



Brussels, 10 April 2017  
(OR. en)

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**NOTE**

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From: Presidency  
To: Delegations  
Subject: Theme: 'Guarantees for those with special needs'

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In the framework of the theme "Guarantees for those with special needs", delegations will find attached modifications suggested by the Presidency in relation to:

- Articles 22, 24 and 32 of the Asylum Procedures Regulation;
- Articles 22 and 23 of the Reception Conditions Directive;
- Article 36 of the Qualification Regulation; and
- Article 8 of the Dublin Regulation.

The changes in the text are marked as follows: text added with regard to the original Commission proposal is marked in **bold** and underline and text deleted from the original Commission proposal is marked in **bold** and single ~~strikerough~~.

Comments made by delegations on the Commission proposal text, orally and in writing, appear in the footnotes of the Annex.

Asylum Procedures Regulation:

*Article 22*

**Special guarantees for unaccompanied minors<sup>1</sup>**

**-1. The competent authorities shall ensure that unaccompanied minors are represented and assisted in such a way so as to enable them to benefit from the rights and comply with the obligations under this Regulation, Regulation (EU) No XXXX/XXXX [Dublin Regulation] and Regulation (EU) No XXXX/XXXX [Eurodac Regulation].**

1. ~~The responsible~~ **For the purposes of paragraph -1, where an application is made by a person who claims to be a minor, or in relation to whom there are objective grounds to believe that he or she is a minor, the competent** authorities shall, ~~as soon as possible and not later than five working days from the moment when an unaccompanied minor makes an application, appoint a person or an organisation as a guardian.~~ **designate:**

**(a) a temporary representative within forty-eight hours from when the application is made, and**

**(b) a representative within fifteen working days from when the application is made.**<sup>2</sup>

**Where a temporary representative is designated, his or her duties shall cease upon the designation of a representative.**

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<sup>1</sup> **BE, CZ, ES, LU:** reservation. **FR, IE, SE:** scrutiny reservation.

<sup>2</sup> **AT:** fifteen days is too short. **EL:** not clear if there is an option for the determining authorities not to appoint a guardian as it was in Art 25 para 2 of the APD. **SK:** reservation, not acceptable that minors make an application on their own behalf, the legal representative should do that.

**Where a representative is designated within forty-eight hours from when an unaccompanied minor makes an application, the competent authorities need not apply point (a) of the first paragraph. In such cases, the representative shall carry out the tasks listed in paragraph (1d) in addition to those listed in paragraph (1e).**

**The duties of the temporary representative or representative shall cease when the competent authorities consider that the applicant is not a minor following the assessment referred to in Article 24 (1), or is no longer an unaccompanied minor.**

**1a.** Where an organisation is ~~appointed~~ **designated** as a **temporary** representative ~~or as a representative~~, it shall ~~designate~~ **assign** a **natural** person ~~responsible~~ for carrying out the ~~duties~~ **tasks of a guardian set out in paragraphs (1d) and (1e) respectively.**

**1b.** **The temporary representative or representative provided for in paragraph 1 of this Article may be the same as those provided for in Article 23 of Directive (EU) No XXXX /XXXX [Reception Conditions Directive].**

**1c.** The ~~determining~~ **competent** authority~~ies~~ shall **immediately**:

**(a)** ~~inform the unaccompanied minor immediately of the appointment of his or her guardian, in a child-friendly manner and in a language he or she can reasonably be expected to understand, of the designation of his or her temporary representative or representative and about how to lodge a complaint against any of them in confidence and safety.~~<sup>3</sup>

**(b)** **inform the determining authority that a temporary representative or a representative has been designated for the unaccompanied minor.**

**1d.** **The temporary representative shall meet the unaccompanied minor and carry out the following tasks:**

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<sup>3</sup> **FR:** other authorities should be allowed to inform the minor. **LU:** too much administrative burden, the guardian should inform.

- (a) provide him or her with relevant information in relation to the procedures provided for in this Regulation;**
- (b) where applicable, assist him or her in relation to the medical examination referred to in Article 24;**
- (c) where applicable, assist him or her in relation to the lodging of the application in accordance with Article 32;**
- (d) where applicable, provide him or her with the relevant information and assist him or her in relation to the procedures provided for in Regulation (EU) No XXXX/XXXX [Dublin Regulation] and Regulation (EU) No XXXX/XXXX [Eurodac Regulation].**

**1e. The representative shall meet the unaccompanied minor and assist him or her in relation to the procedures provided for in this Regulation, in particular:**

- (a) where applicable, the medical examination referred to in Article 24;**
- (b) where applicable, the lodging of the application in accordance with Article 32;**
- (c) the personal interviews referred to in Article 10 and Article 11.**

**The representative shall inform the unaccompanied minor about the meaning and possible consequences of the personal interview and, where appropriate, about how to prepare himself or herself for that interview. The representative and, where applicable<sup>4</sup>, a legal adviser or other counsellor as admitted or permitted under national law, shall be present together with the unaccompanied minor at that interview and shall have an opportunity to ask questions or make comments, within the framework set by the person conducting the interview.<sup>5</sup>**

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<sup>4</sup> CZ: the presence of the legal advisor should not be compulsory.

<sup>5</sup> NL: reservation; this paragraph leaves no room for the determining authority to continue the procedure if the guardian fails to be present at the interview. CY: scrutiny reservation.

2. The determining authority shall inform the **guardian temporary representative and the representative** of **all the** relevant facts, procedural steps and time-limits pertaining to the **application of the** unaccompanied minor.<sup>6</sup>
3. ~~The guardian shall, with a view to safeguarding the best interests of the child and the general well-being of the unaccompanied minor:~~
- a) ~~represent and assist the unaccompanied minor during the procedures provided for in this Regulation and~~
- b) ~~enable the unaccompanied minor to benefit from the rights and comply with the obligations under this Regulation.~~
4. The **guardian temporary representative and the representative** shall perform ~~his or her~~ **duties their tasks** in accordance with the principle of the best interests of the child. **They,** shall have the necessary **expertise knowledge of the rights and special needs of minors,** and shall not have a verified **criminal** record ~~of child-related crimes or offences.~~
- 4a. The person acting as a guardian A temporary representative or a representative** shall be changed **where necessary, and in particular only** when the **responsible competent** authorities consider that he or she has not adequately performed his or her tasks ~~as a guardian~~. Organisations or **individuals natural persons** whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be **appointed designated** as **guardian a temporary representative or a representative.**<sup>7</sup>
5. The **responsible competent** authorities shall **not** place a **guardian temporary representative and a representative** in charge of **an disproportionate adequate and limited** number of unaccompanied minors at the same time, ~~which would render him or her unable to ensure that he or she is able~~ to perform his or her tasks effectively.<sup>8</sup>

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<sup>6</sup> NL: scrutiny reservation. BE: should not be the determining authorities given the reservation on Art 5.

<sup>7</sup> NL: scrutiny reservation.

<sup>8</sup> AT: this should be regulated at national level, delete it. NL: scrutiny reservation on para (5).

- 5a.** Member States shall appoint entities or persons responsible ~~for the performance of guardians' tasks and for to~~ supervising and monitoring ~~at regular intervals~~ that ~~guardians~~ the temporary representative and the representative perform their tasks in a satisfactory manner. Those entities or persons shall review complaints lodged by unaccompanied minors against ~~their guardian~~ his or her temporary representative or representative.<sup>9</sup>
- 6.** ~~The guardian shall inform the unaccompanied minor about the meaning and possible consequences of the personal interview and, where appropriate, about how to prepare himself or herself for the personal interview. The guardian and, where applicable, a legal adviser or other counsellor as admitted or permitted as such under national law, shall be present together with the unaccompanied minor at that interview and have an opportunity to ask questions or make comments, within the framework set by the person who conducts the interview. The determining authority may require the presence of the unaccompanied minor at the personal interview, even if the guardian is present.~~

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<sup>9</sup> IT, SI: reservation. NL: scrutiny reservation.

**Medical examination Age assessment of unaccompanied minors**

1. **In case of doubts, the competent authorities shall assess whether the applicant is a minor, including on the basis of statements by the applicant or other relevant indications.**

Medical examinations may be used to ~~determine~~ assess the age of ~~of unaccompanied minors within the framework of the examination of an application~~ an applicant where, following statements by the applicant or other relevant indications ~~including a psychosocial assessment~~, there are doubts as to whether or not the applicant is ~~under the age of 18 a~~ minor.

- 1a. Where the ~~result of the medical examination is not~~ outcome of the age assessment referred to in paragraph 1 is insufficiently conclusive, ~~or includes an age range below 18 years, Member States~~ the competent authorities shall assume that the applicant is a minor.
2. ~~The~~ A medical examination to ~~determine~~ assess the age of ~~unaccompanied minors an applicant shall not be carried out without their consent or the consent of their guardians shall be carried out where the applicant, in consultation with his or her temporary representative or representative, consents to it~~<sup>10</sup>.
3. Any medical examination shall be performed with full respect for the individual's dignity, shall be the least invasive examination<sup>11</sup> and shall be carried out by qualified medical professionals allowing for the most reliable result possible.

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<sup>10</sup> **PT:** reservation.

<sup>11</sup> **AT, SK:** replace "*shall be the least invasive examination*" with "*causing no physical harm*"; „*least invasive*“ should be determined either with proposal or in recital.

4. Where medical examinations are used to ~~determine the age of unaccompanied minors,~~ assess the age of an applicant, the ~~determining competent~~ authority shall ensure that ~~unaccompanied minors applicants~~ are informed, prior to the examination of their application for international protection, and in a language that they understand or are reasonably meant to understand, of the possibility that their age be determined by medical examination. This shall include information on the method of examination and possible consequences which the result of the medical examination may have for the examination of the application, as well as on the possibility and consequences of a refusal on ~~their~~ part ~~of the unaccompanied minor, or of his or her guardian~~, to undergo the medical examination.
5. The refusal by ~~the unaccompanied minors or their guardians~~ an applicant to carry out ~~the~~ a medical examination for the assessment of his or her age may only be considered as a rebuttable presumption that the applicant is not a minor and it shall not prevent the determining authority from taking a decision on the application for international protection. Such refusal may only be considered as a rebuttable presumption that the applicant is not a minor.
6. ~~A Member State~~ The competent authorities shall<sup>12</sup> recognise age assessment decisions taken by competent authorities in other Member States on the basis of a medical examination carried out in accordance with this Article and when based on methods which are recognised under its national law.<sup>13</sup>

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<sup>12</sup> **AT:** "may" instead of "shall"; as European (medical) standards on age assessment are missing, "may" is appropriate.

<sup>13</sup> **BG, CY, DE, FR, SK:** scrutiny reservation. **NL, PT:** reservation. **IE:** concerns regarding the mandatory nature of this para. **PL:** delete this para.



Article 32

**Applications of unaccompanied minors<sup>14</sup>**

1. An unaccompanied minor shall lodge<sup>15</sup> an application in his or her own name if he or she has the legal capacity to act in procedures according to the national law of the Member State concerned, or his or her **guardian temporary representative or representative, as referred to in Article 22(1)**, shall lodge it on his or her behalf. The **guardian temporary representative or representative** shall assist and properly inform the unaccompanied minor of how and where an application is to be lodged.<sup>16</sup>
2. In the case of an unaccompanied minor, the **application shall be lodged not later than** ten working-days ~~period for the lodging the application provided for in Article 28(1) shall only start to run~~ from the moment ~~a guardian~~ **the representative** of the unaccompanied minor is **appointed designated** and has met with him or her. Where ~~his or her guardian~~ **the temporary representative or representative** does not lodge an application on behalf of the unaccompanied minor **within this time-limit, the application shall not be considered as implicitly withdrawn in accordance with Article 39** ~~within those ten working days, the determining authority shall lodge an application on behalf of the unaccompanied minor if, on the basis of an individual assessment of his or her personal situation, it is of the opinion that the minor may need international protection.~~
3. The **appropriate** bodies referred to in Article 10 of Directive 2008/115/EC shall have the right **to assist an unaccompanied minor in lodge** an application for international protection **before the competent authorities decide to issue a return decision** ~~on behalf of an unaccompanied minor if, on the basis of an individual assessment of his or her personal situation, those bodies are of the opinion that the minor may need international protection.~~

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<sup>14</sup> **IE, SK:** scrutiny reservation on the Article.

<sup>15</sup> **CZ:** add "*make and*" before "*lodge*".

<sup>16</sup> **NL:** reservation.

## **Reception Conditions Directive:**

### *Article ~~23~~22*

#### **Minors**

1. The best interests of the child shall be a primary consideration for Member States when implementing the provisions of this Directive that involve minors. Member States shall ensure a standard of living adequate for the minor's physical, mental, spiritual, moral and social development.
2. In assessing the best interests of the child, Member States shall in particular take due account of the following factors:
  - (a) family reunification possibilities;
  - (b) the minor's well-being and social development, taking into particular consideration the minor's background;
  - (c) safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking;
  - (d) the views of the minor in accordance with his or her age and maturity.
3. Member States shall ensure that minors have access to leisure activities, including play and recreational activities appropriate to their age within the premises and accommodation centres referred to in Article ~~18~~17(1)(a) and (b) and to open-air activities.
4. Member States shall ensure access to rehabilitation services for minors who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment, or who have suffered from armed conflicts, and ensure that appropriate mental health care is developed and qualified counselling is provided when needed.

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↓ 2013/33/EU (adapted)

5. Member States shall ensure that minor children of applicants or applicants who are minors are lodged with their parents, ~~their unmarried minor siblings~~ or with the adult responsible for them ☒ and their unmarried minor siblings ☒ whether by law or by the practice of the Member State concerned, provided it is in the best interests of the minors concerned.
- ~~46.~~ Those working ⇒ with minors, including **the temporary representative and the representative as provided for in Article 23** ~~with unaccompanied minors,~~ ⇒ shall not have a verified **criminal** record ~~of child-related crimes or offenses~~ and ⇐ shall ~~have had and shall continue to~~ receive ☒ continuous and ☒ appropriate training concerning ⇒ the rights and ⇐ their needs ⇒ of unaccompanied minors, including **those relating to** ~~concerning~~ any applicable child safeguarding standards ⇐ , and shall be bound by the confidentiality rules provided for in national law, in relation to any information they obtain in the course of their work.

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↓ 2013/33/EU (adapted)

⇒ new

Article ~~24~~23

**Unaccompanied minors<sup>17</sup>**

- 1. Member States shall ensure that an unaccompanied minor is assisted in such a way to ensure that his or her general well-being is safeguarded and which enables the unaccompanied minor to benefit from the rights and comply with the obligations under this Directive.**

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<sup>17</sup> AT, BG, ES, PL, SE: scrutiny reservation.

1. For the purposes of paragraph -1, where an application is made by a person who claims to be a minor, or in relation to whom there are objective grounds to believe that he or she is a minor, Member States shall designate:

(a) a temporary representative within as soon as possible ~~and no later than five working days from the moment when an unaccompanied minor makes an application for international protection~~  $\Leftrightarrow$  forty-eight hours from when the application is made; and

(b) a representative within fifteen working days from when the application is made.

When a temporary representative is designated, his or her duties shall cease upon the designation of a representative.

Where a representative is designated within forty-eight hours from when an unaccompanied minor makes an application, Member States need not apply point (a) of the first paragraph. In such cases, the representative shall carry out the tasks listed in paragraph 1d in addition to those listed in paragraph 1e.

The duties of the temporary representative or representative shall cease when the competent authorities consider that the applicant is not a minor following the assessment referred to in Article 24 (1) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], or is no longer an unaccompanied minor.

1a. When an organisation is designated as a temporary representative or as a representative, it shall assign a natural person for carrying out the tasks set out in paragraphs 1d and 1e respectively.

1b. The temporary representative or the representative provided for in paragraph 1 of this Article may be the same as those provided for in Article 22(4) of Regulation (EU) No XXX/XXX [Asylum Procedure Regulation].

**1c. The competent authorities shall immediately:**

- a) inform the unaccompanied minor, in a child-friendly manner and in a language he or she can reasonably be expected to understand, of the designation of his or her temporary representative or representative and about how to lodge a complaint against them in confidence and safety;**
- b) inform the authority responsible for providing reception conditions that a temporary representative or a representative has been designated for the unaccompanied minor; and**
- c) inform the temporary representative and the representative of relevant facts pertaining to the unaccompanied minor.**

**1d. The temporary representative shall ~~⇒ and shall not have a verified record of child-related crimes or offences~~ ~~↔~~ meet the unaccompanied minor and carry out the following tasks:**

- a) further explain where necessary the information to be provided in accordance with Article 5;**
- b) liaise with the authorities responsible for reception conditions to ensure immediate access for the unaccompanied minor to material reception conditions and health care where needed;**
- c) assist in case of restrictions referred to in Articles 7 or 19; and**
- d) assist in case of detention.**

**1e. The representative shall meet the unaccompanied minor and**

~~☒~~ ~~Where an organisation is appointed as guardian, it shall designate a person responsible for carrying out the duties of guardian in respect of the unaccompanied minor, in accordance with this Directive.~~ ~~☒~~

~~⇒ The guardian appointed in accordance with Article 22 (1) of the [Asylum Procedure Regulation] may perform those tasks. ⇐~~

~~The unaccompanied minor shall be informed immediately of the appointment of the~~  
~~☒ guardian ☒ representative~~

~~The ☒ guardian ☒ representative shall~~

~~take measures to ensure that a ☒ guardian ☒ representative assists the unaccompanied minor provide assistance to enable him or her to benefit from the rights and comply with the obligations provided for in this Directive.~~

~~perform his or her duties in accordance with the principle of the best interests of the child, as prescribed in Article 22 23 (2), and shall~~

~~have the necessary expertise to that end.~~

**1f. The temporary representative and the representative shall perform his or her tasks in accordance with the principle of the best interests of the child. They shall have the necessary knowledge of the rights and special needs of minors and shall not have a verified criminal record.**

**1g. In order to ensure the minor's well-being and social development referred to in Article 22 23 (2) (b), the person acting as ☒ A temporary representative or a representative guardian ☒ representative shall be changed where necessary, in particular when the competent authorities consider that he or she has not adequately performed his or her tasks only when necessary.**

Organisations or **natural persons individuals** whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be ~~eligible to become~~ ⇒ **designated appointed as a temporary representative or as a representative guardians** ~~representatives~~.

~~Regular assessments shall be made by the appropriate authorities, including as regards the availability of the necessary means for representing the unaccompanied minor.~~

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↓ new

**1h.** Member States shall ~~ensure that~~ **place a temporary representative or a representative guardian is not placed** in charge of ~~an disproportionate adequate and limited~~ number of unaccompanied minors at the same time **to ensure** that ~~he or she is able would render him or her unable~~ to perform his or her tasks effectively.<sup>18</sup>

**1i.** Member States shall appoint entities or persons responsible ~~for~~ **to supervise and** monitoring ~~at regular intervals~~ that **the temporary representative and the representative guardians** perform their tasks in a satisfactory manner. Those entities or persons shall ~~also have the competence to~~ review complaints lodged by ~~an~~ unaccompanied minors against ~~his or her~~ **their temporary representative or representative guardian.**

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↓ 2013/33/EU

2. Unaccompanied minors who make an application for international protection shall, from the moment they are admitted to the territory until the moment when they are obliged to leave the Member State in which the application for international protection was made or is being examined, be placed:
- (a) with adult relatives;
  - (b) with a foster family;
  - (c) in accommodation centres with special provisions for minors;
  - (d) in other accommodation suitable for minors.

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<sup>18</sup> **AT:** delete this sentence, it should be the competence of the MSs.

Member States may place unaccompanied minors aged 16 or over in accommodation centres for adult applicants, if it is in their best interests, as prescribed in Article ~~2223~~(2).

As far as possible, siblings shall be kept together, taking into account the best interests of the minor concerned and, in particular, his or her age and degree of maturity. Changes of residence of unaccompanied minors shall be limited to a minimum.<sup>19</sup>

3. Member States shall start tracing the members of the unaccompanied minor's family, where necessary with the assistance of international or other relevant organisations, as soon as possible after an application for international protection is made, whilst protecting his or her best interests. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis, so as to avoid jeopardising their safety.<sup>20</sup>

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<sup>19</sup> **ES:** para 2 deals with "separated children" (maybe accompanied by a relative, who is not the guardian or representative). Therefore, the authorities, before taking the decision to allocate him/her with an adult relative, should check the real family ties and must take into account the minor's opinion, all that to preserve interest of the minor and to prevent human trafficking.

<sup>20</sup> **EL:** how is this obligation implemented in view of the non-exclusion of the unaccompanied minors from the pre-Dublin check? Under Art. 3 of the Dublin Proposal and Art.36 of the APR the MS are obliged to reject an application as inadmissible if a third country can be considered as a safe third country for the unaccompanied minor. **IT:** no change in this paragraph but, in QR, "provided in the best interest of the minor".



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**Qualification Regulation:**

*Article 36*

*Unaccompanied minors*<sup>21</sup>

1. As soon as possible after international protection is granted ~~and within five working days at the latest, as outlined in Article 22(1) of Regulation EU no xxx/xxx~~**[Procedures regulation]**, competent authorities shall take the necessary measures to ~~ensure the representation of unaccompanied minors by a~~ **appoint a natural person or an organisation as a legal guardian** ~~or, where necessary, by an organisation responsible for the care and well-being of minors, or by any other appropriate representation including that based on legislation or court order.~~<sup>22</sup>

Where an organisation is appointed as guardian, it shall as soon as possible designate a person responsible for carrying out the duties of guardian in respect of the unaccompanied minor, in accordance with this Regulation.

**The representative referred to in Article 22(1)(b) of the [Asylum Procedures Regulation] or in Article 23(1)(b) of the [Reception Conditions Directive] shall remain responsible for the unaccompanied minor until a guardian is appointed.**

**This is without prejudice to the possibility of keeping the representative referred to in Article 22 (1)(b) of the [Asylum Procedures Regulation] or in Article 23 (1)(b) of the [Reception Conditions Directive] as guardian, without the need for a formal re-appointment.**

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<sup>21</sup> AT, BG, EL, ES, FI, FR, IE, LV, RO, SE, SI: scrutiny reservation.

<sup>22</sup> HU: clarify what is included in "necessary measures". LU: reservation on the term "guardian". DE: in favour of keeping the term "legal representative". AT: we distinguish between "legal representative" and "guardian". SE: clarify why the wording used for the role of the "guardian" is different from the wording in the QD.

2. The ~~appointed~~ guardian shall:

- a) ~~have the duty of ensuring~~ensure that the minor can access all rights stemming from this Regulation;
- b) assist the unaccompanied minor in case of withdrawal of the status; and
- c) where, appropriate, assist in family tracing as provided for in paragraph 5.

The guardian shall have the necessary expertise, shall receive continuous and appropriate training concerning the rights and needs of unaccompanied minors, including those relating to any applicable child safeguarding standards, and shall not have a verified criminal record, with particular regard to child-related crimes or offences.

2a. The person acting as guardian shall be changed where necessary, in particular when the competent authorities consider that he or she has not adequately performed his or her tasks. Organisations or individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be appointed as guardian.

2b. The competent authorities shall place a guardian in charge of an adequate and limited number of unaccompanied minors at the same time to ensure that he or she is able to perform his or her tasks effectively.

The ~~appropriate~~competent authorities shall regularly assess the performance of the appointed guardian. To this end Member States shall appoint entities or persons responsible for supervising and monitoring that guardians perform their tasks in a satisfactory manner. Those entities or persons shall review complaints lodged by unaccompanied minors against their guardian.

Unaccompanied minors shall be given information, in a child-friendly manner and in a language they can reasonably be expected to understand about how to lodge complaints against their guardian in confidence and safety.

3. **While taking into account the best interests of the child, u**Unaccompanied minors shall be placed in one of the following ways:<sup>23</sup>
- a) with **an** adult relative;
  - b) with a foster family;
  - c) in centres specialised in accommodation for minors;
  - d) in other accommodation suitable for minors.

The views of the minor shall be taken into account in accordance with his or her age and degree of maturity.

4. As far as possible, siblings shall be kept together, taking into account the best interests of the minor concerned and, in particular, his or her age and degree of maturity. Changes of residence of unaccompanied minors shall be limited to a minimum.
5. If an unaccompanied minor is granted international protection and the tracing of his or her family members has not already started, competent authorities shall start tracing them as soon as possible after the granting of international protection, ~~whilst protecting the~~ **provided that it is in** the minor's best interests. If tracing has already started, it shall be continued where appropriate. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis.
6. ~~The persons and organisations working with unaccompanied minors shall receive continuous appropriate training concerning the rights and needs of minors and child safeguarding standards will be respected as referred to in Art 22 of Regulation EU No xxx/xxx[Procedures regulation].~~

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<sup>23</sup> **DE:** clarify whether the list is in order of priority. **COM:** the list is current acquis, not necessarily in order of priority.

## Dublin Regulation:

### *Article 68*

#### **Guarantees for minors<sup>24</sup>**

1. The best interests of the child<sup>25</sup> shall be a primary consideration for Member States with respect to all procedures provided for in this Regulation.
2.  Each  Member States  where an unaccompanied minor is **obliged to be**<sup>26</sup> present  shall ensure that a **temporary** representative **or representative as provided for in Article 22(2) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation]** represents and/or assists  the  unaccompanied minor with respect to  the relevant  procedures provided for in this Regulation. The **temporary** representative **or representative** shall have the qualifications and expertise to ensure that the best interests of the minor are taken into consideration during the procedures carried out under this Regulation. Such **temporary** representative **or representative** shall have access to the content of the relevant documents in the applicant's file including the specific leaflet for unaccompanied minors.<sup>27</sup>

~~This paragraph shall be without prejudice to the relevant provisions in Article 25 of Directive 2013/32/EU.~~

3. In assessing the best interests of the child, Member States shall closely cooperate with each other and shall, in particular, take due account of the following factors:
  - a) family reunification possibilities;
  - b) the minor's well-being and social development;

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<sup>24</sup> **DE, ES, IE:** scrutiny reservation.

<sup>25</sup> **DE:** reference to the "best interests" should be aligned throughout the text - at some places it is referred to as the "best interests of the child", while at others "best interests of the minor".

<sup>26</sup> **BE:** the deletion of "obliged to be" broadens the scope of the provision too much.

<sup>27</sup> **DE, ES:** scrutiny reservation. **AT, ES, HU, IT:** concerns over the compatibility of the provision with the ECJ judgement.

- c) safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking;
- d) the views of the minor, in accordance with his or her age and maturity.

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↓ new

4. Before transferring an unaccompanied minor ~~to the Member State responsible or, where applicable, to the Member State of allocation,~~ the transferring Member State shall notify ~~make sure that~~ the Member State responsible or the Member State of allocation of the transfer of the unaccompanied minor ~~takes the measures referred to in Articles 14 and 24 of Directive 2013/33/EU and Article 25 of Directive 2013/32/EU without delay.~~ Any decision to transfer an unaccompanied minor shall be preceded by an assessment of his or her best interests. The assessment shall be done by staff who have the appropriate knowledge of the rights and special needs of minors and shall be based on the factors listed in paragraph 3. ~~The assessment shall be done swiftly by staff with the qualifications and expertise to ensure that the best interests of the minor are taken into consideration.~~<sup>28</sup>

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<sup>28</sup> **AT, DE:** scrutiny reservation. **EL, ES:** reservation. **EE, IE:** delete the first sentence. **CZ:** suggest deleting the whole paragraph because it is unjustified. The obligations mentioned in relation to Tarakhel case could be fulfilled via other provisions of this Regulation (Art. 32). **NL:** it should be clarified that ‘assessment’ does not mean that a comprehensive report should be written, nor that this is a new administrative procedure. **CY, DK, SE:** need clarification of the last sentence. **HU:** the obligation to assign a person in charge of representation of the best interest of the unaccompanied minor means an unnecessary administrative burden. **BG:** The transfer of an unaccompanied minor should not be considered as an action which is in his/her best interest. The current provision according to which the responsible MS is the one where the child is actually present should be preserved, although it may not be the first country of applying for protection, except for cases when the unaccompanied minor has a relative/s in another MS. **ES:** transfer of UAMs should be an exception (taking into account case-law).

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↓ 604/2013 (adapted)

⇒ new

45. For the purpose of applying Article ~~8~~10, the Member State where the unaccompanied minor lodged an application for international protection shall, as soon as possible, take appropriate action to identify the family members, ~~siblings~~ or relatives of the unaccompanied minor on the territory of Member States, whilst protecting the best interests of the child.

To that end, that Member State may call for the assistance of international or other relevant organisations, and may facilitate the minor's access to the tracing services of such organisations.

The staff of the competent authorities referred to in Article ~~35~~47 who deal with requests concerning unaccompanied minors shall have received, and shall continue to receive, appropriate training concerning the specific needs of minors.

56. With a view to facilitating the appropriate action to identify the family members, ~~siblings~~ or relatives of the unaccompanied minor living in the territory of another Member State pursuant to paragraph 45 of this Article, the Commission shall adopt implementing acts including a standard form for the exchange of relevant information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ~~44~~56(2).