Home for Unaccompanied Minors (2 persons)
- 5) Migration Office within the Ministry of Internal Affairs SK (Migračný úrad MV SR) (4 persons)
- 6) Slovak Catholic Charity (Slovenská katolícka charita)
- 7) GRETA, member of GRETA in SK
- 8) UNHCR Regional Representation for Central Europe, Budapest – Senior Protection Associate for SR

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Act No. 404/2011 of the Act on Stay of Aliens

Act No. 480/2002 Collection of Laws on Asylum

Act No. 36/2005 Collection of Laws on Family

Act No. 245/2008 Collection of Laws on Education (School Act), Article No. 146 Education of Aliens

Act No. 99/1963 Collection, Code of Organisation and Civil Procedure

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