Implementing the Core Standards for guardians of separated children in Europe

Country Assessment: Slovenia

Živa Gabaj

With the financial support of the European Union
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## ABBREVIATIONS AND ACRONYMS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>IOM</td>
<td>International Organisation for Migration.</td>
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<tr>
<td>NGOS</td>
<td>Non-governmental organizations.</td>
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<td>PIC</td>
<td>Legal-informational Centre of nongovernmental organizations – PIC.</td>
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<tr>
<td>Slovenia</td>
<td>Republic of Slovenia.</td>
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<tr>
<td>UNCHR</td>
<td>Office of the United Nations High Commissioner for Refugees.</td>
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**ACKNOWLEDGEMENT**

"I trusted my guardian and I could and I still can talk with her about many things. Actually guardians are the only one we can really talk to, we do not have anybody else here." A former separated child.

The Core Standards for guardians and indicators are written from the perspective of separated children and guardians. The Standards reflect the ideal standard of care for separated children and are formulated to address the role of guardians. The Core Standards should empower all guardians in Europe to work towards common goals and they should inspire State authorities to provide the guardian with the work environment and mandates needed to meet the Core Standards. For the implementation of the Core Standards in Slovenia, Slovene Philanthropy has focused on the input from the experts, the (former) separated children and guardians themselves.

Slovene Philanthropy would like to thank the separated and former separated children for their openness and powerful suggestions to implement the Core Standards in Slovenia and to change the situation for all separated children for the better. Your strength and endurance in uncertain times are a great inspiration. We would like to thank the guardians who contributed to this country assessment. Due to the current system in Slovenia there are a lot of hurdles to overcome for guardians. We hope to strengthen their empowerment as advocates for the children. We would like to thank A. Ahmadi, who was the advisor for the implementation of the workshop with (former) separated children.

And finally we would like to thank Defence for Children International – ECPAT, The Netherlands for their hard work as lead partner and the Daphne III Programme from the European Commission for their financial contribution.
1 INTRODUCTION

“The report Closing a protection gap provides core standards that should inspire policies at national and European level in order to improve the protection of separated children in our continent. It also highlights the need for harmonizing the quality of guardianship systems all over Europe and within countries, where huge differences still persist. The goals set for guardians and policy makers are ambitious, but not impossible to attain. It is all about applying systematically these standards in all policies on separated children and using them holistically.”

From the preface of the report ‘Core Standards for guardians of separated children in Europe: Goals for guardians and authorities’ by the Council of Europe Commissioner for Human Rights, Thomas Hammarberg.

“Now we are going to promote the standards for guardians everywhere when it comes to separated children. However, more needs to be done. There have to be European rules on the qualifications of guardians.”

Member of the European Parliament at the launch of the Core Standards for guardians of separated children in Europe, November 2011 in Brussels.

These quotes highlight the support and the need to increase the awareness, implementation and extend the scope of the Core Standards for guardians of separated children in Europe developed in the project ‘Closing a protection gap for separated children in Europe’.

From December 2012 until December 2014 nine project partners\(^1\) will work on the project ‘Closing a protection gap 2.0: Implementing the Core Standards for guardians of separated children in Europe in practice, feeding into policy and legislative instruments on guardianship’.

The objective of this large-scale and ground breaking follow up project is to take the next important steps to further close the protection gap by working with the Core Standards in practice and taking the work further on towards policy and legislative initiatives at the national and the European level. The overall aim of this endeavour is to provide the strongly needed framework for responsibilities of guardianship systems in order for all separated children in Europe to get the protection to which they are entitled.

The specific objectives of the project are:

1. Raising awareness of the Core Standards, tailor them to the situation in every EU country participating in the project and empower guardians;
2. The national implementation of the Core Standards in practice and advocate for provisions in national legislation;
3. The development of a European initiative/instrument for harmonisation of appropriate guardianship inspired by the Core Standards;
4. Enlarging the scope of the Core Standards for guardians of separated children in Europe in nine other EU countries.

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\(^1\) The project partners are: Defence for Children-ECPAT The Netherlands (coordinator), Asylkoordination Österreich, Bureau d’accueil et de défense des jeunes (service droit des jeunes), NRTC Hope For Children, Policy Center, Bundesfachverband Unbegleitete Minderjährige Flüchtlinge e.V., Irish Refugee Council Ltd., Defence for Children International Italia, Conselho Português para os Refugiados, Slovenska filantropija.
In December 2009 the first ‘Closing a protection gap for separated children in Europe’ project started, financed by the EU Daphne III Programme, as a response to the differences in the level of protection separated children receive in European countries. There are approximately 100,000 separated children in Europe. Separated children have the right to a guardian who protects their rights and best interests. Not only do separated children have to live without their parents in a country they don’t know, but in some countries, they also run the risk of being detained because of their residence status or run the risk of being exploited by traffickers. Separated children can face risks in their country of origin, during their journey and in the host country. The type of protection and care a separated child receives from a guardian depends upon the country which the separated child has (often randomly) entered and it can differ depending on whether or not a separated child asks for asylum.

These differences are not acceptable. All European countries have ratified the Convention on the Rights of the Child (CRC) and have the obligation to take into account the special needs of separated children. Proper guardianship systems are essential to assist in finding a durable solution for separated children, whether that be integration into the host country, transfer to another country or return to the country of origin.

The first ‘Closing a protection gap for separated children in Europe’ project aimed to harmonize the protection separated children receive from their guardian by focusing on the qualifications of the guardian. The mission of this project was to improve the situation for separated children by means of: closing a protection gap for separated children in Europe by developing core standards on qualifications of guardians based on the views of separated children in relation to their rights according to the Convention on the Rights of the Child. Separated children in Europe should get the guardian they are entitled to irrespective of which EU country they entered. The assumption is that when all guardians have sufficient qualifications and mandates to work in the best interest of the child, the level of protection children receive in the different European countries will harmonize.

From December 2009 until December 2011, the project partners developed the Core Standards for guardians of separated children in Europe based on interviews and workshops with 127 separated and former separated children, 68 guardians and 39 other experts (for instance; foster parents, lawyers, social workers). The views have been measured against the Convention on the Rights of the Child (CRC), General comment No. 6 (treatment of unaccompanied and separated children outside their country of origin) and General comment No. 12 (the Right of the child to be heard) of the Committee on the Rights of the Child and the Statement of Good Practice of the Separated Children in Europe Programme. The Core Standards for guardians have been inspired by the Quality4Children standards for Out-of-Home Child Care in Europe. 54 members of the national advisory councils in the eight research countries were consulted and shared their expertise.

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2 In this country assessment the term separated child is used, as described in the Statement of Good Practice of the Separated Children in Europe Programme (SCEP): separated children are under eighteen years of age, outside their country of origin, and separated from both parents, or their previous legal, or customary primary caregiver. Some authorities and organizations use a different terminology: the unaccompanied minor asylum seeker or unaccompanied minor foreigner. For SCEP’s Statement of Good Practice see www.scepnetwork.org.

3 In 2008 almost 12,000 unaccompanied children seeking asylum entered the EU (Data Action Plan on Unaccompanied Minors 2010–2014, p.2.). The number of children on the move is most probably even higher, because not all children apply for asylum, see: Ruxton 2003. According to the Separated Children in Europe Programme there are approximately 100,000 separated children in Europe, see: Ruxton 2000, but comparing statistics and gathering data remains a challenge, see: EU Comparative Study 2010, p. 74.

4 See also: United Nations Committee on the Rights of the Child, General Comment no. 6, on the Treatment of Unaccompanied and Separated Children outside their Country of Origin (2005), CRC/GC/2005/6, paragraph 3.

5 Available at: www.scepnetwork.org.

6 Available at: www.quality4children.info/navigation/show.php3?id=2&_language=en.
The Core Standards and indicators are written from the perspective of separated children and guardians. The Standards reflect the ideal standard of care for separated children and are formulated to address the role of guardians. The Core Standards should empower all guardians in Europe to work towards common goals and they should inspire State authorities to provide the guardian with the work environment and mandates needed to meet the Core Standards. The first six Core Standards focus on the role and responsibilities of the guardian. Core Standards seven, eight and nine focus on the relationship between the guardian and the separated child. Core Standard ten addresses the professional knowledge and competences of the guardian.

**Core Standards as inspiration and goal for guardians**

The Core Standards are a tool for guardians in practice. The Core Standards aim to inspire the guardians in their daily work and they offer a goal to work towards. The project partners, however, recognize the challenges a guardian faces. Due to the current guardianship systems in some countries there are a lot of hurdles to overcome for guardians in order to successfully implement the Core Standards. Guardians with a very high caseload are also confronted with multiple dilemmas. The guardians in these countries should not get frustrated when they cannot fulfill all the Standards immediately. Guardians can incorporate the Core Standards as a guideline for their work irrespective of the guardianship system and legislative framework. The Core Standards can be used as a checklist to monitor their current practice. Where there are Core Standards that are unfulfilled the guardian should feel empowered to advocate for change.

**Core Standards as inspiration and goal for State authorities and guardianship institutions**

The enjoyment of rights stipulated in the CRC is not limited to children who are citizens of a State party but must be available to all children, including asylum-seeking, refugee and migrant children, irrespective of their nationality, immigration status or statelessness. The positive aspect of protection obligations for separated children also extends to requiring States to take all necessary measures to identify children as being unaccompanied or separated at the earliest possible stage. The country assessments are the basis for the development of a toolkit for practitioners to work on the implementation of the Core Standards for guardians in practice. National and European changes in policy and legislation will be advocated during (expert) meetings. Consultations with Members of the European Parliament, the Council of Europe and (international) stakeholders will lead to a draft European initiative/instrument. To enlarge the scope of the project, new partners are included in this follow up project and nine organizations from other countries will be trained. All information about the project will be made available on the project website www.corestandardsforguardians.com.

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3 METHODOLOGY

In the country assessments the nine project partners analyse the implementation of the Core Standards for guardians of separated children in the various countries based on the input from workshops with separated children and guardians and desk research of the existing laws, policies and methodologies. Promising practices as well as challenges are discussed in every country assessment. The objective of the country assessment is to get a status quo picture in relation to every Core Standard.

An important source for the country assessments are the outcomes from the workshops with separated children. For the workshops a former separated child acted as an advisor. Because the former separated child is not dependent on his or her guardian anymore he or she can speak freely and provide essential suggestions to the implementation of the Core Standards in practice.

Defence for Children- the Netherlands worked with Foundation Alexander (an organisation specialised in the participation of children) to draft a programme for the workshop with separated children that could be used as a guideline by all project partners. Every project partner involved at least five separated children who still had a guardian. Their participation is essential for the sustainability of the Core Standards. The children were actively involved and asked to give their opinion on the implementation of the Core Standards, as well as think about tools guardians could use (for instance child friendly information on their rights) and to provide suggestions to implement the Core Standards.

During a training session for guardians the project partners worked together with the guardians on practical tools and ideas for the implementation of the Core Standards in practice.

During a project partners meeting in Nicosia in Cyprus from the 26th until the 28th of June 2013 the preliminary results of the country assessments were discussed and guidelines to continue the work on national level were established.

Qualitative research: its strengths and limits
With qualitative research special attention should be given to the treatment of the information gained through the workshops and trainings. On the one hand there is a risk to generalise practices that might only represent the practices of a few guardians. On the other hand there is a risk that the evaluation is a bit altered because of the type of participants involved in the workshops and trainings. The guardians and the separate children who participated considered guardianship as very important; otherwise they would not have participated in the workshops. The guardians who participated in the trainings are those who have the willingness to strive for improvement and who already have extensively thought about how to be the best guardian possible. It is unlikely that guardians who are not committed to qualitative work will participate in those workshops. If more problematic practices exist, these might therefore not appear in this report or might be under evaluated.

Utilising quantitative methodology would not have been appropriate as the goal of the report is to benchmark the level of implementation which cannot, in an objective way, be quantified.

National methodology
The goal of this report is to assess whether and to what degree the Core Standards on guardianship are implemented in legislation, policy and practice in Slovenia. This research will also help to identify interesting practice and tools for guardians to implement the Core Standards. In order to do so, extensive desk research to collect relevant studies and recommendations has been carried out.

Workshops with (former) separated children
Slovene Philanthropy started to collect information for the country assessment by organising a meeting with a former separated child from Afghanistan and the facilitator of the focus group in order to develop a programme for the workshop with the separated and former separated children.
On May 26th 2013 Slovene Philanthropy organized a workshop with twelve separated children, all of whom were boys. Four of them were under 18 at the time the workshop took place, while eight of the youth were former separated children. Eight boys were from Afghanistan and four boys from Somalia. All separated and former separated children participated voluntarily. They provided information on the implementation of the Core Standards for guardians. The workshop was held by the facilitator who was also the translator together with a former separated child who was also the advisor for the implementation of the workshop. The workshop took place in Ljubljana.

Training sessions with guardians
On May 28th 2013 an information exchange and brainstorm took place about the implementation of the Core Standards with thirteen guardians of different governmental and non-governmental offices: Centre for Social Work Ljubljana Vič-Rudnik, Centre for Social Work Ljubljana Moste-Polje, Fridolin Centre for equal opportunities of youth and Slovene Philanthropy.

All information from the workshops with the separated children, former separated children, guardians and the desk research of the policy and legislation has been incorporated in this country assessment.
The role and responsibilities of the guardian:

**Standard 1:** The guardian advocates for all decisions to be taken in the best interests of the child, aimed at the protection and development of the child.

The guardian is able to advocate, assess and adjust the best interest of the child on a regular basis, involves all relevant actors and ensures that the assessment of the best interest of the child is based on the views of the child and the individual circumstances.

**Standard 2:** The guardian ensures the child’s participation in every decision which affects the child.

The guardian provides information in a child friendly way and checks if the child understands and recalls the information, listens carefully to the child and ensures plans are based on the views of the child and shared with the child, is open to feedback and manages expectations.

**Standard 3:** The guardian protects the safety of the child.

The guardian gives the highest possible priority to the child’s safety, knows the signals of child abuse and trafficking, acts and reports upon signals of any harm or danger, ensures the child knows he is welcome to voice anything concerning his/her safety, only breaks the confidentially norm when a child is at risk, ensures victims get appropriate treatment and is open to being monitored on own behaviour.

**Standard 4:** The guardian acts as an advocate for the rights of the child.

The guardian is an assertive, committed watchdog, dedicated to defending the rights of the child, shows emotional strength, opposes decisions which are not taken in the best interests of the child and pursues fair procedures concerning the child.

**Standard 5:** The guardian is a bridge between and focal point for the child and other actors involved.

The guardian keeps in contact with all relevant actors, ensures to be informed about all decisions which have an impact on the child and is where necessary present at meetings, assists in establishing links with the child’s community and developing relationships that gives the child a sense of belonging to a family or group.

**Standard 6:** The guardian ensures the timely identification and implementation of a durable solution.

The guardian ensures the identification of a durable and safe solution and challenges others to prove that their proposed solutions take the best interest of the child as a primary consideration, supports the reunification of the child with his/her family and supports the integration of the child in the host country when this is in the best interest of the child, defends safety guarantees when a child is returned and prepares the child for all predictable changes which will occur after turning eighteen.
The guardian and the separated child:

Standard 7: The guardian treats the child with respect and dignity.
The guardian demonstrates appropriate behavior, treats the child unprejudiced with respect to the child’s identity, privacy and cultural differences, supports the child in developing peer relationships and shows a flexible approach tailored to the individual needs of the child.

Standard 8: The guardian forms a relationship with the child built on mutual trust, openness & confidentiality.
The guardian is always honest with the child, keeps his/her promises and keeps all information confidential unless it is necessary to break confidentiality to keep a child safe, pays attention to verbal and nonverbal communication, is empathic towards the child and gives moral support and makes clear to the child that a child who disappears is always welcome to return.

Standard 9: The guardian is accessible.
The guardian can be reached easily, lives near enough of the child to be able to respond quickly to difficulties, sees the child as soon as possible after his/her appointment and pays visits to the child on a frequent basis and communicates in a way which fits the age and development of the child, making use of interpreters whenever necessary and contacts the child to keep in touch also when there is no specific need to do so.

The qualifications of the guardian:

Standard 10: The guardian is equipped with relevant professional knowledge and competences.
The guardian is proactive in identifying learning and development needs, manages his/her caseload and available resources, is accountable, works according to a set methodology, knows personal and professional limits, seeks support and counselling whenever necessary and is open to supervision and monitoring.
5 DEVELOPMENTS IN RELATION TO GUARDIANSHIP AND MIGRATION

Since 2010, when the last national report was written for the project 'Closing a protection gap for separated children in Europe: core standards for guardians of separated children', some changes and developments have taken place in relation to guardianship, treatment of (former) separated children and migration policy.9

Parties and coalitions from different sides of the political spectrum are polarised on migration. Currently the Slovene government is described as a centre left-wing government and operates in a manner of strict implementation of austerity policies as well as strict enforcement of migration laws.

It would be difficult to ascribe the changes in the inflow of separated children in the last few years to changes in the government, as it is likely affected by a large number of factors.

Below are the data showing the number of separated and other minor migrant children with families that have irregularly entered Slovenia; the number of separated children that have been accommodated in the Centre for foreigners; the number of separated children that have applied for asylum and had been accommodated in the Asylum Home; and the number of separated children that have obtained international protection status (refugee status or subsidiary protection status) in the period 2008 – 2012.

Table 1: The number of separated and other minor migrant children with families that have irregularly entered Slovenia.10

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>148</td>
<td>146</td>
<td>136</td>
<td>202</td>
<td>238</td>
</tr>
</tbody>
</table>

Source: Data submitted by the Ministry of the Interior, General Police Directorate.

Table 2: The number of separated children that have been accommodated in the Centre for foreigners.

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>40</td>
<td>29</td>
<td>26</td>
<td>12</td>
<td>30</td>
</tr>
</tbody>
</table>

Source: Data submitted by the Centre for foreigners.

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9 In the last six years there have been changes in relation to the Slovene legislation: the Asylum Act which was in force from 2006 to January 2008 has been replaced by the International Protection Act that came into force in the beginning of 2008 and that was valid until the very beginning of 2010. The International Protection Act was soon amended and in its form entered into force in March 2011; this Act has been than again amended in November 2012.

10 The are no data available only on the number of separated children that have irregularly entered Slovenia.
Table 3: The number of separated children that have applied for asylum and have been accommodated in the Asylum Home.

<table>
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<th>Year</th>
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<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>18</td>
<td>25</td>
<td>38</td>
<td>58</td>
<td>52</td>
</tr>
</tbody>
</table>

Source: Data submitted by the Ministry of the Interior, Asylum Home.

Table 4: The number of separated children that have obtained international protection status.

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>1</td>
<td>4</td>
<td>1</td>
<td>2</td>
<td>12</td>
</tr>
</tbody>
</table>

Source: Data submitted by the Slovene Philanthropy.

In December 2010 the state adopted an amendment to the International Protection Act that was in part prepared also by non-governmental organisations (hereafter NGOs). The amendment introduced certain improvements in the area of separated children, including improved health protection (separated children are entitled to health care under the same conditions as nationals), mandatory training for legal guardians of separated children and officials working with them in international protection procedures, free legal assistance from the first phase of the procedure and monthly pocket money. At this point it should be emphasized that the mandatory trainings, have not yet been provided, although the law prescribes that these trainings should be implemented by the Association of Social Work Centres of Slovenia a year after the law entered into force.

In November 2012 the last amendment to the International Protection Act had been made and included a provision on age assessment determinations for separated children seeking asylum. The International Protection Act now requires that the competent authority, which is the Ministry of the Interior, may order an age assessment determination for separated children and that this procedure shall be conducted by a medical expert. If a separated child and his legal guardian do not give consent to this examination without valid reason, the child is considered as an adult in regard to his application for international protection.

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11 Articles 13., 16.a, 78. and 84. of the International Protection Act, No. 11/2011.
12 The delay was firstly explained that the Ministry of the Interior in coordination with the Ministry of Labour, Family and Social affairs still has to adopt an implementing regulation that would prescribe a more detailed method of implementation of the trainings in question. In February 2012 when the Rules on the implementation of legal representation of unaccompanied minors and the manner of providing adequate accommodation, care and treatment of unaccompanied minors outside Asylum Centre or its branch, came into force, the programme and the duration of the trainings had been more specifically defined (Articles 6. and 7.). Recently, in April 2013, proposal for the new International Protection Act has been published which lays down provisions for cancellation of trainings, predominantly because of the financial reasons.
13 Article 44.a of the International Protection Act, No. 83/2012.
14 Paragraph 1 of article 44.a of the International Protection Act, No. 83/2012.
15 Paragraph 4 of article 44.a of the International Protection Act, No. 83/2012.

The new amendment to International Protection Act also stipulates that free legal assistance from the first phase of the international protection procedure is no longer provided by law.\textsuperscript{16}  
Another change which may or may not have been influenced by the 2010 Closing a protection gap national report was the establishment of an interdepartmental working group consisting of representatives of the Ministry of the Interior, Ministry of Labour, Family and Social Affairs, Ministry of Education and Sports, the police, and representative of Slovene Philanthropy. The purpose of the interdepartmental working group was to work towards a more satisfactory level of treatment of separated children (regardless of status) at a systemic level and establishing a more unified and better coordinated approach in this area of work.\textsuperscript{17}  
In practice no changes have occurred since the establishment of the interdepartmental working group and there have been no outcomes of its operation. The members of the group have stopped organising the meetings in February 2012 and the group was officially abolished in the regular governmental sitting in May 2012 when approximately 128 government working bodies were abolished, most probably because of an austerity measure. Since then the interdepartmental working group has not been re-established.

In 2011 the Ministry of the Interior announced a public tender for an assistance programme implementation plan to help separated children with refugee or subsidiary status living in an Integration House.\textsuperscript{18}  
Slovene Philanthropy prepared the comments on the public tender, since the conditions of assistance and working conditions requested by the tender had been unacceptable. No organisation had registered to carry out the activities of this tender.

There has been an important policy change in July 2011 when the revised Aliens Act introduced improvements in the procedures with the alien minor who has, according to the legislation, entered the Republic of Slovenia irregularly and who is not accompanied by his parents or other legal representatives. While the previous Aliens Act stipulated that such a minor has to be returned immediately to the country he came from or handed over to the representatives of the country of his nationality \textsuperscript{19}, the revised Act prescribes that the Police have to immediately inform the Centre for Social Work which has to immediately appoint a legal guardian to the minor. Centres for Social Work are public institutes within the Ministry of Labour, Family, Social Affairs and Equal Opportunities. The Police issue the order to return a minor only if his legal guardian has made careful consideration of all the circumstances and determines that the return would be in the best interest of the child.\textsuperscript{20}

In 2012, the Protocol on cooperation between the Centres for Social Work and the Police on the implementation of assistance to unaccompanied alien minors under the Aliens Act was signed. With this Protocol, the Centre for Social Work Postojna becomes the territorially authorized Centre for Social Work. This Centre appoints its professional workers to perform the tasks of the guardian with regard to alien minors who enter the state irregularly and are temporarily accommodated by the Police at the Centre for Foreigners in Postojna. Since there is no monitoring of guardians of separated children at the border, Slovene Philanthropy suspect and are afraid that appointed guardians in these cases do not follow or make the best interest of the child assessment and that they mostly agree with the opinions of the Police with regard to the child’s return.

\textsuperscript{16} NGOS commented that international documents prescribe that everyone should have the possibility of being advised, defended and represented in a legal context and that socially disadvantaged groups, which asylum seekers normally are, must be given the right to free legal help. This was not taken into account by the law makers.  
\textsuperscript{18} Integration House is the capacity of the Ministry of the Interior where, according to the provisions regulating accommodation for persons with international protection status, the Ministry houses a person with international protection.  
\textsuperscript{19} Paragraph 1 of article 60. of the Aliens Act, No. 64/2009.  
\textsuperscript{20} Paragraph 1 of article 82. of the Aliens Act, No. 50/2011.
In Slovenia there are no official national standards or other written materials that could be used by guardians, social workers or other relevant actors working with (former) separated children that address the care and treatment of separated children.

The Code of Ethical Principles in Social Care\(^{21}\) and the Code of Ethics of Social Workers of Slovenia are two documents which do not represent an exhaustive set of rules that would regulate all possible ethical handling of professionals in social work, but can rather point to those minimal and general acceptance criteria that are necessary to be taken into account in situations that require ethical review.

For example: The first principle in the Code of Ethical Principles in Social Care stipulates the basic conduct of ethics: professionals in social care that serves the welfare of the individuals, families, groups and societies, have to be guided by principles of ethics. They have to work to the benefit of people in order to protect them and being careful against misuse of professional and social power. Their work should be distinguished from political, religious, ideological, personal and institutional impacts and interests that might interfere with their human and professional judgements. They have to represent the interests of individuals they work with along with following the social justice principles.\(^{22}\)

The general principle of work of the guardians within Slovene Philanthropy are the *Statement of Good Practice* of the Separated Children in Europe Programme and the *Core Standards for guardians of separated children*\(^{23}\) that have been developed within the first ‘Closing a protection gap for separated children in Europe’ project.

In practice, the low number of separated children in Slovenia allows for an individualized approach to their treatment. Due to this fact the state has not developed special mechanisms for protection and care for this group of children, therefore the guardians within different organizations and institutions developed an individual approach towards the treatment of separated children.

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\(^{22}\) Available at: http://www.soczbor-sl.si/pdfji/predstavitev/kodeks.pdf

\(^{23}\) Available at: http://resourcecentre.savethechildren.se/sites/default/files/documents/7001.pdf
6 A SHORT OVERVIEW OF THE NATIONAL GUARDIANSHIP SYSTEM

Legislative and policy framework
Slovenian legislation prescribes guardianship for foreign minors in four legal acts: the Marriage and Family Relations Act, which regulates guardianship regarding children in general; the Aliens Act, which regulates the rights and obligations of irregular migrants, including separated children; the International Protection Act, which regulates the rights and obligations of applicants for international protection and refugees (including persons under subsidiary protection); and the Temporary Protection of Displaced Persons Act. The main regulation of the guardianship institution (for domestic and foreign minors) is regulated by the Marriage and Family Relations Act which prescribes that a minor who is without parents or who is not taken care of by his parents, is given a guardian that is appointed by the Centre for Social Work.24 There is no separate legislation on guardianship in Slovenia which refers exclusively to separated children.

In Slovenia there are different terms used to describe a guardian which differs depending on the procedure that the separated child is in. In the case of the removal of separated children who are, according to the legislation, irregularly residing in the Republic of Slovenia, the Police have to immediately inform the Centre for Social Work which has to immediately appoint a guardian for special case to the child.25 Separated children who apply for asylum26 are appointed a legal guardian,27 while children whose asylum procedure have been completed and are granted international protection are appointed a guardian in the usual sense of the word.28

Description of the guardianship organisations
Legal guardianship for separated children in Slovenia is provided by Slovene Philanthropy, a non-governmental organization that performs its role within the Migration Programme29 since 2001, and by the three Centres for Social Work.
Slovene Philanthropy’s employees and volunteers, have been providing guardianship to: separated children that are accommodated in the Centre for foreigners who are, according to the law, considered illegal migrants30 (since 2003); to the separated children seeking asylum and to the children who have obtained the status of a person with international protection in the Republic of Slovenia (refugee or subsidiary protection status) (since 2001). Slovene Philanthropy is the only organization in Slovenia that systematically deals with assistance and protection to separated children.

25 Paragraph 1 of article 82. of the Aliens Act, No. 50/2011.
26 In the beginning of 2008 the Asylum Act was replaced by the International Protection Act, which also introduced a new terminology in the field. Instead of the term “asylum seeker” it introduced the term “applicant for international protection”. In the following report the term “asylum seeker” will be used instead of “applicant for international protection”. The term international protection will be used only when referring to specific legal regulations and laws or to the quotes by other authors.
28 As we can notice the terminology in the existing system is not harmonized within different laws and therefore, separated children with various statuses are assigned guardians with various tasks and responsibilities. In this country assessment the term “guardian” is used most of the times and refers to the tasks and responsibilities of a guardianship function in general, no matter the status of the child. Different or specific terminology is used only when referring to documents and researches that use different terms.
29 In the beginning of 2013 Slovene Philanthropy has renamed previous “Centre for psychosocial assistance to refugees” by “Migration Programme”, since the organization started to work on more projects covering also the work with other vulnerable groups of migrants (e.g. migrant workers).
30 Since 2012 Slovene Philanthropy is no longer providing guardianship for this group of separated children, although from then, sometimes act as a support worker to Centre for social work.
Since 2003 Slovene Philanthropy was the only organization which was providing guardians for separated children who entered the state irregularly and were accommodated in the Centre for foreigners. In 2012, when the Protocol on cooperation between the Centres for Social Work and the Police on the implementation of assistance to unaccompanied alien minors under the Aliens Act came into force, the guardianship function over these children became the responsibility of the authorized Centre for Social Work.\textsuperscript{31} Since then Slovene Philanthropy is no longer providing guardianship for this group of separated children.

In March 2011 the representatives of Slovene Philanthropy temporarily stopped providing guardians for newly arrived separated children seeking asylum. This decision was adopted in order to warn the state (again) that the current system of care and treatment of separated children was inappropriate and that the area was in dire need of changes. Slovene Philanthropy was also faced with a lack of capacity due to an increased influx of separated children seeking asylum into Slovenia and a lack of financial support. After the decision to discontinue the practice of guardianship by representatives of Slovene Philanthropy, the implementation of guardianships for these children was taken over by the authorized Centre for Social Work.\textsuperscript{32} Currently the guardianship for separated children seeking asylum is implemented by both Slovene Philanthropy and the authorized Centre for Social Work. Slovene Philanthropy again started to provide guardianships, since they noticed, there is a difference in level of protection for separated children when Centre for Social Work as a public institution provides the guardianship. From the time Slovene Philanthropy again started to implement guardianship for separated children seeking asylum, in February 2012, no improvements or financial compensation to Slovene Philanthropy have been realised.

The same two organisations are nowadays implementing the guardianships for separated children who have been granted international protection, although in the past years, this function had been performed by the territorially authorized Centre for Social Work\textsuperscript{33} only a few times.

**Appointment of a guardian**

When a separated child enters the Republic of Slovenia (hereafter Slovenia), the authorities inform the authorized Centre for Social Work which appoints a legal guardian to the separated child. Appointment of a legal guardian and his legal responsibilities depend upon the legal procedure that the separated child is in. Separated children in Slovenia can have different kinds of statuses or can be considered as: irregular migrants (illegal migrants), asylum seekers, persons with international protection and temporary protection of displaced persons.\textsuperscript{34}

In cases when a separated child entered the state irregularly and is lodged in the Centre for foreigners in Postojna, the police within the Centre for foreigners have to notify the authorized Centre for Social Work which must ex officio immediately appoint a guardian to the separated child. The designated centre in these cases is the Centre for Social Work Postojna that issues the decisions on the appointment of guardians.\textsuperscript{35}

\textsuperscript{31} In the existing practice this is the Centre for Social Work Postojna.
\textsuperscript{33} In the existing practice this is the Centre for Social Work Ljubljana Vič-Rudnik.
\textsuperscript{34} Closing a Protection Gap, National Report 2010 - 2011, Slovene Philanthropy, p. 15.
\textsuperscript{35} Centre for foreigners in Postojna is the only accommodation facility in Slovenia that accommodates persons who are categorized as irregular migrants. The Police temporary accommodate separated children who have entered the state irregularly, at the special department responsible for minors at the Centre for foreigners. Centre for foreigners is a detention facility where the movement of detained persons is de facto limited – aliens are, according to the centre's house rules, limited to the centre's facility and to the surrounding area.
\textsuperscript{36} Closing a Protection Gap, National Report 2010 - 2011, Slovene Philanthropy, p. 15.
In the past, the Centre for Social Work Postojna had, in almost all cases of separated children that were accommodated in the Centre for foreigners, appointed Slovene Philanthropy as a guardian (the representative of the Centre for Social Work Postojna informed Slovene Philanthropy about the presence of separated children in the Centre for foreigners). In the last year and a half, the Centre for Social Work Postojna have been appointing their representative as a guardian.

Cases in which Slovene Philanthropy was appointed as a guardian, the Centre for Social Work Postojna prepared the written order with which they appointed a guardian and when this was done, a guardian collected the written order and took it to Centre for foreigners where it was signed by both the guardian and the separated child.37

Separated children are informed and explained what this written order entails, while the practice shows that often they do not understand the information they receive.

“Actually when I came to Slovenia, I didn’t even know what ‘asking for asylum’ means. But by living in the camp and people explaining it to you, I got the idea: it means that if you have a problem in your country, you can get support from a different country until the problem will be solved.”38 A former separated child.

“I don’t understand the procedure; I was not in that kind of procedure before.”39 A separated child.

Separated children who apply for asylum (international protection) are accommodated in the Asylum Home in Ljubljana.40 According to the International Protection Act all separated children must have an appointed legal guardian prior to the beginning of the international protection procedure.41 The decision on the guardian’s appointment is issued by the authorized Centre for Social Work, which is in the existing practice, the Centre for Social Work Ljubljana Vič-Rudnik. This Centre for Social Work has until March 2011 in most cases of separated children appointed Slovene Philanthropy as their legal guardian, while from that time the Centre for Social Work itself implement the guardianship for most separated children seeking asylum.

Separated children meet their legal guardian prior to submitting their application for asylum, which is usually the first or second day following their arrival at the Asylum Home. In practice, when a separated child applies for asylum in the Centre for foreigners he is usually transferred to the Asylum Home on the same or the next day when the formal intent of applying for asylum has been filed. Practice also shows that separated children have the interviews with the official authorities on the same or on the next day when they have arrived at the Asylum Home where their legal guardian is also present.42

37 Ibid., p. 15
40 The Asylum Home, which is an open institution, is located in Ljubljana and is the only facility for those who apply for asylum. The Asylum home is divided into five divisions: department for separated children, department for women, department for persons with special needs, department for single men and department for families.
41 The International Protection Act, No. 11/2011.
Slovene Philanthropy strives for children to have the same legal guardian during all legal procedures, so that when children are granted international protection, they already know who their guardian is. However, sometimes it is not possible to assure that the child has the same legal guardian in the asylum procedure as when the child is granted international protection, because the number of guardians is very small and have limited capacity.

There are no exact data available on the number of guardians in Slovenia, especially on the number of guardians appointed to separated children at border crossings. Besides the unknown data for the latter guardians, at the time of writing this report there were seven guardians providing guardianship to irregular separated children accommodated in the Centre for foreigners and separated children seeking asylum (one guardian is a representative of Slovene Philanthropy and six guardians work for two different authorized Centres for Social Work\(^43\)) and four guardians providing guardianships to separated children with international protection (two guardians are a representative of Slovene Philanthropy and two guardians work for one authorized Centre for Social Work).

The guardian is appointed without any input from the separated children, since the system of guardianship in Slovenia does not allow separated children to choose who their guardian will be. Partly this is also because the number of guardians is very small.

\[\text{"I didn\'t have a choice, she came and visited me in Postojna [in the Centre for foreigners] and she said she was my guardian. But I don\'t think it is very important to choose a guardian, I don\'t care about this situation."}^{44}\]
A separated child.

\[\text{"If you ask me who I would wish to be my guardian… maybe I would feel much more safe with someone who is coming from the same country like I do. I wouldn\'t have really big choice for the age, maybe I would feel much more trust because he is coming from the same country that I do."}^{45}\]
A former separated child.

The existing practice shows that a guardian is appointed to every separated child soon after his accommodation at the Centre for foreigners or at the Asylum Home.\(^46\) Not much can be said about the appointment of the legal guardians to the separated children in the procedures at the borders, since this information could not be obtained. There are no waiting lists for separated children in need of the guardian in Slovenia.

\(^{43}\) The Centre for Social Work Postojna performs guardianship for separated children accommodated in the Centre for foreigners and the Centre for Social Work Ljubljana Vič-Rudnik performs guardianship for separated children seeking asylum.
\(^{44}\) Ibid., p. 17.
\(^{45}\) Ibid., p. 17.
Legal responsibilities and tasks of the guardian

When separated children are considered irregular migrants and are lodged at the Centre for foreigners, legal responsibilities and tasks of a guardian for special cases are, according to the Marriage and Family Relations Act\(^{47}\), specified in the written order composed by the authorized Centre for Social Work. Those responsibilities and tasks include: protection of the child’s rights and interests, providing information in relation to the procedures, giving advice to the child, help in finding options and solutions that are in the best interests of the child\(^{48}\) and representation in legal matters (i.e. to write a statement about the child’s intention to apply for international protection/asylum\(^{49}\), etc.

The guardian of the separated child who is accommodated at the Centre for foreigners is, in agreement with the Centre for Social Work, obliged to take measures that are necessary for the protection of the child’s personality, rights and interests into account. When the legal procedure that the child is in is completed, the guardian is obliged to provide the Centre for Social Work with a report on the guardianship activities.\(^{50}\)

When the representative of Slovene Philanthropy is appointed as a guardian, the role of the Centre for Social Work is merely a formal one, i.e. it issues the decisions on the appointment of guardians and does not engage in seeking long-term solutions for the child, this is therefore left with the guardian.\(^{51}\) While in cases when the representative of Centre for Social Work is appointed as a guardian, he is also involved in seeking long-term solutions for the child.

While the International Protection Act from 2008 prescribed that the legal guardian is designated only to represent the separated child in the international protection procedure and to protect the child’s interests, an amendment to this Act that entered into force in December 2010, further expanded the responsibilities of the legal guardian.\(^{52}\) Parallel to the requirement of the mandatory training for legal guardians of separated children seeking asylum, the amendment also expanded the tasks of the legal guardian to representation in the areas of health protection, education, protection of property rights and interests.\(^{53}\) However, the mandatory training for guardians has never been implemented, nor has the expansion of the tasks of the legal guardians.

The tasks of the legal guardian, who is authorised to represent separated children in the international protection procedure include: providing information in relation to the international protection procedure, preparations for interviews, presence and support at interviews, monitoring procedures, contacting decision makers, cooperation with legal representatives, assistance in acquiring documents and making contact with families, etc.

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48 Information gained from the written order composed by the Centre for social work Postojna.
49 In practice, in cases when separated children apply for asylum during their accommodation in the Centre for foreigners, their intent of applying for such protection is lodged by their guardian. In the past, separated children who apply for the asylum already at the Police Station, lodged their formal intent by themselves, while from the signed Protocol on cooperation between the Centres for Social Work and the Police on the implementation of assistance to unaccompanied alien minors under the Aliens Act (in 2012), the territorially authorized Centre for Social Work which appoints its professional worker as a guardian, should help to apply for asylum.
50 In Slovenia, children accommodated in the Centre for foreigners can apply for asylum, return to the country of origin or reunite with their relatives in some other country.
52 The Act was amended on the initiative of representatives of Ministry of the Interior and NGOs since, before that, tasks and responsibilities of the legal guardian were very limited and separated children needed a person to represent them in other areas than the international protection procedure.
In practice, separated children also often turn to their legal guardians for other matters such as health issues, psychosocial issues, accommodation, food at the Asylum Home, leisure activities and school.

Legal responsibilities and tasks of the legal guardian for separated children with refugee or subsidiary protection status are broader in comparison to the responsibilities and tasks of the legal guardian for separated children seeking asylum or separated children that are considered as irregular. According to the Marriage and Family Relations Act, the guardian is responsible to take care of the child like a parent. However, the guardian is not required to maintain a child and the guardian is not expected that a child would live with him.

Responsibilities and tasks of the guardian for children that have obtained international protection status include: protection and development of the child’s personal integrity, which is implemented through care, medical care and training for a self-sufficient living and further on through protection of financial means, the rights and interests of the child. The guardian should ensure that a child has suitable care, accommodation, education, language support and health provision. The guardian has to consult with the child about all important decisions. A child, who is over 15 years of age, handles his legal affairs by himself, although approval of his guardian or the Centre for Social Work for the legal validity of these affairs is necessary.

The guardian is required to report to the Centre for Social Work on its guardianship activities annually as well as any time on request of the Centre for Social Work. The guardianship function in Slovenia is voluntary and honourable. The financial resources provided to Slovene Philanthropy programmes by the state are only sufficient for resolving current issues, but are not sufficient for the development of necessary programmes and seeking out systemic solutions. Representatives of the Centre for Social Work are providing guardianship as a part of their work obligation and are, as guardians within Slovene Philanthropy, not separately paid for performance of this function.

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54 A legal guardian is no longer given to the separated children with refugee or subsidiary protection status; instead of that the Centre for Social Work appoints them guardians in the usual sense of the word.
56 In this country assessment the masculine gender is used for grammatical purposes, but this form relates to both genders. The particular grammatical gender is used only when referring to the gender of a specific person (separated children or guardian). Indicating only masculine gender is used only for the purposes of reader friendly text and does not in any way discriminate feminine gender.
57 Ibid., Article 178.
58 Ibid., Paragraph 3 of Article 194.
59 Ibid., Article 178.
60 Ibid., Article 203. The guardian as a responsible person for the child, until he reaches 18 years of age, have to approve the child’s decisions to be recognized as valid, although the law recognizes the right of a child for handling his affairs by himself. This means limitation of the child’s independence when it comes to handling his own affairs.
61 From the written order composed by the Centre for Social Work Ljubljana Vič - Rudnik.
63 Slovene Philanthropy would want to develop programme where separated children would be provided holistic psychosocial and other care and protection, suitable accommodation, education and healthcare and where all actors included in their treatment would be qualified for working with them.
Guardianship officially ends when the minor turns 18 years of age, when the minor solemnise a marriage, when he is adopted, or when the minor becomes a parent and the full legal capacity is recognized to him by the decision of the court.\(^{65}\) However, in practice, although former separated children are considered as adult migrants, they still receive a lot of support from the (ex) guardians and other representatives of Slovene Philanthropy, mainly because their situation does not change much when they reach the age of 18.\(^{66}\) The guardians from the Centres for Social Work do not keep in touch with the separated children after they reach 18 years.

"I would not say anything really changed, nothing special happened. I became responsible for myself, I continued to get support from the person who used to be my guardian. I still contacted her for advice, ideas or other things."\(^{67}\) A former separated child.

As was established in the first Closing a Protection Gap study, most of the interviewed (former) separated children found it difficult to describe the role of the legal guardian, yet the majority expressed the clear need for a broader role of their legal guardians than it is defined by law and other orders. Some children desire that the legal guardian could do more for them especially in terms of arranging the possibility of schooling and language courses, while a great number of children underline the insufficient legal system that limits their rights (limited options for going to school, no adequate programmes, legal guardians with limited powers and responsibilities, long asylum procedures ...). Some children are therefore aware the legal guardian is restrained in providing them help.\(^{68}\)

The study (Former) Unaccompanied Minor Asylum Seekers – Overview of Protection, Assistance, Good Practices and Key Gaps, reported legal guardians consider the opinions and views of children, consult with them and advise them. They also assist in making contact with families, their tracing and reunification. In accordance with existing (very limited) possibilities, guardians try to ensure proper care, accommodation, education, language education and health protection. Some legal guardians from the abovementioned study reported that separated children often expect more from them than they are authorised or able to do.\(^{69}\)

"I think that some children understand the reality here and that they understand that I, as a guardian, am trying to help to the best of my ability. However, there are also children that even after several months do not understand and they still think that as a guardian... I was a guardian to one boy, he was here already for months and in spite of that, he still thought I am the one who is making a decision about his asylum application. I have noticed that this lack of understanding the system and the role of a guardian occurs more often with the boys from Afghanistan. Along with this, there might also come the repeated accusations and these situations are extremely stressful. It is very difficult to explain to a child that you do the best of your ability and that you cannot do more than that. So yes, they are different expectations. Many expect that you are the one who will provide them everything what they need, which is very difficult."\(^{70}\) A guardian.

\(^{65}\) Article 205 of the Marriage and Family Relations Act, No. 69/2004.
Education, status and training of the guardian

There is no special education or degree required for someone to become a legal guardian in Slovenia. None of the interviewed guardians or other experts working with separated children within the research Closing a Protection Gap laid importance to the official education of the guardians. All of them were of the opinion that graduation from a certain university cannot be the condition for somebody to become a legal guardian and that “the degree does not guarantee anything”.

“I don’t see the importance in what kind of education a guardian has. It seems to me that one can be a good guardian regardless of whether is a social worker or lawyer or has a degree in some other area. The only thing that matters is that a guardian has and is developing knowledge and skills in both fields, thus legal and social, since both are important.”

A guardian.

An amendment to International Protection Act from March 2011 introduced the prescription of the mandatory training for legal guardians that implement guardianships for separated children seeking asylum. The law prescribed these trainings to be implemented within a year of the enactment of this Act by the Association of Social Work Centres of Slovenia, although up to this date this has not been implemented and it might happen that it will even not enter into force.

As was established in the first study Closing a Protection Gap, legal guardians and other representatives of Slovene Philanthropy that are involved in the care of separated children take part in training courses organised by Slovene Philanthropy as well as others. In the past, they took part in courses on asylum procedures, treatment of separated children, family mediation, domestic violence and work with addicts and underprivileged youths. Adult respondents considered trainings to be of a great importance and as a tool for giving adequate support and advice to the children, and to address the principle of the best interest of the child to a greater extent. Although the guardians pronounced they have enough knowledge about migration procedure and children’s rights, the need for additional trainings for working with separated children came forward.

Additional effort should also be invested in the sensitisation of experts who occasionally work with separated children, including medical workers and social workers at the Centres for Social Work, and in raising awareness among the general public.

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73 Paragraph 3 of Article 16.a of the International Protection Act, No. 11/2011. For more information see chapter Developments in relation to guardianship and migration.
74 The delay was firstly explained that the Ministry of the Interior in coordination with the Ministry of Labour, Family and Social affairs still has to adopt an implementing regulation that would prescribe a more detailed method of implementation of the trainings in question. In February 2012 when the Rules on the implementation of legal representation of unaccompanied minors and the manner of providing adequate accommodation, care and treatment of unaccompanied minors outside Asylum Centre or its branch, came into force, the programme and the duration of the trainings had been more specifically defined (Articles 6. and 7.). Recently, in April 2013, proposal for the new International Protection Act has been published which lays down provisions for cancellation of trainings, predominantly because of the financial reasons.
75 Slovene Philanthropy is the only organization that organizes educational trainings for those who are or would like to become a legal guardian to separated children.
“... some of them they didn’t even know where my country is. [...] If you really want to help someone, if you want to know someone, if you want to understand someone, it would really be good to give the information about his background, how is going there [in child’s country of origin], how they are doing there and so on. And then you will understand him or her when he or she will be, I don’t know, doing somehow or acting somehow.” 78
A former separated child.

Although Slovene Philanthropy has advocated for years for the establishment of guardianship as a professional and paid function, as it had become clear that the tasks and responsibilities of the guardians are too complex and demanding to be carried out by unpaid individuals or volunteers, the guardianship function in Slovenia still remains unprofessional, voluntary and honourable.

**Methodology of guardians**

There are no official or specific guidance methodologies to work with the separated children in Slovenia in which the best interest of the child would be assessed.

The best interest of the child is determined individually by his legal guardian, if necessary with the support of other experts from Slovene Philanthropy. Legal guardians operating within Slovene Philanthropy and some other actors working with separated children, such as the integration counsellor at the Ministry of the Interior and representatives of the Legal-Informational Centre for Non-Governmental Organizations – PIC (hereafter PIC), follow the *Statements of Good Practice, UN Convention on the Rights of the Child* and *The Core Standards for guardians of separated children.* 79

*The basic method that I use as a guardian is conversation with a child. Through the conversation I also advice a child and offer him psychosocial support. Also the advocacy methods are being used, since I’m advocating on behalf of the rights and interests of the child. [...] I think that after so many years of experience, I’ve gained some sense on what I need to pay attention to, especially in terms of child’s verbal and non-verbal communication. After so many years you get a sense on what are the things to focus on, on what to lay great stress on and how to check, if a child understands what I’m asking him.* 80
A guardian.

There are no national standards or other written material that could be used by guardians, social workers or other relevant actors working with (former) separated children and would address the care and treatment of these children, therefore in practice, the challenge remains in the implementation of the individual methodology.

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Caseload of guardians

The first act on paper that prescribes the average caseload per guardian is the Rules on the implementation of legal representation of unaccompanied minors and the manner of providing adequate accommodation, care and treatment of unaccompanied minors outside an Asylum Centre or its branch. According to these Rules the average caseload per guardian is up to five separated children, while in the cases when the legal guardianship cannot be provided to the child in need of the legal representation, one guardian can exceptionally represent maximum eight minors at a time.81 In practice this is not harmonised yet with The Rules, since the caseload of the guardians varies, depending on the number of new arrivals.

According to the interviewed children and adults from the first Closing a protection gap research, a guardian should take care of one to three children. Only one child expressed that one guardian can be a guardian to ten or even up to fifteen children. However, the general opinion on this topic favoured “one child per guardian”. That way the guardian is able to dedicate more time to the child (bearing in mind that a guardian in Slovenia is performing this duty on a voluntary basis). Some adults as well as one former separated child have stressed that the guardians are facing a range of difficulties in grappling with the existing system to provide children with suitable support and to safeguard their interests.82

Because of the complexity of the work with separated children and insufficient guidance governing this area, the guardian’s caseload has to be adequate and manageable.

“If the system was different so that we could really do something for these children then I would like to be a guardian to more children. But as it is now they come to us and they have 1001 wishes, I mean they are totally realistic wishes, but on its own merits we cannot do much. That is why I prefer to have only one child. But if the conditions and the system were normal then of course I would have wanted to take care of more children.” 83

A guardian.

Monitoring and accountability of guardians

There is no legal framework in terms of monitoring guardians in Slovenia. In the past, the United Nations High Commissioner for Refugees (UNHCR) carried out the monitoring of services, including the implementation of the guardianship function, through its implementing partners in Slovenia which were at that time Slovene Philanthropy and PIC. UNHCR performed this programme until its closure in Slovenia in May 2006.84

NGOs, Slovene Philanthropy and PIC have through their programmes continued to carry out the monitoring in the area of protection and support to separated children.

The Centres for Social Work as public institutions within the Ministry of Labour, Family, Social Affairs and Equal Opportunities have, according to the law, the public mandate for appointment and review of the work of guardians. In practice the role of the Centre for Social Work when appointing guardians of organisations is merely a formal one, since it only issues the decisions on the appointment of guardians and does not engage in seeking long-term solutions for the individual cases of the separated child. In cases when the representative of Centre for Social Work is appointed as a guardian, he is also involved in seeking long-term solutions for the child.

81 Paragraph 5 of Article 2. of the Rules on the implementation of legal representation of unaccompanied minors and the manner of providing adequate accommodation, care and treatment of unaccompanied minors outside Asylum Centre or its branch, No. 6/2012.
83 Ibid., p. 39.
It also cannot be said that the efficient monitoring of guardians is done through the annual reports on the guardianship activities that the guardians have to provide to the Centre for Social Work; this is in practice only mechanism of control over the guardian.

Representatives of Slovene Philanthropy can be independently monitored by the authorized Centre for Social Work, but regarding guardians who are representatives of the Centre for Social Work, a conflict of interest might appear, therefore it is not sufficient that the organization that appoints his own employee as a guardian, monitors the work of this guardian.

In practice, children are not enabled to contribute to the monitoring of his guardian. There are also no differences in relation to the monitoring of guardians and organizations for national children in out of home care and for separated children, since the guardianship itself has no monitoring and evaluation mechanisms developed.

The situation in the area of monitoring of guardians is very concerning in Slovenia because there are not enough actors and the area should involve more organisations, both governmental and non-governmental. This would contribute to further development of monitoring and evaluation mechanisms.85

Between 2007 and 2012, some independent research in the area of separated children in Slovenia have been made.86 The studies can represent the certain monitoring mechanisms of shortcomings and good practices, but cannot be considered as a sufficient body to monitor the work of actors and services concerned with separated children.

One of the most important outcomes from all the studies is the fact that the state has not developed special mechanisms for protection and care for separated children, therefore the difficulties and problems children face are resolved individually and not systemically and depends on the work of individual guardian and other actors.

85 Ibid., p. 45.
86 In 2007 the Science and Research Centre of Koper, the University of Primorska carried out a study titled The Risk Group of Unaccompanied Minors: Protection Measures in an Enlarged European Union, while all others were performed by Slovene Philanthropy as follows: in 2009, Policies on Reception, Return, Integration Arrangements for, and Numbers of, Unaccompanied Minors in the Republic of Slovenia (in cooperation with PIC); in 2010, Practices and Challenges Confronting Separated Children and Professionals in Slovenia and Closing a Protection Gap for Separated Children in Europe; in 2011, (Former) Unaccompanied Minor Asylum Seekers – Overview of Protection, Assistance, Good Practices and Key Gaps, Country Assessment Report Slovenia; and in 2012, Improving the Quality of Unaccompanied Minor Asylum Seekers´ Guardianship and Care in Central European Countries.
STANDARD 1

The guardian advocates for all decisions to be taken in the best interests of the child, aimed at the protection and development of the child.

Indicators:
The guardian:

A) Makes an assessment on the best interests of the child, for example before decisions are taken about:
   • Legal procedures,
   • The choice of a lawyer,
   • Housing accommodation and placement,
   • Education,
   • (Health)care,
   • Leisure activities.

B) Other support.

Makes sure that an assessment on the best interest of the child is based on the views and opinions of the child and on individual circumstances.

C) Involves all relevant actors in the determination of the best interest of the child in decisions impacting upon the child to ensure a multi-disciplinary approach.

D) Avoids having a conflict of interest concerning the child and works independently from other actors who make decisions about the welfare and status of the child.

E) Adjusts the assessment of the best interests of the child regularly, while taking at a minimum into account:
   • The child's personal background and past experience in the country of origin and journey,
   • His/her development,
   • Family situation,
   • Duration of stay in the host country,
   • Phase of residence procedure or immigration status.

The principle of the best interest of the child as such is mentioned only in the International Protection Act where it is stated that: “In cases where the applicant for international protection is a separated child, the principle of the best interest of the child has to be taken into account” and “When working with separated children with international protection, the principle of the best interest of the child has to be taken into account”. The role of the guardian defined in legislation is, as already mentioned, different depending on the procedure that is applicable to the separated child. The wording about the responsibilities and tasks of the guardian defined in legislation refers to the protection of the child’s rights and interests and not to the best interest of the child. The Marriage and Family Relations Act regulates guardianship over children in general, while there is no separate or different legislative description of the role of the guardian for separate and national children.

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87 Paragraph 1 of Article 16 of the International Protection Act, No. 11/2011.
88 Paragraph 1 of Article 96 of the International Protection Act, No. 11/2011.
The study *(Former) Unaccompanied Minor Asylum Seekers – Overview of Protection, Assistance, Good Practices and Key Gaps*, reported that legal guardians and guardians operating within Slovene Philanthropy stated that they always work in accordance with the best interests of the child\(^89\) within the scope of their powers and tasks, but it is often hard due to the circumstances of the separated child. While it is clear what is in the best interest of each individual child (for example that the child is enrolled in school and starts to learn the Slovene language as soon as possible after his arrival to the Asylum Home, that the international protection procedure is not too long, there is suitable accommodation for the child, etc.), this is often hard to achieve because legal/guardians do not have sufficient powers.

During the training session with guardians, the guardians from Centres for Social Work who are providing guardianship for separated children seeking asylum have reported that it would have been ideal to follow the best interests of the child principle, but in the existing practice it is not possible for them, since they meet with the child only once and that is, when the application for international protection has been submitted.

During the training session with guardians it came forward that guardians try to address assessment of the best interests of the child differently, depending on the institution/organisation they work for. The representatives of one Centre for Social Work stated that they do not make an assessment of the best interests of the child because of the narrow margin for manoeuvre available to work with separated children (they are appointed as a guardian but they meet with the child only once, when the application for international protection has been submitted\(^90\)). While the representatives from Slovene Philanthropy and other Centres for Social Work told that they, as guardians with broader tasks and responsibilities, try to make this assessment and include the views of the child. However there are no checklists or plans of action for the assessment of the best interest of the child, this is left with the individual guardian.\(^91\)

The guardians interviewed for the first *Closing a protection gap* study held one to one counselling. In the conversations with the children they focussed on the child’s history and his background, they checked which actions could be taken in order to fill up the child’s leisure time in a quality way and in compliance with the child’s needs and wishes. In practice, the guardian listens to the child, gives advice, informs the child and helps him work out some solutions. It was noted that the guardian and the child talk in privacy and in a safe environment. The interviewed guardians stated that when they are holding the conversation with children, they take into account the age, gender, cultural background and maturity of the child as well as the non-verbal communication.\(^92\)

The guardians who have worked in this capacity for a longer period of time, have more experience and an extended network of other relevant actors. Practice also shows that the level of importance the guardian will assign to the assessments of the best interest of the child depends on his resourcefulness, professionalism and readiness to assist. One former guardian from Slovene Philanthropy told at the training session that the guardians within Slovene Philanthropy try to adjust the assessment of the best interest in accordance with the outcomes of the child’s migration procedure, since the needs and rights of a child differ depending on the procedure that the separated child is in.

Many guardians at the training session stated, that in accordance with existing, very limited possibilities, they try to ensure proper care, accommodation, education, language education and health protection, however they face numerous obstacles within this system, since it is not tailored to the children’s needs and their specific situation.

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89 The best interest of the child is determined individually by his legal/guardian, if necessary with the support of other experts from Slovene Philanthropy. Legal/guardians operating within Slovene Philanthropy as guidance follow the *Statements of Good Practice* (issued by the Separated Children in Europe Programme), *Core Standards for guardians of separated children* and *UN Convention on the Rights of the Child.*

90 Information gained at the training with guardians from representatives of Centre for Social Work Ljubljana Vič – Rudnik.

91 For more information see chapter Methodology of guardians.

Some guardians mentioned at the training session that they are in contact with other actors, such as the social workers in the Asylum Home and at the Centres for Social Work, integration counsellors, class teachers and school counselling service, lawyers, doctors, migration authorities (decision makers), individual volunteers of the child, etc. This way they try to better assess and determine the best interest of the child and make adjustments when necessary.

The role of the guardian is not completely independent, since individual guardians are appointed within the institution/organisation they work for. Therefore they are responsible to follow the rules settled within their work place.

The guardians within Slovene Philanthropy are volunteers and employees, who are working on several different projects; however for the implementation of the guardianship function the received funds are insufficient, what represents a significant obstacle to their work. The financial resources provided to Slovene Philanthropy by the state are also not sufficient for the development of necessary programmes and seeking out systemic solutions for the child. In the past when the guardianship was mostly performed by Slovene Philanthropy's volunteers, the travel expenses had been reimbursed to them.

The guardians within the Centres for Social Work are full time employed at Centre for Social Work and are performing the guardianship within their work assignments.

There is a distinction between the performance of the guardianship within Slovene Philanthropy and Centres for Social Work in its independent and flexible role (for more information see Standard 4).

There is basically no monitoring of services in relation to the best interest of the child. The guardians within Slovene Philanthropy are required to report to the Centre for Social Work on its guardianship activities annually as well as any time on the Centre for Social Work’s requests, but there are no monitoring and evaluation mechanisms developed. The guardians within Centres for Social Work are as well required to report on guardianship activities to the institution they work for. Therefore in practice they monitor themselves and in the opinion of all guardians at the training session that can cause a conflict of interest.

The guardians and experts interviewed for the first Closing a protection gap study stated that it would be prudent to establish a special body to monitor the work of individual actors and services concerned with separated children.

Many children at the workshop stated that they have had good experiences with their (former) guardians and that they could sense that their guardians tried to work in their best interests.

Children at the workshop mentioned the difference between the work of the guardians when they were in asylum procedure and in the work of guardians after they have obtained the status of a person with international protection. Children noted more satisfaction with the work of guardians after they have obtained status (in their cases, Slovene Philanthropy is providing guardianship for them) in comparison to work of guardians while they were still seeking asylum (in there cases, Centre for Social Work was providing guardianship for them).

In the case of two former separated children attending the workshop, their guardian did not have the information regarding some of the rights of the child and consequently, those boys had not felt their guardian was working in their best interests.

“My experiences with my ex guardian are all very positive, but I have heard from other boys that they also have some bad experiences.”

A former separated child.

At the workshops, separated children and guardians have been asked to rank the importance of each standard. Separated children found Standard 1 to be of the greatest importance, while the guardians discussed that all the standards are so closely connected to one another and are therefore all important. For guardians the importance of standards could not be ranked.
**Recommendations**

**For State authorities:**
1. The guardianship function should be professionalised and a paid function. Also, it should be a separate workplace to which a person is assigned and therefore being specifically responsible for separated children.
2. The guardians should be given an opportunity to perform their guardianship functions independently and with flexibility.
3. The guardians and other relevant actors included in the care of the separated children should be qualified for work with this group of children and should receive training and appropriate support and assistance for the performance of their responsibilities.
4. The legislation and its implementation in practice regarding the treatment of separated children should be changed, so that also the guardians could act in the best interest of the child (in the existing practice possibilities for guardians are very limited).
5. The methodology and guidance for executing the guardianship function should be developed so that the plan of action, in which the best interest of the child would be assessed, could be easily followed.
6. The performance of the guardianship function should be properly supervised and controlled by an independent agency.
7. Other Ministries, such as the Ministry of Labour, Family, Social Affairs and Equal Opportunities, should be much more involved in the care of separated children and in developing better practice in this area.

**For guardians:**
1. The guardians should try to spend more time with the child in order to be able to assess and determine what is in the best interest of the child.
2. The guardians should be active in getting all the relevant information which will help them with assessing the best interest of the child.
STANDARD 2

The guardian ensures the child’s participation in every decision which affects the child.

Indicators:
The guardian:

A) Provides the child with all relevant information concerning his/her rights and information needed for his/her participation in a language the child understands and in a child friendly way, repeats this information as often as necessary and checks if the child understands and recalls the information.

B) Listens carefully to the child and takes his/her views into account in the most appropriate way in accordance with his/her age, development and evolving capacities.

C) Informs the child of the outcome of the decision making process and explains how his/her views were considered.

D) Manages expectations of the participation of the child.

E) Makes sure that action or development plans are based on the views of the child and shared with the child.

F) Ensures that appointments are made with the informed consent of the child.

G) Informs the child about complaint procedures concerning the guardianship and is open to feedback from the child.

H) Uses creative tools, like visual materials, where necessary to ensure participation.

The study *(Former) Unaccompanied Minor Asylum Seekers – Overview of Protection, Assistance, Good Practices and Key Gaps,* reported that when separated children are placed in the Centre for foreigners (Aliens Centre) they are provided with information about existing options and the system in Slovenia, their rights, the international protection procedure, etc. during their stay in that institution. They receive information from other migrants residing at the Centre for foreigners, from the social service, inspectors and legal guardians. The study reveals that separated children already have some information about existing options and possibilities even prior to the arrival of guardians and not all information is correct.93

Separated children who apply for asylum (international protection) and are transferred to the Asylum Home where they submit an application for international protection, receive a brochure at their arrival. This brochure provides information regarding the international protection procedure and their rights and obligations.94 These brochures are not adapted to the needs of separated children. According to the legal guardians, most separated children do not read the brochure, since they do not understand it and some of them are illiterate.95 Separated children are, prior to submitting an application, informed about the international protection procedure, their rights and obligations and the Dublin II Regulation. This information is provided by a representative of PIC with the support of the interpreter using a language the separated child understands. After receiving the information the separated child is once again asked by the official whether he understood the given information. Any information that was not understood is explained again.96

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94 Article 9 of the International Protection Act, No. 11/2011. The brochure is available in ten different languages (Slovenian, Serbian, French, Albanian, Arabic, Turkish, Roma, Russian, English and Farsi).


96 Ibid., p. 11
“In my opinion they don’t understand the international protection procedure. The time for explaining all options and familiarisation with all present parties is absolutely too short. Prior to their submission of an application all UAMAS are informed about the rights and obligations, the procedure and all other important matters. A lot of information is provided just before applications are submitted in the short time of 45 minutes. I can tell you from experience that they do not remember very much. Some of them are tired, scared, lost, they see many new faces for the first time - a nurse, doctor, person taking their picture and taking their fingerprints, legal guardian, legal representative, interpreter and official. With all this data and different faces it is very hard for them to understand who is who and what their roles and tasks are. They feel we are all part of the same machine, designed to confuse them. They have no time to get used to the new environment, their legal guardian and legal representative. The frequency of questions they ask regarding the international protection procedure shows they do not receive information often enough and that it is not accurate enough. If they are not inquisitive enough and do not show enough initiative, they remain insufficiently informed throughout the procedure.” 97

A guardian.

Separated children with international protection status are provided with information about their rights and obligations and the role of the guardian. The guardians operating within Slovene Philanthropy and Centres for Social Work explained at the training session, children often do not understand the information they receive, while children that participated in the workshop said they did understand the given information. Some of the children also said they did not receive the needed information or that the information was insufficient. The guardians at the training session stated that the information given to the separated children are of great quantity and that this results in poor understanding of the procedures and awareness of its importance.

“In general I have good experiences with my guardian who always gave me the information that I needed. But it happened once that my lawyer didn’t give me the right information. I was very disappointed when this happened, because this wasn’t in my best interest.” A former separated child.

“At the beginning it was very difficult to understand what means positive and negative, what is the procedure with fingerprints and things like this.” 98

A separated child.

It has been explicitly noted by the guardians of separated children with international protection status that they always try to work to ensure that the information is adapted to child’s age and maturity. Conversations are usually carried out in Slovene or English and when necessary and/or when possible, with the assistance of an interpreter using a language the child understands. Official interpreters are present at the formal procedures: when a child is submitting an application for international protection and on the personal hearings with the migration authority; when a child meets the guardian in the Centre for foreigners; when a child with international protection status is having the official meeting with the representative of Centre for Social Work for the purpose of appointment of the guardian.

When a child and guardian do not have any common language they understand and speak and a child needs to be given information in an informal way, a guardian uses some simple English words or another child helps with the interpretation. All guardians at the training session pointed out the problem that occurs with covering the costs for interpreters, since the state does not cover these expenses.

Many guardians at the training session stated that the manner in which an individual guardian talks with the child depends on the individual guardian, since no particular methodology is developed. The guardians with more experiences stated that they have developed individual tools and formats regarding how to talk with the child. Some guardians stated that they put special attention to non-verbal communication of the child. They also try to take into account the age, gender, cultural background and maturity of the child.99

**Recommendations**

For State authorities:
1. The professional trained interpreters should be available and the costs for interpreters should be covered by the state.
2. The views of the child should be taken seriously in the decision making process.

For State authorities and for guardians:
1. The guardians should be trained on how to talk with traumatised children, young children etc. and should have an available methodology developed.
2. The child should be provided with information that affects him and in a child friendly way as well as in a language the child understands.
3. The child should always have the possibility to get the information that affects him and should always be asked whether he understands the given information; any information that was not understood has to be explained again.
4. The child should be informed concerning his rights needed for his participation.

For guardians:
1. The views and opinion of the child should be taken seriously when action or development plans are being developed.
2. The guardians should call or visit the child even when there is no specific reason to do so.

99 The guardians within Slovene Philanthropy stated they find the methodology as they have developed it individually quite successful in practice, though they miss and strive for the development of a set methodology that would be use as guidance for work with separated children in general.
STANDARD 3

The guardian protects the safety of the child.

**Indicators:**

The guardian:

A) Gives the highest possible priority to the child's safety and ensures that his/her own conduct does not put the child at risk.

B) Makes sure the child knows he/she is welcome to voice anything concerning his/her safety or any danger that he/she feels.

C) Keeps all information about and from the child confidential unless it is necessary to break confidentiality to keep the child or another child safe and informs the child, when possible, about a confidentiality breach.

D) Can identify the signals of child abuse and trafficking, acts upon signals of any harm or danger to the child and reports those signals to the relevant child protection authorities.

E) Is aware of the additional pressure, dangers and risks presented by those who facilitated the child's journey.

F) Ensures that if a child is a victim of violence, abuse or trafficking the child gets appropriate treatment.

G) Always reports the disappearance of a child.

H) Is open about being monitored on his/her own behaviour.

The challenges in relation to the safety of separated children in Slovenia, when they are for instance victims of human trafficking, are that no special protection mechanisms are established for their protection (from various forms of abuse, particularly from the dangers of human trafficking).

Most of the guardians, social workers, school workers, interpreters, legal advisors etc. dealing with separated children in Slovenia, are not trained on the topic of recognising signs of danger and abuse and indicators of child trafficking and exploitation. Experts working with separated children that are identified as a victim of various forms of abuse of trafficking face the challenge of the placement in appropriate and specialised shelter, bearing in mind the individual child's circumstances, such as age, level of maturity, gender, presence or absence of parents, the child's environment and experiences etc. In Slovenia there are basically no accommodation facilities adjusted to the needs of separated children (e.g. children might be taken to the juvenile educational institution where minors with behaviour or personal problems are taken care of and therefore this placement does not cater specifically for separated children).

There is no explicitly mentioned role of the guardian in Slovene legislation that would refer to protection and safety of the child. This is in different documents and legislations mentioned more indirectly and in general.100

Some guardians, especially those who are working with separated children for a long time, said at the training session that they try to provide the child with information on potential dangers. This was also confirmed by (former) separated children participating in the workshop. Children pointed out the guardians were in the cases of the signals of child abuse vigilant towards these signs of danger and abuse. Since no adequate system of monitoring exists, the level of vigilance of the guardian towards signals of child abuse depends on the sensitivity of the individual guardian.

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100 For more information see chapter Legal responsibilities and tasks of the guardian.
“We [representatives of Slovene Philanthropy] are seeing more and more that these children [separated children] are in great emotional distress that reflects in their behaviour - they are showing signs of depression, withdrawal, sadness and disappointment, self-harm, aggression, low self-esteem and feelings of guilt, sleep disorders, suicidal tendencies and so on. These and other problems are complex and must be addressed as such. If they are not, they can have long lasting and profound impact on the health and lives of these children. There are of course many factors to this issue - success in integration into the society and meeting people, success in learning the language, finding employment, building a social network and having the necessary support, the sense of security and trust, etc. That is why I believe there is a marked need for an elaborate system that could appropriately protect the children and offer them the opportunity for receiving suitable assistance, support and the treatment they require.” 101 A guardian.

In Asylum Home the PATS project – Project against Human Trafficking and Sex and Gender Based Violence – is being carried out for several years now, while the providers of this project are changing (depending on the public tender and success of the organisations who apply for carrying out this project). In the past the PATS project was performed by the NGOs Slovene Philanthropy, the Society Ključ, Centre for fight against trafficking in human beings, and later by the Jesuit Refugee Service – Slovenia, after that the activities of the project were performed by two social workers at the Asylum Home and currently, the project is carried out by the Institute for African studies. In this project the individuals that fall within the risk population (separated children and women) are informed on the issues of trafficking in human beings and violence. They are informed within 48 hours after their arrival at the Asylum Home, with the assistance of an interpreter using a language the person understands. The purpose of the project is to empower its beneficiaries with information on the risks of trafficking in human beings and forms and places of assistance.102

In 2008, UNHCR’s proposal: the Standard Operating Procedures for the Prevention and Response in Cases of Sex and Gender Based Violence was signed by Ministry of the Interior, Ministry of Justice, UNHCR Regional Representation in Budapest and four non-governmental organisations dealing with refugees, asylum seekers and victims of trafficking in human beings (PIC, Slovene Philanthropy, Jesuit Refugee Service and Association Ključ). The purpose of the introduction of these procedures was to enable a joint action to prevent sexual and gender based violence and a joint response in cases of such violence. A working group consisting of governmental and non-governmental representatives is active in the International Protection Division (entailing NGO and International Protection Division’s representatives) and deals with cases identified in the Asylum Home.103 One guardian from Slovene Philanthropy that participated at the training session stated that in cases where there are signals of child abuse with the children accommodated in the Asylum Home, the person, usually a professional working in the Asylum Home, calls the special meeting. On these meetings the working group representatives consider the particular issue of violence and then decide what would be the best for the child (e.g. accommodation outside the Asylum Home, involvement in psychological or other therapy, a criminal complaint against the offender etc.). The guardian stated that she endeavours for the child to visit a professional doctor in order to record the signs of abuse.

Regarding reporting on child disappearances, one guardian at the training session mentioned she had a concrete case of a child with international protection status who left Slovenia. The Centre for Social Work, where she worked, immediately responded to the child’s disappearance and informed the Police which issued a search warrant.

103 Ibid., p. 40.
A guardian to the separated children seeking asylum stated that in practice, when children disappear from Asylum Home, the representatives of Ministry of the Interior do not report or inform the Police about this, although according to this guardian, this should be done. Most of the guardians at the training session said they are not familiar with the legislation in this area, however they think everyone should report the disappearance of a child. The Aliens Act prescribes the obligation of people to report on missing persons.

In the training session the majority of the guardians said they do not have experiences with identification of signals of child abuse, therefore they could not talk about breaking the confidentiality and how they break it. It has been mentioned by two guardians that they had shared some information about the child with some relevant actors, because the child showed signals of self-destruction and suicidal tendencies. These two guardians said they have sought support and exchanged their experience with their colleagues. The guardians and other actors working with separated children have to keep all information about and from the child, unless it necessary to break confidentiality to keep the child safe.

**Recommendations**

**For State authorities:**
1. Better cooperation between organisations/institutions addressing the sphere of child’s safety should be established.
2. There should be appropriate accommodation facilities, professional treatment and psychosocial programmes established for abused separated children.

**For State authorities and for guardians:**
1. The guardians should be properly trained and educated to recognise signals of different types of abuse and indicators of child trafficking and exploitation. The guardians should have the opportunity to ask for additional trainings when necessary.
2. To report the disappearance of a child should be the responsibility of all adults working with separated children.

**For guardians:**
1. The guardians should have enough time and opportunities to know the child and to build trust. They should regularly talk with the children without other persons being present.
2. The guardians should always consult with the child when they feel they need to break confidentiality in the best interest of the child.
3. The guardians should monitor the safety of the children, report cases of child abuse to the Centre for Social Work and the Police, contact relevant organisation for support and follow up on the case.
STANDARD 4

The guardian acts as an advocate for the rights of the child.

Indicators:
The guardian:

A) Is an assertive, committed and brave watchdog, dedicated to defending the rights of the child.
B) Is not afraid of taking different points of view from the authorities and acts independently, solely based on the best interests of the child.
C) Opposes decisions which are not taken in the best interests of the child and pursues fair procedures concerning the child.
D) Shows emotional strength to deal with wearing situations, frustrations and hostility or pressure through third parties.
E) Is present during the determination of the best interest of the child at important decisions.

In recent years an agreement between Slovene Philanthropy and PIC with regard to legal matters has been established. This cooperation assures every separated child access to legal counselling and representation in all phases of the international protection procedure. This enables all separated children to have, along with the guardian, also a legal representative who is responsible for covering the scope of juridical knowledge throughout the process of seeking international protection and therefore to protect their rights and assure their best interests.

Some guardians at the training session stated that they are present at important decisions and moments in the life of the child. One representative of Slovene Philanthropy had the experience of being present at the age assessment procedure, while more guardians of children with international protection said they strive to be present also during the important decisions in the life of the child, such as school choices, choices in medical care, meetings and cooperation with lawyers and migration authorities, family reunification procedures, planning the child's leisure time, choices in accommodation, access to the labour market, plans for the future etc.

The independence of the guardian is not explicitly ensured by law, while practice shows that the guardianship performed by an NGO, such as Slovene Philanthropy, allows the guardian to work with independence and greater flexibility in comparison with the governmental services. Some of the advantages in the provision of guardianship by an NGO are: the organisation's independence and greater flexibility; meeting the child on a regular basis which gives the child and the guardian the possibility to talk face to face; no waiting lists for separated children in need of guardians etc.

There is a difference when the guardianship is performed by Slovene Philanthropy or Centre for Social Work. In the latter case, the Centre for Social Work appoints their representative to perform the guardianship in practice, and he is responsible to the institution for which he works. Therefore in these cases, the independence of the guardian, a representative of Centre for Social Work which is a state institution, is not ensured.

Many of the guardians present at the training session expressed that guardianship should be provided only through NGOs.
“More than one year I was without school. I know my guardian tried to enrol me, but it didn’t work out because the system is like that. She tried to help but she didn’t have more power in her hands. The system should be changed and should give power to the people.” A former separated child.

During the workshop with (former) separated children a former separated child stated that, he wishes the guardians would be more valiant when it comes to the talk about negative things and limited options children have in Slovenia. His experience as well as experiences of many other (former) separated children shows that the guardians are mostly hoping that the child will receive a positive outcome from the international protection procedure and that everything will work out well for the child. In his opinion, he said, children would appreciate, if the guardian and/or other adults would, together with the child, make a plan for the child’s future, considering different possible options. The feeling the children expressed at the workshop was that the guardians are afraid to confront them with possible negative decisions and had therefore encouraged the guardians and other adults working with them, to be braver and prepared to talk openly with the child about the possible negative options.

**Recommendations**

**For State authorities:**
1. The guardians should be independent when it comes to the performance of the guardianship function.
2. The role of the guardians as youth protectors who advocate for the best interest of the child should be respected.

**For State authorities and for guardians:**
1. The guardians should have the possibility and show the personal interest to be present during the determination of the best interest of the child and at important decisions and moments in the life of the child.

**For guardians:**
1. The guardians should be personally and emotionally strong and not be afraid to take up the position which opposes the opinions of other relevant actors, if they are not in the best interest of the child.
2. The guardians should, together with the child, make a plan for the child’s future, considering different possible options. They should be braver and prepared to talk openly with the child about the possible negative options.
STANDARD 5

The guardian is a bridge between and a focal point for the child and other actors involved.

Indicators:

The guardian:

A) Keeps in contact with and is the focal point for:
   • The lawyer,
   • Reception and social workers (mentors),
   • (Psycho)social and medical care givers,
   • Migration authorities,
   • School teachers,
   • Foster parents,
   • Social Services,
   • (Extended) family members in the host country and/or the country of origin,
   • Other relevant actors.

B) Informs the child about his/her rights and obligations in relation to the other actors.

C) Assists in establishing links with the child’s community and developing key one on one relationships that gives the child a sense of belonging to a family or group.

D) Ensures that he/she is informed about decisions which have an impact on the child and is present at key meetings and interviews where decisions are made.

The guardians from the Centres for Social Work stated that they have no policy on how to communicate with other actors involved, but have expressed the need for systemic networking with the relevant actors. The guardians from Slovene Philanthropy have more years of experience and have therefore already developed the close collaboration and networking with other involved actors, such as social workers at the Asylum Home, integration counsellors, lawyers, migration authorities, school counselling services, class teachers, other individual teachers and children’s volunteers, medical personnel etc.

Most of the above listed actors are already informed and familiar with the role of the guardian, said the guardians, and they inform other actors about their role and the rights and obligations towards the child.

The guardians from Slovene Philanthropy stated that the frequency of contact with the child is of a great importance, since it contributes to the level of trust with the child and gives them the potential to create “bridges” between them, the children and the community.

While some guardians from Centres for Social Work felt their role as a guardians is accepted and respected by other relevant actors, guardians from Slovene Philanthropy do not feel this way. The guardians from Slovene Philanthropy stated that they felt some actors working with separated children take them seriously only because they create a bridge between these actors and children.
Recommendations

For State authorities:
1. A network consisting of the guardians and other involved actors important for the life of the child and for the determination of the best interest of the child should be established.

For State authorities and for guardians:
1. Other parties as well as the broader public should be informed about the role of the guardian and accept and respect this role.
2. The guardians should have the possibility, especially in terms of enough time, for the establishment of cooperation with other relevant actors, which is in the existing practice very difficult to ensure, since the guardianship role is not professionalised and the guardians are occupied with numerous and different work responsibilities.
STANDARD 6

The guardian ensures the timely identification and implementation of a durable solution.

Indicators:
The guardian:

A) Challenges others to prove their proposed solutions and implementation plan take the best interest as a primary consideration, while taking at least the following into account:
   - The child’s family situation,
   - The situation in the country of origin,
   - The adequacy of concrete care arrangements to ensure a safe and secure environment,
   - The safety and risks the child is exposed to,
   - The level of integration in the host country,
   - The mental and physical health of the child,
   - The possibilities of development in the various options.

B) Supports the reunification of the child with his/her family when this is in the best interest of the child taking into account any danger related to the exile grounds for the child or his/her family.
   - The guardian has personal contact with family members and organizations in the country of origin after consent of the child, and checks their abilities to take care of the child in a safe and appropriate way,
   - The guardian considers the signals of trafficking related to the role of family members.

C) Supports the integration of the child in the host country when this is in the best interests of the child, giving particular consideration to:
   - Language,
   - Social contacts,
   - Education and employment.

D) Supports a safe return to the home country when this is in the best interest of the child.
   - Depending upon the wishes of the child the guardian accompanies the returning child or he/she arranges somebody else to do this.
   - The guardian oversees the preparation and monitoring of a life project/reintegration plan before and after the return.
   - The guardian tries to be informed about the well-being of the child after he/she is returned to the home country.

E) Prepares the child for all predictable changes which will occur after he/she turns eighteen.

The guardians within Centres for Social Work stated they have no experiences with the return of the child, while the guardians within Slovene Philanthropy stated that some children they worked with had been returned either to their country of origin or a third country. Those guardians have also had experiences with accompanying the child when it needs to return as well as with the family reunification procedure. In these cases, the close cooperation between the guardian, the child and representatives from PIC is established.

Within the organisations that provide guardianship there are no specific methodologies developed in relation to family reunification, return or integration of the child, while as mentioned above, some guardians have developed their own view on how to address and solve such situations.
“The treatment is much better now when we got the status of a refugee. Before when we were in Asylum Home it was terrible for us. But my problem with my family reunification is still present and it doesn’t look good.”
A former separated child.

Slovenia just started implementing the age assessment procedure in practice, therefore not much information is available on this topic. The last amendment to the International Protection Act included a provision on determination of the age assessment for separated children which requires the competent authority (the Ministry of the Interior) to order the determination of the age assessment for separated children when his age is doubted. If the separated child and his legal guardian do not give consent to this examination without valid reason, the child is considered as an adult in regard to his application for international protection. One guardian at the training session stated that she had one such case and she was present with the child during the age assessment procedure.

There is no system set up that would provide the child with support with his reintegration upon his return to the country of origin or a third country. And there are no special programmes developed for the return and reintegration of former separated children.

*The Assisted Voluntary Return and Reintegration Programme for migrants in irregular situation* began to be implemented by IOM in 2010 and offers a certain level of assistance and support to former separated children in their return and reintegration. Since only one former separated child has been involved in the above programme (and the success of his reintegration is still being monitored) it is hard to say whether the programme requires certain changes or amendments.104

In the past, the guardians within Slovene Philanthropy engaged in returns of separated children, especially to children whose countries of origin were Kosovo, Albania and Bosnia and Herzegovina. In these cases, the guardian accompanied the child to the point of entry of the country of origin where the child was handed over to the Police. The fact that the guardian accompanies the child on his return is not a sufficient guarantee for a proper return, since the child is handed over to the Police. Therefore Slovene Philanthropy has always established contacts with the child’s parents, relatives or suitable non-governmental organisation in the country of origin and agreed that they collect the child upon return to his homeland.

In cases when the child needs to return (according to the decision by the designated inspector) or the child and the guardian decide for the child’s return home, the guardian has to establish contact with the child’s parents or relatives and has to agree that they collect the child upon his return to his homeland. In certain cases, for instance, when a suspicion of trafficking in human beings exist, the guardian has to contact a suitable non-governmental organisation in the country of origin with the aim of ensuring support and assistance to the child on and also after return. After children return, the situation should be monitored, though in practice this is difficult and sometimes even impossible. The guardians often do not know what happened to the children once they returned.105

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As already mentioned, Slovenia does not have a lot of experience in the area when a child has been once returned to his country of origin or a third country.

The study (Former) Unaccompanied Minor Asylum Seekers – Overview of Protection, Assistance, Good Practices and Key Gaps introduced the story of a separated child who wished to return to his country of origin and was included into IOM Assisted Voluntary Return and Reintegration Programme for migrants in irregular situation. On his return to the country of origin he was accompanied by his legal guardian who was then monitoring the process of his reintegration through regular contact with him and representatives of IOM.

"The state should let us to stay here in peace." A former separated child.

For most of the children who participated in the workshop, leisure and recreational activities were identified as an important component in which they like to engage and many of them expressed the wish to do more fun things with their guardian (going on a trip, go to a concert etc.).

"If I would be a guardian I would help the minor to be more included into the society: school, free time activities, to take a child to different cities and other things which could make a child easier to live in this country." A former separated child.

According to the Slovenian legislation, guardianship officially ends when the minor turns eighteen years of age, which means that they are no longer entitled to a guardian. According to the experts, separated and former separated children are prepared for these changes and discussion regarding such changes is adapted to the level of their understanding. The guardians within Centres for Social Work stated that they have had no more contact with children after they turn eighteen, while all the guardians within Slovene Philanthropy reported that they try to support the child and stay in contact with him even after he turns eighteen. Therefore, in their cases, informally nothing really changes when the child comes of age.

No practice exists where, due to special circumstances, a legal guardian would be appointed to the child when he has turned eighteen. The Marriage and Family Relations Act prescribes this possibility when an overage person is declared legally incompetent by a decision of the court. In this case Centre for Social Work appoints a guardian to such person. This applies to guardians of separated children and national children.

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107 After the boy’s return to the country of origin, he and his guardian have heard on the telephone a few times. The guardian was told by the child that the IOM Programme support him financially to make a driving licence and to buy a used car so that he could open his own taxi service. This would help him to reintegrate again in the society. The guardian have never found out, if the plan for opening a taxi service was successfully implemented.

108 Ibid., p. 12.

Recommendations

For State authorities:
1. The opinion of the guardians as youth protectors who advocate for the best interest of the child should be respected.
2. A system regulating the methodology in relation to family reunification, return or integration of the child should be developed.
3. A residence permit on humanitarian grounds for children in need of protection for other reasons than asylum grounds should be created.
4. The system should allow guardians to engage in the return of the child when this is in his best interest. The suitable mechanism that verifies whether the child is in effect returned to his family, guardian or a suitable institution in the third country or in the child’s country of origin should be established.
5. The state should guarantee the safety of children who need to return to their country of origin after a determination of an individual durable solution is made.

For guardians:
1. The guardians should organise more activities that would help the child to be more included in the society. They should do also some fun things with the child.
2. The guardians should try to be informed about the reception and reintegration of the child after a child is returned.
3. The guardians should be capable of discussing issues with the child about the possibility of return.
4. The guardians should have contact with organisations in the country of origin that can provide information about the situation of the child once he returns. When this information is not available, guardians should not approve the return of the child.
5. The guardians should inform the child about the legal procedures concerning the situation when child turns eighteen. The guardians should provide clear explanations of the role of the guardianship function before and after a child becomes of age. The guardians should stay in contact with the child and support him also after he turns eighteen and the guardianship officially ends.
STANDARD 7

The guardian treats the child with respect and dignity.

Indicators:
The guardian:

A) Treats the child with an unprejudiced, open attitude.
B) Listens to the child’s views and concerns and takes them seriously.
C) Demonstrates the appropriate behaviour and attitude he/she expects from the child too.
D) Shows interest in the child’s life by asking questions without being too obtrusive.
E) Is sensible to cultural and/or religious differences.
F) Respects the child’s right to privacy and informs the child about the possibility to see other professionals on his/her own.
G) Supports the child in maintaining and/or creating his/her identity and self-esteem.
H) Shows a flexible approach tailored to individual needs of the child.
I) Does not breach the right of the child to maintain his/her physical and mental integrity.

There is no code of conduct or deontology for the guardians that provide guardianship in Slovenia. The only documents that could be used as a set of rules that regulates ethical handling of professionals in social work are the Code of Ethical Principles in Social Care and the Code of Ethics of Social Workers of Slovenia. Otherwise there are no official national standards established in the area of guardianship, while the majority of guardians at the training session stated that it would be necessary for such deontology to exist.

As already mentioned with regard to Standard 1, no real monitoring of services in relation to the guardianship and the relationship between the guardian and the child exist. The guardians at the training session mentioned it would be necessary to establish a special body to monitor the work of individual actors working with separated children.

Two pieces of research in the area of separated children\footnote{Closing a Protection Gap for Separated Children in Europe and (Former) Unaccompanied Minor Asylum Seekers – Overview of Protection, Assistance, Good Practices and Key Gaps.} noted that not all separated and former separated children are aware that they have the possibility to complain if they are not satisfied with the work of a guardian or any other person involved in the process. Separated children seeking asylum can in practice complain to their legal guardian, psychosocial service, head of the Asylum Home, representative of Slovene Philanthropy and/or representative of Centre for Social Work. Separated children with international protection can complain to their guardian, representative of Slovene Philanthropy, representative of Centre for Social Work and/or integration counsellor.

\begin{quote}
“I don’t know about this possibility.”\footnote{Closing a Protection Gap, National Report 2010 - 2011, Slovene Philanthropy, p. 61.} A separated child.
\end{quote}

\begin{quote}
“If I wouldn’t be happy with my guardian I would tell.”\footnote{Ibid., p. 61} A separated child.
\end{quote}
“I never think about that because my guardian has never given me a reason to complain about her.” 113 A former separated child.

During the workshop with (former) separated children some of them stated that they have experience with bad treatment in the Asylum Home. Some of the boys have mentioned the nurse in Asylum Home did not treat them with dignity and respect. One boy stated that the nurse did not enable him to exercise his right to visit the dentist while he injured his front teeth when doing sports. When he was granted international protection, his guardian from Slovene Philanthropy made an appointment for him to visit the dentist, but was already too late to prevent the final damage on his teeth. Some children stated that they did not feel respected by the security service in the Asylum Home and by one particular official translator who offered his service during the interview with the migration authority.

“Some of them didn’t do their job, for what they are responsible for. They didn’t do it with respect.” A former separated child.

Recommendations

For State authorities:
1. There should be a code of conduct or deontology for the guardians and other actors working with separated children in order to improve protection of the rights of the child and as a tool for daily work of guardians and other actors in practice.
2. Adequate monitoring and evaluation mechanisms should be developed for the better implementation of the guardianship function and the relationship between the guardian and the child. There should be no room for the potential cause of a conflict of interest in regards to the implementation of the guardianship function.

For guardians:
1. Every separated child has to be aware of, and has to understand, where he can raise concerns and formal complaints about his guardian and other relevant actors.
2. The guardians should take their time and ask for the views and the opinion of the child. These views and opinion should be taken into account.

113 Ibid., p. 61.
STANDARD 8

The guardian forms a relationship with the child built on mutual trust, openness & confidentiality.

Indicators:
The guardian:

A) Knows the child personally.
B) Keeps all information about and from the child confidential unless it is necessary to break confidentiality to keep the child or another child safe and informs the child, when possible, about a confidentiality breach.
C) Does not judge the child’s reasons for exile or allow this to affect his/her relationship with the child.
D) Is always honest with the child and keeps his/her promises.
E) Gives clear information about his role and limitations in a way that the child understands and can recall.
F) Demonstrates to the child that he/she really cares for the child – that he/she works from the heart – and that he/she feels responsible for the child.
G) Makes clear to the child that a child who disappears is always welcome to return to the guardian.
H) Pays attention to verbal, nonverbal and emotional communication.
I) Is empathic towards the child and gives moral and emotional support.

During the workshop with (former) separated children it was highlighted that a guardian is one of the first people that the separated child talks to. According to some children, they see their guardian as a person they can trust. Children said in the beginning they had some problems regarding which information they could share with the guardian and how open they could talk to him. They were afraid that the guardian would not keep information confidential. The majority of children were more satisfied with the experience of guardianship when they were granted international protection in comparison to the period when they were still asylum seekers. Some of them said, as a separated children seeking asylum, they did not even know who their guardian was.

“At times it was very difficult to trust my guardian. I didn’t know which information I can tell and which not, because I didn’t want my guardian to tell my private things to other people.” A former separated child.

“I have a good relationship with her [the guardian] and I will never forget her, although sometimes she was annoying.” A former separated child.

“When I have a problem I call my guardian. Yes, if I have a problem she is the person I call and she explains.” A separated child.

114 Ibid., p. 64.
"If I had some problems I called my guardian. It was only my guardian who helped me. […] Yes, she listened to me." 115 A former separated child.

Guardians within Slovene Philanthropy stated that they try to take into account the child’s views in relation to decisions concerning them and this also helps to form a relationship with the child built on mutual trust and openness.

**Recommendations**

**For State authorities:**
1. The guardianship system should allow the guardians to have enough time and possibilities to know the child, spend time with the child and to create a trustful relationship.

**For guardians:**
1. The guardians should work from the heart and treat the child as a competent individual.
2. The guardians should always consult with the child when they feel they need to break confidentiality in the best interest of the child.
3. The guardians should try to spend more time with the child in order to establish a relationship of trust. They should do also some fun things with the child.

115 Ibid., p. 65.
STANDARD 9

The guardian is accessible.

**Indicators:**
The guardian:

A) Sees the child as soon as possible after his/her appointment in a face to face talk.
B) Pays visits to the child on a frequent basis.
C) Can be reached easily by the child by phone or E-mail.
D) Communicates in a way which fits the age and development of the child.
E) Should make use of interpreters when necessary.
F) The guardian lives near enough to the child to be able to respond quickly to difficulties.
G) Informs the child where and when they can meet.
H) Contacts the child from time to time to keep in touch also when there is no specific need to do so.

The field of separated children in Slovenia is not systemically regulated and depends on the work of individual actors. The manner in which individual situations are resolved depends heavily on the individual actors that are included in the care of separated children and this makes the system of children's care even more vulnerable and uncertain.

The guardians noted at the training session that the guardianship system is not sufficiently harmonised, since separated children with various statuses are assigned guardians with varying tasks. Guardians from the Centre for Social Work (those that provide guardianship to the separated children seeking asylum) meet the child only when the child has the interview with the official authorities in Asylum Home and only this one short meeting cannot in any way positively affect the child.

Some guardians, especially those within Slovene Philanthropy are in the contact with the child on a daily basis and are easily reachable either by phone or in person.

“It was nice that she [the guardian] never said she did not have time today, that we will talk some other time. She was always available. She did everything I wished.” 116 A former separated child.

“I trusted my guardian and I could and I still can talk with her about many things. Actually guardians are the only one we can really talk to, we do not have anybody else here.” A former separated child.

During the workshop with (former) separated children it came forward that children with international protection, receive visits from their guardians when necessary, but would have wished those visits to be more frequent. Some children stated that they appreciate it if their guardian contacted them even when there was no specific need to do so.

“It would be even better, if my guardian would visit me more often and, if she would organise more activities that would help me to be more included in the society here. But anyway, she always visited me when it was necessary.”
A former separated child.

There is no funding provided for guardians or other actors when there is the need of use of interpreters when communicating with the child. As mentioned with regard to Standard 2, when a child and guardian do not have any common language they understand and speak, another child helps with the interpretation. The majority of guardians agree this practice is not appropriate and that the state should cover the costs for interpreter.

**Recommendations**

**For State authorities:**
1. The existing system is in need of improvement because not only is the implementation of guardianships lacking financial support, it is also not harmonised; separated children with varying statuses are assigned guardians with varying tasks.
2. The implementation of guardianship should be financially supported by the state so that guardians would have the possibility for proper functioning and implementing guardianship activities (e.g. the use of interpreters when needed).
3. The guardianship should be provided by the personnel from non-state institutions.

**For guardians:**
1. The guardians should be accessible, flexible and independent.
2. The guardians should call or visit the child even when there is no specific reason to do so.
STANDARD 10

The guardian is equipped with relevant professional knowledge and competences.

Indicators:
The guardian:

A) Has working knowledge about:
   • Children’s rights,
   • Migration and asylum law,
   • Child developmental psychology,
   • Trauma,
   • Trafficking,
   • Intercultural communication,
   • Child abuse and protection,
   • Social welfare,
   • The situation and life in the home country of the child.
B) Knows his/her personal and professional limits and is open to improve his/her knowledge, methodology and attitude.
C) Is proactive in identifying learning and development needs and requests training when necessary.
D) Manages his/her caseload to give due attention to all the children he/she works with.
E) Is well organized, keeps records and is accountable.
F) Can manage costs and available resources.
G) Works according to a set methodology.
H) Seeks support and counselling whenever necessary and exchanges experiences with his/her colleagues on a regular basis.
I) Is open to supervision and monitoring.
J) Reflects on his/her actions, role and motivation.

There is no special education or degree required for one to become a legal guardian in Slovenia.117 Slovene Philanthropy is the only organization that organizes educational trainings for those who are or would like to become a legal guardian to separated children. Apart from that, there are no other trainings organized by the governmental institutions. There are also no updated trainings, based on new developments and knowledge.

Guardians at the training session expressed the urgent need for additional trainings for working with separated children as well they would appreciate the methodology as guidance for work with this population of children. The problems and situations of separated children are resolved individually and not systemically, therefore the manner in which individual situations are resolved depends heavily on the individual actors that are included in the treatment of separated children.

In parallel, some children at the workshop stated that their guardians did not know much about the official procedures they were in, and therefore did not know how to advocate for the decisions to be taken in their best interests and to identify durable solutions. Most of the children were satisfied with the professional knowledge and competences of their guardians and expressed gratefulness when guardians tried to find unfamiliar or unknown information.

117 For more information see chapter Education, status and training of the guardian.
Children stated they would like their guardian to know more about the countries and cultures of the children in their care. They proposed “exchanging information evenings” where the child and his guardian could watch a documentary or read a book and have a discussion about it (e.g. gaining information about the country of origin and culture of the child as well as of the guardian).

“In most of the cases I had a feeling she knows enough, but in some cases I would have wished she would be better informed.” A former separated child.

“There were some things about my status that she didn’t know. So she couldn’t know which solutions to offer.” A former separated child.

“My guardian always tried to find the information she didn’t know or wasn’t familiar with.” A former separated child.

The guardians in Slovenia are not offered professional support and supervision to assist the child and for implementation of their guardianship role. In practice some guardians seek support and counselling whenever necessary and exchanges experiences with their colleagues on a regular basis. Most children attending the workshop and who have been in the past accommodated in the Asylum Home have underlined the unprofessional posture of the medical nurse and responsible social worker from the Asylum Home. They have suggested that experts who work with children, including medical and social workers, should be qualified, educated and well informed when working with vulnerable groups such as separated children.

**Recommendations**

**For State authorities:**
1. The state should ensure appropriate and on-going training for guardians and other relevant actors working with separated children. Such training should focus specifically on the rights and needs of separated children, but also on cultural factors and the development of the appropriate skills for communicating with them.
2. Professional support and supervision should be offered to all guardians.

**For guardians:**
1. The guardians should be willing to acquire knowledge about the situation in the child’s country of origin, their culture as well as in the areas that the guardian is unfamiliar with.
2. The guardians should develop intercultural competences and should know how to ensure a multidisciplinary approach when making decisions that impact upon the child.
3. The guardians should be aware of their knowledge limits. They should seek support and collaboration with other organizations and professionals.
4. The guardians should organise themselves and have gatherings where they can exchange experiences, good practices, dilemmas, fears etc.
5. The guardians should be personally motivated to help and support the child.
CONCLUSIONS

Separated children are acknowledged as being a special vulnerable group who need to be protected accordingly. The enjoyment of rights stipulated in the Convention on the Rights of the Child is not limited to children who are citizens of a State party and must therefore be available to all children, including asylum-seeking, refugee and migrant children, irrespective of their nationality, immigration status or statelessness.\(^\text{118}\) States are required to create the underlying legal framework and to take necessary measures to secure proper representation of separated child’s best interests.\(^\text{119}\)

The guardianship system is an important mechanism of protection of separated children and is also essential in finding the right solution for each of these minors. In order to address the children’s needs, to safeguard their interests and to offer them adequate support, special attention should be devoted to educating, qualifying and informing people who come in contact and deal with separated children and taking actions in relation to these children.

An overview of the situation and changes in the area of (former) separated children in Slovenia shows that there have been certain improvements over time, but the basic problems and number of gaps in the treatment of these children still remains.

A central conclusion of this assessment is that, although there are some examples of good practice nationally, the particular needs and rights of separated children within the migration policy are generally little understood or acknowledged and consequently, the guardians and other experts working with separated children face numerous challenges for ensuring appropriate guardianship. This lack of attention reflects the fact that issues affecting separated children remain relatively invisible within law, policy and practice; as yet the legal basis for action in this area is weak and is therefore essential that political will should be mobilised for positive action to be taken to assist these children.

The measures to secure proper representation of separated child’s best interests are required to be established in the Slovene policy and in practice. Separated children should be appointed a guardian or advisor as soon as they are identified and maintain such guardianship arrangements. The guardians should be consulted and informed and should have the possibilities that all the actions taken regarding the child are possible to be implemented in practice.

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\(^{118}\) Committee on the Rights of the Child, General Comment No. 6, Treatment of unaccompanied and separated children outside their country of origin, paragraph 12, 17 May-3 June 2005.

\(^{119}\) Ibid., paragraph 33, 17 May-3 June 2005.
RECOMMENDATIONS FOR IMPLEMENTATION OF THE CORE STANDARDS ON NATIONAL LEVEL  

This section provides an overview of key recommendations identified by guardians and (former) separated children in relation to the guardianship system and the implementation of the Core Standards. The implementation of the recommendations is necessary to support guardians of separated children in their work in a complex migration environment, while also having in mind that the role of guardians in implementing these recommendations is limited. The following recommendations represent the notice to the state to: take measures for improving the existing system of guardianship; provide better protection to separated children; ensure the children with the right to the highest attainable standard of health, schooling, rehabilitation and social integration, etc.

Core Standard 1: The guardian advocates for all decisions to be taken in the best interests of the child, aimed at the protection and development of the child.

For State authorities:
1. The state should improve the existing system of guardianship and should ensure its harmonisation (in existing practice, separated children with various statuses are assigned guardians with various tasks; the level of protection and child's rights depends of the procedure the child is in etc.).
2. The guardianship function should be professionalised and a paid function. Also, it should be a separate workplace to which a person is assigned and therefore being specifically responsible for separated children.
3. The guardians should be given an opportunity to perform their guardianship functions independently and with flexibility.
4. The state should provide appropriate support to non-governmental organisations that are willing to implement guardianship for separated children and are trained to do so.
5. The guardians and other relevant actors included in the care of the separated children should be qualified for work with this group of children and should receive training and appropriate support and assistance for the performance of their responsibilities.
6. The methodology and guidance for executing the guardianship function should be developed so that the plan of action, in which the best interest of the child would be assessed, could be easily followed.
7. The state should ensure a multidisciplinary approach when it comes to the determination of the best interest of the child in decisions impacting upon the child.
8. The state should establish a monitoring system and evaluation mechanisms of work of all relevant actors and services concerned with separated children.
9. The performance of the guardianship function should be properly supervised and controlled by an independent agency.
10. Other Ministries, such as the Ministry of Labour, Family, Social Affairs and Equal Opportunities, should be much more involved in the care of separated children and in developing better practice in this area.
11. The state should establish a monitoring system of the situation of separated children in Slovenia that could also enable the government to undertake a thorough examination of the effects of any new measures on children and youth prior to the implementation thereof.
12. The legislation and its implementation in practice regarding the treatment of separated children should be changed, so that also the guardians could act in the best interest of the child (in the existing practice possibilities for guardians are very limited).

Some of the listed recommendations are taken from NGO Report to the implementation of the Convention on the Rights of the Child and its Optional protocols in Slovenia, prepared by Slovene NGO coalition ZIPOM in April 2013 (chapter on treatment of separated children was prepared by Slovene Philanthropy), but in the whole represent also the recommendations derived from the workshops with guardians and (former) separated children that were held for the purposes of this report.
13. A residence permit on humanitarian grounds for children in need of protection for other reasons than asylum grounds should be created.

14. The state should change the provision of the Aliens Act which determines that children can be placed in the Centre for foreigners (Aliens Centre) and at the same time ensure placement of all children in suitable institutions, designed for the care of children and provide tailored professional treatment and suitable psycho-social programmes.

15. The state should ensure that all children have a right of access to the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.

16. The state should ensure children that fled from war zones rehabilitation and effective social integration programmes.

17. The state should ensure efficient free legal assistance to all children in all instances of the procedure.

18. The state should define in the International Protection Act and the Aliens Act as well as ensure in practice an age assessment procedure, using methods that are ethically acceptable, not harmful to the child and culturally appropriate. The state should prescribe the issuing of a declaratory decision on the child’s age in the International Protection Act, which the child can appeal.

19. The state should ensure the keeping of separate records of the number of entries and denied entries of separated children that cross the border irregularly.

For State authorities and for guardians:

1. The best interests of the child should be assessed individually, based on the views and opinions of the child. The child should be involved in all the important decisions concerning his life.

For guardians:

1. The guardians should try to spend more time with the child in order to be able to assess and determine what is in the best interest of the child.

2. The guardians should be active in getting all the relevant information which will help them with assessing the best interest of the child.

Core Standard 2: The guardian ensures the child's participation in every decision which affects the child.

For State authorities:

1. The professional trained interpreters should be available and the costs for interpreters should be covered by the state.

2. The views of the child should be taken seriously in the decision making process.

3. The state should conduct procedures in a child-friendly manner and in child-friendly premises.

For State authorities and for guardians:

1. The guardians should be trained on how to talk with traumatised children, young children etc. and should have an available methodology developed.

2. The child should be provided with information that affects him and in a child friendly way as well as in a language the child understands.

3. The child should always have the possibility to get the information that affects him and should always be asked whether he understands the given information; any information that was not understood has to be explained again.

4. The child should be informed concerning his rights needed for his participation.

For guardians:

1. The views and opinion of the child should be taken seriously when action or development plans are being developed.

2. The guardians should call or visit the child even when there is no specific reason to do so.
Core Standard 3: The guardian protects the safety of the child.

For State authorities:
1. Better cooperation between organisations/institutions addressing the sphere of child’s safety should be established.
2. There should be appropriate accommodation facilities, professional treatment and psychosocial programmes established for abused separated children.
3. A Protocol should be prepared for the determination of whether a child is at risk, define all forms of risk and ill-treatment of children as well as the most common consequences.
4. The state should put in place control mechanisms to detect violations of the child’s rights and signals of child abuse and danger.
5. The state should provide suitable security and protection to separated children, who would be in danger of (again) becoming victims of armed conflicts upon the return to their home country, which should not be limited to the period when they are minors.

For State authorities and for guardians:
1. The guardians should be properly trained and educated to recognise signals of different types of abuse and indicators of child trafficking and exploitation. The guardians should have the opportunity to ask for additional trainings when necessary.
2. To report the disappearance of a child should be the responsibility of all adults working with separated children.

For guardians:
1. The guardians should have enough time and opportunities to know the child and to build trust. They should regularly talk with the children without other persons being present.
2. The guardians should always consult with the child when they feel they need to break confidentiality in the best interest of the child.
3. The guardians should monitor the safety of the children, report cases of child abuse to the Centre for Social Work and the Police, contact relevant organisation for support and follow up on the case.

Core Standard 4: The guardian acts as an advocate for the rights of the child.

For State authorities:
1. The guardians should be independent when it comes to the performance of the guardianship function.
2. The role of the guardians as youth protectors who advocate for the best interest of the child should be respected.
3. The function of the guardian should be worked out: clear guidelines and the knowledge of this function should be communicated to all the actors who will be working with separated children.

For State authorities and for guardians:
1. The guardians should have the possibility and show the personal interest to be present during the determination of the best interest of the child and at important decisions and moments in the life of the child.

For guardians:
1. The guardians should be personally and emotionally strong and not be afraid to take up the position which opposes the opinions of other relevant actors, if they are not in the best interest of the child.
2. The guardians should, together with the child, make a plan for the child’s future, considering different possible options. They should be braver and prepared to talk openly with the child about the possible negative options.
Core Standard 5:  The guardian is a bridge between and focal point for the child and other actors involved.

For State authorities:
1. A network consisting of the guardians and other involved actors important for the life of the child and for the determination of the best interest of the child should be established.
2. The state should re-establish an interdepartmental working group with the aim of solving problems pertaining to separated children, which will consist of representatives from all competent Ministries and non-governmental organisations. At the same time, the state should consider all recommendations proposed by the interdepartmental working group regarding changes of the legislation and practice.

For State authorities and for guardians:
1. Other parties as well as the broader public should be informed about the role of the guardian and accept and respect this role.
2. The guardians should have the possibility, especially in terms of enough time, for the establishment of cooperation with other relevant actors, which is in the existing practice very difficult to ensure, since the guardianship role is not professionalised and the guardians are occupied with numerous and different work responsibilities.

Core Standard 6:  The guardian ensures the timely identification and implementation of a durable solution.

For State authorities:
1. The opinion of the guardians as youth protectors who advocate for the best interest of the child should be respected.
2. A system regulating the methodology in relation to family reunification, return or integration of the child should be developed.
3. Applications by a child shall be dealt with by the state in a positive, humane and expeditious manner.
4. The state should uphold the provisions of the International Protection Act and process applications of separated children as a priority and issue a decision in six months.
5. A residence permit on humanitarian grounds for children in need of protection for other reasons than asylum grounds should be created.
6. The system should allow guardians to engage in the return of the child when this is in his best interest. The suitable mechanism that verifies whether the child is in effect returned to his family, guardian or a suitable institution in the third country or in the child’s country of origin should be established.
7. The state should guarantee the safety of children who need to return to their country of origin after a determination of an individual durable solution is made.
8. The state should change the legislation and enable reunification of separated children with their parents and their siblings even after separated children turn eighteen.
9. The state should provide effective preparatory programmes that will facilitate the child’s inclusion in school and the learning process itself by ensuring intensive and continuous literacy training and learning of the Slovene language as well as adapted learning materials.
10. The state should change the provision of the International Protection Act granting children, who applied for international protection, access to vocational training immediately after their arrival.

For guardians:
1. The guardians should organise more activities that would help the child to be more included in the society. They should do also some fun things with the child.
2. The guardians should try to be informed about the reception and reintegration of the child after a child is returned.
3. The guardians should be capable of discussing issues with the child about the possibility of return.
4. The guardians should have contact with organisations in the country of origin that can provide
information about the situation of the child once he returns. When this information is not available, guardians should not approve the return of the child.

5. The guardians should inform the child about the legal procedures concerning the situation when child turns eighteen. The guardians should provide clear explanations of the role of the guardianship function before and after a child becomes of age. The guardians should stay in contact with the child and support him also after he turns eighteen and the guardianship officially ends.

**Core Standard 7:** The guardian treats the child with respect and dignity.

**For State authorities:**
1. There should be a code of conduct or deontology for the guardians and other actors working with separated children in order to improve protection of the rights of the child and as a tool for daily work of guardians and other actors in practice.
2. Adequate monitoring and evaluation mechanisms should be developed for the better implementation of the guardianship function and the relationship between the guardian and the child. There should be no room for the potential cause of a conflict of interest in regards to the implementation of the guardianship function.

**For guardians:**
1. Every separated child has to be aware of, and has to understand, where he can raise concerns and formal complaints about his guardian and other relevant actors.
2. The guardians should take their time and ask for the views and the opinion of the child. These views and opinion should be taken into account.

**Core Standard 8:** The guardian forms a relationship with the child built on mutual trust, openness & confidentiality.

**For State authorities:**
1. The guardianship system should allow the guardians to have enough time and possibilities to know the child, spend time with the child and to create a trustful relationship.

**For guardians:**
1. The guardians should work from the heart and treat the child as a competent individual.
2. The guardians should always consult with the child when they feel they need to break confidentiality in the best interest of the child.
3. The guardians should try to spend more time with the child in order to establish a relationship of trust. They should do also some fun things with the child.

**Core Standard 9:** The guardian is accessible.

**For State authorities:**
1. The existing system is in need of improvement because not only is the implementation of guardianships lacking financial support, it is also not harmonised; separated children with varying statuses are assigned guardians with varying tasks.
2. The implementation of guardianship should be financially supported by the state so that guardians would have the possibility for proper functioning and implementing guardianship activities (e.g. the use of interpreters when needed).
3. The guardianship should be provided by the personnel from non-state institutions.

**For guardians:**
1. The guardians should be accessible, flexible and independent.
2. The guardians should call or visit the child even when there is no specific reason to do so.
Core Standard 10: The guardian is equipped with relevant professional knowledge and competences.

For State authorities:
1. The state should ensure mandatory, appropriate and on-going training for guardians and other relevant actors working with separated children. Such training should focus specifically on the rights and needs of separated children, but also on cultural factors and the development of the appropriate skills for communicating with them.
2. Professional support and supervision should be offered to all guardians.

For guardians:
1. The guardians should be willing to acquire knowledge about the situation in the child’s country of origin, their culture as well as in the areas that the guardian is unfamiliar with.
2. The guardians should develop intercultural competences and should know how to ensure a multidisciplinary approach when making decisions that impact upon the child.
3. The guardians should be aware of their knowledge limits. They should seek support and collaboration with other organizations and professionals.
4. The guardians should organise themselves and have gatherings where they can exchange experiences, good practices, dilemmas, fears etc.
5. The guardians should be personally motivated to help and support the child.
RECOMMENDATIONS FOR STATE AUTHORITIES FOR THE IMPLEMENTATION OF THE CORE STANDARDS FROM THE FIRST CLOSING A PROTECTION GAP PROJECT

Based on the information received from separated children and guardians, the project partners call upon State authorities to ensure that:

1. Every separated child should have a guardian upon his/her arrival in the host country.
2. The opinion of the child should be taken into account before the appointment of a guardian.
3. Guardians should be appointed before an age assessment is carried out or a pre-phase guardianship system should be in place.
4. A legal basis for guardianship should exist.
5. All separated children should be entitled to the same level of protection, it should not make any difference what age the child is, if the child seeks asylum or not, is documented or not, is an EU citizen or not (non-discrimination principle).
6. Every separated child should have a lawyer in addition to a guardian. This lawyer supports the child and guardian in taking decisions about legal affairs.
7. External monitoring of the guardian should be in place, children should be enabled to contribute to this monitoring and special attention should be given to signals of abuse by the guardian.
8. Guardians should be at least compensated for the costs they make to fulfill their duties.
9. The caseload of guardians should be reasonable and maximum levels of caseloads should be set.
10. The guardians should be enabled to act independently from authorities who take decisions in order to promote the best interests of the child. Guardians should not be allowed to have different roles that can cause a conflict of interest.
11. The guardianship system and practice (including training) should be harmonized throughout the entire country.
12. Procedures affecting separated children should be treated with priority.
13. It should be promoted that a team of guardians consists of people with different cultural backgrounds.
14. Avoid as much as possible changes in guardians and moving of the children.
15. No separated child should be detained on migration grounds.
16. There should be an exchange of information between States and guardians about returnees and agreements should be made with local authorities and partners.
17. Family reunification in the country of origin or other European States should only be practiced when it is safe and with the help of an organization that is working in the best interests of the child.
18. If support from a guardian or Youth Care is provided for nationals above eighteen years old it should be available to separated children too.
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Legislation


Rules on the implementation of legal representation of unaccompanied minors and the manner of providing adequate accommodation, care and treatment of unaccompanied minors outside an Asylum Centre or its branch, Official Gazette of RS, No. 6/2012.

Statistical data

Statistical data of the Asylum Home, Police, Centre for foreigners (Ministry of Interior) and Slovene Philanthropy on the number of separated children that have been accommodated in the Centre for foreigners; the number of separated and other migrant children with families that have irregularly entered Slovenia; the number of separated children that have applied for international protection and had been accommodated in the Asylum Home; and the number of separated children that have obtained international protection status in the period 2008 – 2012.
Core Standards for guardians of separated children in Europe:

**Standard 1**  
The guardian advocates for all decisions to be taken in the best interests of the child, aimed at the protection and development of the child.

**Standard 2**  
The guardian ensures the child’s participation in every decision which affects the child.

**Standard 3**  
The guardian protects the safety of the child.

**Standard 4**  
The guardian acts as an advocate for the rights of the child.

**Standard 5**  
The guardian is a bridge between and focal point for the child and other actors involved.

**Standard 6**  
The guardian ensures the timely identification and implementation of a durable solution.

**Standard 7**  
The guardian treats the child with respect and dignity.

**Standard 8**  
The guardian forms a relationship with the child built on mutual trust, openness & confidentiality.

**Standard 9**  
The guardian is accessible.

**Standard 10**  
The guardian is equipped with relevant professional knowledge and competences.

“I trusted my guardian and I could and I still can talk with her about many things. Actually guardians are the only one we can really talk to, we do not have anybody else here.” A former separated child.

“The state should let us to stay here in peace.” A former separated child.