



Policies, practices and  
data on unaccompanied  
minors in 2014

Luxembourg

Third Focussed Study

European Migration Network  
Luxembourg National Contact Point

**University of Luxembourg**

**EMN National Contact Point  
P.O. Box 2  
L-7201 Walferdange  
Luxembourg**

**[www.emnluxembourg.lu](http://www.emnluxembourg.lu)**

**E-mail: [emn@uni.lu](mailto:emn@uni.lu)**

The European Migration Network, created by Decision No. 2008/381/EC of the Council of 14 May 2008, has the aim of providing up-to-date, objective, reliable and comparable information on migration and asylum to European Union institutions, to the authorities and institutions of the Member States and to the general public with a view to support policymaking and the decision-making process within the European Union.



## PREFACE

The opinions expressed in this report are those of the author. They do not necessarily reflect the positions of the Luxembourg Ministry of Family, Integration and the Greater Region or the Ministry of Foreign and European Affairs.

The present report was drafted by David Petry and Lisa Li with the assistance of Adolfo Sommarribas, staff members of the National Contact Point Luxembourg within the European Migration Network, under the overall responsibility of Ass.-Prof. Dr. Christel Baltes-Löhr. Continuous support was provided by the members of the national network of the National Contact Point Luxembourg: Sylvain Besch (CEFIS), Marc Hayot (Luxembourg Reception and Integration Agency, Ministry of Family, Integration and the Greater Region), Sylvie Prommenschenkel (Directorate of Immigration, Ministry of Foreign and European Affairs) and Germaine Thill (STATEC).

## METHODOLOGY

National reports are produced by the respective National Contact Points (NCPs) on the legal and policy situation in their Member State according to common specifications. Subsequently, a comparative synthesis report is generated by the European Commission with its service provider giving the key findings from each national report, highlighting the most important aspects and placing them as much as possible within an EU perspective. The various national accounts and the summary report are made publicly available.

The EMN engages primarily in desk research, i.e. it collects and analyses data and information already available or published at the Member State or international level. As documentary sources legal texts, official documents (such as parliamentary documents), reports and press articles have been used for this study. Jurisprudence was consulted in order to verify if and how the issues which emerged while researching the documentary sources have been treated and interpreted. Furthermore, semi-structured interviews were conducted with different stakeholders in the field of unaccompanied minors: Directorate of Immigration, Judicial Police, Luxembourg Reception and Integration Agency, Ministry of Equal Opportunities, Ombuds-Committee for the Rights of the Child, Public Prosecutor's Office, as well as NGOs: Caritas Luxembourg, Femmes en détresse a.s.b.l. and Luxemburgish Red Cross. Lawyers specialised in migration issues were also consulted. These interviews enhanced the global overview on the subject. The report is based on the state of the situation as of the date of the interviews; any later developments have therefore not been considered.

## EMN STUDY 2014

# Policies, practices and data on unaccompanied minors in 2014

### Executive Summary (Synthesis Report)

*Executive Summary (up to three pages)*

*Executive Summary of Synthesis Report: this will form the basis of an EMN Inform, which will have EU and National policymakers as its main target audience. The Executive Summary/ Synthesis Report will be prepared by the EMN Service Provider (ICF International – Odysseus Network).*

### Top-line ‘Factsheet’ (National Contribution)

*National contribution (one page only)*

*Overview of the National Contribution – introducing the study and drawing out key facts and figures from across all sections of the Focussed Study, with a particular emphasis on elements that will be of relevance to (national) policymakers.*

*Please also provide a summary of the main findings of Sections 1-6 below, notably:*

- *What have been the key changes / improvements in your (Member) State’s policy(ies) on UAMs, with a particular focus on developments since 2009?*
- *Has the phenomenon changed? Have any new challenges with regard to the situation of UAMs arisen / remained in your (Member) State?*

The phenomenon of unaccompanied minors (from here on referred to as ‘UAMs’) has so far been relatively small in Luxembourg and it primarily affects young people aged at least 16 years of age. This also explains the difficulty of establishing distinct profiles and may explain why there is no global legal framework which guarantees a tailored reception and supervision solution for all the categories of UAMs (applicants of international protection, victims of trafficking of human beings, and humanitarian reasons).

Specific legal frameworks exist according to the status of the UAM: the Law on Asylum, the Law on Immigration and the Law on victims of trafficking in human beings. This framework is completed by general rules in regards to youth protection, which apply to all minors.

After a significant increase of UAM arrivals in 2013, there are, however, some signs of a growing awareness to further strengthen the supervision and legal as well as social assistance of UAMs.

Since 1 January 2014, the appointment of an ad-hoc administrator has become systematic. Thus, UAMs, whether they file an application for international protection or not, will be assigned an ad-hoc administrator as soon as possible in order to assist them in legal proceedings. Almost all UAMs arriving in Luxembourg file an application for international protection, which enables them to stay in the country and benefit from social assistance and accommodation. UAMs who do not file an application for international protection may also benefit from assistance provided by the National Authority for Children (ONE).

In addition to the naming of an ad-hoc administrator, two NGO’s will, in principle, request the Youth Court for the appointment of a guardian for the UAM. The latter will assist and support the UAM in all daily life affairs.

The most significant change in legislation since 2009, has been the introduction of provisions by the Law of 1 July 2011 amending the Immigration Law, which state that no return decision shall be taken against a minor

who is not accompanied by a legal representative and that the UAM shall be assisted by an ad-hoc administrator in the context of administrative and judicial procedures concerning the entry and stay on the territory with the exception of decisions based on serious public security grounds, unless expulsion is necessary in the best interest of the minor.

Another significant change came following a judgment by the Administrative Court in July 2012, in which the latter questioned the reliability of the age assessment test. Thus, since that judgment, an applicant for international protection claiming to be a minor will continue to be treated as such, even though the age test assessed him as being major, and the ad hoc administrator will continue to represent his/her interests during all the procedure.

UAMs are accommodated within reception facilities supervised by Caritas Luxembourg and the Luxembourgish Red Cross. These facilities are nevertheless not specifically designed for UAMs and they also accommodate adult international protection applicants. UAMs aged less than 16 years, are accommodated in traditional children's homes. As regards the various aspects of schooling, no differentiation is made according to the child's status as an UAM's. In principle, all children of migrants may benefit from the same services and specific measures. From the age of 16 years, UAMs may theoretically access the labour market in accordance with the rules laid down in the Asylum and Immigration Laws.

After the UAMs transition to adulthood, they may benefit from the same support as before turning 18 years of age. For those young persons who wish, NGOs will continue giving support and assistance.

Although the law foresees that an UAM may be placed in detention, in practice they are not.

Among the main challenges concerning the situation of UAMs in Luxembourg, one may note that there is no 24hours/7days supervision of UAMs in their respective reception facilities. In the field of education, UAMs face similar problems than other children of migrants, notably in relation to language, which often proves to be a barrier for integrating the school system. Finally, the method used to assess the age of UAMs is contested by stakeholders as well as the administrative courts due to its lack of reliability.

## Section 1: Motivations and circumstances of UAMs for entering the EU

*This section of the Synthesis Report will aim to provide an up to date overview of the motivations and circumstances of unaccompanied minors who enter the EU. The section, along with Sections 2-6, will also aim to provide information, to the extent possible, on the conditions that may contribute to making certain Member States more attractive to unaccompanied minors than others.*

*In question 1, EMN NCPs are asked to indicate which motivations and circumstances apply in their Member State and to provide further information to describe each situation that applies. In question 3, EMN NCPs are also asked to report on any prevention programmes their (Member) State is implementing together with Third Countries in order to address the root causes of migration of unaccompanied minors.*

*Q1. Please state what the motivations and circumstances of UAMs for entering your (Member) State are and provide further information (please cite existing evaluation reports / studies / other sources or based on information received from UAMs and/ or competent authorities). Possible motivations and circumstances of UAMs for entering the EU may include:*

- *Fleeing persecution or serious harm and seeking protection (asylum)*
- *Family reunification (e.g. to join family members already in the (Member) State, to apply for asylum followed by family reunification)*
- *Join migrant/ diaspora community*
- *Economic and aspirational reasons (including education)*
- *Transit to another Member State*
- *Victims of trafficking in human beings*
- *Facilitated illegal entry / smuggled*
- *Arrival at external borders*

- *Inadequate medical facilities in the country of origin / insufficient funds by parents for medical treatment*
- *Abandonment in a Member State (e.g. because parents have been returned / cannot or do not take care of their child in the (Member) State*
- *Runaways / drifters*
- *UAMs do not know why they have entered the (Member) State*
- *UAMs are not able to explain why they have entered the (Member) State (e.g. due to their early age)*
- *UAMs are reluctant to report their motivations and circumstances for entering the (Member) State (e.g. due to trauma)*
- *Other (please specify)*

The motivations of UAMs for entering Luxembourg are extremely varied and it would be simplistic to highlight a specific category. One may, however, pinpoint several trends as well as some common features towards what could have influenced the minor's departure from his or her country of origin.

The main reasons are:

A. Coincidence or transit to another Member State

Many young people arrive in Luxembourg by accident or by coincidence. Upon departure, the UAMs intention is not to come to Luxembourg in particular, but rather to go to Europe without having a clear fix on their final destination.<sup>1</sup> They may have had in mind to go to another Member State, as it is often the case for young Afghans or Somalian nationals, who want to go to the United Kingdom<sup>2</sup> or to one of the Scandinavian countries. They eventually end up in Luxembourg because they had no more money, because they were stopped by the police or because a smuggler brought them to Luxembourg and abandoned them subsequently.

B. Family reunification, friends or diaspora

There are some cases in which the minor had the intention to come to Luxembourg upon departure. This is the case for those who already had family or friends in Luxembourg or where there is large community from their countries of origin (case of UAMs coming from the Western Balkans) in Luxembourg.<sup>3</sup>

C. Smuggling

Luxembourg has no external borders, with the exception of Luxembourg Findel Airport. It is however extremely rare that UAMs arrive by plane to Luxembourg because the airport is not an international hub and there are very few direct flights coming from third countries. UAMs that come to Luxembourg mainly travel by train, bus or car, and are in some cases brought by smugglers.<sup>4</sup> If they come by air, they rather land in major airports, i.e. Brussels and Paris, and subsequently travel by train, bus or car to Luxembourg.<sup>5</sup>

D. Economic and aspirational reasons

The factors that push the minors from their countries of origin are also highly diverse, but very often it is a lack of future prospects which leads them to the decision to leave. In particular, young people from the Western Balkans often report their frustration with socio-economic prospects as well as youth policies in general in their home countries. Also, the family background of the young person may be among the reasons for leaving.<sup>6</sup>

In 2013, Luxembourg experienced an increase of young people from the Maghreb countries, in particular from Algeria and Morocco. Some of these young people are referred to as 'false minors', which means that although they claim to be minors in order to benefit from the advantages granted to UAMs, they have already attained the age of majority.<sup>7</sup> The Luxembourgish Red Cross also refers to them as '*jeunes en errance*' (wandering young people).<sup>8</sup> Many of them previously lived in another European country before coming to Luxembourg and subsequently move onwards.<sup>9</sup> Some of them already speak Spanish, Italian or other languages upon their arrival in Luxembourg, which raises suspicion among authorities that they might already be in possession of a valid residence permit from another EU country.<sup>10</sup> A further common feature is that they usually do not fit the 'classical' profile of international protection seekers in the sense that they often do not comply with the provisions of the Geneva Convention or of the status of subsidiary protection applicants.<sup>11</sup>

Article 39 of the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration (from here on referred to as 'Immigration Law') requires that for obtaining an authorisation of stay, the third-country national must apply from his or her country of origin (with the exception of the authorisation of stay for exceptional circumstances) before entering the country. This legal requirement is a further element, which might explain why UAMs apply for international protection in order to stay in the country and benefit from social assistance and accommodation.<sup>12</sup>

E. Ignorance of entering Luxembourg or incapability of explaining the reasons why they entered

Other UAMs, mostly sub-Saharan Africans or Afghans come to Luxembourg because they fear persecution in their countries of origin.<sup>13</sup> The reasons why they chose Luxembourg are often related to choices made by the smugglers or mere coincidence. However, the reasons often remain unclear because the UAMs refuse to talk about it or are unable to explain it.<sup>14</sup>

F. Trafficking of human beings

Since the entry into force of the Law of 8 May 2009<sup>15</sup> there have been very few cases of UAM victims of human trafficking.<sup>16</sup> So far, the few cases have concerned girls. When such a case arose, the Ministry of Equal Opportunities took the necessary measures to supervise their needs and provide the required assistance.<sup>17</sup>

*Q2. Please provide information on any prevention actions / projects / initiatives that your (Member) State undertakes together with Third Countries with the aim to address the root causes of UAMs' migration, for example:*

- *Integration of UAMs' migration in key areas of development cooperation, e.g. poverty reduction, education, health, employment, human rights, democratisation and post-conflict reconstruction;*
- *Targeted awareness-raising activities and training in countries of origin and transit (e.g. aimed at law enforcement officers, border guards, potential victims of trafficking and their communities, children, wider public, etc.);*
- *Development of child protection systems.*

*If possible, please provide a short description of the impact of these specific actions / projects / initiatives.*

The number of UAMs is not very significant in Luxembourg.<sup>18</sup> This might explain why there are no prevention actions/projects/initiatives that exist between Luxembourg and other third countries and which specifically address the root causes of UAMs.

However, several development programmes and sensitisation campaigns have been initiated in the past in order to improve the living conditions and to attempt to reduce the heavy flow of applicants for international protection from certain regions. To that end, the Ministry of Development and Humanitarian Action initiated a development programme in Southern Serbia (Vranje and Bujanovac) in late 2012.<sup>19</sup> Also, the project CAMPO<sup>20</sup>, initiated in 2009, and whose objective it is to promote legal mobility between Cape Verde and the European Union, engages a preventive approach to migration flows, without however addressing the issue of UAMs in particular.<sup>21</sup>

The programme 'Migrate with open eyes'<sup>22</sup> was designed to raise awareness among the migrants about the difficulties they could be confronted with in Luxembourg. This project was not specifically addressed to UAMs but to any Cape Verdean who wanted to migrate to Luxembourg.

Within the development project of microfinance in Cape Verde, implemented by an NGO named ADA, a line of intervention targets the mobilisation of migrants' savings in order to finance microfinance institutions in Cape Verde.<sup>23</sup>

## Section 2: Entry and assessment procedures including border controls for asylum-seeking and non-asylum seeking UAMs

*This section of the Synthesis Report will aim to provide an up to date overview of the entry procedures including border controls that apply in the situation of unaccompanied minors who enter the EU, as well as the procedures that apply when an unaccompanied minor is apprehended or becomes known to the authorities. (Member) States*



are also requested to provide information on the procedures that apply when an unaccompanied minor claims to be a minor and once minority is either confirmed or disproved.

**Section 2.1 Documentation required by unaccompanied minors for legal entry to the (Member) State (non-asylum seeking UAMs, but also asylum-seeking UAMs in some instances)**

In question 3 below, EMN NCPs are asked to indicate / reconfirm the entry procedures and border controls plus the procedures that apply in their (Member) State and to provide further information to describe each situation that applies:

Q3. What documents are required by third-country national UAMs at the border to fulfil the entry requirements to the (Member) State?

<b>Entry documents required by unaccompanied minors</b>	<b>Please provide more information about the types of documents required and the conditions that apply, with a particular focus on developments since 2009.</b>	<b>Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.</b>
<b>Visa permitting entry and stay</b>	<p>The Immigration Law sets the conditions under which a third-country national can enter the territory of the Grand Duchy of Luxembourg:<sup>24</sup></p> <ul style="list-style-type: none"> <li>s/he must be in possession of a valid visa if required;</li> </ul>	<p>In case the minor cannot prove his/her age or s/he has no documents and s/he is refused entry by the police, an ad-hoc administrator shall be appointed as soon as possible to represent and assist the minor in the context of the administrative and judicial procedures during the period s/he is being held in the waiting zone and afterwards.<sup>25</sup></p> <p>In the case that there is a doubt about the age of the individual and s/he is not applying for international protection and has not committed any criminal offence, the Directorate of Immigration will be contacted and a bone test will be ordered immediately.<sup>26</sup> In case that the minor has committed a criminal infraction (i.e. use of false documents) the public prosecutor will be contacted and if the latter decides to prosecute, the instruction judge will be contacted to order the tests.<sup>27</sup></p> <p>If the UAM applies for international protection, the test to establish his/her age will be ordered within approximately 2 weeks.<sup>28</sup> (For more details see Q.5 and Q.7)</p>
<b>Passport</b>	<ul style="list-style-type: none"> <li>s/he must be in possession of a valid passport;</li> </ul>	See above.
<b>Travel documents</b>	<ul style="list-style-type: none"> <li>s/he must be in possession of a valid travel document;</li> </ul>	See above.

<p><b>Entry ban and security threat</b></p>	<ul style="list-style-type: none"> <li>• s/he does not have an alert for refusal of entry in the Schengen Information System (SIS);</li> <li>• s/he should not be considered a threat to public order, internal security or public health, or to the international relations of the Grand Duchy of Luxembourg or to one of the Member States party to an international convention on the crossing of external borders, which is binding for Luxembourg.<sup>29</sup></li> </ul>	<p>See above.</p>
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*Section 2.2 Circumstances where an unaccompanied minor may be refused at the border (non-asylum seeking UAMs)*

Q4. Can a non-asylum seeking unaccompanied minor be refused entry at the border if they do not fulfil the entry requirements set out above?

<p><b>Categories of unaccompanied minors that may be refused entry at the border</b></p>	<p><b>Please provide more information about the circumstances under which unaccompanied minors may be refused entry at the border: a) in <u>national legislation</u> / policy and b) in <u>practice</u>, with a particular focus on developments since 2009.</b></p>	<p><b>Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.</b></p>
<p><b>Non-asylum seeking unaccompanied minor arriving at a land / sea border or airport</b></p>	<p>In principle, entry onto the territory may be refused at the international airport to any person who is not in possession of the required documents (as indicated above) and s/he may be returned to the country from where the flight originated.<sup>30</sup> A decision refusing entry onto the territory may be enforced ex-officio by the agents of the Central Unit of the Airport Police (UCPA).<sup>31</sup></p> <p>However, the law states that when a minor, who is not accompanied by a legal representative, is refused entry onto the territory<sup>32</sup>, s/he shall be assigned, as soon as possible, an ad hoc administrator who shall assist him/her concerning the administrative and judicial procedures related to being held in the waiting area.<sup>33</sup></p> <p>No return decision shall be taken against a minor who is not accompanied by a legal representative, with the exception of decisions based on serious public security grounds, or unless an expulsion is in the best interest of the minor. The UAM shall be assisted by an ad hoc administrator concerning the administrative and judicial procedures related to the entry and stay on</p>	<p>See answer to Q.3.</p>

	<p>the territory.<sup>34</sup></p> <p>The latter provisions were introduced by the Law of 1 July 2011 amending the Immigration Law. This is also the most significant change in legislation since 2009. Before the amendment, the appointment of an ad hoc administrator for UAMs was only provided in the context of Articles 92 (1) of the Immigration Law concerning UAMs victims of trafficking, article 119 (5) concerning UAMs being held in the waiting area of the airport and article 122, dealing with juveniles in detention.<sup>35</sup></p>	
<p><b>Asylum seeking unaccompanied minor arriving at a land / sea border or airport</b></p>	<p>If an UAM applies for international protection either at the border or inside the country, the receiving authority will indicate him/her where and how s/he may submit such an application.<sup>36</sup> In practice, they are sent to the Directorate of Immigration to file the application.<sup>37</sup> The UAM has the obligation to submit all relevant documents, including identity documents, for examining the application of international protection.<sup>38</sup></p> <p>The UAM applicant for international protection shall be assigned, as soon as possible, an ad hoc administrator who shall assist him/her concerning his/her application.<sup>39</sup> As mentioned above, no return decision shall be taken against a minor who is not accompanied by a legal representative, unless if based on serious public security grounds or in case an expulsion is in the best interests of the minor concerned.<sup>40</sup></p>	<p>If the UAM does not have any identification documents, s/he will file the application and the authorities will begin the identification procedure. If the minor's age is doubtful the Minister in charge of Immigration can order a medical test (bone test) in order to determine the age.<sup>41</sup></p>
<p><b>Asylum seeking unaccompanied minor arriving at an internal authority (e.g. police, child protection service, etc.)</b></p>	<p>See above.</p>	<p>See above.</p>
<p><b>Other (please state)</b></p>	<p>/</p>	<p>/</p>

*Section 2.3 Apprehensions of unaccompanied minors by national authorities (non-asylum seeking UAMs)*

Q5. Please describe the national rules and procedures that apply where a non-asylum seeking unaccompanied minor is apprehended / identified at the border and within the territory of the (Member) State. Please note that reception and care arrangements are covered in Section 3.

Establishing identity (Case of no documents or false documents)

If the UAM does not have any identification documents, the Foreigners Department of the Judicial Police will try to establish his/her identity. During its investigation the Judicial Police will verify if the UAM has not been reported missing (i.e. missing persons database of Interpol) and the investigating agent will use all other available databases in order to verify the identity. To date, there has not been a case of an undocumented UAM in Luxembourg.<sup>42</sup>

Assignment of an ad hoc administrator

See answer to Q.3 (Visa permitting entry and stay). Independently of whether an UAM files an application for international protection or not, an ad hoc administrator will be assigned to him/her as soon as possible in order to assist him/her.<sup>43</sup> The police agent or authority apprehending the UAM will contact the Directorate of Immigration of the Ministry of Foreign and European Affairs,<sup>44</sup> who will then file a motion before the Youth Court for the appointment of an ad hoc administrator for the minor.<sup>45</sup> The Youth Court's judge will take a decision after being filed the conclusions taken by the public prosecutor.<sup>46</sup> In principle, a tutor (guardian) is also appointed. This appointment is made in accordance with the Youth Protection Law<sup>47</sup> and article 379 of the Civil Code.<sup>48</sup> (See answer to Q.8)

Age assessment

In case there is a doubt regarding the age of the UAM, and where the apprehended young person does not apply for international protection, the police will contact the Directorate of Immigration if there has not been any criminal infraction. The latter will order an age assessment test at the hospital<sup>49</sup> and file a motion before the Youth Court in order to appoint a guardian for the supposed UAM in accordance with the Civil Code.<sup>50</sup> The Youth Court's judge will take a decision after being filed the conclusions taken by the public prosecutor.<sup>51</sup>

The criteria for deciding to perform a medical test are the following:

- absence of documents (i.e. identity card, passport, birth certificate);
- false documents;
- general behavior of the individual in the first interview with the police;
- if after consultation of the EURODAC database, the police finds out that the applicant had already filed an asylum application in another Member State as an adult.<sup>52</sup>

The decision of ordering the medical examination is taken by the Director of the Directorate of Immigration, who receives a particular delegation of signature authority (*délégation de signature*) from the Minister in charge of Immigration.<sup>53</sup>

Detention

The law foresees that the Minister in charge of Immigration can place an UAM in detention in a suitable centre adapted to the needs of his/her age.<sup>54</sup> For doing so, the authorities must consider the best interests of the child.<sup>55</sup>

In practice, UAMs are not placed in detention facilities. The UAM will be lodged, in a first phase, in the 'Don Bosco' reception facility of the Luxembourgish Red Cross. This reception facility accommodates newly arrived international protection applicants before they are being transferred to a reception facility adapted to their age and needs.<sup>56</sup>

Return

No return decision shall be taken against a minor who is not accompanied by a legal representative, with the exception of decisions based on serious public security grounds or unless an expulsion is in the best interests of the child.<sup>57</sup>

Luxembourg has not carried out any forced return of an UAM to date.<sup>58</sup>

Victims of human trafficking

Article 92 of the Immigration Law<sup>59</sup> states that when the police have evidence indicating that a third-country national may be the victim of trafficking in human beings, they shall notify the Minister in charge of Immigration. The police inform the alleged victim of the possibility of his/her being granted a reflection period<sup>60</sup> and of being issued a residence permit<sup>61</sup> on condition that s/he cooperates with the authorities responsible for investigating and prosecuting such offences.

The police then put the victim in contact with an assistance service for victims of trafficking.

If the victim is a minor and s/he is not accompanied by a responsible adult or if the minor is not being taken care of by such a person or if the minor is left abandoned on the territory, the authorities will appoint him/her an ad hoc administrator as soon as possible and who will assist him/her during the legal proceedings (including the criminal procedure).<sup>62</sup>

The Minister in charge of Immigration will grant the UAM a reflection period of 90 days, allowing him/her to recover and take an informed decision as to whether to lodge a complaint or make any statements concerning the persons or networks said to be traffickers in human beings.<sup>63</sup> The reflexion period begins on the day the Minister is notified of the existence of the alleged victim. During this period no return decision can be executed against the UAM.<sup>64</sup>

In these cases the Directorate of Immigration will issue a certificate allowing him/her to remain in the country (without this being considered equivalent to a residence permit), whilst respecting the above-mentioned procedural guarantees concerning UAMs.<sup>65</sup>

The Minister can terminate the reflection period if the beneficiary has actively, voluntarily and on his/her own initiative renewed contact with the alleged traffickers or if s/he is considered to be a potential threat to public order or internal security.<sup>66</sup>

The procedure is the same even in cases where there is a doubt about the age of the minor or if the age has not yet been determined. However, the authorities must respect the procedural conditions described above with regards to UAMs.

Section 2.4 Training of Border Guards and / or Police Authorities

*Q6a. Does the (Member) State provide specific training to Border Guards and / or Police Authorities to recognise the situation of unaccompanied minors who try to enter the territory illegally / are apprehended within the territory, or who may be the victims of trafficking in human beings / smuggling?*

**No**

*Q6b. If yes, please provide further information below, stating also if this has involved cooperation with EU agencies.*

There is no specific training provided to Border Guards and/or Police Authorities in order to recognise specifically the situation of UAMs.<sup>67</sup>

The Consultative Commission on Human Rights (*Commission consultative des Droits de l'Homme-CCDH*) noted in its opinion to bill n°6218 on the free movement of persons and immigration that there is no mechanism or system for detecting situations of vulnerability. The CCDH considered that it is fundamental to pay special attention towards persons in vulnerable situations, including UAMs.<sup>68</sup>

The Police Academy (*Ecole de Police*) offered courses to police officers in 2009 on trafficking of human beings and

it is foreseen that at the end of November 2014 courses will be held again for detectives who work in morality and trafficking of human beings areas from all over the country. In 2015, there are 20 – 30 sessions foreseen for agents in uniform. During these courses the case of minors victims of trafficking will also be addressed.<sup>69</sup> This could enhance detection, as officers on the street might also be able to detect potential victims.<sup>70</sup>

'*Femmes en détresse a.s.b.l.*', an association which offers refuge to women (minors and adults) victims of trafficking, also regularly organises training and awareness courses on different issues related to trafficking in human beings, including identification of victims. Members of the Grand-Ducal Police are often invited to participate. However, these training and awareness courses are concerned with trafficking in human beings in general and do not target UAMs in particular.<sup>71</sup>

### Section 2.5 The organisation of the national asylum procedures for asylum-seeking unaccompanied minors

Q7. Please set out the national rules and procedures that apply where an unaccompanied minor apprehended / identified at the border and within the territory of the (Member) State lodges an application for asylum (e.g. which authority(ies) the minor is referred to, at what point an application is made, etc.).

#### A. Normal Procedure

##### Asylum application

The international protection seeking UAM can make his/her application at the external border, in the detention facility or at the Directorate of Immigration. In practice, the young person will always be referred to the Directorate of Immigration for submitting the application.<sup>72</sup>

The UAM must file the application personally<sup>73</sup> and s/he must render his/her identification documents to the authorities.<sup>74</sup> After filing his/her application, the UAM will receive a certificate attesting the registration of the application for international protection. This certificate entitles its beneficiary to lodging and social assistance.<sup>75</sup>

##### Verification of identity and travel itinerary

The Foreigners Department of the Judicial Police will carry out all checks that may be necessary in order to establish the identity and the travel route of the beneficiary.<sup>76</sup> It shall proceed to a hearing of the applicant. Where necessary, it may carry out a body search of the applicant, and a search of his/her belongings, on the understanding that such a search is to be undertaken in full compliance with the respect for human dignity. The police can retain, in return for a receipt, any object that may be of relevance to the investigation. It shall take the applicant's fingerprints, photograph the applicant and draw up a report.<sup>77</sup>

If there are any doubts with regards to the age of the UAM, the Minister in charge of Immigration can order a medical test in order to determine the age of the child.<sup>78</sup>

- Ad hoc administrator:

When the UAM files an application, the authorities will appoint as soon as possible an ad hoc administrator for assisting him/her within the legal proceedings.<sup>79</sup> In practice, besides the ad hoc administrator a tutor is also appointed to represent him/her in everyday life. (For further details see answer to Q.8)

- Legal aid and interpreter:

The UAM applicant is entitled to be assisted, free of charge, by an interpreter proficient in a language which the applicant may reasonably be expected to understand, and by a lawyer.<sup>80</sup>

- Interview:

The ad hoc administrator will assist the minor during the entire international protection procedure. The ad hoc administrator has the possibility to inform the UAM of the relevance and of the eventual consequences that the hearing will have on his/her procedure and s/he will indicate him/her how to prepare for the interview.<sup>81</sup>

The ad hoc administrator is authorised to assist the minor during the interview and to ask questions and to formulate comments. Nonetheless, the UAM must personally attend the interview.<sup>82</sup>

- Medical examination:

The Minister in charge of Immigration can order a medical examination to establish the age of the UAM. In order to do so, the Directorate of Immigration must inform the UAM about this in a language that s/he understands and before the date of the test. The information includes the method that will be applied for assessing the age and the possible consequences of the results of the test on the analysis of his/her international protection application as well as the consequences of his/her refusal to undergo the test.<sup>83</sup> The refusal does not prevent the Minister from taking a decision.<sup>84</sup> However, the Minister in charge of Immigration cannot take a decision on the international protection application solely based on this refusal.<sup>85</sup>

- Decision on asylum application

The Minister in charge of immigration will decide on the merits of the application for international protection. The decision must be motivated and it will be notified to the UAM as well as to his/her ad-hoc administrator.

If the decision is not taken within six months after the application is considered complete, the ad hoc administrator can ask the Minister in charge of Immigration about the timeframe in which the decision will be taken<sup>86</sup> or s/he can file an appeal before the First instance Administrative Court.<sup>87</sup>

- Appeal in first instance

An appeal seeking reversal of a decision refusing an application for international protection shall be brought before the First instance Administrative Court within one month from the date of notification of the decision.<sup>88</sup> The appeal has suspensive effect, meaning that the administrative decision cannot be executed until the court takes a ruling on the case.<sup>89</sup>

- Appeal in second instance

If the decision of the First instance Administrative Court is negative, the applicant can file an appeal before the Administrative Court within one month from the date of notification.<sup>90</sup>

#### B. Accelerated procedure:

The accelerated procedure only applies if the person is in one of the cases foreseen by Article 20 (1) of the Asylum Law.<sup>91</sup>

In case the Minister decides to submit an application to an accelerated procedure, the decision will be taken within 2 months, counting from the date the applicant falls into one of the conditions established by the Asylum Law. The decision must be motivated and in case it is negative, the applicant can file an appeal before the First instance Administrative Court.<sup>92</sup> This appeal must be filed 15 days after the notification of the decision. The First instance Administrative Court must render its decision two months after receiving the appeal.<sup>93</sup> This deadline can be extended for a month if the applicant is placed in detention.<sup>94</sup> The decision rendered by the First instance Administrative Court is final and there is no additional recourse before the Administrative Court as it is the case in the normal procedure.

Until today, no application of an UAM has been processed under an accelerated procedure, based solely on the age assessment test or for having made false statements on his/her age. However, there have been very few cases where a minor's application has been processed under an accelerated procedure because s/he met the requirements of Article 20 (1) of the Asylum Law e.g. an UAM coming to Luxembourg in order to seek work or for economic reasons.<sup>95</sup>

*Q8. Please describe the specific rules and procedures that apply in respect of the (asylum) applicant's status as an (unaccompanied) minor. Please indicate, for example:*

- *Whether and when a legal guardian is appointed;*
- *Whether and when an asylum interview(s) is conducted.*

#### Appointment of an ad hoc administrator

As already mentioned above, an UAM applicant shall be assigned as soon as possible an ad hoc administrator to assist him/her in the legal proceedings.<sup>96</sup>

In practice, the Grand-Ducal Police or the respective authority which apprehended the UAM will immediately contact the Directorate of Immigration. The Directorate will file a motion before the Youth court for the appointment of an ad-hoc administrator for the minor.<sup>97</sup> The Youth Court's judge will take a decision after being filed the conclusions taken by the public prosecutor.<sup>98</sup> To date, all ad hoc administrators that have been appointed were lawyers. Most of the appointees are the lawyers already chosen by the UAMs.<sup>99</sup>

The appointment of an ad hoc administrator has become systematic only since 1 January 2014.<sup>100</sup> Before this date, and even though the ad hoc administrator was created by law, in practice only a tutor was named.<sup>101</sup>

However, after the number of 'false minors' and UAMs who absconded had considerably increased in 2013 (see Q.1 and Q.40), the NGOs that were designated as tutors could no longer assume full responsibility for this group young people. Together with the ministries and the juvenile judge it was then decided to systematically appoint an ad hoc administrator. Additionally, this was also to ensure that the asylum procedure could continue.<sup>102</sup>

The ad hoc administrator assists the UAM in the context of the asylum procedure but not in the daily life of the UAM. Normally, a tutor handles the daily life affairs of the UAM. In those cases where the UAM has an ad hoc administrator and a tutor (guardian) at the same time, they usually work in close coordination.<sup>103</sup>

The ad hoc administrator will assist the UAM during the entire procedure and independently of whether it is a normal or an accelerated procedure and s/he must file the recourses laid down by law (See answer to Q.7).

#### International protection interview

In some cases the appointment of an ad hoc administrator can take several weeks. Nevertheless, the interview with the authorities of the Directorate of Immigration will not take place for as long as no ad hoc administrator has been appointed.<sup>104</sup>

The interview will be conducted by an agent of the Directorate of Immigration who has the required qualifications in order to deal with the specific needs of the minor.<sup>105</sup> An interpreter will be present during the interview and his/her ad hoc administrator will also assist the UAM.<sup>106</sup>

The ad hoc administrator is authorised to attend the interview and to ask questions or make observations within the framework established by the agent responsible for conducting the interview.<sup>107</sup>

The UAM must attend the interview in person, even if the ad hoc administrator is present.<sup>108</sup>

#### Appointment of a tutor (guardian)

In addition to the appointment of an ad hoc administrator, the UAM is referred to Caritas Luxembourg or the Luxembourgish Red Cross<sup>109</sup>, who may apply for the appointment of a guardian for the UAM before the Youth Court for. The Youth Court's judge will take a decision after being filed the conclusions taken by the public prosecutor.<sup>110</sup>

The Asylum Law determines the appointment of the ad hoc administrator for an UAM applicant.<sup>111</sup> However, the role of the guardian is laid down in the Civil Code.<sup>112</sup>

In practice, once the UAM is lodged and settled, both NGOs usually wait up to two weeks before taking a decision on whether or not to request the appointment of a guardian. This is in order to see if the concerned UAM demonstrates a minimum responsibility and commitment regarding his or her integration within the reception facility and his/her asylum procedure. This also helps to prevent the NGOs assuming guardianship and responsibility for those whom they reasonably think that they are only 'passing through' and will eventually abscond from the reception facility.<sup>113</sup>



Nevertheless, in case of urgency, the Public Prosecutor's Office can file a motion before the Youth Court in order to appoint a tutor.<sup>114</sup>

In principle, the NGO who accommodates the UAM also requests the guardianship. The Youth Court will then appoint a tutor within one month.<sup>115</sup>

The role of the tutor is to represent him/her in everyday life, to support and supervise him/her with his/her education, health, social integration, and if necessary to guide him/her through all administrative actions. Concerning the international protection procedure, the tutor works in close coordination with the ad hoc administrator in order to find the best possible solutions for the UAM.<sup>116</sup> However, the tutor does not assist the UAM during the interview in order to avoid the room being too crowded and the possible intimidation of the minor.<sup>117</sup>

The personal working with UAMs shall also have received appropriate training concerning their needs<sup>118</sup> and they are bound by the duty of confidentiality in relation to any information they obtain in the course of their work<sup>119</sup>.

Guardianship officially ends when the UAM turns 18 years of age, but in practice the NGO in charge of him/her will continue to supervise him/her.<sup>120</sup> The Youth Court does not waive guardianship if the bone test shows that s/he is no more underage (see Q.9).

#### UAMs granted international protection

In case the UAM is granted international protection, an ad hoc administrator will be appointed to ensure the representation of the UAM. The appointed ad hoc administrator shall take the needs of the UAM into consideration when fulfilling his/her functions.<sup>121</sup>

In practice, the ad-hoc administrator who already represented the UAM during the procedure, will remain in order to avoid a second appointment.<sup>122</sup>

#### Practical issues pointed out by the Consultative Commission on Human Rights (CCDH)

The CCDH in its legal opinion on the Bill n°6507 amending the Asylum Law and the Immigration Law, pointed out certain problems of the existing legislation with regards to UAMs. The CCDH noted that the Youth Court did not take a decision before the age had been assessed, even though the Court insisted that the best interests of the child should be guaranteed. The CCDH considered that the ad hoc administrator respectively the tutor should be named as soon as possible, even in those cases where the age of the international protection UAM applicant has not yet been assessed.

The CCDH also recommended to include the systematic appointment of a tutor in the legislation and considered essential that the UAM may continue to benefit from guardianship once he has been denied international protection.<sup>123</sup>

The bill was approved by Parliament and eventually became the Law of 19 June 2013.<sup>124</sup>

Furthermore, the Ombuds-Committee for the Rights of the Child (ORK) notes in its Annual Report of 2013, that from the moment where the youngster arrives in Luxembourg until the moment where a guardian is appointed, several months may elapse before the youngster has a legal representative.<sup>125</sup>

*Q9. Please describe the procedure for assessing the age of an asylum-seeking UAM who claims to be a minor. Please indicate, for example:*

- *Whether and when the stated age (date of birth) and unaccompanied situation is registered;*
- *Whether, when, why and how a formal age assessment is undertaken;*
- *Whether and how the conclusions from an age assessment are registered (e.g. is the registered claimed age (date of birth) replaced by the assessed age or is this age added to the file, etc.).*

When filing his/her application, the age declared by the UAM is stated and in the absence of contrary evidence, s/he will be treated as an UAM during the whole procedure until proven otherwise by the applicant (i.e. the applicant recognised that s/he has lied and confirms that s/he is an adult). In that case it is possible to change the declared age in the application. Otherwise, even if the bone test reveals that the individual is an adult, the Directorate of Immigration will not be able to change the declared identity.<sup>126</sup>

In case there is a doubt with regards to the age of the UAM, the Minister may order a medical examination in order to determine the age of the applicant.<sup>127</sup> This decision has to be communicated to the supposed minor in a language that s/he understands. S/he also has to be informed of the implications and the consequences that this test can have on the procedure and the consequences of a refusal to submit to such a test.<sup>128</sup>

The Directorate of Immigration will the relatively quickly - within the next two weeks following the filing of the application - make an appointment with a radiologist of the hospital.<sup>129</sup>

The fact that an UAM has refused to undergo the medical examination shall not preclude the Minister from taking a decision on the application for international protection.<sup>130</sup> However, the decision to reject an application for international protection by an UAM who refused to undergo the medical examination for assessing his/her age, cannot be based solely on this fact.<sup>131</sup>

The method used to assess the age of the UAM consists of an X-ray test of the left wrist for which the Greulich and Pyle scale is then used to determine the age. The age assessment practice has been contested by the CCDH<sup>132</sup> and a reform process is on going - although at an early stage - with the aim of making the assessment more effective and reliable.<sup>133</sup>

The Administrative Court had expressed doubts regarding reliability of the age assessment method, signalling the high risk of error in applying the Greulich and Pyle scale to non-Caucasian children.<sup>134</sup>

The ORK also expressed its doubts about the method, but welcomes the fact that jurisprudence falls in line with the assumption that "the person claiming to be a minor must provide proof of his minority. However in case of doubt on the minority, the doubt should benefit the applicant."<sup>135</sup>

In case that the results of the bones and X-ray test reveal that the real age is different from the one stated by the applicant, and that as a consequence the individual is an adult, the Minister in charge of immigration will continue to treat the applicant as a minor.<sup>136</sup> Before the judgment of the Administrative Court, the Directorate of immigration treated the individual as an adult if the medical test proved that s/he was an adult. After the judgment, which questioned the reliability of the test, the Directorate of Immigration decided to continue treating the applicant as a minor.<sup>137</sup> The interview will be conducted as if s/he were a minor and the ad hoc administrator will continue to represent his/her interests during all the procedure.<sup>138</sup>

To revoke the appointment of the ad hoc administrator as well as of the tutor, the Directorate of Immigration has to wait until the end of the procedure, with the exception of a situation where the individual recognises that s/he has lied.<sup>139</sup> The appointment can then only be revoked by the Youth Court.

*Q10. Please provide the average (or where this is not available median) duration of an asylum procedure for a UAM.*

There are no official statistics on the average or median duration of an international protection procedure for UAMs.<sup>140</sup>

### Section 2.6 Guardianship and age assessment for non-asylum seeking UAMs

Q11. Please describe the arrangements for guardianship of non-asylum seeking UAMs. Please specify, for example: who organises guardianship for UAMs, who can become a guardian to a UAM, what the role of a guardian to a UAM is, which UAMs are entitled to a guardian, until what age and whether this depends on the status of the UAM, e.g. does the UAM get another guardian when s/he is granted international protection, etc.

Arrangements for non-asylum seeking UAMs are the same as for UAMs who file an application.

In practice, most UAMs apply for international protection, which allows them to benefit from lodging and social assistance.<sup>141</sup>

#### Child victims of human trafficking

With the adoption of the Law of 9 April 2014 strengthening the rights of victims of trafficking in human beings, assistance and support to UAMs victims of trafficking has been further enhanced.<sup>142</sup>

Thus, in case a child who is a victim from another Member State, an EEA State or from a third country, and who is not accompanied and taken care of by a responsible adult who is able to ensure its security and protection or if a conflict of interest with the child victim prevents the holders of parental authority to defend the best interests of the child, s/he shall be represented by a guardian as long as this situation continues or until s/he is supported by an authority of its country of origin responsible to act in his/her best interests.

This also applies when there is doubt regarding the age of the victim and where there are reasons to believe s/he is a minor.<sup>143</sup> A person having authority over the victim cannot be designated as the adult responsible, or the guardian, if s/he is suspected of having committed the offense.<sup>144</sup>

Q12. Please describe the procedure for assessing the age of a non-asylum seeking UAM who claims to be a minor. Please specify different situations (e.g. UAMs who apply for asylum, at the border, illegally staying UAMs, etc.). Please indicate, for example:

- Whether and when the stated age (date of birth) and unaccompanied situation is registered;
- Whether, when, why and how a formal age assessment is undertaken;
- Whether and how the conclusions from an age assessment are registered (e.g. is the registered claimed age (date of birth) replaced by the assessed age or is this age added to the file, etc.).

In case a third country national is apprehended and s/he argues that s/he is a minor but does not file an application for international protection and where the authorities doubt the age of the applicant, and where the minor has not committed any criminal offense, the police will contact the Directorate of Immigration so that the latter may order an age assessment test at the hospital.<sup>145</sup>

### Section 2.7 Residence permits granted to unaccompanied minors (both asylum- and non-asylum seeking UAMs)

Q13a. Please provide details on the possible residence options available to unaccompanied minors not applying for asylum and to those whose claims for asylum have been rejected.

The non-international protection seeking UAMs may benefit from a residence permit for private reasons based on humanitarian grounds of an exceptional gravity if they fulfil the requested conditions.<sup>146</sup>

Q13b. Please provide details of the residence permit granted to unaccompanied minors whose claims for asylum are successful (e.g. refugee status, residence permit issued on other grounds than international protection, etc.).

UAMs whose claims for asylum are successful may be granted refugee status or subsidiary protection and they will obtain an "international protection" residence permit.<sup>147</sup>

Q13c. Please provide details of the (temporary) residence permit granted to unaccompanied minors who do not fulfil the entry requirements of the (Member) State but are not refused entry at the border / or who are apprehended in the territory of the (Member) State (e.g. tolerated stay, etc.).

Categories of unaccompanied minors	Please describe the residence permits granted to unaccompanied minors	Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.
<b>Non-asylum seeking unaccompanied minor arriving at a land / sea border or airport</b>	<ul style="list-style-type: none"> <li>• The non-international protection seeking UAM may benefit from a residence permit for private reasons based on humanitarian grounds of an exceptional gravity, provided that s/he does not constitute an actual threat to public order.<sup>148</sup></li> <li>• Where there is evidence indicating that a third-country national may be a victim of trafficking in human beings, s/he will be granted a reflection period of 90 days, so as to enable him/her to recover and take a decision as to whether to lodge a complaint or make any statements concerning the persons who trafficked him/her.<sup>149</sup> During the reflection period the alleged victim is granted a certificate allowing him/her to remain on the territory, but it does not allow him/her to stay permanently.<sup>150</sup> After the reflection period, the alleged victim may obtain a residence permit for a maximum duration of 6 months, which may be renewed for a further period of six months.<sup>151</sup></li> </ul>	No.
<b>Non-asylum seeking unaccompanied minor apprehended in the territory of the (Member) State</b>	See above.	No.
<b>Asylum seeking unaccompanied minor arriving at a land / sea border or airport</b>	The international protection seeking UAM may be granted refugee status or subsidiary protection status and receives an international protection residence permit. <sup>152</sup>	No.

<b>Asylum seeking unaccompanied minor arriving at an internal authority (e.g. police, child protection service, etc.)</b>	See above.	No.
<b>Family reunification</b>	The UAMs who are beneficiaries of international protection are entitled to family reunification. <sup>153</sup> The beneficiaries are granted a "family member" residence permit.	No.

### Section 3: Reception arrangements, including integration measures for UAMs

*This section of the Synthesis Report will provide a factual, comparative overview of the reception arrangements in place for asylum-seeking and non-asylum seeking unaccompanied minors that exist in the EU, including integration measures such as access to healthcare, education and employment.*

*Please note: If there are different reception arrangements / integration measures for confirmed UAMs and UAMs who claim to be minors but are not confirmed, please elaborate on this difference in your answers to the questions in this section and provide a summary of the different arrangements / measures in Section 3.9 (e.g. more comprehensive measures available to confirmed UAMs (than UAMs who claim to be minors but are not confirmed), etc.).*

#### *Section 3.1: Reception and care arrangements for unaccompanied minors*

*Q14. Please provide an overview of the national legal framework of your (Member) State with regard to the reception and care arrangements available to UAMs from first arrival until a durable solution is found.*

*Please distinguish between the provisions in place for:*

- UAMs who are seeking asylum or have been granted international protection;
- UAMs who are not seeking asylum, including those who entered irregularly and/ or are in a trafficked situation;
- UAMs who are not yet confirmed as minors.

In Luxembourg, there is no legal framework that specifically addresses reception and care arrangements available to UAMs. In the case of applicants for international protection, these arrangements are regulated by the Asylum Law in accordance with the Grand Ducal Regulation of 8 June 2012 setting the conditions and modalities under which international protection applicants may benefit from social aid.<sup>154</sup>

UAMs who apply for international protection are entitled to housing under articles 1.1 and 1.7 of the Grand Ducal Regulation of 8 June 2012. However, there is no specific structure for the reception of UAMs.

The following points briefly outline the accommodation arrangements from an administrative perspective, analysing the problems that derive from them.

#### A. UAMs who are seeking asylum or have been granted international protection

All UAMs, whether they apply for asylum or not, are either directed to the Directorate of Immigration or to 'Don Bosco', where they are registered and where they may file their application for international protection, in case they wish to do so.

In the first case, UAMs are afterwards directed to the 'Don Bosco' reception facility, which is run by the Luxembourgish Red Cross.<sup>155</sup> This is the reception facility that accommodates newly arrived international

protection applicants. In practice, however, UAMs very often go first to the 'Don Bosco' before applying for international protection at the Directorate of Immigration.

This is the case for example when the UAM files an application outside of working hours or during the weekend or holidays, the police will directly take him/her to the 'Don Bosco' reception facility and the minor will have to present himself/herself the next working day to the Directorate of Immigration<sup>156</sup>.

Usually, UAMs are accommodated for 2-3 days in 'Don Bosco' (although in some cases it might take longer), until a place in an appropriate reception facility that corresponds to their age, is found.<sup>157</sup>

They are allocated to different reception facilities depending on their age. The Luxembourg Reception and Integration Office (OLAI) is responsible for the reception of international protection applicants and has signed collaboration agreements with the Luxembourgish Red Cross and Caritas Luxembourg in order for them to assist in the reception of international protection applicants in general. In the framework of these agreements, the Luxembourgish Red Cross and Caritas Luxembourg can be in charge of the reception of UAMs.<sup>158</sup>

In principle, the Luxembourgish Red Cross accommodates UAMs aged 16 to 16 ½ upon their arrival, while Caritas Luxembourg accommodates UAMs aged 16 ½ to 18. Reception facilities of both NGOs do not exclusively accommodate UAMs, but also other adult international protection applicants. UAMs who are aged less than 16 years will be accommodated in traditional children's homes (orphanages) if there is a place available.<sup>159</sup> There had been some few cases where the Luxembourgish Red Cross accommodated UAMs aged under 16 years because there was no more place available in traditional children's homes.<sup>160</sup>

Unless there are serious doubts regarding their reliability and responsibility, the NGO taking charge of the UAM will request guardianship. For those minors who are lodged within children's home (orphanages), guardianship will also be systematically assumed by one of the two NGOs.<sup>161</sup>

It should be noted that the vast majority of UAMs coming to Luxembourg, are aged 16 years of age or older.<sup>162</sup>

Accommodation and access to other types of care and material assistance is exclusively foreseen for persons having applied for international protection.<sup>163</sup>

In their respective reception facility, UAMs will receive adequate support and assistance according to their age. Depending on where they are accommodated, food can be directly provided at the facility (via a private catering company) or the UAMs can buy their food themselves and cook for themselves.<sup>164</sup> Provision of clothes also depends on the NGO in charge of the facility. Clothes are collected through donations in kind and then distributed to UAMs through 'vestiaires' (cloakrooms) that are held by Caritas Luxembourg and the Luxembourgish Red Cross. All applicants for international protection, including UAMs, are provided with vouchers by the OLAI and have access to the 'vestiaires'.<sup>165</sup> In order to ensure optimal conditions for UAMs, Caritas Luxembourg relies much on private donations (e.g. for clothing and sports activities) also to prevent stigmatisation of UAMs.<sup>166</sup>

Concerning financial allowances, they are *de facto* provided and vary according to the food provision system.

In case of a full board accommodation or accommodation with provision of meals and foodstuffs, an UAM seeking international protection aged 16 or older receives a monthly allowance of 25€, which may be combined with in-kind supports or vouchers. Where provision of meals is not possible, the UAM receives a monthly allowance of 225€.<sup>167</sup>

In general, UAMs applying for international protection benefit from social assistance, which includes among others, basic health care, social guidance and supervision.<sup>168</sup>

In Luxembourg, school attendance is compulsory for all children, nationals and foreigners, and regardless of the status of their parents.<sup>169</sup>

The government policy in Luxembourg is that the concerned ministries, in collaboration with the NGOs, are always committed to seeking a solution in order to find accommodation and provide all the necessary assistance to UAMs.<sup>170</sup>

In practice, the vast majority of UAMs apply for international protection.

### B. UAM victims of human trafficking

Article 1 of the Grand Ducal Regulation of 11 September 2014, in accordance with Article 94 of the Immigration Law, establishes that UAM victims of trafficking in human beings are entitled to appropriate housing.

The Ministry of Equal Opportunities (MEGA) will search for appropriate facilities. The MEGA has agreements with a certain number of NGOs for the housing of victims of human trafficking.

Meanwhile, assistance, protection and security measures are provided by NGOs who have an agreement with the State (*Femmes en détresse*, *Fondation Maison de la Porte Ouverte*, *Fondation Profamilia*) and whose services are authorised by the Ministry for Equal Opportunities, in cooperation with the Police on an informal basis.

The assistance measures for adult and minor victims are coordinated by the MEGA. Accommodation and stationary assistance for minors and male victims of THB are also provided for on an informal base, and in accordance with the MEGA, by NGOs specialised in services for children and young adults or specialised in the care of women and men in social distress. These NGOs have to be authorised by the Ministry of Family and Integration (Caritas, *Solidarité jeunes* and others children shelters depending on availability). Outpatient support to all victims of trafficking (minors and adults) is provided by two specialists trained in the field of assistance to victims of trafficking, and working for two of the above mentioned NGOs (*Femmes en détresse asbl* and *Fondation Maison de la Porte Ouverte*). To recover physically, psychologically and socially, victims are entitled to, and according to their needs, the following assistance measures: accommodation, social and socio-educational assistance, therapeutic assistance, psychological assistance, medical aid, legal aid, material and financial aid, education for children and adults, training and language assistance.<sup>171</sup>

The decision where to place the UAM victim of trafficking will be taken by the Youth Court.

### C. UAMs not seeking international protection status

The Grand Ducal Regulations of 8 June 2012 and of 11 September 2014 do not specifically address this issue but in practice UAMs will be granted an authorisation of stay for private reasons based on humanitarian grounds of an exceptional gravity. The authorities will try to find an adapted solution to their special needs.

*Q15. Which national authorities and organisations (including Non-Governmental Organisations where relevant) are responsible for the reception and care of UAMs from first arrival until a durable solution is found, indicating also the arrangements for funding (e.g. reception centres, healthcare, schooling, etc.)?*

*Please distinguish between national authorities and organisations deciding and administering the reception and care of:*

- UAMs who are seeking asylum or have been granted international protection;
- UAMs who are not seeking asylum, including those who entered irregularly and/ or are in a trafficked situation.

The OLAI carries overall responsibility for the reception of applicants for international protection and has a national coordinator role for the entire reception system, collaborating with external actors depending on the type of structures and situations involved.<sup>172</sup>

As regards international protection applicants, annual collaboration agreements have been signed with the Luxembourgish Red Cross and Caritas Luxembourg. These general agreements, which include all type of international protection applicants independently of their age, establish competences, responsibilities, duties and financial compensations (see above). There is, however, no specific budget for UAMs in these agreements.<sup>173</sup> The OLAI also pays for surveillance services (private companies) in the 'Don Bosco' facility and the Caritas facility, as well as food catering in those structures where full board accommodation is provided.<sup>174</sup>

OLAI and the Luxembourgish Red Cross may turn to the 'National Authority for Children' (ONE - *Office national de l'enfance*)<sup>175</sup> when searching for available accommodation for UAMs below the age of 16, or even for additional support regarding the daily supervision of UAMs (as it is done by Caritas Luxembourg).<sup>176</sup>

Regarding UAM victims of trafficking, the Ministry of Equal Opportunities manages the coordination and searches for appropriate facilities. In most cases 'Femmes en détresse' or the 'Fondation Maison de la Porte Ouverte' will accommodate them.

In the case of trafficking victims, the Youth Court takes the decision on where to place the UAM (see answer to Q.14)

*Q16a. What is considered a durable solution for the child in your (Member) State (could also be derived from practices in place, guidelines used by reception / care facilities, etc.)?*

A solution is only considered as truly durable from the time when the minor has a sustainable perspective, which in most cases occurs when s/he receives a residence permit.<sup>177</sup>

Tutors, ad hoc administrators and the staff that supervise the UAMs are of course unable to guarantee the obtaining of a residence permit. However, in the event that the UAM obtains a residence permit, social integration and education remain the major fields in which sustainability can be achieved. UAMs are therefore supported in their school education and encouraged to complete an apprenticeship or to enrol in sports clubs in order to promote their social integration and full participation in society.<sup>178</sup>

However, according to Caritas, the socio-economic and political environment of their countries of origin also remains an integral part of a durable solution, in particular for those young people who will have to return after turning 18. Also, as most of the UAM have parents, re-establishing family ties may prove the best durable solution for the child.<sup>179</sup>

*Q16b. How quickly do the competent authorities take decisions on durable solutions for UAMs based on the best interests of the child? Please specify the starting point for the time taken by (Member) States to identify durable solutions (e.g. date of apprehension / application, etc.).*

As mentioned above, applications of UAMs are in principle given priority and are as such immediately treated. This does however not prevent recurring delays in the processing of cases.<sup>180</sup> In most cases UAMs have already attained majority before the asylum procedure has been concluded.

Concerning decisions for allocating accommodation: because there is only one single reception facility for newly arrived international protection applicants ('Don Bosco'), UAMs are quickly accommodated without having to search for available accommodation in case of emergency.

However, it may take much longer to allocate the UAMs in an appropriate reception facility. The 'Don Bosco' facility is indeed not considered as an appropriate reception facility for UAMs, at least not on a long-term basis, as available supervision and assistance is much more limited when compared to other reception facilities.

The difficulty of finding appropriate long-term reception facilities for UAMs arises especially in those cases where minors are aged below 16 and for whom the reception facilities run by the Luxembourgish Red Cross and Caritas Luxembourg (for UAMs aged over 16 years) are considered inappropriate.<sup>181</sup> These minors should, in principle, be accommodated within national children's homes. However, availability of spaces in those homes is rather limited and therefore it may require the effort of several actors (OLAI, NGO, ONE, children's homes) in order to find a solution. Eventually, the minor concerned is always accommodated in an appropriate home.<sup>182</sup>

As for the naming of a tutor, the NGOs usually wait for up to two weeks before taking the decision on whether to request guardianship or not (except for UAMs aged below 16 for whom guardianship is systematically and as soon as possible requested). A further month then passes until the guardianship order of the guardianship judge is issued.<sup>183</sup>

Ad hoc administrators shall be appointed as soon as possible. Nevertheless it may take several weeks before the Youth Court appoints them.



*Section 3.2: Accommodation and other material reception provisions*

*Q17. Please describe in the tables below the reception and care arrangements granted to UAMs in your (Member) State (in accordance with Directive 2003/9/EC<sup>184</sup>) from first arrival until a durable solution is found. Where relevant, please distinguish between UAMs who are seeking asylum or have been granted international protection and UAMs who are not seeking asylum, including those who entered irregularly and/ or are in a trafficked situation*

	<p><b>Please state (Y/N) whether the accommodation types and other material reception provisions listed are available to UAMs (in cash or in kind) in each of the categories below, and provide a brief description of the facilities available in each case:</b></p>		
<p><b>Accommodation type and access to other care and material reception provisions</b></p>	<p><b>UAMs seeking asylum or have been granted international protection</b></p>	<p><b>UAMs not seeking asylum, including those who entered irregularly and / or child victims of trafficking</b></p>	<p><b>Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.</b></p>
<p><b>Accommodation with adults</b></p>	<p>Yes.</p> <p>UAMs who have been granted international protection can be accommodated with adult relatives.<sup>185</sup></p> <p>Although article 52 of the Asylum Law only applies to minors who have been granted international protection, UAMs who are awaiting a decision on their application are also offered accommodation.</p>	<p>For this case, no specific legislation is foreseen. Accommodation in general and access to other care and material reception provisions is specially foreseen for persons having applied for international protection. In practice, nearly all UAMs also file an application for international protection. UAMs who are staying irregularly, can also be assisted by the National Authority for Children (ONE).<sup>186</sup> The social office may provide persons in need, who do not fulfil the conditions of eligibility for the right to social aid, with urgent</p>	<p>The same process applies for those cases where the minor's age is doubtful as long as they are in possession of the certificate or the convocation referred to in articles 6 and 62 of the Asylum Law, and provided that they do not have sufficient means for subsistence.<sup>188</sup></p>

		relief on a short-term. <sup>187</sup>	
<b>Accommodation with a foster family</b>	<p>Yes.</p> <p>UAMs who have been granted international protection can be accommodated with a foster family.<sup>189</sup></p> <p>In principle, UAMs are accommodated in the reception facilities supervised by Caritas Luxembourg and the Luxembourgish Red Cross (for minors above 16 years) or in traditional children's homes (for minors under 16 years). Yet so far, UAMs have only rarely been accommodated with a foster family and experiences have usually not proven satisfactory.<sup>190</sup></p> <p>In cases where UAMs are accommodated with a foster family, guardianship may be granted to one of the two NGOs or to the foster family.<sup>191</sup></p>	See above.	See above.
<b>Accommodation / reception facilities specifically for minors</b>	<p>No specific reception facility for UAMs exists in Luxembourg, even though the law guarantees that UAMs who have been granted international protection can be accommodated in specialised centres for minors.<sup>192</sup> However, discussions are being held regarding a new reception facility, specifically designed for UAMs.<sup>193</sup> (See answer to Q.21)</p>	See above.	See above.
<b>Accommodation / reception facilities with special provisions for minors</b>	<p>Yes.</p> <p>UAMs who have been granted international protection can be accommodated in facilities with special provisions for minors.<sup>194</sup></p>	See above.	See above.

	<p>The facilities supervised by Caritas Luxembourg and the Luxembourgish Red Cross, which accommodate UAMs above 16 years of age have both special provisions for minors. Nevertheless, those reception facilities also accommodate adult international protection applicants.<sup>195</sup></p> <p>The Luxembourgish Red Cross facility has a maximum capacity of reception for 12 UAMs in their facility in Eich. The Caritas Luxembourg facility hosts UAMs with other vulnerable groups in a reception facility with a maximum capacity of 88 beds. The number of UAMs therefore varies according to availability.<sup>196</sup> In the 'Don Bosco' facility, where newly arrived applicants for international protection are accommodated, there is no specific capacity limit for UAMs.<sup>197</sup></p>		
<p><b>Specialised accommodation facilities available for UAM victims of trafficking</b></p>	<p>No.</p> <p>In Luxembourg, no specialised accommodation structure intended for UAM victims of trafficking exists. Young girl victims of trafficking will be lodged within a specialised facility such as the <i>Meederchershaus</i>, a residential service run by <i>'Femmes en détresse'</i><sup>198</sup>, which provides refuge for young women aged between 12 and 21 and who are victims of domestic violence<sup>199</sup>, or the <i>Fondation Maison de la Porte Ouverte</i>.<sup>200</sup> There is no specific reception facility foreseen for boys. To this date, there have been no cases of male UAM victims of trafficking.<sup>201</sup></p>	See above.	See above.
<p><b>Specialised accommodation facilities available to UAMS to</b></p>	<p>No.</p> <p>It is however possible to transfer the minor from</p>	See above.	See above.

<p><b>meet specific identified needs</b></p>	<p>one structure to another if this is considered necessary and in the interest of the child. Also, to the extent possible, siblings are kept together, taking into account the best interests of the minors concerned. Changes of residence of the UAMs shall be limited to a minimum.<sup>202</sup></p>		
<p><b>Other types of accommodation (please state, e.g. in adult accommodation facilities if over 16 years of age)</b></p>	<p>Yes. Facilities supervised by Caritas Luxembourg and the Luxembourgish Red Cross, which accommodate UAMs over 16 years of age, also accommodate adult international protection applicants or persons granted international protection.<sup>203</sup></p>	<p>See above.</p>	<p>See above.</p>
<p><b>Food (please indicate how this is arranged in practice, e.g. meal vouchers to buy or prepare own meals, prepared meals, etc.)</b></p>	<p>Yes. Depending on the facility, food is either directly provided at the facility (via a private catering company) or minors buy their food and cook for themselves.<sup>204</sup>  In facilities where they buy food themselves, supervision is undertaken in order to ensure that the money given to them is actually used to purchase food.<sup>205</sup></p>	<p>See above.</p>	<p>See above.</p>
<p><b>Clothing (please indicate how this is arranged in practice, e.g. provision of a budget to buy clothes, provision of second-hand clothes, etc.)</b></p>	<p>Yes. Provision of clothes depends on the NGO in charge of the facility. Both, Caritas Luxembourg and the Luxembourgish Red Cross have their 'vestiaires' (cloakrooms), where clothes are collected through material donations. In facilities run by the Luxembourgish Red Cross, UAMs are referred to the 'vestiaires' by the OLAI, which provides them with vouchers.<sup>206</sup> Caritas Luxembourg on the other hand provides the</p>	<p>See above.</p>	<p>See above.</p>

	clothes according to the needs of the minors.		
<b>Allowance / pocket money (please provide details on what possibilities there are to earn pocket money in reception facilities, what amount and how this is paid, etc.)</b>	<p>Yes.</p> <p>Financial allowances are <i>de facto</i> provided and vary according to the food provision system. In case meals are directly provided or delivered at the reception facility, minors below 16 years get 12,50€ per month and UAMs aged between 16 and 18 years get 25€ per month.<sup>207</sup> In case food is not directly provided, children under 12 years of age get 140€ per month, teenagers aged between 12 and 18 years get 173€ per month and UAMs aged between 16 and 18 years get 225€ per month.<sup>208</sup></p>	See above.	See above.
<b>Other types of material reception provisions (please state)</b>	<p>Yes.</p> <p>1. For school materials and books a voucher of a value of 50€ is provided by the OLAI to children in basic education and a voucher of 125€ to children in secondary education. This amount can however be exceeded if considered necessary.<sup>209</sup></p> <p>2. Subscription fees for Sports clubs are in principle covered by Caritas Luxembourg and the Luxembourgish Red Cross.<sup>210</sup> Through the collaboration agreement between the two NGOs with the OLAI, the latter may however contribute to the payment.<sup>211</sup></p> <p>3. Moreover, there is a possibility of specific aid payments in case of need.<sup>212</sup></p>	See above.	See above.

Q18. Please explain if UAMs have the freedom to make their own choices with regard to the provisions available to them (e.g. do UAMs have the possibility to prepare their own meals, buy their own clothes, etc.) with the ultimate goal of preparing them for the transition to adulthood (please see also section 5).

Depending on the system used by the two NGOs in charge of UAMs, autonomy and variety of choices available to minors differ.

The food system adopted by the Luxembourgish Red Cross allows UAMs to buy food themselves and cook their own meals. They also call for volunteers to teach the minors how to cook or go shopping with them. Caritas Luxembourg meanwhile gets meals delivered by a private catering company. For lunch they offer a cold buffet and in the evening a hot meal is prepared. Though there are set mealtimes, some flexibility is adopted for those who work or for those who have a valid justification. Caritas Luxembourg also allows them to eat with families who are housed in the same facility and who are allowed to cook for themselves. This is also a common practice in the facility of the Luxembourgish Red Cross.<sup>213</sup>

As regards clothing, the variety of choices is rather limited with both NGOs providing clothes to the UAMs through 'vestiaires' (cloakrooms). However, the NGOs often face a lack of children's clothing, especially regarding underwear and shoes. Therefore, they use money donations to buy additional clothes for UAMs.<sup>214</sup>

As food is not directly provided in the facility run by the Luxembourgish Red Cross, UAMs are taught by their supervisors how to manage their monthly allowances and this is considered as one of the main objectives for preparing them for the transition to adulthood.<sup>215</sup>

UAMs are also allowed to discuss problems related to the technical functioning of the facility and are encouraged to make suggestions for improvements of the facility during regular meetings held with social workers.<sup>216</sup>

Overall, the type and degree of assistance that the NGOs offer to UAMs in their everyday life always depends on the individual autonomy already acquired by the youngster as well as his request for aid and assistance.<sup>217</sup>

Q19. Which organisations (governmental and non-governmental) are responsible for the provision of accommodation / other material reception conditions of UAMs (if different from above)?

See Q.15

Q20. Please provide more information on the staff (e.g. care/ social workers, etc.) responsible for the reception and care of UAMs, for example:

- What are the main tasks of the staff;
- Is there a specific training for the staff (if yes, please describe);
- In general, what is the staff to UAMs ration (the number of UAM per staff member).

The supervision of UAMs which is provided by the responsible authorities and their staff concerns virtually all areas in which the minor is in need of assistance and guidance. As the NGO who is accommodating the minor is also generally the one that holds the guardianship (tutorship), their staff ensure both the management of everyday life as well as the monitoring of his/her asylum procedure and coordination with the ad hoc administrator. However, the person who supports and guides the UAM on an everyday basis is not the same than one that follows his/her asylum procedure.<sup>218</sup>

Guidance in everyday life, which in both NGOs (Caritas Luxembourg and the Luxembourgish Red Cross) is mainly conducted by educators and social workers, includes all daily affairs, but also administrative issues such as enrolling them in education.<sup>219</sup>

The Luxembourgish Red Cross allocates the various areas of supervision to different members of the staff and also regularly calls for volunteers in order to help the UAMs with their homework or to assist them with the cooking. Where necessary, they try to work as a network with other institutions or organisations. By way of example, when there is an UAM with a baby, the Luxembourgish Red Cross closely works together with 'Initiative Liewensufank'<sup>220</sup>, a non-profit association that gives individual advice to young mothers.<sup>221</sup>

Caritas Luxembourg receives supervision from different units, each of them specialised in a given area. If minors require additional support that exceeds standard supervision, Caritas Luxembourg files an application with the ONE

(Office national de l'enfance), so that an educational service of Caritas Luxembourg (*Form'actif*), which is recognised by the ONE and accredited by the Ministry of Family, Integration and the Greater Region, may intervene. In such cases an educator of '*Form'actif*' is the reference person for the minor and does the coordination with other staff members.<sup>222</sup>

The reception facility of the Red Cross only provides supervision during daytime, which means that, even though there are other adult international protection applicants in the reception facility, UAMs are without any adult supervision during the night and on weekends.<sup>223</sup> In the facility of Caritas Luxembourg, supervision during the night is only provided by private security agents who are on site from 8 p.m. until 8 a.m.<sup>224</sup>

Also, the OLAI and the NGOs will maintain their collaboration on the social situation of the UAM or any problem, which could affect him/her.<sup>225</sup>

In 2001, Caritas Luxembourg also created the '*classes passerelles*' (bridging classes) that aim to integrate young people who don't speak the official languages of Luxembourg or who have little education, into standard classes or assist them until they can act autonomously. These classes are held by educators with appropriate methodologies for young people aged between 16 and 23 years and who are unable or who have difficulties to enter the school system. The content of the training mainly focuses on learning French and upgrading math skills in order to pass the apprenticeship examination, which is seen by Caritas as a main objective.<sup>226</sup>

With regards to psychological support, the Luxembourgish Red Cross staff includes one psychologist, but there also exists the possibility to approach an external psychologist via the ONE.<sup>227</sup> Caritas Luxembourg, for their part, hired a psychiatrist on a part-time contract basis (free-lance) who regularly intervenes in their facility.<sup>228</sup>

As both NGOs work with external institutions or organisations and because the facilities that host the UAMs also accommodate adult international protection applicants, it is very difficult to say what is the exact staff to UAM ratio.

*Q21. What is the overall assessment of the standard of accommodation / material reception conditions provided to UAMs in your (Member) State (as cited in existing evaluation reports / studies / other sources or based on publicly available information received from competent authorities)? Please provide references to these sources of information.*

*Do you foresee an evolution of the national legislation and / or the practice in light of the recast Reception Conditions Directive (2013/33/EU)?*

No evaluation reports or studies have been conducted to specifically assess the standard of accommodation and/or material reception conditions provided to UAMs in Luxembourg.

In the light of the recast Reception Conditions Directive 2013/33/EU, there have been discussions between the different actors in the field, on how to improve conditions for UAMs, in particular with regards to supervision. For the time being, UAMs aged over 16 years are lodged in the facilities of the Luxembourgish Red Cross and the Caritas Luxembourg and do not benefit from 24hours/7days supervision. Even though there are security agents, there are neither educators nor social assistants present during the night and weekends. This is why there is an on going discussion on the possibility of creating a new reception structure for UAMs.<sup>229</sup>

One year after its entry into force, the Luxembourgish Refugee Council (*Lëtzebuenger Flüchtlingsrot-LFR*) and the Luxembourgish Red Cross carried out an assessment of the Grand-Ducal Regulation laying down the terms and conditions for granting a social aid to international protection applicants, which was adopted in 2012.

This assessment was carried out in two phases:

a) Via a questionnaire addressed to the beneficiaries of social aid, with organisations in contact with the target population acting as an intermediary, and to residents of the accommodation provided by such organisations;



b) Via a brainstorming exercise with social workers of organisations that maintain a regular contact with applicants for international protection.

This survey, which is based on around 60 replies concerning the questionnaire, cannot claim to be scientific evidence. According to this survey, a majority of respondents declared having difficulties to cover their daily needs.

Based on the results of this assessment, the LFR considered that social aid, as currently applied, leads to a situation of total dependency of the international protection applicants on the respective administrations, preventing an independent management of their daily expenditures and making them more dependent on social assistance.

In order to allow for a greater autonomy of applicants for international protection, the LFR called for a revision of the cash amount granted to applicants for international protection and also for a re-evaluation of those aids that has been withdrawn.<sup>230</sup>

### Section 3.3: Access to legal advice

Q22: Please describe access by UAMs to legal advice in your (Member) State.

<b>Legal advice</b>	<b>UAMs seeking asylum or have been granted international protection</b>	<b>UAMs not seeking asylum, including those who entered irregularly and / or child victims of trafficking</b>	<b>Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.</b>
<b>Legal advice and other forms of legal support</b>	<ul style="list-style-type: none"> <li>• Yes. As mentioned above the applicant has the right to an interpreter and to be represented by a lawyer of his/her choice.<sup>231</sup></li> <li>• Also an ad hoc administrator will be appointed to assist him/her in the legal proceedings concerning his/her application. The ad hoc administrator will inform the UAM of the purpose and possible consequences of the interview and will help him/her to prepare for it.<sup>232</sup></li> </ul>	<ul style="list-style-type: none"> <li>• UAMs who are refused to enter the territory will be assigned an ad hoc administrator as soon as possible. The ad hoc administrator shall assist them in the context of the administrative and judicial procedures related to being held in the waiting zone.<sup>236</sup></li> <li>• No return decision can be taken against a minor who is not accompanied by a legal representative, with the exception of decisions based on serious public security grounds, unless expulsion is in the best interests of the minor concerned.<sup>237</sup></li> <li>• Also for child victims of human trafficking an ad hoc administrator has to be appointed.<sup>238</sup></li> </ul>	The process is the same for those cases in which the minor's age is doubtful.

	<ul style="list-style-type: none"> <li>• Once the UAM has been granted international protection, an ad hoc administrator will be appointed (normally the one who had already been appointed during the procedure will remain in order to avoid a second appointment).<sup>233</sup></li> <li>• In addition, the UAM is referred to Caritas Luxembourg or the Luxembourgish Red Cross, who may request before the Youth Court the appointment of a guardian for the UAM.<sup>234</sup></li> <li>• The representation and placement of UAMs enjoying temporary protection is governed by the legislation on the protection of young persons.<sup>235</sup></li> </ul>		
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*Q23: Which organisations (governmental and non-governmental) are responsible for the provision of legal support to UAMs (if different from above)?*

Are responsible for the provision of legal support to UAMs:

- The Bar of lawyers of Luxembourg<sup>239</sup> which provides the legal representation as well as the ad hoc administration for UAMs;
- The Ministry of Justice<sup>240</sup> provides legal aid;
- The Youth and Guardianship Court<sup>241</sup> designates the tutors (guardians) and the ad hoc administrators.

*Q24: What is the overall assessment of the provision of legal support to UAMs in your (Member) State (e.g. cited in existing evaluation reports / studies / other sources or based on publicly available information received from competent authorities)? Please provide references to these sources of information.*

No evaluation reports or studies have been conducted to assess the provision of legal support to UAMs in Luxembourg.<sup>242</sup>

## Section 3.4: Healthcare

Q25: Please describe access by UAMs to healthcare in your (Member) State.

The table below only will analyse the cases of UAM applicants for international protection. UAM not seeking international protection will have access to social security if they benefit from a postponement of removal, which provides them with a humanitarian aid,<sup>243</sup> or if they benefit from an authorisation of stay for private reasons based on humanitarian motives of exceptional gravity.<sup>244</sup>

In the case of UAM victims of trafficking in human beings, Article 94 of the Immigration Law establishes that during the reflexion period the victim benefits from the safety, protection and assistance measures. This reflexion period allows the victim to recuperate physically and morally from the traumatic experience.<sup>245</sup> These assistance measures begin the day that the police disposes of indices that the individual is a presumed victim of trafficking in human beings and will last 3 months after the decision in the criminal case becomes final. In the case of UAM these assistance measures will last until s/he becomes of age.<sup>246</sup> In any case, during the reflexion period and during the whole period, the assistance measures will be covered and they will have access to health insurance, which will be covered by the Ministry of Equal Opportunities.<sup>247</sup> The system used will be the same as for the international protection applicants. The Ministry will pay the voluntary contributions and there will be a qualifying period of 3 months. During the qualifying period the Ministry will have to cover any medical expenses that are not taken care by the National Health Fund. After this qualifying period the National Health Fund will take charge of all the medical expenses (see table below).

<b>Healthcare</b>	<b>UAMs seeking asylum or have been granted international protection</b>	<b>Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.</b>
<b>Emergency treatment</b>	<p>Yes.</p> <p>International protection applicants have access to emergency treatment. The voluntary contributions to the social security system are paid by the OLAI. Nevertheless, there is a qualifying period of 3 months during which they cannot receive healthcare without paying for it. However, all emergency treatment required by the applicant during the qualifying period is covered by the OLAI.<sup>248</sup></p> <p>Beneficiaries of international protection shall have access to healthcare under the same conditions as those applying to Luxembourgish nationals.<sup>249</sup></p>	No.
<b>Basic medical care</b>	<p>Yes. As we mentioned above, the contributions to the social security system are paid by the OLAI. After the qualifying period, medical care (including basic, essential and specialised care) is taken over by the National Health Fund.<sup>250</sup></p> <p>During the qualifying period any type of medical treatment will be covered directly by the OLAI and not by the National Health Fund.<sup>251</sup></p> <p>Social assistance benefits include basic medical care.<sup>252</sup></p>	No.

<b>Essential / specialised healthcare if required</b>	<p>Yes.</p> <p>Beneficiaries of international protection can receive the necessary treatment if required.</p> <p>Access to appropriate healthcare, "including any treatment of mental problems that may be required", shall be guaranteed to beneficiaries of international protection who have special needs, such as pregnant women, disabled persons, persons who have suffered torture, rape or other serious forms of psychological, physical or sexual violence and minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman or degrading treatment or armed conflict, under the same conditions as those applying to Luxembourgish nationals.<sup>253</sup></p> <p>International protection applicants can also receive special medical treatment.<sup>254</sup></p> <p>See above for the qualifying period.<sup>255</sup></p>	No.
<b>Psychological support / counselling</b>	Yes. <sup>256</sup> (See above).	No.
<b>Other (please state)</b>	Social assistance benefits also include social guidance, counselling in sexual and reproductive health as well as any specific aid in case of need. <sup>257</sup>	No.
<b>Do UAMs have equal access to healthcare as child citizens in the (Member) State?</b>	Yes. (See above)	No.
<b>Are UAMs assessed to ensure their healthcare needs are met (e.g. through a health assessment)?</b>	<p>Yes.</p> <p>Social assistance benefits, including healthcare needs, take into account the special needs of UAMs that were identified after an individual assessment of their situation.<sup>258</sup></p>	No.
<b>Do UAM have access to health insurance? If yes, under what conditions?</b>	<p>Yes. UAMs have access to health insurance. The OLAI will pay the voluntary contributions to the social security system.<sup>259</sup> They are subject to the qualifying period of three months.</p> <p>During this qualifying period they cannot benefit of the social security system and the OLAI will assume any medical treatment providing vouchers<sup>260</sup> (See above).</p> <p>Once the qualifying period expires, the National Health Fund will assume any medical expense.<sup>261</sup></p>	No.
<b>How is reception organised for UAMs with psychiatric problems or addictions?</b>	Any beneficiary of international protection, as well as any international protection seeker (who has not been refused) has access to the existing systemic programs, because they are insured by the social security system. There are only special programs for international protection applicants suffering from post-traumatic stress disorder. In 2008, the Luxembourgish	No.

	<p>Red Cross initiated a project called "Eng Bréck no baussen". From 2012 on, the project has been integrated as a regular activity of the Luxembourg Red Cross Department for Migrants and Refugees.<sup>262</sup></p> <p>This project was co-funded for 3 years by the European Refugee Fund and the OLAI, and has been financially supported by the OLAI from 1/1/2012, including the salary of a psychologist.<sup>263</sup>The target groups are International protection seekers suffering from mental health problems (the project is not limited to persons affected by PTSD).</p> <p>The main aims of the project are to:</p> <ul style="list-style-type: none"> <li>▪ Provide cross-culturally sensitive psychological support adapted to the individual needs of the asylum seeker suffering from severe and persistent mental health problems.</li> <li>▪ Provide individual as well as group solutions to allow ill asylum seekers to acquire new life skills.</li> <li>▪ Establish a network with the mental health care system in Luxembourg with the goal of establishing an occupational and socio-therapeutically rehabilitation programme outside communal structured housing.</li> </ul> <p>In order to allow for an easy access for the international protection applicants and to facilitate the detection of the needs at an early stage, the project is based in the first reception centre 'Don Bosco'.</p> <p>Certain organisations provide the international protection applicants with psychological support.<sup>264</sup></p>	
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*Q26: Which organisations (governmental and non-governmental) are responsible for the healthcare of UAMs (if different from above)?*

In principle, the responsible authorities in charge of the healthcare of UAMs are the OLAI and the National Health Fund. Another actor is the Luxembourgish Red Cross with its project "Eng Bréck no baussen" (see answer to Q.25).

*Q27: What is the overall assessment of the standard of healthcare provided to UAMs in your (Member) State (e.g. as cited in existing evaluation reports / studies / other sources or based on publically available information received from competent authorities, please give references)? Please provide references to these sources of information.*

*Do you foresee an evolution of the national legislation and / or the practice in light of the recast Reception Conditions Directive (2013/33/EU)?*

No evaluation reports or studies have been conducted to assess the standard of healthcare provided to UAMs in Luxembourg.

In 2002, a study on the mental health of asylum seekers and refugees ("La santé mentale des demandeurs d'asile/refugiés au Luxembourg") was conducted, but it did not specifically address the case of UAMs.<sup>265</sup>

## Section 3.5: Education

Q28: Please describe access by UAMs to education in your (Member) State.

	<b>Please provide information on the issues raised below on access to education by UAMs:</b>		
<b>Education</b>	<b>UAMs seeking asylum or have been granted international protection</b>	<b>UAMs not seeking asylum, including those who entered irregularly and / or child victims of trafficking</b>	<b>Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.</b>
<b>Is access to education (appropriate to the age and needs of the UAM) provided for in legislation in your (Member) State?</b>	<p>As regards the various aspects of schooling in general, no differentiation is made according to the child's status as an UAM. In principle, all children of migrants may benefit from the same services and the same specific measures (please see below).</p> <p>Yes.</p> <p>Minors who have been granted international protection shall be given full access to the education system, under the same conditions as Luxembourgish nationals.<sup>266</sup></p> <p>School attendance is compulsory for all children that live in Luxembourg, whether they are nationals or foreigners, and regardless of the status of their parents. Every child living in Luxembourg and having reached the age of four before 1st September must attend school. This obligation extends over twelve consecutive years, starting from 1st September of that year.<sup>267</sup></p> <p>While children aged under 12 are enrolled within the school services of their municipality of residence, respectively at the secretariat of the municipality, children and young persons aged between 12 and 18</p>	<p>No differentiation is made between the different categories of UAMs. This applies to all aspects of schooling. What matters is whether the UAM has completed mandatory schooling or not.<sup>270</sup></p> <p>In case s/he has not yet completed mandatory schooling, schools are obliged to enrol him/her. However, the Grand-Ducal Regulation of 21 July 2006 determining the conditions under which applicants for international protection have access to training under article 14 of the Asylum Law, only applies to international protection seekers. In addition, school enrolment of international protection seekers is facilitated by the fact they receive a registration certificate on the basis of which they register in their municipality.</p> <p>If the UAM has completed mandatory schooling, s/he may enrol in school on the basis of the educational</p>	No.

	years shall apply at the <i>Cellule d'accueil scolaire pour élèves nouveaux arrivants</i> (CASNA) <sup>268</sup> , in order to obtain an orientation interview as well as a test which assesses the child's scholastic aptitude. <sup>269</sup>	guidance/orientation provided by the CASNA.  In those cases where UAMs are unable to find a school that is able to accommodate them, they usually attend the ' <i>classes passerelles</i> ' (bridging classes) <sup>271</sup> or take language courses in the INL <sup>272</sup> ( <i>Institut national des langues</i> ). <sup>273</sup>	
<b>How quickly can a UAM access education in the (Member) State?</b>	School attendance being compulsory for all children living in Luxembourg (see above), access of UAMs to education should be ensured as quickly as possible.  In practice, the tutor or a staff member of the facility that accommodates the minor will, upon arrival and as soon as possible, take charge of the minors' school record in order to enrol him in a school appropriate to his age and level of education. <sup>274</sup> They may be put on a waiting list at first, but it will not take longer than two weeks before they are enrolled in an appropriate school. <sup>275</sup>	See above.	No.
<b>How does the (Member) State ensure that the education provided to UAMs are adapted to their age, level of education in the country of origin and the degree of the language barrier (e.g. individual assessments etc.)?</b>	The school system in Luxembourg is generally confronted with the integration of foreign children and/or children who do not speak Luxembourgish at home. <sup>276</sup> Specialised structures and services as well as specific measures (see above) have been implemented for children of migrants, both on the level of basic and secondary education, and from which UAMs also benefit, regardless of their status.  • Children who enter basic education in the course of their compulsory schooling are enrolled, upon decision of the district inspector, in a cycle appropriate to their age and prior preparation. Those who do not have a sufficient command of Luxembourgish, French and German in order to follow basic	See above.	No.

	<p>education, have a right to one or more weekly 'welcome and support courses' (<i>cours d'accueil</i>), which take place outside of their home room (<i>classe d'attache</i>), in order to learn intensively the language(s) of the school.<sup>277</sup></p> <p>In addition to the welcome and support courses and classes, the teaching staff may also rely on differentiation mechanisms of educational pathways within a class, in an attempt to help children who are struggling.<sup>278</sup></p> <p>A special guide and a vademecum for teachers on the welcoming and integration of newly arrived children have also been developed, without however addressing the specific situation of UAMs.<sup>279</sup></p> <ul style="list-style-type: none"> <li>• For UAMs aged between 12 and 17 years, the social assistant in charge of the minor contacts the CASNA as soon as possible. The CASNA will then refer the child to a school and class corresponding to his/her profile.<sup>280</sup> Indeed, each student receives an orientation recommendation, which is based on his or her individual education level attained in his or her country of origin as well as on the results of their test.<sup>281</sup> Different types of classes for newly arrived children exist at the technical secondary level, such as the reception classes (<i>classes d'accueil</i>), insertion classes (<i>classes d'insertion</i>) or transitional classes (<i>classes transitoires</i>). From grade 10 of the technical secondary level (+/- 16 years of age), they may also enroll in classes with specific language configurations (<i>classes à régime linguistique spécifique</i>).<sup>282</sup></li> </ul>		
<p><b>What support measures are available to help the</b></p>	<ul style="list-style-type: none"> <li>• In addition to the specific classes and courses that have been</li> </ul>	See above.	No.



<p><b>UAM with the transition to education in the (Member) State (e.g. language training, mentoring, vocational training, other support mechanisms – please state?)</b></p>	<p>established, the teachers are made aware of the issues relating to the children of migrants. There are intercultural mediators (<i>médiateurs interculturels</i>) to foster communication between teaching staff, students and their family.<sup>283</sup></p> <p>In 2001, Caritas Luxembourg created the '<i>classes passerelles</i>' (bridging classes) aimed at integrating young people aged between 16 and 23 years, and who do not speak the official languages of Luxembourg or who have little education, into the standard classes.<sup>284</sup> Youngsters who have completed mandatory schooling often find it difficult to find an appropriate school in which they can enroll. The '<i>classes passerelles</i>' allow intercepting those youngsters in order to reintegrate them in the general school system thereafter. Young people may attend the '<i>classes passerelles</i>' for a maximum of two years, at the end of which they should have reached the level for making an apprenticeship or the language skills required for university entrance.<sup>285</sup></p> <ul style="list-style-type: none"> <li>• The tutor's (guardian) role in managing the everyday life of the UAM also extends to his/her education by taking charge of administrative issues, attending parents' meetings and keeping in touch with the other actors in the field of education.</li> </ul>		
<p><b>Do UAMs have the same right to education as other children in the (Member) State?</b></p>	<p>Yes. (See above)</p>	<p>See above.</p>	<p>No.</p>

<p><b>Do UAMs receive education in specialised educational establishments? If yes, does the (Member) State have plans to integrate these UAMs in the general education system?</b></p>	<p>Yes.</p> <p>In principle, UAMs are, as far as possible, enrolled in traditional schools appropriate to their age and prior education.</p> <p>In cases, where language skills or other basic educational requirements are not met, they may benefit from the above-mentioned courses that provide additional support (<i>cours d'accueil</i>) or specific classes (i.e. <i>classes d'accueil</i>).</p> <p>The 'school of second chance' (<i>école de la deuxième chance</i>)<sup>286</sup> also offers a special 'welcome and support class' for students who do not meet basic language skills or other basic educational requirements.<sup>287</sup></p> <p>The aim of all these measures is to integrate the students in the traditional school system, respectively to allow them to follow the same curriculum as their peers.</p>	<p>See above.</p>	<p>No.</p>
<p><b>How does the education provided to UAMs support their social integration in the (Member) State?</b></p>	<p>The school promotes their social integration in the sense that the youngsters find themselves with other peers with different backgrounds and life experiences. As mentioned above, the aim is to integrate them as far as possible into the traditional school system.</p> <p>In addition to the social network, the children may also turn to 'psychology and school guidance services', which provide psychological, psycho-emotional and psycho-social support and assistance.<sup>288</sup></p>	<p>See above.</p>	<p>No.</p>
<p><b>How does the (Member) State prepare UAMs for accessing their labour market (e.g. provision of training, vocational guidance, etc.)?</b></p>	<p>Vocational training (<i>formation professionnelle</i>) of international protection seekers is regulated by a Grand-Ducal Regulation.<sup>289</sup></p> <p>UAMs may take vocational training courses provided that they hold a certificate proving the lodging of an</p>	<p>See above.</p>	<p>No.</p>

	<p>application for international protection. In this case s/he must go to the Counselling Service of the Employment Administration in order to be informed and advised on his/her professional future. Access to the vocational training courses remains open for applicants who attain majority during the apprenticeship.<sup>290</sup></p> <p>UAMs seeking international protection and who want to carry out an apprenticeship as part of their vocational training need an AOT (<i>Autorisation d'Occupation Temporaire</i> - Temporary occupation permit), which should in practice, however, be granted without any further difficulties if the competent Professional Chamber gives a favourable opinion.<sup>291</sup></p> <p>However, not all training courses and apprenticeships<sup>292</sup> are offered in French, which often makes it difficult for UAMs to have access to them.<sup>293</sup></p>		
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Q29: Which organisations (governmental and non-governmental) are responsible for the education of UAMs (if different from above)?

Are responsible for the education of UAMs:

- The Ministry of National Education, Childhood and Youth, notably via the *Service de la scolarisation des enfants étrangers* and the CASNA (*Cellule d'accueil scolaire pour élèves nouveaux arrivants*), guides the student towards a school corresponding to his/her profile;
- The municipality enrolls the children in basic education;
- The tutor (guardian) takes charge of administrative issues, attends parents' meetings and keeps in touch with the other actors in the field of education;
- Caritas Luxembourg offers the '*classes passerelles*', which are available to young people (including UAMs) aged between 16 and 23 years.

Q30: What is the overall assessment of the standard of educational support provided to UAMs in your (Member) State (as cited in existing evaluation reports / studies / other sources or based on publically available information received from competent authorities, please give references)? Please provide references to these sources of information.

Do you foresee an evolution of the national legislation and / or the practice in light of the recast Reception Conditions Directive (2013/33/EU)?

As mentioned earlier, the phenomenon of UAMs is not very significant, with the exception of 2013, where there was a considerable increase of young people coming from the Maghreb countries.

There is no specific evaluation, report or study on the standard of educational support provided to UAMs. At the moment the Luxemburgish Government is working on a draft bill to implement the recast Reception Conditions Directive. However, the text has not yet been finalised<sup>294</sup> and we therefore cannot provide information on whether the issue of educational support will be taken into account.

### Section 3.6: Access to support to employment

Q31: Please describe access by UAMs to employment in your (Member) State.

<b>Access to support to employment</b>	<b>UAMs seeking asylum or have been granted international protection</b>	<b>Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.</b>
<b>What is the minimum age a UAM can take up employment in the (Member) State?</b>	The minimum age required for being insured as a salaried worker is 16 years. <sup>295</sup>	The age of the UAM has to be established in order to take up employment, because the legal age for working is 16 years.
<b>Is access to employment for UAMs conditional upon obtaining legal (residence) status, a work permit, etc.?</b>	However, according to the Asylum Law, an international protection applicant is not entitled to work unless the decision of the application takes more than 9 months. At this moment, in theory, the UAM with the minimum age will be entitled to obtain an authorisation of temporary occupation. Up to date, there have not been any cases of AOT ( <i>Autorisation d'Occupation Temporaire</i> - Temporary occupation permit) granted to UAMs. <sup>296</sup> Nevertheless, in principle, the UAM who fulfils the general conditions of the AOT can obtain an employment. <sup>297</sup> Beneficiaries of international protection are authorised to engage in employed or self-employed activities immediately after protection has been granted, and subject to the rules generally applicable to the profession and to the public service. <sup>298</sup>	As the age assessment will in principle be made before the 9 months, the process will be the same if there are doubts regarding the age.
<b>Under what circumstances does a UAM receive a permit to work in the (Member) State once the minimum age is reached?</b>	<ul style="list-style-type: none"> <li>An AOT is issued in accordance with specific conditions. Indeed, the granting or renewal of AOT can be refused for reasons related to the situation, evolution or organisation of the labour market, taking into account the hiring priority given to citizens of the European Union, citizens of EEA States, nationals of third countries under specific agreements as well as regularly residing third-country nationals who</li> </ul>	No.

	<p>are registered as job seekers.<sup>299</sup></p> <p>The AOT is valid for a specified employer and a single profession.<sup>300</sup></p> <p>The procedure for applying for an AOT is following:</p> <p>The employer must first make a declaration of vacancy with the Employment Agency (ADEM).<sup>301</sup> In the absence of available applicants, the employer applies for an AOT from ADEM, enclosing the following documents:</p> <ul style="list-style-type: none"> <li>- The declaration of recruitment completed and signed in duplicate;</li> <li>- a certified copy of the certificate of the international protection application;</li> <li>- if applicable, a certified copy of the certificates attesting the professional qualification of the employee;</li> <li>- a CV;</li> <li>- a supporting letter of the employer justifying the recruitment of the employee;</li> <li>- a copy of the work contract.<sup>302</sup></li> </ul> <ul style="list-style-type: none"> <li>• In case the UAM has obtained the international protection status and has reached the minimum age s/he will be able to engage in the labour market on the same conditions as a national, with the exceptions established by law (i.e. public service).<sup>303</sup></li> </ul>	
<p><b><i>Is labour market access limited to a maximum number of days per year?</i></b></p>	<p>The AOT is valid for a maximum period of 6 months. It is renewable on request, and if the above-mentioned conditions are fulfilled.<sup>304</sup></p> <p>If the UAM has obtained the international protection status s/he has access to the labour market without any time restrictions.<sup>305</sup></p>	<p>No. See above.</p>
<p><b><i>Can UAMs take up paid employment / household tasks for pocket money from the accommodation facilities where they are residing?</i></b></p>	<p>Yes, if the UAM obtains the international protection status.<sup>306</sup> See above.</p> <p>In the reception facility of Caritas Luxembourg, where UAMs over 16 years of age are accommodated, UAMs may take up small tasks such as cooking, gardening, cleaning, maintenance, etc.<sup>307</sup></p> <p>The national law prescribe that the allowances and bonuses received on the basis of an</p>	<p>No.</p>

	apprenticeship cannot be combined with other financial aid granted by the Minister responsible for Family and Integration if the UAM is still an international protection applicant. <sup>308</sup>	
<b>What other forms of support are available to UAMs once working age is reached if they are unable to find employment?</b>	N.D.	

In regards to UAM not applying for international protection the system of the temporary occupational authorisation (AOT) only applies for those who benefit of individuals benefiting of a postponement of removal<sup>309</sup>. For any other UAM that do not fall in this situation s/he should have a valid residence permit in order to have access to the labour market.

Q32. Which organisations (governmental and non-governmental) are responsible for providing employment access support to UAMs (if different from above)?

- The Agency for Employment Development (*Agence pour le développement de l'emploi-ADEM*) receives the declaration of vacancies and verifies if there are any employment seekers that match the profile required to fill the position.<sup>310</sup>
- The Ministry of Foreign and European Affairs grants or rejects the AOT.
- The Inspectorate of Labour and Mines (*Inspection du Travail et des Mines-ITM*) and the Grand-Ducal Police have a monitoring and supervising role in relation to illegal employment of irregularly residing third-country nationals.<sup>311</sup>
- The NGOs in charge of the UAMs also provide assistance and support in order to integrate the UAM into the labour market.<sup>312</sup>

Q33. What is the overall assessment of the standard of employment access support provided to UAMs in your (Member) State (as cited in existing evaluation reports / studies / other sources or based on publicly available information received from competent authorities)? Please provide references to these sources of information.

Do you foresee an evolution of the national legislation and / or the practice in light of the recast Reception Conditions Directive (2013/33/EU)?

No evaluation reports or studies have been conducted in order to assess the standard of employment access support provided to UAMs in Luxembourg.<sup>313</sup>

### Section 3.7: Other integration measures

Q34. Does your (Member) State have any other integration measures in place supporting UAMs? If yes, please provide further information below.

In general, there are no integration measures that specifically target UAMs.

In principle, the tutor and the reception facility that accommodates the UAM will also aim at fostering the youngster's integration outside school as far as possible. In this sense, UAMs are encouraged to engage in extracurricular activities, as for example to join sports clubs.<sup>314</sup>

As costs for sports activities are not covered by social aid provisions, the NGOs often try to negotiate with the clubs in order to find a solution and, if required and to the extent possible, they bear the costs on their own. However, UAMs applicants of international protection in general are not allowed to acquire a license of any national sports federation in order to participate in national competitions.<sup>315</sup> Tutors regularly have to deal with this issue, in particular with regards to UAMs who want to enroll in a football team.

UAMs aged less than 12 years also have access to youth centers and local childcare centers (*maisons relais*<sup>316</sup>). The latter being fee-based, it depends on the municipality in which the UAM attends school on whether they will cover the fee or not. In its annual report, the ORK noted that the childcare centers often refuse the enrollment of children of asylum seekers due to lack of space. It also noted that some municipalities do not have sufficient financial resources to enable a better social inclusion of migrant children.<sup>317</sup> Concerning UAMs, this issue remains however manageable as the number of UAMs aged less than 12 years and having access to childcare centers is limited in Luxembourg.<sup>318</sup>

The OLAI also bears costs for holiday camps, which are offered to young people mostly during the summer.<sup>319</sup>

### Section 3.8: Withdrawal of reception and integration support

Q35. Under what circumstance can any of the above reception and integration support provisions be withdrawn from UAMs?

	<b>Circumstances for withdrawal of reception / integration support</b>		
<b>Type of support (please list)</b>	<b>UAMs seeking asylum or have been granted international protection</b>	<b>UAMs not seeking asylum, including those who entered irregularly and / or child victims of trafficking</b>	<b>Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.</b>
<b>Withdrawal of financial allowances/pocket money</b>	<p>Social aid, which includes financial allowances,<sup>320</sup> may be withdrawn or revoked.</p> <p>The Minister may limit or withdraw social aid in case the beneficiary:</p> <ul style="list-style-type: none"> <li>- has concealed his financial resources;</li> <li>- has acted violently or in a threatening manner to staff or residents of the reception facility;</li> <li>- leaves the reception facility without informing the</li> </ul>	<p>In the case of UAM victims of trafficking in human beings, the aid provided according to Article 94 of the Immigration Law can be withdrawn only if the police or the Public Prosecutor's Office informs the police that in the course of the investigation they have determined that the "supposed" victim is not a victim. In such a case the aid is terminated. However, as it is an UAM, the State will try to find a solution in order to provide a certain type of aid to the</p>	No.

	<p>competent authorities;</p> <ul style="list-style-type: none"> <li>- does not comply with reporting duties;</li> <li>- has already introduced an application in the Grand-Duchy of Luxembourg;</li> <li>- has committed a serious breach of the rules of procedure of the reception facilities.<sup>321</sup></li> </ul> <p>These rules must be applied by all reception facilities, including those run by the NGOs.</p>	<p>minor.<sup>322</sup></p> <p>Furthermore, the assistance measures expire at the latest 3 months after the judicial decision in the public action case is final or if the victim obtains a judicial decision on the civil action (3 months after the final decision).<sup>323</sup> However, if the victim continues to be a minor s/he will benefit of the social assistance until s/he becomes of age.<sup>324</sup></p> <p>If an UAM obtains an authorisation of stay for private reasons based humanitarian grounds<sup>325</sup>, and receives humanitarian aid<sup>326</sup>, this can be withdrawn if the circumstances for granting it in the first place disappear.</p>	
<b>Withdrawal of accommodation</b>	<p>The OLAI can withdraw the accommodation to an UAM if s/he:</p> <ul style="list-style-type: none"> <li>- has concealed his/her financial resources;</li> <li>- has acted violently or in a threatening manner to staff or residents of the reception facility;</li> <li>- leaves the reception facility without informing the competent authorities;</li> <li>- does not comply with reporting duties; has already introduced an application in the Grand-Duchy of Luxembourg;</li> <li>- has committed a serious breach of the rules of procedure of the reception facilities.<sup>327</sup></li> </ul> <p>These rules must be applied by all reception facilities, including those run by the NGOs.</p>	<p>It will depend on the social supervision system applied to the beneficiary.</p> <p>Regarding UAMs who have obtained an authorisation of stay for private reasons based on humanitarian grounds, please see above.</p>	

Q36. Are there any complaint mechanisms available to UAMs in case of withdrawal of reception and integration support? If yes, please specify below.



- The tutor of the concerned UAM remains the first contact person, but as in the vast majority of cases the tutor is employed by the NGO in charge of the reception facility where the youngster is accommodated, a conflict of interest may arise.
- The UAM may also turn to his/her ad-hoc administrator who in most cases is also his/her lawyer and the person who represents him/her in all legal aspects.
- Finally, the ORK remains a possible address for the UAM to turn to in cases of withdrawal of reception and/or integration support. In principle, reception facilities are expected to inform the UAM about the existence of the ORK. There are no conditions and no previous steps to be made by the UAM in order to get a meeting with the ORK. Based on an interview with the minor, the ORK will decide on whether or not to open a file. With regards to problems between minors and reception facilities, the ORK will try to act as a mediator. It may also happen that the ORK contacts a social worker or educator in the case of a personal dispute, or that it contacts the Ministry in order for the latter to provide information on the case in question. Until today, the ORK was only once solicited by an UAM.<sup>328</sup>

### Section 3.9 Identified challenges and good practices

Q37. Please indicate any **challenges** associated with the reception, care and integration of UAMs in your (Member) State (based on existing studies/ evaluations or information received from competent authorities) and how these can be overcome.

No specific study or evaluation on reception, care and integration of UAMs in particular has been made. Yet, some challenges have been identified in the framework of this study:

- **Age assessing method:** The method used to assess the age of the UAM has been contested not only by stakeholders but also by the administrative courts<sup>329</sup>. A reform process is now on-going, although at an early stage, with the aim of making the assessment more effective and reliable.<sup>330</sup>
- **There is no supervision 24 hours/7days of UAMs in any of the situations mentioned in the study:** Supervision of UAMs is only provided during the day, without any adult surveillance during the night, except for security agents or other adult asylum seekers, which is considered as not to be an ideal situation. In general, supervision in children's homes (and thus for UAMs aged under 16) is more developed in the sense that they usually have more available resources in order to meet the minor's needs. On the other hand, it is important to keep in mind that the UAMs are very often quite autonomous and independent; for most of the time much more than their peers. Care must also be taken to ensure that these young people are not too much infantilised and over-controlled by their supervisors. The NGOs and other reception facilities face therefore a substantial challenge in finding a good balance between the supervision and the autonomy of UAMs.<sup>331</sup>
- **Lack of specific legal framework for different categories of UAMs:** There is no specific legal framework which guarantees a tailored reception and supervision solution for the different categories of UAMs (applicants for international protection, victims of trafficking in human beings, and humanitarian reasons).
- **Fast-track procedures when dealing with UAMs:** The diligent treatment of applications is required when the applicant is a presumed UAM. The systematic appointment of an ad hoc administrator in each case of UAM applicants for international protection guarantees an effective procedure but the decision making process must be improved in the best interests of the minor.
- **Education and integration:** Integration into the education system is another field where great challenges lie ahead. Even though there is a willingness among actors to integrate UAMs, or migrant children in general, implementation on the ground is still not ideal. Language and the age of migration often prove to be a barrier, as young persons coming to Luxembourg first have to learn French in order to

integrate the system. Many UAMs therefore decide to make an apprenticeship instead of taking the difficult path of entering the school system.

- **The level of financial aid at the disposal of the UAMs:** The final amount of money established in the Grand Ducal Regulation of 8 June 2012 is considered insufficient by certain stakeholders. Here one should note that the Grand Ducal Regulation of 11 September 2014 establishes that the financial aid for victims of human trafficking is the same as that established in the Grand Ducal Regulation of 8 June 2012.
- **Clothing:** Arrangements for clothing is another point where there is room for improvement. As mentioned above, the variety of choices is limited with both NGOs providing second hand clothes to the UAMs through their 'vestiaires' (cloakrooms) and the NGOs often face a lack of children's clothing. This is all the more regrettable if one considers the importance being given to clothing by teenagers and the role clothes might have regarding one's self-esteem and the construction of one's identity.
- **Psycho-social support for UAMs:** The Luxembourgish Red Cross and Caritas Luxembourg consider that psycho-social support is elementary and fundamental, but also consider that there is need for improvement in this area. Although assistance and aid is systematically offered to UAMs, they could be further developed.<sup>332</sup>
- **Lack of expertise and experience when dealing with UAM victims of human trafficking:** Although assistance and support to UAMs victims of trafficking has been further enhanced with the adoption of the Law of 9 April 2014 strengthening the right of victims of trafficking in human beings<sup>333</sup>, there is still a lack of expertise and experience in terms of appropriate support for these people. There is also no specialised reception facility, which may provide the necessary standards in order to meet their specific needs.<sup>334</sup>
- **Sporting licenses:** Although at first sight it might appear to be a minor issue, the fact that UAMs are not able to obtain sports licenses is not only very annoying but also unnecessarily stalls their social integration. For many of them, sports clubs often remain, alongside the school, the only area where they might interact with peers.<sup>335</sup>

#### Section 4: UAMs that go missing / abscond from reception / care facilities

Q38. Have evaluations or studies on the number/ rate / country of origin of UAMs who go missing or abscond from guardianship/ reception/ care facilities been undertaken in your (Member) State? Please provide details and references below.

No.

Q39. What are the possible reasons for the disappearance of UAMs, including absconding from guardianship/ reception / care facilities (as cited in existing evaluations/ studies/ other sources or based on publicly available information received from competent authorities)?

There may be all sorts of reasons and in most cases one can only speculate on the possible reasons of disappearance of the minor. The fact that those who abscond often respond to the same 'profile' - the category of 'jeunes en errance' (wandering young people) and/or that of the perceived 'false minor' - suggests however that Luxembourg is very often only one stage of their route; a route that often does not include a final destination or at least not a predefined one. These young people were already elsewhere before coming to Luxembourg, and they tend to leave again.

According to the Directorate of Immigration as well as the NGOs in charge of UAMs over 15, there have very rarely been 'alarming disappearances', in the sense that they were totally unexpected.<sup>336</sup>

Other young people may be hoping for a future in Luxembourg, but over time realise that their application for international protection has not been or will not be successful and eventually decide to continue their way, trying their luck elsewhere. In many cases the fugitive returns after a while and then absconds again, returns and so on. Some of them remain in the country after having absconded to stay with friends or elsewhere.<sup>337</sup>

*Q40. What is the socio-demographic profile of UAMs that go missing / abscond from reception / care facilities (e.g. asylum seekers or non-asylum seekers, nationality, appointed with a guardian or not, etc.)?*

Given the fact that in Luxembourg the phenomenon of UAMs is relatively limited, it is difficult to speak about profiles. Any generalisation would certainly not represent the reality and broad variety of 'profiles', which may exist among UAMs who abscond.

As already mentioned above in Q.1, those who work on a daily basis with UAMs nevertheless note an increase of what they call 'false minors' or 'wandering young people' among the UAMs that apply for international protection. In most cases UAMs who absconded from reception facilities were part of this group of young people (see Q.1). Whether they are minors or not, they very often have the common feature of not fitting the provisions of the Geneva Convention and most of them have fled their country of origin or provenance for economic, social or private reasons, hoping for a better future in Europe. They all have applied for international protection, although this tells us little, as nearly all UAMs accommodated in the reception facilities have applied for international protection.<sup>338</sup>

*Q41. When are UAMs most likely to disappear from guardianship/ reception/ care facilities (e.g. within first few days of arrival, during weekends, before / after age assessment procedures, etc.)? Please provide evidence cited in existing evaluations/ studies/ other sources or based on publically available information received from competent authorities.*

No statistics or evaluations are available to assess in detail when UAMs are most likely to disappear.

In practice however, disappearances are most likely to happen at an early stage. If one considers the category that is most represented for absconding (see above), they tend to quickly realise that their way of life is not compatible with the rules of behaviour in the reception facilities.<sup>339</sup>

*Q42. Please provide any other evidence that may be available of the impact of guardianship/ reception/ care facilities on the proportion of missing or absconding UAMs.*

Not available.

*Q43. What measures has your (Member) State developed to a) prevent or to b) react to disappearances of UAMs (e.g. existence and use of support services, national hotlines for missing children, missing persons alerts in the Schengen Information System, NGO networks such as Missing Children Europe and their member organisations, taking fingerprints and photographs of UAMs as an aid for tracing, etc.)? Is there any evidence to suggest how effective these measures have been in practice (e.g. cited in existing evaluations/ studies/ other sources or based on publically available information received from competent authorities)?*

There is no specific procedure that aims to avoid or prevent the absconding of UAMs. The NGOs that take care of the UAMs always try to get to know the network of the minors as much as possible in order to know whom they could address in case of them absconding.<sup>340</sup>

Normally, the police will launch the protocol for a missing child and issue an amber notice (this notice can be included in the missing persons database of Interpol).<sup>341</sup> Efforts made for searching the disappeared UAM will be all the more important in cases where it is an "alarming disappearance", which means that there were no apparent signs of a potential fugue and where the UAM really seemed settled and well integrated.<sup>342</sup>

Q44. What are the procedures and practices of your (Member) State to a) report and b) deal with disappearances of UAMs (e.g. protocols among authorities, standardised procedure for dealing with disappearances, etc.)?

After 3 days of absence from the reception facility, the NGO in charge of the minor will report him as missing to all other relevant authorities, notably the Police, the OLAI (Ministry of Family, Integration and the Greater Region), the Directorate of Immigration (Ministry of Foreign and European Affairs) and the Youth Court.<sup>343</sup> In case they assume guardianship, Caritas Luxembourg also immediately asks for the discharge of the guardianship.<sup>344</sup>

There is no express procedure to avoid that an UAM victim of human trafficking absconds. There are no special protocols put into place. However, the shelters that deal with victims of human trafficking coordinate their activities with the police and the protocol for a missing child can immediately be put into effect. The youth judge can decide to place the UAM victim of human trafficking under guardianship in a closed child structure for his/her safety and protection because s/he is a minor. The above-mentioned mechanism does happen to be effective.<sup>345</sup>

Q45. How is the registration of disappearances of UAMs organised in your (Member) State (e.g. by child, by incident, etc.)?

As soon as the Directorate of Immigration is contacted by the NGOs, they will register the fugue in their database, which comprises all the data of the concerned person.<sup>346</sup>

Q46. Please indicate any **challenges** associated with UAMs who go missing or abscond from guardianship/ reception/ care facilities in your (Member) State (based on existing studies/ evaluations or publically available information received from competent authorities) and how these can be overcome.

N.D.

Q47. Please provide any examples of proven (e.g. through evaluation reports / studies) **good practices** regarding UAMs who go missing or abscond from guardianship/ reception/ care facilities in your (Member) State. Please specify the source (as cited in existing evaluations/ studies/ other sources or based on publically available information received from competent authorities).

N.D.

## Section 5: Arrangements in the (Member) States for UAMs when turning 18 years of age

This section examines the arrangements for former UAMs, both those seeking asylum and those not seeking asylum, once they reach the age of 18 years.

Q48. Please describe the situation in your Member State for former UAMs once they reach the age of 18 years:

	<b>Please describe the situation in your Member State for former UAMs once they reach the age of 18 years</b>	
<b>Arrangements for former UAMs</b>	<b>UAMs seeking asylum or who have been granted international protection</b>	<b>UAMs not seeking asylum including those who entered irregularly and / or child victims of trafficking</b>
<b>What residence permit provisions are in place for the UAM turning 18 years of</b>	If the UAM is granted an international protection residence permit, his/her situation will generally not change after turning 18 years of age, unless	If an UAM with an authorisation of stay as a victim of trafficking reaches majority, s/he can obtain another authorisation of stay. The governmental policy is such that if an UAM

<p><b>age in your (Member) State? What are the consequences for the rights and obligations of the former UAM in accordance with these residence provisions?</b></p>	<p>there are compelling reasons of national security or public order.<sup>347</sup></p>	<p>arrives and is a victim of human trafficking, the authorities will be schooling him/her as soon as possible and will try, as far as possible, to integrate him/her into Luxembourgish society.<sup>348</sup> Once s/he acquires majority, s/he can apply for another residence permit (i.e. salaried worker, private reasons or student) and may stay in the country.<sup>349</sup></p> <p>In the case of an UAM who benefits of a residence permit for private reason for humanitarian grounds of an exceptional gravity, the residence permit will be renewed if the conditions for obtaining the residence permit have not changed.<sup>350</sup></p> <p>In principle, reaching the age of 18 has no impact on the validity of the residence permit.</p>
<p><b>Are there any exceptions to the residence provisions that are in place for UAMs who are turning 18 years of age? If not, what are the implications of these provisions for the reception arrangements and integration measures that have supported the UAM up to that stage?</b></p>	<p>No.</p> <p>After turning 18, the UAM may still be accommodated within the reception facility of Caritas Luxembourg.<sup>351</sup></p> <p>The Luxembourgish Red Cross tries to place them in a facility run by the Ministry of Family and Integration, which accommodates persons who have been granted international protection, or who are still in the asylum procedure but who are beneficiary of an AOT, and who are accommodated as a transitional measure before finding private housing.<sup>352</sup></p>	<p>As already mentioned, UAM victims of trafficking are accommodated within homes designed for minors or homes designed for women in distress. In the case of young girls, they will normally be lodged within the 'Meederchershaus' where they may stay until they are 21 years of age or at the <i>Fondation Maison de la porte ouverte</i>.<sup>353</sup></p> <p>For boys nothing is foreseen. To date, there have been no cases of boys victims of trafficking aged below 18.<sup>354</sup></p>
<p><b>What measures are in place to support the UAM in advance of the transition (e.g. integration support, return support)?</b></p>	<p>No specific support measures exist in advance of the transition. However, the daily support and assistance provided by the tutor and the reception facilities' staff in charge of the concerned UAM includes preparing them for adulthood and aims at achieving autonomy.</p>	<p>Idem.</p>
<p><b>What measures are in place to support the former UAM after the transition (e.g. formal follow up or after-care service,</b></p>	<p>They may benefit from the same support as before turning 18 years of age. For those young persons who wish so, NGOs will continue to give them support and assistance.</p>	<p>Idem.</p>

<b>open door policy at residential homes, personal adviser, pathway plan, etc.)?</b>		
<b>What are the implications of the change in residence status for the access to education and/ or training of the former UAM?</b>	There will be no change of status as a consequence of turning 18 for UAMs who are granted international protection. In that sense, the access to education will be the same as for nationals.	When the UAMs become of age and the criminal case is closed, they may obtain a residence permit for private reasons. <sup>355</sup> Also, they can obtain a salaried worker or student residence permit if they fulfill the conditions of Articles 42 and 56 of the Immigration Law.
<b>What are the implications of the change in residence status for the access to employment of the former UAM?</b>	If an UAM is granted international protection there is no change of status because s/he has become of age. This means that the access to labour market will be the same as for a national. <sup>356</sup>	Idem.

Q49. Please describe the monitoring mechanisms in place to ensure the effective transition of unaccompanied minors from the age of minority to 18 years of age, including the types of measure undertaken and the duration of the monitoring period, where the situation in the Member State has changed since 2009, or where the (Member) State did not take part in the 2009 Study.

N.D.

Q50. Please indicate any **challenges** associated with the transition to 18 years of age experienced by unaccompanied minors in your (Member) State (based on existing studies / evaluations or information received from competent authorities) and how these can be overcome.

There are no specific studies, evaluations or information provided from competent authorities on the challenges associated with the transition to 18 years of age experienced by UAMs.

Q51. Please provide any examples of proven (e.g. through evaluation reports / studies) **good practices** regarding the transition to 18 years of age of UAMs in your (Member) State. Please specify the source (e.g. cited in existing evaluations/ studies / other sources or based on publically available information received from competent authorities).

N.D.

## Section 6: Return practices, including reintegration of UAMs

This section of the Synthesis Report will provide an overview of (Member) States' Return policies with regard to unaccompanied minors. (Member) States are also requested to provide information on the procedures that apply when an unaccompanied minor claims to be a minor and once minority is either confirmed or disproved.

Q52. Can an unaccompanied minor be returned (through voluntary or forced return) to the country of origin if s/he does not fulfil the entry requirements set out in Section 2?

Categories of unaccompanied minors that may be returned to the country of origin	Please provide more information about the circumstances under which unaccompanied minors may be returned <u>voluntarily</u> to the country of origin a) in <u>national legislation</u> / policy and b) in <u>practice</u> , with a particular focus on developments since 2009.	Please provide more information about the circumstances under which unaccompanied minors may be the subject of a <u>forced return</u> to the country of origin / Dublin country / transit country a) in <u>national legislation</u> / policy and b) in <u>practice</u> , with a particular focus on developments since 2009.	Please state if the process is different for those cases when the minor's age is doubtful (for instance, when the child has no documents) and the age assessment procedure has not been undertaken yet to determine the age of the minor.
<p><b>Non-asylum seeking unaccompanied minor arriving at a land / sea border or airport</b></p>	<p>A return decision against an UAM can be issued if it is based on a serious threat to public safety or if it is in the best interests of the minor.<sup>357</sup></p> <p>In the latest scenario the UAM duly represented by an ad hoc administrator, will be granted 30 days after the notification of the return decision to leave the territory on a voluntary basis.<sup>358</sup></p> <p>In such a case the ad-hoc administrator can apply for an aid for voluntary return.<sup>359</sup></p> <p>To date, there have been no voluntary returns of UAMs.</p> <p>Should such a case arise, the Directorate of Immigration will consider, together with the tutor, the UAM's family (in case s/he has family in the country where s/he wants to return to) and the minor</p>	<p>Article 103 of the Immigration Law establishes that no return decision can be taken against any minor who is not accompanied by his/her legal representative, except in cases where the decisions are based on imperative grounds of public security, unless the expulsion is in the best interests of the child. The UAM is assisted by an ad hoc administrator during the administrative and judicial proceedings concerning the entry and stay on the territory.<sup>361</sup></p> <p>Before removing an UAM from the territory, the Minister shall ensure that in the State where the minor is going to be expelled, s/he will be returned to a member of his/her family, a designated guardian or to adequate reception facilities.<sup>362</sup></p> <p>In case of a postponement of the removal, the special</p>	<p>No.</p>

	himself/herself, whether it would be in his/her best interests. If all requirements are met, the International organization for Migration (IOM) will be responsible for organising the return. <sup>360</sup>	needs of an UAM must be taken into consideration. <sup>363</sup>  In practice, UAMs are not subject to forced returns. Until today there is no record of any forced return of an UAM. <sup>364</sup>	
<b>Non-asylum seeking unaccompanied minor apprehended in the territory of the (Member) State</b>	See above.	See above.	No.
<b>Asylum seeking unaccompanied minor arriving at a land / sea border or airport</b>	See above.	An UAM seeking international protection cannot be returned until a negative decision on his application is taken, except if s/he is a risk for public safety or public order or national security. In practice, this has never been applied.	No.
<b>Asylum seeking unaccompanied minor apprehended in the territory of the (Member) State</b>	See above.	See above.	No.
<b>Asylum seeking unaccompanied minor arriving at an internal authority (e.g. police, child protection service, etc.)</b>	See above.	See above.	No.
<b>Other (please state)</b>	N.C.		

Q53a. Can unaccompanied minors be detained whilst awaiting return?

**Yes**

Q53b. If yes, please provide more information about the circumstances under which unaccompanied minors may be detained whilst awaiting return, and the legal basis for such detention.

An UAM may be placed in detention in an appropriate place, which is adapted to the needs of someone of his/her age. The best interests of the child shall be taken into account.<sup>365</sup> The Law concerning the Establishment and Organisation of the Detention Centre states that particular attention has to be paid to the situation of vulnerable people, including UAMs.<sup>366</sup>



It should be noted, however, that in practice UAMs are not placed in detention. If the staff of the detention centre were to find out that a detainee is an UAM, s/he will be released after consultation with the Directorate of Immigration. UAMs are then placed into open facilities, such as the reception facility of the Luxembourgish Red Cross or Caritas Luxembourg. The Luxembourgish Detention Centre only had one case so far, where the staff had doubts about the age of a detainee. In this case the Ministry decided to place the possible minor in an adapted reception centre.<sup>367</sup>

The Council of State welcomed in its opinion on Bill n°5802 on the Immigration Law the fact that UAMs were not placed in the Detention Centre, as it functioned at the time. But the Council of State regretted that the authors confined themselves to foresee a placement in an "appropriate place".<sup>368</sup>

In its opinion on the bill n°6218 amending the Immigration Law and the Asylum Law, the CCDH pointed to the fact that the Bill contained the possibility to detain minors, whether accompanied or not. In its opinion it also reminded of the vulnerability and distress of the affected persons as well as the primary consideration of the "best interests of the child" concerning any decision affecting minors. The CCDH therefore questioned the idea of detaining minors.<sup>369</sup>

The Ombudsman recommended in her report on the Detention Centre to provide greater safeguards for the placement in detention of minors, especially UAMs, and to be in line with international standards. The Ombudsman also noted that there is no specific limitation on the duration of detention of UAMs, nor that there is any requirement to limit the use of deprivation of liberty to a measure of last resort.<sup>370</sup> According to the interpretation of the Administrative Court, however, UAMs cannot be detained for longer than 72 hours.<sup>371</sup>

*Q54. Are there any alternatives to detention in place in the (Member) State for unaccompanied minors awaiting return? If yes, please provide more information in this regard.*

Home custody is the only alternative to detention in Luxembourg<sup>372</sup> and is rarely used. The Minister can take the decision to place a person under home custody for a maximum of 6 months if the execution of the obligation to leave the territory was postponed because of technical reasons and if the person can present the necessary guarantees to prevent the risk of absconding<sup>373</sup>. However, as regards UAMs, the case has never arisen because no UAMs have yet been returned.

*Q55a. Does the (Member) State provide reintegration support to unaccompanied minors returning to their country of origin under return procedures? Please consider both voluntary and forced return in your answer.*

**Yes.**

*Q55b. If yes, please describe the reintegration measures in place to support unaccompanied minors before, during and after their return under return procedures.*

Even though to date, no UAM has been returned<sup>374</sup>, if such a situation would arise, the UAM could benefit from the Assisted Voluntary Return and Reintegration in Luxembourg programme. This programme aims to assist vulnerable groups including UAMs, victims of trafficking, single parents, pregnant women, elderly people and persons with serious medical needs.<sup>375</sup>

*Q55c. Please describe the monitoring mechanisms in place to ensure the effective reintegration of unaccompanied minors, including the types of measure undertaken and the duration of the monitoring period.*

As there has not yet been a case of a voluntary return of an UAM, there has been no need to use monitoring mechanisms. Nevertheless, the AVRR Luxembourg programme contemplates the possibility of implementing monitoring mechanisms of voluntary returnees.<sup>376</sup>

## [Section 7: Overview of the International and EU Legislative Framework](#)

*This section of the Synthesis Report will briefly outline the EU legal framework guiding national legislation in relation to unaccompanied minors. It will provide a mapping of the substantive and procedural provisions in the EU acquis that regulate the protection of UAMs. The section will also highlight how the EU acquis relates to the broader international legal framework on UAMs.*

***This section will be developed by the EMN Service Provider and no input from the EMN NCPs is required.***

## [Section 8: Conclusions](#)

*The Synthesis Report will outline the main findings of the Study and present conclusions relevant for policymakers at national and EU level. Member States should include any overall conclusions in the Topline Factsheet at the beginning of the Common Template rather than duplicate information in this Section.*

## Annex 1

**Table 1: Statistics on asylum applications from unaccompanied minors in the (Member) State (2009-2013)**

Please provide the cumulative figures per calendar year (i.e. the number of unaccompanied minors recorded against each criteria during each calendar year). To ensure comparability of data, please provide statistics on UAMs considered by the national authorities to be UAMs. Where available / appropriate, please provide statistics on UAMs who claim to be minors but whose age is doubtful and the age assessment procedure has not yet been undertaken to determine the age of the minor.

<b>1. Statistics on numbers of asylum applications submitted by third-country nationals unaccompanied minors</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Source / further information</b>
1.1 Total Number of Asylum Applications submitted by unaccompanied minors in the (Member) State in each reference period	<b>9</b>	<b>18</b>	<b>22</b>	<b>18</b>	<b>45</b>	Directorate of Immigration

<b>1.2 Total number of Asylum Applications submitted by unaccompanied minors disaggregated by their country of nationality, where available:</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>National authorities/ Eurostat</b>
Afghanistan	0	5	4	2	2	Directorate of Immigration
Albania	0	0	0	1	3	idem
Algeria	0	3	0	0	7	idem
Bangladesh	0	0	1	0	0	idem
Belarus	3	0	1	0	3	idem
Benin	0	1	0	0	1	idem
Bosnia-Herzegovina	0	0	0	0	1	idem
Burundi	1	0	0	0	0	idem

Cameroun	0	1	1	1	1	idem
Congo (R.D.C.)	0	3	1	0	0	idem
Côte d'Ivoire	0	0	0	0	1	idem
Equatorial Guinea	0	0	0	1	0	idem
Eritrea	0	1	1	0	0	idem
Gambia	3	0	0	0	0	idem
Guinea	0	0	0	2	1	idem
Iran	0	0	0	0	0	idem
Iraq	0	2	1	0	0	idem
Kosovo	0	0	1	0	0	idem
Libya	0	0	0	0	5	idem
Morocco	1	1	0	3	10	idem
Serbia	0	0	0	1	0	idem
Sierra Leone	0	0	0	1	0	idem
Somalia	1	0	1	4	2	idem
Syria	0	0	0	0	1	idem
Tanzania	0	0	0	0	1	idem
Togo	0	0	1	0	0	idem

Tunisia	0	0	9	2	3	idem
Ukraine	0	0	0	0	1	idem
Undefined (Palestina)	0	1	0	0	2	idem
<b>Total (must equal the total in 1.1)</b>	<b>9</b>	<b>18</b>	<b>22</b>	<b>18</b>	<b>45</b>	idem

<b>1.3 Total number of Asylum Applications submitted by unaccompanied minors in the (Member) State in each reference period, disaggregated by their sex and age, where available:</b>	<b>2009</b>		<b>2010</b>		<b>2011</b>		<b>2012</b>		<b>2013</b>		<b>Source/ further information</b>
	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	
Less than 14 years old	0	0	1	0	0	0	0	0	2	0	Directorate of Immigration
From 14 to 15 years old	1	1	5	0	6	0	2	1	3	1	idem
From 16 to 17 years old	7	0	11	1	14	2	15	0	37	2	idem
Unknown	0	0	0	0	0	0	0	0	0	0	idem
<b>Total (should equal 1.1)</b>	<b>8</b>	<b>1</b>	<b>17</b>	<b>1</b>	<b>20</b>	<b>2</b>	<b>17</b>	<b>1</b>	<b>42</b>	<b>3</b>	idem

1.4 Total <u>Asylum Decisions</u> for unaccompanied minors, disaggregated by sex	2009		2010		2011		2012		2013		Source/ further information
	M	F	M	F	M	F	M	F	M	F	National authorities
1.4.1 Total number of <u>asylum decisions</u> for unaccompanied minors in the reference year (disaggregated by sex)	1	0	2	1	9	1	8	0	30	0	Directorate of Immigration
1.4.2 Total number of <u>positive asylum decisions</u> for unaccompanied minors in the reference year (disaggregated by sex)	0	0	0	0	2	1	0	0	1	0	idem
1.4.2.1 Of the total positive asylum decisions provided above please provide the <u>status granted to the unaccompanied minor</u> :											
a) Refugee status	0	0	0	0	2	0	0	0	1	0	idem
b) Subsidiary protection	0	0	0	0	0	1	0	0	0	0	idem
c) Humanitarian reasons	0	0	0	0	0	0	0	0	0	0	idem
d) Other	0	0	0	0	0	0	0	0	0	0	idem
Total (must equal 1.4.2.1)	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	idem







<b>2.3 Total number of unaccompanied minors <u>NOT applying for asylum</u> in the (Member) State in each reference period, disaggregated by their sex and age:</b>	<b>2009</b>		<b>2010</b>		<b>2011</b>		<b>2012</b>		<b>2013</b>		<b>Source / further information</b>
	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	
Less than 14 years old	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	Directorate of Immigration
From 14 to 15 years old	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	idem
From 16 to 17 years old	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	idem
Unknown	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	idem
<b>Total (should equal 2.1)</b>	<b>n.i.</b>	<b>n.i.</b>	<b>n.i.</b>	<b>n.i.</b>	<b>n.i.</b>	<b>n.i.</b>	<b>n.i.</b>	<b>n.i.</b>	<b>n.i.</b>	<b>n.i.</b>	idem

<b>2.4 Total number of residence permits granted to unaccompanied minors not in the asylum system, disaggregated by sex</b>	<b>2009</b>		<b>2010</b>		<b>2011</b>		<b>2012</b>		<b>2013</b>		<b>Source / further information</b>
	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	
Type of residence permit granted 1 etc... (please add in additional rows as required):	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	Directorate of Immigration







**Table 4: Statistics on unaccompanied minors in detention pending return in the (Member) State (2009-2013)**

Please provide the cumulative figures per calendar year (i.e. the number of unaccompanied minors recorded against each criteria during each calendar year). To ensure comparability of data, please provide statistics on UAMs considered by the national authorities to be UAMs. Where available / appropriate, please provide statistics on UAMs who claim to be minors but whose age is doubtful and the age assessment procedure has not yet been undertaken to determine the age of the minor.

4.1 Total Number of unaccompanied minors in detention pending return in each reference period, disaggregated by their sex and age:	2009		2010		2011		2012		2013		Source / further information
	M	F	M	F	M	F	M	F	M	F	National data
Less than 14 years old	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	0	0	0	0	Detention Centre
From 14 to 15 years old	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	0	0	0	0	idem
From 16 to 17 years old	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	0	0	0	0	idem
Unknown	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	0	0	0	0	idem
<b>Total</b>	<b>n.i.</b>	<b>n.i.</b>	<b>n.i.</b>	<b>n.i.</b>	<b>n.i.</b>	<b>n.i.</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	idem





**Table 5: Statistics on unaccompanied minors returned from (Member) States (2009-2013)**

Please provide the cumulative figures per calendar year (i.e. the number of unaccompanied minors recorded against each criteria during each calendar year). To ensure comparability of data, please provide statistics on UAMs considered by the national authorities to be UAMs. Where available / appropriate, please provide statistics on UAMs who claim to be minors but whose age is doubtful and the age assessment procedure has not yet been undertaken to determine the age of the minor.

<b>5.1 <u>Forced Return</u> measures</b>	<b>2009</b>		<b>2010</b>		<b>2011</b>		<b>2012</b>		<b>2013</b>		<b>Source / further information</b>
	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	National data
5.1 Total Number of unaccompanied minors returned as part of <u>forced return</u> measures in each reference period (where data exists)	0	0	0	0	0	0	0	0	0	0	Directorate of Immigration
<b>Total (must equal 5.1)</b>	0	0	0	0	0	0	0	0	0	0	Directorate of Immigration

<b>5.2 <u>Voluntary Return</u> measures</b>	<b>2009</b>		<b>2010</b>		<b>2011</b>		<b>2012</b>		<b>2013</b>		<b>Source / further information</b>
	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	National data
5.2 Total Number of unaccompanied minors returned as part of <u>voluntary return</u> measure in each reference period (where data exists)	0	0	0	0	0	0	0	0	0	0	Directorate of Immigration
<b>Total (must equal 5.2)</b>	0	0	0	0	0	0	0	0	0	0	Directorate of Immigration



<b>5.3 Assisted (Voluntary) Return measures</b>	<b>2009</b>		<b>2010</b>		<b>2011</b>		<b>2012</b>		<b>2013</b>		<b>Source / further information</b>
	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	
5.3 Total Number of unaccompanied minors returned as part of <u>assisted voluntary return</u> measure in each reference period (where data exists)	0	0	0	0	0	0	0	0	0	0	Directorate of Immigration
<b>Total (must equal 5.3)</b>	0	0	0	0	0	0	0	0	0	0	Directorate of Immigration

**Table 6: Statistics on outcomes for UAMs on reaching 18 years of age (2009-2013)**

Please provide the cumulative figures per calendar year (i.e. the number of unaccompanied minors recorded against each criteria during each calendar year).

<b>6.1 Outcomes for UAMs on reaching 18 years of age during the reference period, disaggregated by sex, where available</b>	<b>2009</b>		<b>2010</b>		<b>2011</b>		<b>2012</b>		<b>2013</b>		<b>Source / further information</b>
	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	
6.1.1 Total Number of unaccompanied minors reaching 18 years of age during the reference year obtaining a	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	Directorate of Immigration

temporary residence permit to remain in the (Member) State											
6.1.2 Total Number of unaccompanied minors reaching 18 years of age during the reference year obtaining a <u>permanent</u> residence permit to remain in the (Member) State	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	idem
6.1.3 Total Number of unaccompanied minors who become adults in the host country during the reference year, if and when possible disaggregated by those who are at school / possess a work permit / have reunited with their family	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	n.i.	idem

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## ENDNOTES

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- <sup>1</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>2</sup> See First instance Administrative Court, 3<sup>rd</sup> Chamber, n° 30008 of 23 March 2012.
- <sup>3</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>4</sup> Directorate of Immigration, Interview, 9 September 2014 and Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>5</sup> Directorate of Immigration, Interview, 9 September 2014 and Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>6</sup> Caritas, Interview, 30 July 2014.
- <sup>7</sup> Directorate of Immigration, Interview, 9 September 2014, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>8</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>9</sup> Directorate of Immigration, Interview, 9 September 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>10</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>11</sup> Directorate of Immigration, Interview, 9 September 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>12</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>13</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>14</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>15</sup> Before the entry into force of the Law of 8 May 2009 the victims of human trafficking were treated as victims of organized crime. Official of the Ministry of Equal Opportunities, Telephone interview, 2 October 2014.
- <sup>16</sup> There have been only 2 or 3 cases of TCNs UAM after the law entered into force. Official of the Ministry of Equal Opportunities, Telephone interview, 2 October 2014.
- <sup>17</sup> Official of the Ministry of Equal Opportunities, Telephone interview, 2 October 2014.
- <sup>18</sup> See Annex 1, Table 1.
- <sup>19</sup> Ad-Hoc Query on communication strategies used for sensitisation and prevention campaigns in third countries, requested by BE EMN NCP on 15 October 2013. Information provided by the Directorate of Cooperation.
- <sup>20</sup> Africa-EU Partnership, CAMPO: for a better circulation of skills between Cape Verde and the EU, <http://www.africa-eu-partnership.org/success-stories/campo-better-circulation-skills-between-cape-verde-and-eu>
- <sup>21</sup> Within the Mobility Partnership, Luxembourg has also committed itself to studying the possibility of establishing an initiative in the area of circular migration of a temporary nature with Cape Verde. A bilateral agreement between Luxembourg and Cape Verde, which relates to a possible joint management of migration flows and supportive development is still not ready to be signed. Luxembourg submitted its proposed amendments in September 2012.

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- <sup>22</sup> The project entitled is closed since 2010. The activities initiated by the project were taken over by the Ministry of Cape Verdean Communities. See, *Migrate with open eyes*, EMN-NCP-LU, Political report on migrations and asylum, 2010, 9.1.1., <https://www.emnluxembourg.lu/type-documentation/rapport-politique-sur-les-migrations-et-lasile-2010>
- <sup>23</sup> MAE, Directorate for Cooperation, internal document; Autonomous Development Aid, <http://www.microfinance.lu/>
- <sup>24</sup> Article 119 (5) of the amended law of 29 August 2008 on the Free Movement of Persons and Immigration, Official Journal, Memorial A, No. 113, 03.07.2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf>
- <sup>25</sup> Article 119(5) of the Immigration Law.
- <sup>26</sup> « *Unité Centrale de Police de l'Aéroport* », Interview, 12 September 2014.
- <sup>27</sup> Interview with an agent of the Judicial Police, 7 October 2014.
- <sup>28</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>29</sup> Article 34 of the Immigration Law.
- <sup>30</sup> Please note that, as mentioned above, with the exception of the 'Luxembourg Findel airport', Luxembourg has no external borders. It is extremely rare that UAMs arrive by plane to Findel though, also because connections to countries of origin from UAMs are quasi inexistent. In those cases where aircraft is used as means of transportation by UAMs, they usually land at major European airports, in particular Brussels and Paris, and subsequently travel by train, bus or car to Luxembourg.
- <sup>31</sup> Article 105 (1) of the Immigration Law.
- <sup>32</sup> Article 119 (5) of the Immigration Law.
- <sup>33</sup> Article 119(5) of the Immigration Law.
- <sup>34</sup> Article 103 of the Immigration Law.
- <sup>35</sup> See legal opinion of the State Council. Parliamentary document, n°6218/02 of 24 May 2011, [http://www.chd.lu/wps/PA\\_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Ma/g/089/938/098387.pdf](http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Ma/g/089/938/098387.pdf) .
- <sup>36</sup> Article 6 (1) of the amended law of 5 May 2006 on the Right of Asylum and Complementary Forms of Protection (from here on referred to as "Asylum Law"), Official Journal, Memorial A, No. 113, 3 July of 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>.
- <sup>37</sup> Interview with an agent of the Judicial Police, 7 October 2014.
- <sup>38</sup> Article 6 (4) of the Asylum Law.
- <sup>39</sup> Article 12 (1) of the Asylum Law.
- <sup>40</sup> Article 103 of the Asylum Law.
- <sup>41</sup> Article 12 (3) of the Asylum Law.
- <sup>42</sup> Interview with an agent of the Judicial Police, 13 October 2014.
- <sup>43</sup> Article 119(5) of the Immigration Law.
- <sup>44</sup> Interview with an agent of the Judicial Police, 7 October 2014.
- <sup>45</sup> Directorate of Immigration, Interview, 9 September 2014. Public Prosecutor Office, telephone interview, 14 October 2014.
- <sup>46</sup> Written answer of the Public Prosecutor Office, 14 October 2014.

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<sup>47</sup> [Amended Law of 10 August 1992 on Youth Protection.](#)

<sup>48</sup> [Civil Code, decreed on 8 March 1803.](#)

<sup>49</sup> Directorate of Immigration, Interview, 9 September 2014.

<sup>50</sup> Interview with an agent of the Judicial Police, 7 October 2014.

<sup>51</sup> Written answer of the Public Prosecutor Office, 14 October 2014.

<sup>52</sup> Official of the Refugee Service, Directorate of Immigration, Telephone interview, 15 October 2014.

<sup>53</sup> Official of the Refugee Service, Directorate of Immigration, Telephone interview, 15 October 2014.

<sup>54</sup> Article 120 (1) of the Immigration Law.

<sup>55</sup> Article 120 (1) of the Immigration Law.

<sup>56</sup> For more details see Q.14.

<sup>57</sup> Article 103 of the Immigration Law.

<sup>58</sup> Directorate of Immigration, Interview, 9 September 2014

<sup>59</sup> This article was modified by Law of 9 April 2014. See Mémorial A 63 of 14 April 2014.

<sup>60</sup> Article 93 of the Immigration Law.

<sup>61</sup> Article 95 of the Immigration Law.

<sup>62</sup> Article 92 (2) of the Immigration Law.

<sup>63</sup> Article 93 (1) of the Immigration Law.

<sup>64</sup> Article 93 (2) of the Immigration Law.

<sup>65</sup> Article 93 (3) of the Immigration Law.

<sup>66</sup> Article 93 of the Immigration Law.

<sup>67</sup> *Unité Centrale de Police à l'Aéroport*, Interview, 12 September 2014

<sup>68</sup> The CCDH said : *"La CCDH estime qu'il est fondamental de porter une attention toute particulière aux besoins des personnes en situation de vulnérabilité, qu'elles soient demandeurs de protection internationale, déboutés ou non ou encore en situation irrégulière, telles les mineurs accompagnés ou non, les personnes présentant un handicap, les parents isolés accompagnés d'enfants mineurs, les personnes qui ont été victimes de torture, de viol ou d'une autre forme grave de violence psychologique, physique ou sexuelle et les femmes. La CCDH constate cependant qu'il n'existe, dans la législation luxembourgeoise, aucun mécanisme ni système de détection de ces situations de vulnérabilité. En ce qui concerne les demandeurs de protection internationale, elle invite le législateur à se conformer à l'article 17 de la directive 2003/9/CE du Conseil du 27 janvier 2003 relative à des normes minimales pour l'accueil des demandeurs d'asile dans les Etats membres en instaurant un tel mécanisme de détection. Pour les ressortissants de pays tiers, elle invite le législateur à s'en inspirer."*

Opinion of the Consultative Commission of Human Rights, Parliamentary document, n°6218/04 of 28 April 2011, p.10  
[http://www.chd.lu/wps/PA\\_RoleEtendu/FTSByteServingServletImpl/?path=/export/exped/sexpdata/Ma g/108/039/100378.pdf](http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServingServletImpl/?path=/export/exped/sexpdata/Ma g/108/039/100378.pdf)

<sup>69</sup> Information provided by the Head of the Organized Crime unit of the Judicial Police, 13 October 2014.

<sup>70</sup> LU EMN NCP, "Identification of Victims of Trafficking in Human Beings in International Protection and Forced Return Procedures, Luxembourg 2013

<sup>71</sup> *Femmes en détresse a.s.b.l.*, Telephone interview, 18 September 2014.

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<sup>72</sup> Directorate of Immigration, Interview, 9 September 2014.

<sup>73</sup> Article 6 (1) of the Asylum Law.

<sup>74</sup> Article 6 (1) and (4) of the Asylum Law.

<sup>75</sup> Article 6 (5) and (7) of the Asylum Law.

<sup>76</sup> Article 8 of the Asylum Law.

<sup>77</sup> Article 8 of the Asylum Law.

<sup>78</sup> Article 12 (3) of the Asylum Law.

<sup>79</sup> Article 12 (1) of the Asylum Law.

<sup>80</sup> Article 7 (1) of the Asylum Law.

<sup>81</sup> Articles 9 (1) and (6) in relation with article 12 (1) of the Asylum Law.

<sup>82</sup> Article 12 (1) of the Asylum Law.

<sup>83</sup> Article 12 (3) of the Asylum Law.

<sup>84</sup> Article 12 (4) of the Asylum Law.

<sup>85</sup> Article 12 (3) of the Asylum Law.

<sup>86</sup> Article 19 (1) of the Asylum Law.

<sup>87</sup> In this case the silence of the administration is considered a tacit rejection of the application.

<sup>88</sup> Article 19 (3) of the Asylum Law.

<sup>89</sup> Article 19 (3) of the Asylum Law.

<sup>90</sup> Article 19 (3) of the Asylum Law.

<sup>91</sup> The situations foreseen by this article are: a) the application is totally unfounded; b) it is obvious from the application that the applicant does not fulfil the required conditions for obtaining the international protection status; c) the applicant comes from a safe country; d) the applicant had induced in error the authorities when presenting false indications or false documents or hiding or dissimulating relevant information or documents concerning his/her identity which could have negatively influenced the decision; e) the applicant had filed an application with different personal information; f) the applicant had not produced any information which allows to establish, with certainty, his/her identity or nationality; g) the applicant had made incoherent, contradictory, improbable or insufficient statements to prove that s/he fulfils the conditions for obtaining the international protection status; h) the applicant has not introduced his/her application earlier without a valid reason, when s/he was in the possibility to do so; i) the applicant has introduced the application only to delay or to obstruct the execution of a previous decision of removal from the territory; j) the applicant had not submitted or not produced voluntarily the documents which allow to prove his/her identity or nationality; k) the applicant had entered illegally or had overstayed his/her entry and without a valid reason has not presented to the authorities or filed an international protection application; l) the applicant is a threat to national security or public order and m) the applicant refuses to submit to the collection of his/her fingerprints.

<sup>92</sup> Article 20 (3) of the Asylum Law establishes that the applicant can file three different types of recourses (annulment of the decision, reformation of the decision and the annulment against the order to leave the territory). However, the three recourses must be filed together in the same document and at the same time. If one is filed in a separate document or on a later date it will be declared inadmissible.

<sup>93</sup> Article 20 (3) of the Asylum Law.

<sup>94</sup> Article 10 (1) c) of the Asylum Law.

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- <sup>95</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>96</sup> Article 12 (1) of the Asylum Law.
- <sup>97</sup> Directorate of Immigration, Interview, 9 September 2014. Public Prosecutor Office, telephone interview, 14 October 2014.
- <sup>98</sup> Written answer of the Public Prosecutor Office, 14 October 2014.
- <sup>99</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>100</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>101</sup> Caritas, Interview, 30 July 2014.
- <sup>102</sup> Caritas, Interview, 30 July 2014.
- <sup>103</sup> Attorney at Law specialised in migration, telephone interview, 5 September 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>104</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>105</sup> Article 12 (2) of the Asylum Law.
- <sup>106</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>107</sup> Article 12 (1) of the Asylum Law.
- <sup>108</sup> Article 12 (1) of the Asylum Law.
- <sup>109</sup> Both NGOs have signed collaboration agreements with the "Luxembourgish Reception and Integration Agency" (OLAI) under the auspices of the Ministry of Family, Integration and the Greater Region, who carries out overall responsibility for the reception of applicants for international protection and has a national coordinator role for the entire reception scheme. Thus, the Luxembourgish Red Cross and Caritas Luxembourg take charge of unaccompanied minors.
- <sup>110</sup> Written answer of the Public Prosecutor Office, 14 October 2014.
- <sup>111</sup> Article 12 (1) of the Asylum Law.
- <sup>112</sup> Article 379 in relation to articles 388-1 to 392, 407 and 433 of the Civil Code.
- <sup>113</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>114</sup> Official of the Ministry of Equal Opportunities, telephone interview, 2 October 2014.
- <sup>115</sup> Caritas, Interview, 30 July 2014.
- <sup>116</sup> Attorney at Law specialised in migration, Telephone interview, 5 September 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>117</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>118</sup> Article 52 (6) of the Asylum Law.
- <sup>119</sup> Article 10 (3) of the Grand Ducal regulation of 8 June 2012 laying down the terms and conditions for granting a social aid to international protection applicants, Official Journal, Memorial A, No. 123, 20.06.2012, <http://www.legilux.public.lu/leg/a/archives/2012/0123/a123.pdf#page=2>
- <sup>120</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014
- <sup>121</sup> Article 52 of the Asylum Law.
- <sup>122</sup> Attorney at Law specialised in migration, Telephone interview, 5 September 2014.

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- <sup>123</sup> Parliamentary document, n°6507/04 of 09 April 2013, p.3,  
[http://www.chd.lu/wps/PA\\_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/118/231/121370.pdf](http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/118/231/121370.pdf)
- <sup>124</sup> Law of 19 June 2013 amending the 1. Amended law of 5 May 2006 on right of asylum and other complementary forms of protection; 2. Amended law of 29 August 2008 on free movement of persons and immigration. Published in [Mémorial A-106 of 25 June 2013](#).
- <sup>125</sup> *Ombuds Comité fir d'Rechter vum Kand* (ORK) Report 2013, p.46,  
[http://ork.lu/files/Rapport\\_ORK\\_2013\\_WEB.pdf](http://ork.lu/files/Rapport_ORK_2013_WEB.pdf)
- <sup>126</sup> This is a result of the judgment n° 30869C of 25 July 2012 of the Administrative Court, which established that seen the unreliability of the bone test the doubt has to favour the applicant. Official of the Refugee Service, Directorate of Immigration, Telephone interview, 15 October 2014. See also endnote 135.
- <sup>127</sup> Article 12 (3) of the Asylum Law.
- <sup>128</sup> Article 12 (3) of the Asylum Law.
- <sup>129</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>130</sup> Article 12 (4) of the Asylum Law.
- <sup>131</sup> Article 12 (3) of the Asylum law.
- <sup>132</sup> The CCDH in its opinion on bill n°6507 amending the Asylum Law expressed its concerns regarding the issue of age assessment tests and argues that the current test analysing the bone development should not on its own suffice to establish age. On the contrary, other elements should be taken into account additionally.  
See Parliamentary document, n°6507/04 of 09 April 2013, p.3,  
[http://www.chd.lu/wps/PA\\_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/118/231/121370.pdf](http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/118/231/121370.pdf).
- <sup>133</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>134</sup> See judgment n° 30869C of 25 July 2012. The Court said: *«La Cour, à l'instar du tribunal, partage les doutes sérieux émis à l'encontre des conclusions du docteur ..., médecin spécialiste en radiologie au CHL, en relation avec l'âge exact de Monsieur ... et notamment la conclusion que celui-ci serait âgé de plus de 18 ans. En effet, si le médecin spécialiste arrive à la conclusion que l'âge osseux de l'intimé déterminé par la méthode de GREULICH et PYLE est supérieur à 18 ans, il convient cependant de signaler que le rapport médical du 6 avril 2012 n'exprime aucune certitude à ce sujet, mais uniquement une « estimation la plus probable ». Dans ce contexte, la Cour rejoint les développements des premiers juges concernant le manque de fiabilité de la méthode appliquée afin de déterminer l'âge réel de Monsieur ... et notamment le « risque d'erreur majeur à l'égard d'enfants non caucasiens, originaires d'Afrique, ou d'Asie, dont le développement osseux peut être tout à fait hétérogène par rapport aux références anglo-saxonnes suscitées et qui peut être profondément affecté par des carences ou des pathologies inconnues dans les populations de référence remontant à plus d'un demi-siècle ». S'y ajoute que d'après un rapport établi en France par l'Académie Nationale de Médecine, invoqué tant par la partie étatique que par l'intimé, la lecture de l'âge osseux par la méthode de GREULICH et PYLE permet uniquement d'apprécier avec une bonne approximation l'âge de développement d'un adolescent en dessous de 16 ans, mais que cette méthode ne permet pas de distinction nette pour des personnes âgées entre 16 et 18 ans, période d'âge précisément litigieuse dans le cas d'espèce. Finalement, le docteur ... précise lui-même en fin de rapport que « la méthode de GREULICH et PYLE a été développée pour suivre dans le temps la maturation squelettique dans les pathologies interférant avec la croissance staturo-pondérale mais pas pour la détermination de l'âge chronologique ». ... « Il s'ensuit que c'est à tort que la partie étatique estime qu'il existerait un faisceau d'indices bien plus concluant en faveur de la majorité de l'intimé qu'en faveur de sa minorité, l'incertitude à ce sujet devant être interprétée en faveur du concerné afin de pouvoir profiter des*



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dispositions protectrices accrues applicables aux mineurs, dont notamment l'article 6, paragraphe (3), de la loi du 28 mai 2009 ».

<sup>135</sup> *Ombuds Comité fir d'Rechter vum Kand* (ORK) Report 2013, p.46.

Please note also that article 13 of the Asylum Law foresees the members of the *Comité luxembourgeois des droits de l'enfant* [Luxembourg Committee for the Rights of the Child] (ORK) and any officially approved organisation shall be authorised:

- (a) to have access to applicants, including those detained in an enclosed institution in accordance with Article 10 above;
- (b) to have access to information on individual applications for international protection, on the course of the procedure and on the decisions taken, provided that the applicant agrees thereto;
- (c) to present their views , in the exercise of the supervisory responsibilities under Article 35 of the 1951 Geneva Convention, to any competent authority regarding individual applications for international protection at any stage of the procedure.

[http://ork.lu/files/Rapport\\_ORK\\_2013\\_WEB.pdf](http://ork.lu/files/Rapport_ORK_2013_WEB.pdf).

<sup>136</sup> Article 20 (1) d) of the Asylum Law. Official of the Refugee Service, Directorate of Immigration, Telephone interview, 15 October 2014. See also endnote 127.

<sup>137</sup> Official of the Refugee Service, Directorate of Immigration, Telephone interview, 15 October 2014. See also endnote 127.

<sup>138</sup> Official of the Refugee Service, Directorate of Immigration, Telephone interview, 15 October 2014. See also endnote 127.

<sup>139</sup> Official of the Refugee Service, Directorate of Immigration, Telephone interview, 15 October 2014.

<sup>140</sup> Directorate of Immigration, Interview, 9 September 2014.

<sup>141</sup> Directorate of Immigration, Interview, 9 September 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.

<sup>142</sup> Law of 9 April 2014 strengthening the right of victims of trafficking in human beings, Memorial A, n°63, 14.04.2014,  
[http://www.chd.lu/wps/PA\\_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Maig/199/294/129983.pdf](http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Maig/199/294/129983.pdf)

<sup>143</sup> The commentary on article 4 of the bill n° 6562 expressly mentions: « Ainsi par exemple les Etats membres doivent faire en sorte qu'en cas d'incertitude sur l'âge d'une victime de la traite des êtres humains et lorsqu'il existe des raisons de croire qu'elle est un enfant, cette personne soit présumée être un enfant et reçoive un accès immédiat aux mesures d'assistance, d'aide et de protection prévues dans la directive à cet égard. » See Parliamentary document, n°6562/00 of 11 April 2013, p.7.

<sup>144</sup> Article 3 of the Law of 8 May 2009 modified by law of 9 April 2014.

<sup>145</sup> Directorate of Immigration, Interview, 9 September 2014 also Interview with an agent of the Judicial Police, 7 October 2014. In case the UAM applies for international protection, s/he is directed to the Directorate of Immigration to file the application and then if needed the Directorate of Immigration will order the test for the assessing the age of the applicant.

<sup>146</sup> See Article 78 (3) of the Immigration Law.

<sup>147</sup> Article 46 (1) and (2) of the Asylum Law.

<sup>148</sup> Article 78 (3) of the Immigration Law.

<sup>149</sup> Article 93 (1) of the Immigration Law.

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- <sup>150</sup> Article 93 (3) of the Immigration Law.
- <sup>151</sup> Article 95 of the Immigration Law.
- <sup>152</sup> Article 46 (1) and (2) of the Immigration Law.
- <sup>153</sup> Article 45 (1) and (2) of the Asylum Law in accordance with article 70 (4) of the Immigration Law.
- <sup>154</sup> Grand Ducal Regulation of 8 June 2012 laying down the terms and conditions for granting a social aid to international protection applicants, Official Journal, Memorial A, No. 123, 20 June 2012, <http://www.legilux.public.lu/leg/a/archives/2012/0123/2012A1586A.html>.
- <sup>155</sup> Directorate of Immigration, Interview, 9 September 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>156</sup> Directorate of Immigration, Interview, 9 September 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>157</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>158</sup> OLAI, Interview, 22 July 2014.
- <sup>159</sup> OLAI, Interview, 22 July 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>160</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>161</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>162</sup> Directorate of Immigration, Interview, 9 September 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>163</sup> Articles 1 and 2 Grand Ducal Regulation of 8 June 2012 setting the conditions and modalities under which international protection applicants may benefit from social aid. OLAI, Interview, 22 July 2014.
- <sup>164</sup> In the 'Don Bosco' facility and the Caritas facility food is provided, whereas in the reception facility run by the Luxembourgish Red Cross in 'Eich', UAMs cook for themselves. Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>165</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>166</sup> Caritas, Interview, 30 July 2014
- <sup>167</sup> Article 8 of the Grand Ducal Regulation of 8 June 2012 setting the conditions and modalities under which asylum seekers may benefit from social aid.
- <sup>168</sup> Article 1 of the Grand Ducal Regulation of 8 June 2012 setting the conditions and modalities under which asylum seekers may benefit from social aid.
- <sup>169</sup> See Law of 6 February 2009 on compulsory school attendance, Memorial A N° 187 3 September 2009 <http://www.legilux.public.lu/leg/a/archives/2009/0020/a020.pdf>.
- For further information regarding schooling, please see Section 3.5 Education.
- <sup>170</sup> Directorate of Immigration, Interview, 9 September 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>171</sup> LU EMN NCP answer to PL EMN NCP Ad-hoc query on safe centers for unaccompanied minors - victims of trafficking in human beings launched 11 December 2013.
- <sup>172</sup> Article 3 of the Law of 16 December 2008. <http://www.legilux.public.lu/leg/a/archives/2008/0209/a209.pdf>
- <sup>173</sup> Caritas, Interview, 30 July 2014

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- <sup>174</sup> LU EMN NCP, The organisation of Reception Facilities for Asylum Seekers in different Member States, Luxembourg 2013, p.19.
- <sup>175</sup> *Office national de l'enfance*, (ONE). The National Authority for Children' is an administration of the Ministry of national education, childhood and youth, established by the law of 16 December 2008 on family and childcare services. <http://www.men.public.lu/fr/enfance-jeunesse/one/index.html> .
- <sup>176</sup> OLAI, Interview, 22 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>177</sup> Caritas, Interview, 30 July 2014.
- <sup>178</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>179</sup> Caritas, Interview, 30 July 2014.
- <sup>180</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>181</sup> In case UAMs are aged below 16 years, the Luxembourgish Red Cross systematically tries to accommodate them in a children's home. In case the UAM is aged 15 years and the Luxembourgish Red Cross is unable to find an appropriate place for him/her, they accommodate the UAM in their facility in Eich. In an exceptional case in the past, a 14-year-old UAM had been accommodated in Eich because there was no appropriate place available. Red Cross Luxembourg, Interview, 24 July 2014
- <sup>182</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>183</sup> Caritas, Interview, 30 July 2014.
- <sup>184</sup> Please note that Ireland does not participate in this Directive.
- <sup>185</sup> Article 52 (3) a) of the Asylum Law.
- <sup>186</sup> Information provided by the '*Office national de l'enfance*', (ONE), 1 December 2014, [www.one.public.lu](http://www.one.public.lu)
- <sup>187</sup> Article 27 of the Law of 18 December 2009 on social aid, Memorial A, No. 206, 18 November 2010
- <sup>188</sup> See Article 2 of the Grand Ducal Regulation of 8 June 2012 setting the conditions and modalities under which asylum seekers may benefit from social aid.
- <sup>189</sup> Article 52 (3) b) of the Asylum Law.
- <sup>190</sup> Caritas, Interview, 30 July 2014.
- <sup>191</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>192</sup> Article 52 (3) c) of the Asylum Law.
- <sup>193</sup> OLAI, Interview, 22 July 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>194</sup> Article 52 (3) d) of the Asylum Law.
- <sup>195</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>196</sup> LU EMN NCP, The organisation of Reception Facilities for Asylum Seekers in different Member States, Luxembourg 2013, p.14.
- <sup>197</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>198</sup> *Femmes en détresse a.s.b.l.*, <http://fed.lu/wp/services/meederchershaus/> .
- <sup>199</sup> OLAI, Interview, 22 July 2014 and Ministry for Equal Opportunities (MEGA), phone interview, 12 September 2014.
- <sup>200</sup> Ministry for Equal Opportunities (MEGA), phone interview, 12 September 2014.

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- <sup>201</sup> Official of the Ministry of Equal Opportunities, Telephone interview, 2 October 2014. Nevertheless, in case a male UAM victim of human trafficking will appear the police is obliged to find proper accommodation in cooperation with the other stakeholders.
- <sup>202</sup> Article 52 (4) of the Asylum Law.
- <sup>203</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>204</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>205</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>206</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>207</sup> Article 8 (1) of the Grand Ducal Regulation of 8 June 2012 setting the conditions and modalities under which asylum seekers may benefit from social aid.
- <sup>208</sup> Article 8 (2) of the Grand Ducal Regulation of 8 June 2012 setting the conditions and modalities under which asylum seekers may benefit from social aid.
- <sup>209</sup> OLAI, Interview, 22 July 2014.
- <sup>210</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>211</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>212</sup> Article 1 (10) of the Grand Ducal Regulation of 8 June 2012 setting the conditions and modalities under which asylum seekers may benefit from social aid.
- <sup>213</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>214</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>215</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>216</sup> Rules of procedure, Foyer Saint-Antoine, Caritas Luxembourg.
- <sup>217</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>218</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>219</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>220</sup> *Initiativ Liewensufank a.s.b.l.*, <http://www.liewensufank.lu/>.
- <sup>221</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>222</sup> Caritas Luxembourg, "*Form'actif, Service Solidarité et Intégration*" (Brochure) and Caritas, Interview, 30 July 2014.
- <sup>223</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>224</sup> Caritas, Interview, 30 July 2014.
- <sup>225</sup> OLAI, Interview, 22 July 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>226</sup> Caritas Luxembourg, "*Form'actif, Service Solidarité et Intégration*" (Brochure) and Caritas, Interview, 30 July 2014.
- <sup>227</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>228</sup> Caritas, Interview, 30 July 2014.
- <sup>229</sup> OLAI, Interview, 22 July 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014

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- <sup>230</sup> Luxembourgish Refugee Council, Press statement on the eve of the national elections, 30 September 2013.
- <sup>231</sup> Article 7 of the Asylum Law.
- <sup>232</sup> Article 12 (1) of the Asylum Law. In practice, the role of the ad-hoc administrator is exactly the same as the role fulfilled by the lawyer. This is also why in practically all cases the ad-hoc administrator and the lawyer representing the UAM are assumed by the same person.
- <sup>233</sup> Article 52 (1) of the Asylum Law. Attorney at Law specialised in migration, Phone interview, 5 September 2014.
- <sup>234</sup> The appointment of the ad-hoc administrator for an UAM is established by the Immigration Law. However, the role of the guardian is established in Article 379 in relation to articles 388-1 to 392, 407 and 433 of the Civil Code.
- <sup>235</sup> Article 69 of the Asylum Law.
- <sup>236</sup> Article 119(5) of the amended law of 29 August 2008.
- <sup>237</sup> Article 103 of the amended law of 29 August 2008.
- <sup>238</sup> Article 92 of the amended law of 29 August 2008.
- <sup>239</sup> *Barreau de Luxembourg*, <http://www.barreau.lu/>.
- <sup>240</sup> Ministère de la Justice, <http://www.mj.public.lu/>.
- <sup>241</sup> *Tribunal de la jeunesse et des tutelles*, <http://www.justice.public.lu/fr/organisation-justice/juridictions-judiciaires/tribunaux-arrondissement/tribunal-jeunesse/index.html>
- <sup>242</sup> The CCDH in its legal opinion on the Bill n°6507 had pointed out certain problems with regards to legal support of unaccompanied minors (see Q.8).
- <sup>243</sup> Article 125 bis (2) of the Immigration Law in accordance with article 27 of the law of 18 December 2009.
- <sup>244</sup> Article 78 (3) of the Immigration Law.
- <sup>245</sup> Article 93 (1) of the Immigration Law.
- <sup>246</sup> Article 1 (1) § 1, 2 and 3 of the Grand ducal regulation of 11 September 2014.
- <sup>247</sup> Article 1 (2) of the Grand ducal regulation of 11 September 2014.
- <sup>248</sup> Article 1 (3) of the Grand Ducal Regulation of 8 June 2012. See annex of règlement Grand Ducal Regulation. Draft bill of the Grand Ducal Regulation of 8 June 2012, point 3, See *Chambre des Salaries Luxembourg*, project n° 03/2012-1 *Aide sociale pour les demandeurs de protection internationale*, 16 January 2012, p. 6.
- <sup>249</sup> Article 1 (3) of the Grand Ducal Regulation of 8 June 2012.
- <sup>250</sup> Official of the OLAI, Telephone interview, 15 October 2014. The medical treatment of any kind (except dental care and important chirurgical interventions that are not urgent) is covered by the OLAI during the qualifying period. Dental care and chirurgical interventions which are not urgent will be covered by the National Health Fund after the qualifying period.
- <sup>251</sup> LU EMN NCP, *Migrant access to social security and healthcare: policies and practice*, Luxembourg, 2013, p. 41. Draft bill of the Grand Ducal Regulation of 8 June 2012, point 3, See *Chambre des Salaries Luxembourg*, project n° 03/2012-1 *Aide sociale pour les demandeurs de protection internationale*, 16 January 2012, p. 6.
- <sup>252</sup> Article 1 (4) of the Grand Ducal Regulation of 8 June 2012 setting the conditions and modalities under which asylum seekers may benefit from social aid.

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- <sup>253</sup> Article 51 (2) of the Asylum Law.
- <sup>254</sup> Article 1 (4) of the Grand Ducal Regulation of 8 June 2012.
- <sup>255</sup> Draft bill of the Grand Ducal Regulation of 8 June 2012, point 3, See *Chambre des Salaries Luxembourg*, project n° 03/2012-1 *Aide sociale pour les demandeurs de protection internationale*, 16 January 2012, p. 6.
- <sup>256</sup> Article 1 (8) of the Grand Ducal Regulation of 8 June 2012 also annex to the Grand ducal regulation of 8 June 2012.
- <sup>257</sup> Article 1 (6), (9) and (10) of the Grand Ducal Regulation of 8 June 2012. See also annex to the Grand ducal regulation of 8 June 2012.
- <sup>258</sup> Article 4 (1) of the Grand Ducal Regulation of 8 June 2012.
- <sup>259</sup> See Article 2 of the Social Security Code and Article 1 (4) of the Grand Ducal Regulation of 8 June 2012.
- <sup>260</sup> Draft bill of the Grand Ducal Regulation of 8 June 2012, point 3, See *Chambre des Salaries Luxembourg*, project n° 03/2012-1 *Aide sociale pour les demandeurs de protection internationale*, 16 January 2012, p. 6.
- <sup>261</sup> Draft bill of the Grand Ducal Regulation of 8 June 2012, point 4, See *Chambre des Salaries Luxembourg*, project n° 03/2012-1 *Aide sociale pour les demandeurs de protection internationale*, 16 January 2012, p. 6.
- <sup>262</sup> Mapping of the migration activities of European National Red Cross Societies 2012-2013 Update LUXEMBOURG, 2012, p. 2.
- <sup>263</sup> Official of the OLAI, Telephone interview, 15 October 2014.
- <sup>264</sup> See [http://www.msf.lu/fileadmin/WEBLibrary/4\\_Donner/guide\\_msf.pdf](http://www.msf.lu/fileadmin/WEBLibrary/4_Donner/guide_msf.pdf). See also LU EMN NCP answer to SI EMN NCP ad-hoc query on medical service for persons with international protection, launched on 24 January 2012.
- <sup>265</sup> The study was done by Marie-Cecile Charles. See: Wirion, Michèle, *Santé mentale et exil au Luxembourg*, Forum n° 302, pp. 44 – 46.
- <sup>266</sup> Article 49 (1) of the Asylum Law.
- <sup>267</sup> Article 7 of the Law of 6 February 2009 on compulsory school attendance.  
<http://www.legilux.public.lu/leg/a/archives/2009/0020/a020.pdf>.
- <sup>268</sup> CASNA (*Cellule d'accueil scolaire pour élèves nouveaux arrivants*) is a unit inside the Ministry of National Education, Childhood and Youth that guides the student, based on his school record, towards a school corresponding to his profile, *Ministère de l'Education nationale, de l'Enfance et de la Jeunesse*, <http://www.men.public.lu/fr/systeme-educatif/scolarisation-eleves-et-rangers/informations-parents/index.html>.
- <sup>269</sup> « *Informations concernant l'accueil des demandeurs de protection internationale destinés aux directions de l'enseignement postprimaire et aux membres des SPOS* », Ministry of National Education, Childhood and Youth, September 2012, [http://www.men.public.lu/fr/systeme-educatif/scolarisation-eleves-et-rangers/informations-enseignants/demandeurs-protection-internationale/130218\\_info\\_lycees.pdf](http://www.men.public.lu/fr/systeme-educatif/scolarisation-eleves-et-rangers/informations-enseignants/demandeurs-protection-internationale/130218_info_lycees.pdf).
- <sup>270</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>271</sup> Caritas Luxembourg, "*Form'actif, Service Solidarité et Intégration*" (Brochure) and Caritas, Interview, 30 July 2014
- <sup>272</sup> The INL (*Institut national des langues*) is a national language training institution of the Ministry of National Education, Childhood and Youth. For further information please see: <http://www.insl.lu/>.
- <sup>273</sup> Red Cross Luxembourg, Interview, 24 July 2014.

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- <sup>274</sup> OLAI, Interview, 22 July 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>275</sup> Service de scolarisation des enfants étrangers/CASNA, phone interview, 5 September 2014.
- <sup>276</sup> In 2009/2010, 16,5% of all children in basic education were born outside of Luxembourg and for 54,2% the language spoken at home was other than Luxembourgish, *Luxembourg.lu*, "Scolarisation des enfants étrangers", <http://www.luxembourg.public.lu/fr/societe/education-formation/scolarisation-etrangers/index.html> .
- <sup>277</sup> Article 34 of the Law of 6 February 2009 on compulsory school attendance and Article 1 of the Grand-Ducal Regulation of 16 June 2009 determining the functioning of welcome and support classes for children newly settled in the country, <http://www.legilux.public.lu/leg/a/archives/2009/0144/a144.pdf>.
- <sup>278</sup> Article 22 (1) of the Law of 6 February 2009 on compulsory school attendance.
- <sup>279</sup> « *Accueillir et intégrer* » (Brochure), Ministry of National Education, Childhood and Youth, *Service de la scolarisation des enfants étrangers*, November 2014 and « *Vade-mecum à l'intention du personnel enseignant, du personnel socio-éducatif et des communes. Vous accueillez en classe un enfant nouvellement installé au pays-que faire?* », Ministry of National Education, Childhood and Youth, 2013.
- <sup>280</sup> OLAI, Interview, 22 July 2014.
- <sup>281</sup> « *Informations concernant l'accueil des demandeurs de protection internationale destinés aux directions de l'enseignement postprimaire et aux membres des SPOS* », Ministry of National Education, Childhood and Youth, September 2012, [http://www.men.public.lu/fr/systeme-educatif/scolarisation-eleves-etrangers/informations-enseignants/demandeurs-protection-internationale/130218\\_info\\_lycees.pdf](http://www.men.public.lu/fr/systeme-educatif/scolarisation-eleves-etrangers/informations-enseignants/demandeurs-protection-internationale/130218_info_lycees.pdf)
- <sup>282</sup> These are classes where all courses are taught in French. School curriculums are identical to those of other classes. See « *L'école du succès, une chance pour tous* » (brochure), Ministry of National Education, Childhood and Youth, 2014.
- <sup>283</sup> « *Accueillir et intégrer* » (Brochure), Ministry of National Education, Childhood and Youth, *Service de la scolarisation des enfants étrangers*, November 2014.
- <sup>284</sup> Caritas Luxembourg, "*Form'actif, Service Solidarité et Intégration*" (Brochure).
- <sup>285</sup> Caritas, Interview, 30 July 2014.
- <sup>286</sup> The "*école de la deuxième chance*" offers the possibility to young people that have previously failed a new chance to succeed in the traditional school system. The school is aimed at teenagers and young adults aged 16 to 30 who have dropped out of school before leading to a recognised certification and to those who meet the conditions for access to vocational training, without finding an apprenticeship. For further information see: <http://www.e2c.lu/>.
- <sup>287</sup> *Service de scolarisation des enfants étrangers/CASNA*, phone interview, 5 September 2014.
- <sup>288</sup> The Centre de psychologie et d'orientation scolaires (CPOS) ensures the coordination of the activities of the '*Services de psychologie et d'orientation scolaires* (SPOS) in high schools and also actively cooperates with '*Service de scolarisation des enfants étrangers/CASNA*' as well as the Counselling Service of the Employment Administration (*Service d'Orientation professionnelle de l'Agence pour le Développement de l'Emploi*). For further information see: <http://www.cpos.public.lu/cpos/index.html>.
- <sup>289</sup> Grand-Ducal Regulation of 21 July 2006 determining the conditions under which applicants for international protection have access to training under article 14 of the Asylum Law.
- <sup>290</sup> Article 3 of the Grand-Ducal Regulation of 21 July 2006 determining the conditions under which applicants for international protection have access to training under article 14 of the Asylum Law.
- <sup>291</sup> Information provided by the Directorate of Immigration, 3 October 2014.

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- <sup>292</sup> Note also that apprenticeship contracts have to be concluded between 16 July and 1 December. See Article 4 of the Grand-Ducal Regulation of 21 July 2006 determining the conditions under which applicants for international protection have access to training under article 14 of the Asylum Law.
- <sup>293</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>294</sup> See [Rapport sur la transposition des directives européennes et l'application du droit de l'Union de 16 mai 2014](#), p. 15.
- <sup>295</sup> This is because article 7 of the Law of 6 February 2009 on compulsory schooling fixed the duration of compulsory schooling over a period of 12 years between the ages of 4 and 16. Nevertheless, article L-341-1 of the Labour Code establishes that a young worker (teenager) is the individual who is at least 15 years old and is not subject to compulsory schooling. Accordingly with the Inspectorate of Labour and Mines, the minimum age for young workers is 16 years old. See: <http://www.itm.lu/home/faq/ddt/faq4/la-remuneration253.html#anchorde691065-7a06-48d1-b4fd-d71c67f8caed>
- <sup>296</sup> Article 14 (2) of the Asylum Law.
- <sup>297</sup> Article 14 (2) of the Asylum Law. Official of the Refugee Service, Directorate of Immigration, Telephone interview, 15 October 2014.
- <sup>298</sup> Article 48 (1) of the Asylum Law.
- <sup>299</sup> Article 14 (3) of the Asylum Law.
- <sup>300</sup> Article 14 (2) of the Asylum Law. The AOT becomes invalid, either after six months, or if one of the contracting parties terminates the employment relationship, or if the application for international protection is definitively rejected. Also, the authorisation shall be withdrawn if the recipient works in another profession than the one he is has allowed to or if false declarations were made in order to obtain the AOT. See Article 14 (6) and (7).
- <sup>301</sup> Article L.622-4 of the Labour Code.
- <sup>302</sup> *Agence pour le développement de l'emploi (ADEM)*, Government of the Grand Duchy of Luxembourg, "Engager un ressortissant non communautaire ou un demandeur de protection internationale" (DPI) <http://www.adem.public.lu/employeur/engagernoncom/>
- <sup>303</sup> Article 48 (1) of the Asylum Law.
- <sup>304</sup> Article 14 (2) of the Asylum Law.
- <sup>305</sup> Article 48 (1) of the Asylum Law.
- <sup>306</sup> Article 48 (1) of the Asylum Law.
- <sup>307</sup> Caritas, Interview, 30 July 2014.
- <sup>308</sup> Article 10 of the Grand-Ducal Regulation of 21 July 2006 determining the conditions under which applicants for international protection have access to training under article 14 of the Asylum Law. <http://www.legilux.public.lu/leg/a/archives/2006/0131/a131.pdf?SID=3c4672cad1754a4df3bee7da3f69052c#page=3>
- <sup>309</sup> Article 125 bis of the Immigration Law.
- <sup>310</sup> *Agence pour le développement de l'emploi (ADEM)*, Government of the Grand Duchy of Luxembourg, <http://www.adem.public.lu/demandeur/orientation/>.
- <sup>311</sup> Article L. 573-1 of the Labour Code. See Law of 21 December 2012, published in the Mémorial A-296 of 31 December 2012.
- <sup>312</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.



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- <sup>313</sup> The only study that has been carried out was on access to employment and apprenticeship for international protection seekers, see: Sylvain Besch, "Etude sur l'accès à l'emploi et à l'apprentissage des demandeurs de protection internationale et des bénéficiaires d'une attestation de tolérance", in: Droit d'asile au Grand-Duché de Luxembourg et en Europe. *Développements récents*, sous la coord. de Gerkrath Jörg, éditions Larcier 2009, Collection de la Faculté de Droit, d'Economie et de Finance de l'Université de Luxembourg, pp. 29-48
- <sup>314</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>315</sup> ORK, Interview, 1 August 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>316</sup> The "maisons relais" are child care centers which accommodate children aged up to 12 years outside of school hours.
- <sup>317</sup> ORK Report 2013, "Ombudscomité fir d'Rechter vum Kand", p.48  
[http://ork.lu/files/Rapport\\_ORK\\_2013\\_WEB.pdf](http://ork.lu/files/Rapport_ORK_2013_WEB.pdf).
- <sup>318</sup> To date there has only been 1 case known of UAM aged under 12 coming to Luxembourg. Red Cross Luxembourg, Telephone Interview, 2 October 2014.
- <sup>319</sup> OLAI, Interview, 22 July 2014.
- <sup>320</sup> See Articles 5, 6 and 7 of the Grand Ducal Regulation of 8 June 2012.
- <sup>321</sup> Articles 5 of the Grand Ducal Regulation of 8 June 2012 setting the conditions and modalities under which international protection applicants may benefit from social aid.
- <sup>322</sup> Official of the Ministry of Equal Opportunities, telephone interview, 2 October 2014
- <sup>323</sup> Article 1 (1) § 2 of the Grand Ducal regulation of 11 September 2014 on the execution of article 2 paragraphs (1) point a) and (2) and (4) of the amended law of 8 May 2009 on the assistance, protection and security of victims of human trafficking. Published on [Mémorial A-186 of 7 October 2014](#).
- <sup>324</sup> Article 1 (1) § 3 of the Grand Ducal regulation of 11 September 2014.
- <sup>325</sup> Article 78 (3) of the Immigration Law.
- <sup>326</sup> Article 125 bis (2) of the Immigration Law in accordance with article 27 of the law of 18 December 2009 on organizing social aid.
- <sup>327</sup> Articles 5 of the Grand Ducal Regulation of 8 June 2012.
- <sup>328</sup> ORK, Interview, 1 August 2014.
- <sup>329</sup> The main reason is that the type of bone test was in principle intended for Caucasian individuals.
- <sup>330</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>331</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>332</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>333</sup> Law of 9 April 2014 strengthening the right of victims of trafficking in human beings, Memorial A, n°63 of 14 April 2014.  
[http://www.chd.lu/wps/PA\\_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Maig/199/294/129983.pdf](http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Maig/199/294/129983.pdf)
- <sup>334</sup> *Femmes en détresse a.s.b.l.*, telephone interview, 18 September 2014.
- <sup>335</sup> Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.

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- <sup>336</sup> Directorate of Immigration, Interview, 9 September 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>337</sup> Red Cross Luxembourg, Interview, 24 July 2014 Caritas, Interview, 30 July 2014.
- <sup>338</sup> Directorate of Immigration, Interview, 9 September 2014, Red Cross Luxembourg, Interview, 24 July 2014 and Caritas, Interview, 30 July 2014.
- <sup>339</sup> Caritas, Interview, 30 July 2014.
- <sup>340</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>341</sup> See: <http://www.interpol.int/notice/search/missing>.
- <sup>342</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>343</sup> Caritas, Interview, 30 July 2014, Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>344</sup> Caritas, Interview, 30 July 2014.
- <sup>345</sup> LU EMN NCP answer to PL EMN NCP ad-hoc query on Ad-Hoc Query on safe centres for unaccompanied minors - victims of trafficking in human beings launched on 11 December 2013.
- <sup>346</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>347</sup> Article 46 (1) of the Asylum Law.
- <sup>348</sup> Official of the Ministry of Equal Opportunities, Telephone interview, 2 October 2014.
- <sup>349</sup> Official of the Ministry of Equal Opportunities, Telephone interview, 2 October 2014.
- <sup>350</sup> Article 79 (1) and (2) of the Immigration Law.
- <sup>351</sup> Caritas, Interview, 30 July 2014 and OLAI, telephone interview, 10 October 2014.
- <sup>352</sup> Red Cross Luxembourg, Interview, 24 July 2014.
- <sup>353</sup> Official of the Ministry of Equal Opportunities, Telephone interview, 2 October 2014.
- <sup>354</sup> Official of the Ministry of Equal Opportunities, Telephone interview, 2 October 2014.
- <sup>355</sup> Article 98 of the Immigration Law.
- <sup>356</sup> Articles 46 (1) and 48 (1) of the Asylum Law. Official of the Refugee Service, Directorate of Immigration, Telephone interview, 15 October 2014.
- <sup>357</sup> Article 103 of the Immigration Law.
- <sup>358</sup> Article 111 (2) of the Immigration Law and Article 22 of the Asylum Law.
- <sup>359</sup> Article 111 (2) of the Immigration Law and Article 22 of the Asylum Law.
- <sup>360</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>361</sup> Article 103 of the Immigration Law.
- <sup>362</sup> Article 1 (2) of the Grand Ducal Regulation of 17 August 2011 modifying the Grand Ducal Regulation of 26 September 2008 laying down the rules of conduct to be applied by officers executing an order of removal, Official Journal, Memorial A, No. 180, 22.08.2011, <http://www.legilux.public.lu/leg/a/archives/2011/0180/a180.pdf>
- <sup>363</sup> Article 125bis (2) of the Immigration Law.
- <sup>364</sup> Directorate of Immigration, Interview, 9 September 2014.
- <sup>365</sup> Article 120 (1) of the Immigration Law.

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<sup>366</sup> Law of 28 May 2009 concerning the Establishment and Organisation of the Detention Centre, Official Journal, Memorial A, No. 119, 29.05.2009, <http://www.legilux.public.lu/leg/a/archives/2009/0119/a119.pdf>.

<sup>367</sup> LU EMN NCP, The use of detention and alternatives to detention in the context of immigration policies, Luxembourg 2014, p.9.

<sup>368</sup> Parliamentary document, n°5802/10 of 20 May 2008, [http://www.chd.lu/wps/PA\\_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Ma/q/001/706/070005.pdf](http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Ma/q/001/706/070005.pdf).

<sup>369</sup> Parliamentary document, n°6218/04 of 24 May 2011, [http://www.chd.lu/wps/PA\\_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Ma/q/108/039/100378.pdf](http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Ma/q/108/039/100378.pdf)

On this point the Consultative Commission on Human Rights noted: « *La CCDH accorde une attention particulière à cette question, compte tenu de la grande vulnérabilité et de la détresse des personnes concernées. De manière générale, la CCDH s'oppose au placement en rétention de tout mineur, car il porte atteinte à la santé psychique et au développement des enfants. Toute mesure de rétention de mineurs est contraire à la Convention internationale des droits de l'enfant (article 37), qui commande également que ce qui doit primer avant toute décision concernant des mineurs c'est „l'intérêt supérieur de l'enfant" et qu'il doit s'agir d'une „considération primordiale" ».*

<sup>370</sup> Ombudsman 2014. *Rapport du contrôleur externe relatif au Centre de rétention*, Luxembourg, p.12-16, [http://www.celpl.lu/doc/doc\\_accueil\\_147.pdf](http://www.celpl.lu/doc/doc_accueil_147.pdf).

<sup>371</sup> See Second instance Administrative Court, n°30869C of 25 July 2012 :

« *A l'appui de son recours, le demandeur estima entre autres que ladite décision violerait l'article 6, paragraphe (3), de la loi du 28 mai 2009 portant création et organisation du Centre de rétention, ci-après « la loi du 28 mai 2009 », suivant lequel « les personnes ou familles accompagnées de mineurs d'âge placées au Centre en vue de leur éloignement séjournent dans une unité distincte qui leur est réservée. La durée de leur placement ne peut excéder 72 heures », en ce que son placement dépasserait, au plus tard depuis le 7 juillet 2012 à 9.35 heures la durée maximale de rétention ainsi visée de 72 heures. Il soutint que cette disposition légale devrait être d'application également aux mineurs non accompagnés par une interprétation a fortiori de la disposition légale en question. »...*  
« *Finally, la Cour confirme encore le jugement entrepris en ce qu'il a retenu que ladite disposition légale est également d'application pour le cas d'un mineur non accompagné par un majeur, étant donné qu'un mineur non accompagné se trouve dans une situation encore plus vulnérable qu'un mineur accompagné par une personne adulte auquel s'applique cependant textuellement ledit article 6, paragraphe (3), de la loi du 28 mai 2009. »*

See also First instance Administrative Court, 3rd Chamber, n°30008 of 14 March 2012 :

« *Quant à la légalité interne de l'arrêté litigieux, le demandeur fait valoir qu'il serait mineur et que dès lors, par application de l'article 6 (3) de la loi du 28 mai 2009 portant création et organisation du Centre de rétention, la durée de son placement ne pourrait excéder 72 heures. Le délégué du gouvernement a contesté que le demandeur soit mineur, de sorte que le moyen afférent serait à rejeter. S'il est exact qu'en vertu de l'article 6 (3) de la loi du 28 mai 2009, précitée : « (3) Les personnes ou familles accompagnées de mineurs d'âge placées au Centre en vue de leur éloignement séjournent dans une unité distincte qui leur est réservée. La durée de leur placement ne peut excéder 72 heures. », il se dégage cependant d'un certificat émis en date du 19 mars 2012 par le Dr. ... du service de radiologie diagnostique et interventionnelle du ... que suite à un examen radiologique osseux effectué le même jour, « l'âge osseux [du demandeur] est estimé à plus de 19 ans ». Dans ces conditions, au vu des contestations formelles de la partie étatique sur la réalité de la minorité affirmée du demandeur, contestations qui sont confortées par le prédit examen radiologique, l'article 6 (3) de la loi du 28 mai 2009, précitée, indépendamment de la pertinence de cette disposition en l'espèce qui est contestée par*

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*le délégué du gouvernement, ne saurait en toute hypothèse trouver application en l'espèce, de sorte que le moyen afférent est à rejeter comme étant non fondé. »*

<sup>372</sup> Article 120 (1) of the Immigration Law.

<sup>373</sup> Article 125 (1) of the Immigration Law.

<sup>374</sup> Directorate of Immigration, Interview, 9 September 2014.

<sup>375</sup> <http://avrr.belgium.iom.int/en/other-projects/avvr-from-luxembourg.html> .

<sup>376</sup> <http://avrr.belgium.iom.int/en/other-projects/avvr-from-luxembourg.html>. See also LU EMN NCP answer to COM Ad Hoc Query on assistance provided in kind to third-country nationals (TCNs) in the context of return and reintegration programmes launched on 10 March 2014 and follow-up questions.