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**RECEPTION OF ACCOMPANIED MINORS  
IN BELGIUM**

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## **I. Intro**

This paper provides a general overview of the reception policy and structure of unaccompanied minors, hereafter indicated as UAM in Belgium and a small-scale case study on UAMs from the Democratic Republic of Congo. The case study is based on interviews with a limited group of minors and key figures, responsible for their reception. The latter is by no means representative but it elucidates the issue by introducing the voices and experiences of the minors themselves. Their perspectives have been except for a handful sources (UNICEF 2004) generally overlooked and silenced in most other publications and sources.

## **II. Structural framework**

### **A. Definition**

The legal definition of an UAM is based on art. 5 of the Programme law 5(I) December 24 2002, title XIII, chapter VI concerning the guardianship of UAM and refers to any person, which has become operational since 1 May 2004:

- Younger than the age of 18
  - unaccompanied by a person, who exercises the parental authority or the guardianship according to the national law of a minor
  - citizen of a country, which is not a member of the European Economic Area
  - and who finds him or herself in one of the following situations:
    - either requested the recognition of the refugee status
    - Either does not meet the conditions concerning access to the territory, the abode, the settlement and the removal of foreigners.

Before 2002 the only available definition of an UAM was to be found in an internal note by the Aliens Office (Hongenaert and Coillie 2000).

### **B. Subcategories**

Depending on their legal status, the UAMs are divided in three subcategories:

- UAM asylum seekers
- UAM non asylum seekers
- UAM victims of human trafficking

**UAM asylum seekers** are minors, who have introduced an asylum file, which is still pending. UAM asylum seekers follow the same structural trajectory as adult asylum seekers. First, it is examined whether Belgium is responsible for the asylum request. If so it enters the receivability phase, an investigation carried out by the Aliens Office. The Aliens Office looks at a series of formal grounds and examines whether there is evidence of personal persecution on the grounds of Article 1A of the Geneva Convention on the Refugee Status (1951). In case the request is turned down, the (UAM) asylum seeker has the possibility to introduce an appeal to the Commissariat General for Refugees and Stateless Persons. If the request is accepted by the Aliens

Office, the Commissariat General investigates the request content-wise or in depth in order to determine whether or not to grant the refugee status. In case of a negative outcome, the (UAM) asylum seeker has the right to appeal to the Permanent Refugee Appeals Commission. In addition the (UAM) asylum seeker has the right to enter appeal at the State Council against any enforceable decision concerning his/her asylum procedure.

**UAM non asylum seekers** refer to minors, who have never requested asylum or whose asylum request has been irrevocably turned down and who consequently reside in the country without legal status. When intercepted, the minor receives a declaration of arrival for a period of three months, which can be renewed different times. After 6 months if no durable solution is found and if the minor co-operates with the administration, a proof of inscription in the registry of foreigners, valid for a period of 6 months to 1 year, is issued. After 3 years when no solution has been found and in case the minor continues to co-operate, a proof of inscription in the registry of foreigners valid for an unlimited period of time can be issued on the basis of the following criteria: integration, knowledge of one of the national languages, work (or internship), school results, social behaviour and respect for the public order.

**UAM victims of human trafficking** are minors, who are victims of sexual or economic exploitation. Minors are subject to the same legal requirements as adults, which are stipulated in the circular concerning the delivery of residence and labour permits to foreigners, who are victims of human trafficking. UAMs who have left the setting of exploitation are received in a specialised and recognised centre. During this period the victim can introduce a complaint or issue a statement at the appropriate services. When s/he effectively does so, s/he will receive a temporary residence permit valid for three months. This permit can be extended following the complaint or the statement that a judicial procedure has been introduced. The 3-month renewal is implemented during the entire period of the judicial procedure.

### **C. Scope**

There is no central instance, which registers UAMs. In order to assess the scope of UAM one needs to look at the data of the Aliens Office, the police and the service Guardianship.

## Statistics of the Aliens Office

**Table 1:** Number of unaccompanied minors in Belgium, registered by Aliens Office (2000-2004)

	UAM asylum seekers	UAM illegals	UAM THB victims	TOTAL
<b>2000</b>	<b>848</b>	<b>852</b>	<b>12</b>	<b>1712</b>
2001	747	473	11	<b>1231</b>
2002	913 (603 after bone-age determination of the wrist)	1135	15	<b>2063</b>
2003	792 (589 after bone-age determination of the wrist)	955	31	<b>1778</b>
2004	679 (599 after bone-age determination of the wrist)	1993	22	<b>2694</b>

**Source:** Fedasil and Child Focus 2005 p. 16

The emergence of unaccompanied minors and separated children in industrialised took off since the 1990s (UNHCR 2004). This trend is well sustained in this decade. The declaration of the minor age is provided by the minors themselves at the border, at the asylum instances or during interception by the Police. Since 2002 the Aliens Office also includes the 'real' number of UAMs, namely those who are identified minor after bone-age determination.

### Statistics of the Police

The border police of the Airport Brussels International intercepted 59 UAMs in 2002 as well as in 2003. In the subsequent year some 60 UAMs were detected.

The maritime police in Zeebruges found 261 UAMs in 2001, 342 in 2002, 306 in 2003 and 178 in 2004.

### Statistics of the Service 'Guardianship'

Between May 1 2004 and 2005 2770 UAMs contacted the Service Guardianship. Of this total some 615 UAM disappeared, while 624 persons do not fall under the category of UAMs or impossible to identify.

## **D. Policies towards UAM**

### **Reception**

The reception of UAMs falls under the competence of the Federal Government and the Communities. The Minister of Social Integration is competent for the reception of UAM asylum seekers through the Agency Fedasil. The latter co-ordinates a network of different open reception structures for UAM asylum seekers, scattered throughout the territory. UAM asylum seekers are placed in 8 federal reception centres, where they stay in one premise, separated from adult asylum seekers, living in other buildings within the domain of the reception centre. Or they are referred to one of the four reception centres, managed by the Red Cross. Finally there are 4 collective local reception initiatives (LOIs) managed by the services of the local communes (CPAS/OCMW). The latter can receive 10 to 60 minors in their buildings. The four collective local reception initiatives have a total capacity of 421 beds.

In a second phase a 'transition reception' is organised in LOIs (local reception initiatives) for youngsters, who have stayed during an extensive period in a reception centre. In June 2005 there were 82 beds in this reception mode.

When UAM asylum seekers are no longer in the asylum procedure, the responsibility of receiving UAMs is transmitted to the Communities. The Communities are responsible for any minor in a problematic educational situation. The Communities run specialised centres for UAM asylum seekers and services for accompanied independent living.

It also happens that UAMs are placed in a closed youth centre by the juvenile court. Other UAMs are denied entry to the territory and are transferred to a closed centre at the border.

The full capacity of the reception of UAMs in open centres amounts to 593 beds in 2005.

### **The Federal Council of Ministers of March 21 2004**

During the Council of the Minister of March 21 2004 a note of the Minister of Social Integration concerning a co-operation agreement in the reception of UAMs was approved. This note recommends a dual reception model.

The model consists of two phases: the first phase of observation and orientation and the second phase of a reception structure, tailored to the individual situation and the specific needs of the minors.

In the first phase UAMs, whatever their administrative status-asylum seeker, illegal or victim THB-are always entitled to reception in a safe place with access to psychological, social, administrative and judicial assistance. The first phase is organised by the Federal Agency Fedasil in co-financing with the Communities.

In a second phase the minor is transferred after a maximum duration of 14 days to a reception structure, which is more adapted to the specific situation and needs of the minor.

As of now since there is not yet an agreement with both Communities Fedasil organises the first phase reception in two newly established reception centres, notably Neder-over-Heembeek en Steenokkerzeel (50 beds each).

## **Guardianship**

Since 1 May 2004 the law of the Guardianship has become operational (Van Keirsbilck 2000; Annual Report CEOOR 2004; Fedasil and Child Focus 2005). The competences of the service Guardianship are:

- 1) identifying the UAM
- 2) appointing the guardian and co-ordinating the tasks of the guardian
- 3) maintaining contacts with governments responsible for asylum, residence, reception and housing
- 4) finding durable solution for UAM, taking into account his/her interests and personal aspirations

The service of the Guardianship identifies the UAM. In order to determine the minor age the Service has the right to of its own accord or at the demand of the Aliens Office to request an age assessment. This age assessment encompasses different medical examination (notably of the teeth, bone assessment of the wrist or the clavicle). In a following step the Service appoints a guardian as the legal representative of the UAM. The Service is also in charge with the selection, the recognition and the supervision on the material organisation of the tasks of the guardians. Finally the Service co-ordinates and supervises the contacts with the authorities in charge of asylum, residence, reception and housing and ensures to seek a durable solution for the UAM, taking into account his/her interests and personal life project.

The core task of the Guardian is to look after the interests of the minor and offer him/her protection. S/he is responsible for the legal follow-up and accompanies the minor in each phase of the procedure, assisted by a lawyer. The guardian ensures that the minor has access to education, and if necessary adequate psychological and medical aid in conjunction with appropriate housing facilities and respect for his/her political, philosophical and religious beliefs. Finally the guardian is also responsible to take measures to retrace the family of the minor.

## **E. Critical Assessment**

Although the introduction of a legal definition of a UAM is a great step forwards and should be applauded, it should be noted, however, that after May 1 2004 the new definition does no longer include UAMs originating from the 10 new accession countries. In 2003 32 UAMs were registered coming from these countries. Within this group, there were 13 UAM asylum seekers, 17 UAM non asylum seekers and 2 UAM victims of THB.

In the area of data it should be underlined that there exists no uniform registration system for all UAMs. Although looking at different sets of data, collected by different instances might give us an indication of the scope but it does not contribute to an accurate rendition of the social reality. First, especially in regard to the second category of unregistered UAMs the data represent the intercepted UAMs and consequently those who are not arrested are not reflected in the figure, which after 2003 it has become the largest among the 3 subcategories. On the other hand there is the issue of double counting by the different instances. For instance an UAM after being intercepted by the police, might apply for asylum. S/he will appear twice, in the statistics of the police and in that of the asylum institution (Fedasil-Commissariat-General for Refugees and Stateless Persons). Thirdly, the statistics include only the UAMs who declared themselves to be minor. There is thus a probability that in this figure there are adults. Conversely it is equally probable that in the statistics of adult asylum seekers and illegals there are UAMs.

Concerning policies one can question the detention of UAMs in closed centres, all the more since they have no access to schooling and do not receive a treatment, which is adapted to their specific condition as a minor, not accompanied by an adult.

Although the introduction of the guardianship is generally applauded, it should be noted that at present there is a shortage of guardians. According to the Service of Guardianship there are sufficient guardians for UAMs, registered after May 1 2004. A priority is given to those, who entered at the border, then to those, who have introduced an asylum file and finally those, who are illegal or whose asylum request has been turned down. The shortage of guardians applies specifically to youngsters, who are registered before May 2004.

Moreover the installation of this service has led to some unexpected perverse effects. The Aliens Office used to be relatively lenient in issuing residence documents given the total absence of an instance, which is in charge of UAMs. These days the Aliens Office has become much more demanding in the issuance of residence documents.

### **III. Small scale case study: DRC UAM asylum seekers**

#### **General**

The phenomenon of UAMs has received -quite deservedly - a wide range of attention, ranging from policymakers; social assistants, NGOs, the media and the academic world. The relative wealth of information and analysis notwithstanding, very few instances or studies made an effort to include the voice of the minor. In the small-scale case study undertaken by an intern under the guidance of a staff member of the Centre for Equal Opportunities and Opposition to Racism during a six-months period, the main focus was directed towards the migration trajectory and the way the UAMs experience their journey, the reception and their adaptation in Belgium. In total 14 interviews of Congolese UAMs were conducted, besides interviews with social assistants, other staff members of three open reception centre, a teacher and a pedagogical responsible of a school, hosting a large group of UAM asylum seekers.

Research findings:  
Figures of Congolese UAMs

UAMs originating from DRC Congo constitute one of the largest if not the largest group of UAM asylum seekers. From 2002-2004 the Congolese UAM asylum seekers figured as the largest group. In 2002 one out of five UAM asylum seekers originates from DR Congo. This high share continued in the following year. In 2004 the difference with other countries has diminished but they still form the largest group. Important to note is the significant increase of minors from Guinea. Moreover, UAM and adult asylum seekers from DR Congo are well represented in the total number of asylees.

2002	# UAM asylum requests	share	# asylum requests	share
DR Congo	123	20.4%	1789	9.5%
Rwanda	52	8.6%	487	2.6%
Albania	52	8.6%	539	2.9%
Angola	50	8.3%	406	2.2%
Kosovo	27	4.5%	917	4.9%

2003	# UAM asylum requests	share	# asylum requests	share
DR Congo	105	17.8%	1778	10.5%
Guinea	49	8.3%	354	2.1%
Angola	42	7.1%	355	2.1%
Rwanda	29	4.9%	450	2.7%
Afghanistan	28	4.8%	329	1.9%

2004	# UAM asylum requests	share	# asylum requests	share
DR Congo	86	14.4%	1102	10%
Guinea	80	13.4%	400	3.6%
Afghanistan	44	7.3%	201	1.8%
Rwanda	41	6.8%	297	2.7%
Russia	26	4.3%	989	8.9%

#### Life before departure

The age at departure varies from 11 to 17. Twelve youngsters arrived directly from Congo and consequently have vivid memories of Congo and its capital Kinshasa. Except for one boy and a girl, all lived in the capital prior to departure. It is striking that only 4 children claim that both parents were still alive. Four others stated explicitly that one parent has passed away. Three others mentioned that both parents have passed away and one was not certain about the existence of the parents. Six of them lived with their family before they left, while six stayed with siblings or relatives. One minor said he received housing from his employer. Eleven youngsters have siblings. Three minors were single children. Many boys were also the oldest child of the family.

In terms of schooling all interviewees have attended school. Eight of them were still going to school before the move to Belgium. Two others did not attend school, while one of them was working. In general the Belgian teacher of UAM asylum seekers witnessed a great willingness for learning, which might indicate that this group of Congolese UAM asylum seekers have had schooling in the country of origin.

In the interviews very few references were made in the area of money and finances. In case the father was mentioned, this figure and his activities are situated in the military sphere. They valued the free education system in Belgium. It differs significantly with the situation in Congo where one needs to pay for school. They spend their leisure time in similar ways as their Belgian/European counterparts: going to the movies, play station, to go out with friends, etc.

It becomes clear that these youngsters originate from prosperous middle class families.

### **Migration motives**

The first migration motive is the unstable political situation.

It is not easy living in Congo. There are no human rights. One can be killed, when one doesn't know anyone. This is part of Africa, human life is not precious. It is like a sheet of (old) paper. (Boy. Age: 17)

I don't feel at ease in Congo. The political situation is not good at all. I don't feel safe and sometimes life is really hell. The political situation in Belgium and Europe is much better. There are many advantages here. Here I get proper care. Here you cannot be killed (for no reason). In Congo children are treated in the same way as adults. (Boy. Age: 13)

A related motive is the political activities of family members, which prompted the departure. These activities are mostly undertaken in times of power shift, first between Mobutu and Kabila and second between father and son Kabila.

My uncle is a businessman and politically active. He does not agree with the way how Congo is run. The political system doesn't work and the people ruling the country are not even Congolese. One cannot but suffer in Congo. There is nothing, not even food. That is why he is active in a political party run by real Congolese, who want to make life better. Of course this party is not loved by everyone. One day I had to hand out documents to promote the party. I was arrested by soldiers and put in jail for 4 days. (Boy. Age: 17)

My father was officer during the regime of Mobutu. Then life was good. When the regime was dismantled it was difficult to integrate the soldiers in the army of Kabila. The officers, like my father, did not agree and have co-operated with the rebels to conquer Kinshasa. My father had to flee for the military. They came to our house, threatened us and accused of collaboration with the rebels. After these threats we moved but the problems did not go away. As the military discovered that my mother still had contact with my father, she was put in prison for 2 months. In that period father Kabila was killed and his son came to power.

The situation has become more calm. My father has then returned to Kinshasa. Later on he is arrested and transferred to prison. There he was shot dead. (Boy. Age: 17).

Another reason for leaving was economic, besides personal or family problems.

Since I am a boy, I need to make money. (Boy. Age: 17)

In December I was involved in a car accident, with a few wounded and one dead. It was my fault because I was drunk like the others in the car. I was arrested together with my friends and imprisoned. There I was beaten and I stayed for one week in prison. Then it was decided that we were sent to the army. When we were transferred to the army barrack and when the military were taking a break, the father of my friends helped us escape. Later I fled to Congo-Brazzaville, where we stayed for some time. (Boy. Age: 16).

The reason why I left Congo was because I had problems with my father. The only solution for my problems was to come to Europe, where I get the necessary protection...It was the church, which helped to organise my departure. (Girl. Age: 17)

I had a regular life but nobody took care of me. My aunt and her husband have never taken care of me. It feels like I had no youth. My life was in fact very sad. If I had the chance to leave the country earlier, I would have done it. Unfortunately I didn't know anyone, who could help me then. (Girl. Age: 16)

I wanted to go to Paris to join my family. My cousins are all in Paris staying with my aunt. I want to join them there. (Boy. Age: 11)

### **Decision to leave**

Most youngsters were not involved in making the decision to leave the country. They were given notice shortly before the departure.

An acquaintance of my aunt did a proposition. One person could travel with him. Because my aunt was mother of two young children, she decided that I should go. She didn't ask for my opinion. I preferred to have stayed in Congo. (Girl. Age: 15)

I didn't know that I was going to Belgium or Europe. It was not my decision to come to Belgium. My parents took that decision. I had no chance to refuse it. But it was a chance, it is something fortunate. On the other hand I also regret leaving the country. (Boy. Age: 17)

In most cases it is the parents or other relatives, who made the decision for them, without taking into account the consent of the minors. Only two youngsters indicated that they themselves decided to leave as they want to escape danger and the bad living circumstances.

Boys consider the departure as an opportunity and experience it as a veritable blessing, whereas this feeling is absent among girls. Even when the decision is made by their parents or other adults, boys seem to give much more thought to the departure than girls.

If my father had asked me (to leave), I would not have refused it. It is like receiving money. One never turns down money. The possibility to go to Europe is a unique chance, which I would not refuse. (Boy. Age: 13)

Nonetheless there is a certain ambiguity among most youngsters. Evidently they embrace wholeheartedly the opportunity to go to Europe but on the other hand they feel sadness since they have leave behind their family, friends, and their familiar surroundings.

### **Pre-departure expectation**

Most youngsters do not know the destination country. Two boys were informed in the air plane where they were heading to. Therefore they don't have the possibility to have given much thought to the destination. Moreover, when they are told which country they will go through, given their tender age, they don't have any idea what to expect. In general everyone shares the common image of Europe as a prosperous continent. This image is largely shaped by the media, and television in particular.

When I heard that I could go to Europe, I was very happy...Europe is for me paradise. I could hardly believe that I was the chosen one to go to Europe. Very few have this opportunity. In Congo many people dream of going to Europe but only few actually go there. (Boy. Age: 16)

A few know Belgium through courses they had in school. One boy has heard about Belgium but he did not know that a large segment of the Belgian population speaks Dutch.

In addition, quite a few were taken by surprise about their status of asylum seeker and that they were placed in open asylum centres.

I was not aware of the existence of an asylum centre. I was astounded. I see the chances to succeed in life diminished. But I don't want to return to Congo. I rather die than to return. (Boy: Age: 17)

Most youngsters had not given much thought to the journey abroad and therefore did not have specific expectations. One boy indicated that he expects to have the opportunity to attend school.

### **Trajectory to Belgium**

All interviewees travelled to Europe by plane and arrived at the National Airport. Ten youngsters departed from Kinshasa, two from Brazzaville and one from Angola. Two youngsters mentioned that their destination is Denmark rather than Belgium. Another indicated that his end destination was Turkey.

During the flight they were accompanied by a person, in most cases a man, who they have never met before. Although most were slightly worried, they generally felt at ease with this person. The youngsters consider the journey as a service rendered by a friend or acquaintance. No one is aware of the travel and other costs.

The person, who accompanied me was a man. He was kind. In case of trouble he told me to say that he was my father. During the flight I was scared. (Girl. Age: 16)

Once arrived in Belgium seven youngsters were placed with a person, where they stayed for a short time, before they were taken to the Aliens Office or to the Red Cross.

I stayed for three days with a woman. She was very nice and took very good care of me. On the third day she told me that she could no longer look after me. They took me to the Aliens Office and there I got all kinds of instructions. Ever since I lost touch with this woman. (Girl. Age: 15)

Three boys were taken to the closed detention centre 127 after their arrival when they were left behind by the person, who accompanied them during the journey. Another youngster was arrested together with the adult, who was with him, when the immigration service discovered they were using false documents. He, too was taken to the detention centre 127. Another boy was left behind by the person, who accompanied, after they have successfully passed the immigration service. He then went to Aliens Office on his own initiative.

### **Future Perspectives**

The majority of youngsters is aware about their uncertain future. Most of them hope to obtain legal documents so that they can stay in the territory on a legal basis.

For the future I hope I can stay in Belgium, which I am not too sure about. Living as an illegal is tough. Generally I am happy to be here but sometimes I am restless because I don't have legal documents. (Girl Age: 16)

Conversely there are others, who are confident that they will obtain legal status.

I want to stay in Belgium. I think I can get the right documents so that I can stay in Belgium. I am very keen to go to school and to study Dutch. I realise that it is important to be able to speak Dutch in order to find a job. I want to become soccer player. I know this is very ambitious. I also want to become painter. When I have work later, I will not return to Congo. I want to save enough money to let my brothers and sisters come over. (Boy. Age: 13)

Concerning return there is a high divergence among the youngsters. Six youngsters consider return, in case the political situation improves in Congo.

Once I grow up, I want to return for sure to Congo. I want to prove that I can live independently and take care of myself. (Girl. Age: 16)

Four other youngsters firmly insist that they do not want to return under any circumstance. There is a general consensus on the importance of education, which they consider as the indispensable avenue to employment and a meaningful life.

## **IV. Concluding thoughts: how to best improve the reception of UAM**

### **Putting findings in perspective**

These findings, gathered from the interviews with a limited group of Congolese youngsters, are corroborated with the results of large-scale profile and trajectory monitoring dossier, undertaken by Child Focus. This study concludes that the profile of the UAM, who has not disappeared is male and African. His mother tongue is Lingala, having an elementary notion of Dutch, French, German or English when filing for asylum application. He is not subject to an age assessment and was 17 years old when introducing the asylum request. He is unmarried and no guardian was assigned to him. The UAM travelled directly from his country of origin to Belgium. He is not the victim of human smugglers and could count on the financial support of family or friends. He travels by air plane and is accompanied by an adult. He does not use false documents. Within one week after arrival in the territory, he claims for asylum and hands his residence and identity documents over to the official instances. He is then referred to an open reception centre.

In general the UAM feels quite comfortable in the new circumstances. Most of the UAM want to continue schooling in Belgium.

However, when looking at the group of disappeared UAMs most of them originate from African countries, although the most common nationality is Afghan. The share of disappeared UAMs within the total population is 25%. The mother tongue is not known. When applying for asylum he does not have any notion of French, English, German or Dutch. At the time of disappearance they have the age of 17. Of the total disappearances 40% are alarming following the ministerial guideline concerning the investigation of missing persons.

Our small sample did not include disappeared Congolese UAMs.

### **Some recommendations**

- Particular attention to traumatised UAM
- Limiting makeshift, emergency reception
- Putting young UAM in foster home
- If placed in an open reception centre:
  - resolutely choosing for open reception centres
  - personalising the reception
  - professional in-take interview
  - safeguarding privacy
  - translation by professional interpreter
  - guaranteeing right to attend schooling
  - streamlining the first and second phase of reception

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